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Ms Janine Fotiadis-Negrepontis  
Trustee of the Twickenham Riverside Trust  
Tanglewind  
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By email: [janinefotiadis@yahoo.co.uk](mailto:janinefotiadis@yahoo.co.uk)

cc: Mr Luke Montgomery-Smith  
Chair, Twickenham Riverside Trust  
By email: [lukemontgomerysmith@gmail.com](mailto:lukemontgomerysmith@gmail.com)

Our ref: CR0079  
04 May 2022

Dear Ms Fotiadis-Negrepontis

**Your stage 2 complaint regarding the Diamond Jubilee Gardens having been entered onto the Brownfield Register as part of the Twickenham Riverside site**

I am writing in response to your email dated 29 March 2022 and Mr Montgomery-Smith's letter dated 28 March 2022 at stage 2 of the Council's corporate complaints procedure.

**Your complaint**

Your original complaint from 31 January 2022 relates to the Diamond Jubilee Gardens (DJG) having been entered onto the Brownfield Register as part of the Twickenham Riverside site. The Trust contested the inclusion of the gardens on the Register on the grounds that it did not meet the criteria of the regulations and requested that the land be removed from the Register with immediate effect. This complaint has not been upheld at stage 1. On 29 March 2022, you requested this complaint to proceed to stage 2 because you consider that the stage 1 outcome is based on a number of misconceptions and errors.

Whilst the purpose of a stage 2 is to carry out a comprehensive review of the main investigation, it is noted that you have raised a number of additional points in your further submission, which I have sought to address. In particular, you consider that the Cabinet decision from 2014, which designated the Diamond

Jubilee Gardens as 'public open space', has not been carried through into the Local Plan and its wider planning policy. In addition, you state that the Council is seeking to impute that the Trust has expressed an intention to either develop or dispose of the land in question.

### **My Review and response to additional points**

In terms of your original complaint, I concur with the investigation, findings and outcome as set out in the Council's stage 1 outcome letter dated 3 March 2022.

Specifically, I concur with the previous findings regarding the designation of DJG as public gardens under Section 122 of the Local Government Act 1972 (16 January 2014 – *Richmond Council Cabinet decision*). It is important to note that the Gardens have not been designated as Public Open Space in accordance with The Town and Country Planning (Local Planning) (England) Regulations 2012 and the Planning and Compulsory Purchase Act 2004. As stated in the Council's stage 1 response, steps taken under the Local Government Act 1972 are relevant to the Council's position as landowner and not as a Local Planning Authority.

I do not dispute that the Council, as part of the January and March 2014 Cabinet decisions, recorded the "Twickenham Area Action Plan" (TAAP) under "policy implications / considerations". However, you imply that this entails a clear instruction to Council officers to take this fact into account in the context of the TAAP. Specifically, you state that "*no action appears to have been taken to carry across the changed status of the Gardens as 'public open space' into the other relevant planning contexts*". Furthermore, you state that by reference to the TAAP in the Cabinet report, this decision had clear implications on the planning process, and that a review/adjustment of the status of the Gardens in the TAAP should have been undertaken.

I am afraid that officers' view is that this is a misunderstanding of the planning and Local Plan process. 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.

Furthermore, there seems to be a misunderstanding and misconception about the Brownfield Land Register. The Trust argues that a local planning authority

can trigger a grant of permission in principle where they follow the required procedure in relation to residential development on sites in the Brownfield Land Register. You then go on to state that the Council has not complied with the said procedure. However, it should be noted that Richmond Council does not have a Part 2 Register: all sites that are on the Register are in Part 1, thereby not benefitting from 'permission in principle'.

The Council is not required to directly notify or consult landowners when entering land onto the Brownfield Land Register. The correspondence that has been analysed as part of the stage 1 complaint, and the correspondence which I have seen, including in your further submission (dated 28 March 2022, signed by Mr Montgomery-Smith), suggests that there is no rooted objection by the Trust to the principle of housing development in part within a redevelopment scheme (subject to certain criteria being fulfilled). Indeed, you state that the Trust has always been willing to consider and support improvements to the Riverside, and that you remain demonstrably flexible and open to including the existing Gardens within the Council's wider improvement plans, provided they are substituted by public open space, which is of at least equivalent size and quality of amenity.

I would like to reiterate that entering a whole site onto a Brownfield Land Register does not mean that the entirety of the site is appropriate for residential development. Entry in the Register does not mean this is a designation or land allocation in terms of the Local Plan/development plan policies. The Register has a different role and purpose, i.e. to provide up-to-date and consistent information on sites with potential for residential development. The site allocation as set out in the TAAP indicates that it is appropriate for housing development in part.

Therefore, I am satisfied that the criteria set out in The Town and County Planning (Brownfield Land Register) Regulations 2017 have been met.

## **My Decision**

I do **not uphold** the complaint that you have made for the reasons set out above.

## **Appeal**

If you are not satisfied with the Council's response to your stage 2 complaint, you may complain to the Local Government and Social Care Ombudsman. The Ombudsman is independent and can investigate to see if a local council has acted unfairly or if you have been caused an injustice.

You can contact the Ombudsman at:  
Local Government and Social Care Ombudsman  
PO Box 4771  
Coventry  
CV4 0EH

Tel: 0300 061 0614

Online complaint form: [www.lgo.org.uk](http://www.lgo.org.uk)

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Maidment'. The signature is stylized with a large 'M' and a long, sweeping underline.

Mark Maidment  
Chief Executive

cc: Corporate Complaints team