

28th January 2022
(via email)



Dear Ms Thatcher,

With reference to: 21/2758/FUL

The Twickenham Riverside Trust (TRT), owner of a demise within the Diamond Jubilee Gardens on Twickenham Riverside, is challenging the placing of that part of the Former Pool Site on Twickenham Riverside known as Diamond Jubilee Gardens (DJG) on the Brownfield Land Register.

In 2017, Richmond Council entered the Pool Site (in use as Twickenham Lido from 1932 until its closure in 1981) on to the newly created national Brownfield Land Register.

Trustees of the TRT, owners on the Pool Site until 2139, contest that the inclusion of these public gardens on the Brownfield Land Register in 2017 was (a) erroneous and (b) did not meet the criteria of the regulations.

The above has implications for the planning application 21/2758/FUL. Planning application 21/2758/FUL makes extensive reference to the site being a brownfield site in justifying the quantum of development, with an emphasis on residential housing, being proposed.

Accordingly, the Trust would request that whilst a review is undertaken of the Gardens having been included on the Brownfield Land Register - with a removal of the Gardens from the register being a highly possible result of such a review - all elements of this planning application which refer to or are predicated on the fact that the Gardens are on the Brownfield Land Register should be reassessed in the likely wrongly registration of the Gardens.

This is especially important as the application's Planning Statement (see below) makes extensive reference to the development site being a brownfield site, to include the Diamond Jubilee Gardens and therefore the Trust's demise therein.

The National Planning Policy Framework (NPPF) definition of Brownfield is as follows (Annexe 2: Glossary):

Brownfield land

See Previously developed land.

Previously developed land

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. **This excludes:** land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; **land in built-up areas such as residential gardens, parks, recreation grounds and allotments;** and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

The planning application's Planning Statement specifically mentions clauses of the NPPF (amongst other planning documents) and also emphasises how the site's brownfield registration is justification for the degree of development being proposed:

21/2758/FUL: PLANNING STATEMENT

Section 7: Planning Considerations

7.5 The Proposed Development also seeks to optimise a well-connected **brownfield site** which is consistent with the London Plan (policy D3) which seeks to ensure that development makes the best use of land by following a design-led approach to **optimise site capacity**.

7.6 There is a strategic need for **increased housing delivery** particularly on **brownfield** land sites. [...]

7.7 NPPF Paragraph 119 states that planning decisions should promote the effective use of land in meeting housing need and other uses in a way which makes an effective use of previously developed or **brownfield** land.

7.8 NPPF Paragraph 120 (c) states that 'Planning policies and decisions should give **substantial weight** to the value of using suitable **brownfield** land within settlements for homes and other identified needs...'

7.10 The general thrust of the NPPF clearly demonstrates the Government's support and encouragement for utilising **brownfield** land where such land can reasonably accommodate more homes. The Proposed Development is seeking to introduce residential use at the Site through 45 new homes on this town centre, highly accessible, **brownfield** site. [...]

7.11 London Plan Policy GG2 (Making the Best Use of Land) encourages the development of land on **brownfield** land...prioritise sites which are well-connected by existing or planned public transport [and] proactively explore the potential to **intensify the use of land** to support additional homes and workspaces, promoting **higher density development** [...]

7.40 [...] *Sustainable design and construction, including adaptability, subject to aesthetic considerations layout, siting and access, including making best use of land*
The Proposed Development **optimises the capacity** of an under-utilised, well connected **brownfield** site. [...]

(A) ERRONEOUSLY ENTERED ON TO THE BROWNFIELD LAND REGISTER

By 2017, when the Pool Site was entered on to the Brownfield Land Register, almost 80% of the Pool Site was the public gardens known as the Diamond Jubilee Gardens. The DJG had been opened in 2012 and had been designated Public Open Space by Richmond Council in 2014.

The opening of the DJG in 2012 was part of a phased series of public open spaces created on the Pool Site during the period 2005-2012:

1. In 2005, the Jubilee Gardens - consisting of a children's playground, a cafe and an Embankment-level landscaped area with seating (all in place to this day) - were opened.
2. In 2011, the Jubilee Gardens were expanded to include an area of the Pool Site that overlooks Twickenham Embankment - where the two petanque courts on the DJG are currently located.
3. In 2012, the Jubilee Gardens were once more expanded, this time much more extensively, such that almost 80% of the Pool Site was now public gardens. These newly expanded public gardens were renamed Diamond Jubilee Gardens to mark the Queen's Diamond Jubilee taking place that year.
4. In 2014, Richmond Council designated the DJG as Public Open Space, and the TRT (a local charity established in 2011 with one of its Objects being to "preserve, protect and improve, for the benefit of the public, the riverside and its environs at Twickenham") was awarded a 125-year lease in 2014 on c.2600m² of the c.3000m² of the DJG.

Under the terms of its lease, the TRT is obliged (clause 3.4.1) to "maintain the Property as Public Open Space" and not to use the Property otherwise than (clause 3.10.3(a)) "for the

purpose of the provision of Public Open Space” and (clause 3.10.3(b)) “for the provision of [...] community facilities within the Public Open Space.”

The above clearly demonstrates that by 2017, when the Pool Site was entered on to the Brownfield Land Register by Richmond Council, almost 80% of the area in question was functioning as a public gardens and had been designated Public Open Space.

Twickenham Area Action Plan (TAAP)

When registering the entirety of the Pool Site on the Brownfield Land Register, Richmond Council made reference to Twickenham Area Action Plan (TAAP), adopted July 2013.

A January 2022 email from a Spatial Planning and Design Team Manager at Richmond Council stated:

The site was included as it is an allocated site in the Local Plan (the whole of the Twickenham Riverside (Former Pool Site) and south of King Street Site TW7 in the adopted Twickenham Area Action Plan 2013) [...]

The TAAP makes specific reference to the DJG and its location within area TW7 (Twickenham Riverside and Approaches) in the TAAP as follows:

7.5.2.3:

The principles within this area [TW7] are:

[...]

To open up and redevelop/refurbish the remaining area of the former pool site, which adjoins the recently refurbished Diamond Jubilee Gardens;

Para 7.5.5.3 details Uses, identifying the area now occupied by the DJG as Area A, a sub-area of area TW7:

(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;

Para 7.5.5.5 of the TAAP similarly differentiates between the developed land (i.e. land on which the former pool buildings are situated) and the “non developed land” with the Pool Site:

[...] The non developed land was laid out as open space in 2012.

The “non developed land” referred to above is that part of the Pool Site known as the Diamond Jubilee Gardens.

And in 2014, as already mentioned above, the Diamond Jubilee Gardens were designated Public Open Space, with a 125-year lease to maintain them as such being awarded to the Twickenham Riverside Trust.

The ‘blanket’ entry of the entirety of Area TW7 of the TAAP on the Brownfield Land Register was therefore done in error.

Under The Town and Country Planning (Brownfield Land Register) Regulations 2017, Richmond Council is obliged annually to review entries it has made on to the register and remove those sites which no longer meet the criteria:

Revision of the register

17.—(1) The local planning authority must review the entries in the register at least once within each register year in accordance with this regulation.

(2) Where the local authority has entered land in the register in accordance with paragraph (1) or (2) of regulation 5 and the land no longer meets the criteria in paragraph (1) of regulation 4, the local planning authority must remove the entry from Part 1, and if applicable Part 2.

As the owner of a substantial area of the Pool Site, the Twickenham Riverside Trust is requesting that Richmond Council undertakes such a review and that the Diamond Jubilee Gardens be removed from the Brownfield Land Register.

(B) DID NOT MEET THE CRITERIA OF THE REGULATIONS

The January 2022 email from a Spatial Planning and Design Team Manager at Richmond Council also stated:

The site was included [on the Brownfield Land Register] as it [...] met the criteria of “available for residential development” as set out in The Town and Country Planning (Brownfield Land Register) Regulations 2017.

Being “available for residential development” in relation to any land means—

- the relevant owner (or, where there is more than one, all the relevant owners), has expressed an intention to sell or develop the land*

- *“suitable for residential development” means that the land at the entry date — (a) has been allocated in a local development plan document for residential development.*

The Town and County Planning (Brownfield Land Register) Regulations 2017 offer the following definition of “owner” (Criteria 4, para (2)):

“owner” in relation to any land means any person who—(a) is the estate owner in fee simple; or(b) is entitled to a tenancy granted or extended for a term of years certain of which not less than 15 years remain unexpired.

In 2017 the Twickenham Riverside Trust had 122 years remaining on its 125-year lease, and therefore is an owner as defined in (b) above.

The Trust has not expressed an intention to sell or develop its land. Indeed, the Trust was not consulted at the time or notified directly of any intention to change the designation of the Diamond Jubilee Gardens or to enter the Gardens on the Brownfield register. One of our trustees has since February 2021 been in communication with the Council’s development team and subsequently with the planning department with a view to clarifying the precise status of the DJG in the context of their entry on the register. The emails cited above were the end result of those queries.

In Autumn 2018, when the Trust agreed to consider a reprovion of its land as part of a RIBA Competition, this was subject to certain criteria being fulfilled. Those criteria have not been fulfilled.

The Trust has therefore no intention to develop its land. Indeed, under the terms of its lease, it is unable to develop its land, and would need to surrender its lease in order for this to occur.

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paragraph (1) of regulation 4, the local planning authority must remove the entry from Part 1, and if applicable Part 2.

As the owner of a substantial area of the Pool Site, the Twickenham Riverside Trust is requesting that Richmond Council undertakes such a review and that the Diamond Jubilee Gardens be removed from the Brownfield Land Register.

Thank you in advance for giving this representation and the request for a review your most urgent consideration.

With my best wishes,

Luke Montgomery-Smith

Trustee (Chair), Twickenham Riverside Trust