

## **JUSTIFICATION FOR THE ORDER AND THE SCHEME:**

### **(1) THE CONTRIBUTION TO ECONOMIC, SOCIAL OR ENVIRONMENTAL WELLBEINGS**

### **(2) VIABILITY CONSIDERATIONS: HOW THEY RELATE TO THE CONSIDERATION OF ALTERNATIVES**

## **GENERAL**

1 As Para 10.7 of the Statement of Case notes, Paragraph 106 of the CPO Guidance states that “Any decision about whether to confirm an order made under section 226(1)(a) will be made on its own merits” and it lists four primary factors which the Secretary of State can be expected to consider. This document considers the second factor – “the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area”. Specifically, it assesses the benefits identified in the remainder of Section 10.

2 The question of “the potential financial viability of the scheme for which the land is being acquired” (10.7.4) is addressed at the foot of this document via a series of questions the Trust would pose the Authority, some of which the Trust has already asked, was assured a response, and only to find that none was forthcoming. 10.7.3 - “whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means” (i.e. ‘alternative’ schemes) - will be addressed in a separate document. The Trust believes that the Authority has not ‘considered, tested and assessed’ alternatives to its Scheme. Indeed, its Statement of Case only makes the merest mention of the consideration of alternatives, and offers no detail whatsoever.

3 The first factor as to “whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area” has already been considered

in detail in the Trust's document analysing the degree to which the Scheme may be said to be compatible with the adopted Local Plan. To summarise, in connection with Section 10:

- Paras 10.4, 10.7 to 10.11 detail the Council's assertions as to how the Scheme meets the strategic aims and objectives of the 2013 Twickenham Area Action Plan, referring back to and repeating parts of Para 6.55, and these are followed by several further mentions emphasising the same point in different contexts. The Trust has pointed out how, even if the Scheme meets many of the general principles in the TAAP, it fails to comply with the site-specific proposals which were adopted for site TW7, which specifically excluded building on the Public Open Space of the Diamond Jubilee Gardens and designated two defined areas along Water Lane where development should take place. The Trust therefore argues that the Scheme does not meet this requirement.
- Paras 10.8 and 10.9 both note the recognition in the 2018 Local Plan and the TAAP that the TW7 site is an opportunity area which "provides a framework for development and change [with] revitalising the town centre at the heart of the strategy". However, they give no credit to the authors of the TAAP and the decision-takers who adopted it for their assessment that what was decided within the TAAP was intended precisely to create the 'destination' and 'revitalising' impact that the Scheme now purports to create, but without building on the land which is now the subject of the Compulsory Purchase Order.

## **WELLBEINGS**

4 Turning to the second factor, according to Para 10.14, the assessment estimates a SAVA return over a lengthy period of 30 years generating over £20m. It refers also to unquantifiable benefits from the increase in footfall and expects the social value to be felt long after 30 years. The Trust observes that these statements are very general and do not appear particularly powerful, given the upfront cost of

the Scheme – last reported to be £50m, of which some £20m having to be borrowed (at a total cost of £50m over 30 years, resulting in a £80m Scheme).

## **ECONOMIC**

5 The paragraphs on **investment** (10.15), delivery of retail and commercial units (10.16), and **maintenance of existing local employment** (10.17) are at best modest. They are anecdotal and appear to be designed simply to tick the boxes rather than providing compelling evidence of concrete return to the community. For example, the only evidence given in support of the attraction of investment comprises two general responses in a weak and questionable public consultation exercise, held during lockdown, relating to whether people would be more or less likely to visit the area after the development. The numbers of retail units involved and the delivery of commercial/office units are very small and in any event come at a time when there are many closed retail premises in the town centre. The concept of yet another pub or restaurant in Twickenham is also of limited value, if at all. The reference to the Events spaces is covered in detail elsewhere in the Trust's submission on the Open Space with the Scheme, but is again overstated and impractical. There is no clear guarantee of the suggested impacts.

6 Some benefits seem to come mainly in employment opportunities during the **construction phase** only. These are essentially temporary benefits which do not offer longterm impacts such as those promised in Para 10.14.

7 Aside from the general mentions of the pub/restaurant and the limited proportion of office space, there is **no mention or quantification of the economic wellbeings resulting from the construction of the Wharf Lane Building** on the west side of the Order Land (Map F). Yet this is the most contentious part of the Scheme and the part which is disputed by the Trust and where the greatest harm will arise from the CPO, if approved.

## Social

8 Paras 10.18 to 10.20 describe the contribution to **housing** and note that the Local Plan “identifies the development of sites such as Twickenham Riverside as being one of the opportunity sites where some of the required units could be delivered”. They go on to discuss “the provision of good quality housing on land that is partly derelict and unused, and in any event without detriment to open space” and focus on the eastern area of the Scheme alongside Water Lane.

9 There are several issues here. First, as described, this is indeed on the two areas defined for development by the TAAP and it is the area of building which includes both the affordable housing component of the Scheme and the retail accommodation. The former clearly offers positive benefits. However, again here, there is **no mention of the impact of the Wharf Lane building on the west side of the Scheme** and no evidence is offered of positive wellbeings relating to that.

10 Secondly, the Trust does not agree that the size of the **play space** provided under the Scheme would be “increased” compared to that in the lost Public Open Space. More detail has been provided on this in the Trust’s response to Open Space on the Scheme.

11 On the issue of **Improvements to the public realm**, Paras 10.21 to 10.23 make a number of very general and unsubstantiated comments attributed to the TAAP, that imply a negative picture of the TW7 site. The Trust does not recognise the context of these and suggests that much of this description is in fact a subjective assessment by the Council largely of the impacts of the continuing dereliction, rather than in the TAAP. Indeed it is in contradiction with the proposals within the TAAP that the Public Open Space which had been the subject of stage-by-stage incremental upgrading over the previous decade – ie the Diamond Jubilee Gardens – should continue to be “enhanced and extended” with efforts focused on redevelopment and

refurbishment of “the remaining area of the former pool site, which adjoins the recently refurbished Diamond Jubilee Gardens”.

12 Regarding the negative aspects highlighted, and the statements that the Existing Designated Open Space has been subject to anti-social behaviour, criminal damage, break-ins, and substance misuse over the years, these incidents are not confined to the Gardens but many relate to the wider site including – as acknowledged in Para 10.33 – the continuing existence of the derelict buildings adjoining the Gardens. They are relatively rare and no more frequent than in other similar local spaces.

13 The descriptions here play down the benefits of the existing Gardens and extol the benefits of the new Scheme. However, most of the disadvantages of the Gardens exist because of the continued presence of the derelict buildings, the disused carpark, and the car parking on the Embankment. Most of these have been in the control of the Authority and their removal/refurbishment could have been started some years ago. Almost all would be totally corrected with the removal of these negative elements – and allow for immediate improvements to access and accessibility, even better views from the public open space than today, connections to the Embankment, etc.

14 The Trust is commenting elsewhere on a number of points brought out here, including the practicality of the proposed Events space, the size of the children’s play area, the Scheme design which prioritises buildings with space between them compared to the Riverside park envisaged by the TAAP, the loss of sunlight on the open space for much of the year (especially in winter) and more.

15 Paras 10.28 to 10.31 relate to activities on the site, particularly providing access to the river for river-based activities and storage of river craft, giving greater priority to pedestrians and cyclists and promotion of outdoor activities. The Trust believes that the space on the riverfront for river-based activities is again overstated and would be severely constrained by the narrowing of the promenade and the

confining presence of the flood defence wall (necessitated by the construction of the Wharf Lane Building). The boat storage units, while welcome, will also be of relatively limited capacity. So much more could have been included with a different and more open site design in and leading down to the north-west corner of the Scheme Land.

16 Moreover, the retention of the Embankment as a highway for part of the day, coupled with its planned use for events at weekends would also be a constraint.

17 Again, the main supporting evidence quoted is very general in nature and relates to the consultation over which there are questions as to its value. The real messages from the consultation are analysed separately and focus very largely on the importance of preserving open space. The evidence from the children is interesting in view of its focus on events and physical activities, since a number of such activities which are available in the existing Gardens – eg ball games – would not be practical on the Scheme Land, which will not have been brought out fully in the consultation.

## **ENVIRONMENTAL**

18 It is highly questionable whether the Scheme meets the Richmond Council's policy objective for "A Greener Borough" as noted in the Social and Additional Value Assessment. Para 10.34 of the Statement of Case describes the enhancement of **local biodiversity** and talks of the "real lack of accessible green spaces on the Scheme Land". It states that the "landscape is being designed to enhance local biodiversity" and increase it "through extending existing green corridors following the river". While this may be true in part, the Trust does not consider that the Scheme would offer true compensating advantages for the losses it would cause.

19 The Statement of Case fails to acknowledge the open and green aspect of the existing Gardens and contrasts with the fact – not discussed in this section – that one direct result of the Scheme will be the **removal of 66 trees** from the

development site, with just one tree retained. Many of these are mature trees – including:

- a ‘young’ Black Poplar. This is a much-loved and key feature of the existing public open space. Its scented leaves provide a sensory experience for visitors, contributing to their well-being and general enjoyment of the gardens. This rare species can live up to 200 years and are given special protection in the borough’s Biodiversity Action Plan and nationally, owing to their ability to support an abundance of wildlife;
- a grove of 16 pleached London plane trees planted along the terrace of the existing Gardens. These were designed both for their aesthetic and wellbeing qualities and to provide shade for people enjoying the views of the Thames. Often referred to as the Lungs of London, owing to their ability to tackle pollution through carbon storage, their removal would be a significant environmental and amenity loss;
- a row of mature, broadleaf Hornbeams which – for many decades going back to the time of the Lido – have provided natural screening separating the Gardens from the service road on the north edge of the Gardens and delineating the public open space from the adjacent built environment. These currently act as a buffer protecting users of the Gardens from noise disturbance commonly associated with urban settings. With further development expected soon to the rear of King Street, they will prove to be of even greater value going forward.

The loss of all of these would have a harmful impact on the landscape and environment of this area of Public Open Space, and on the overall visitor experience including health and well-being.

20 In October 2022, a CAVAT report (Capital Assessment of Value for Amenity Trees) for Twickenham Riverside provided a cumulative valuation for 70 trees within the site of £271,019. 84% of this 'value' lies within the existing Diamond Jubilee Gardens. The Authority's Scheme leaves just one existing tree standing in the Diamond Jubilee Gardens.

21 In an endeavour to redress unacceptable green losses on land, the redline boundary of the development site was redrawn and extended to include a small section of the Tidal Thames to compensate for the shortfall, in order to facilitate the introduction of a '**floating eco system**'. However, this stretch of the river is narrow and heavily used by commercial vessels, as well as being a hub of riparian leisure activity. It is a sensitive and complex area of the river with extreme high and low tides and rapidly shifting water. The aquatic habitats therefore would be vulnerable to dislodgement, rivercraft and human interference and, in addition, would not be able to support the existing wildlife on land.

22 Paras 10.36 to 10.38 discuss the provision of "new high-quality **housing in a sustainable town centre location and on a brownfield site**" and stress that "the NPF requires substantial weight to be given to the value of using suitable brownfield site for homes". They describe how, at the time of the planning application in August 2021, the entirety of the Scheme Land was considered 'brownfield', including the Diamond Jubilee Gardens. Since then and by the time the Scheme came before the Planning Committee in November 2022, that designation was re-considered and the Gardens declared not to be 'brownfield' owing to a "change of circumstance". This is addressed in detail in another Trust document dealing with Planning considerations. It is clear that (1) there was no "change in circumstance" other than for tactical reasons and (2) no serious or publicly available re-assessment has been undertaken of the implications for the commissioning and development of the Scheme of that very significant re-designation, which had been resisted strongly by the Council for about 18 months.



23 It is recalled again here that the site-specific provisions of the TAAP envisaged that the existing Gardens should be preserved as Public Open Space and “enhanced and extended”. Any building therefore – including housing – on that open space would therefore be in breach of the TAAP. This would not of course apply to the proposed building and inclusion of affordable housing, as planned within the Scheme, alongside Water Lane – this falls within the newly re-designated ‘brownfield’ land on the site and would not encroach on the Public Open Space which the TAAP intended to protect into the future.

24 Paras 10.41 and 10.42 address the removal of the **car parking** from the Embankment and note that this too was a TAAP proposal. This is accepted as an objective by all parties.

## **AFFORDABLE HOUSING**

25 The Trust wholeheartedly supports a scheme which increases the provision of affordable housing at Twickenham Riverside.

26 Indeed the Trust endorses the building of affordable housing in Water Lane and would like to make it clear that we do not object to the Authority’s proposal to build 21 affordable housing units of various tenures within the Water Lane Building.

27 For the reasons we have made clear elsewhere our principle objection to the Scheme (and by extension the CPO) relates to the inadequate and degraded open space to be provided by the Authority as a result of its decision to build the Wharf Lane Building on the current open space. Therefore our objection to this Scheme should not be portrayed as a general objection to a scheme which brings further affordable housing to Twickenham riverside. Quite the opposite. We would fully get behind a scheme which provides both quality affordable housing and quality affordable open space.

28 We anticipate the Authority might seek to make the case for the Scheme not being financially viable without the inclusion of the Wharf Lane Building; that it simply would not be able to fund the construction of the affordable housing in Water Lane without the capital and rental income generated from the sale of the Wharf Lane Building's private residential units and commercial space. However we have been provided with no information in support of that position. We have asked the Authority to let us know whether they have carried out a financial appraisal for a scheme which excludes the Wharf Lane Building, but it seems they have not. We are concerned if that is indeed the case since our understanding of the CPO process is that the Authority is obliged to consider whether the wellbeings promoted by a CPO are uniquely deliverable by that CPO's scheme. And in reaching such conclusion they are meant to consider whether any alternative schemes could achieve the same wellbeings. So we would ask the question whether the Authority actually knows whether a scheme without the Wharf Lane Building would be viable.

29 And in assessing such viability one would need to adopt the elastic measure of viability that the Authority uses for this Scheme. In a little over 18 months the cost to the Authority of building this Scheme (once anticipated sales receipts are taken into account) has risen from £7.5m to £20m. And when we say cost to the Authority, we actually mean the cost to the local council taxpayers. A 'tax' of £20 million to be paid by us all (together with interest) over the next few decades. So we challenge the Authority to let us know what alternative schemes they have considered where there is £20 million of taxpayers' money available to subsidise it.

30 Whilst we do not know how much it will cost to build the Wharf Lane Building, we do know that the most difficult and presumably costly engineering in the Scheme will be that required to build the riverside podium structure upon which the Wharf Lane Building is to be built, and thereafter the Wharf Lane Building itself. So we are not convinced that once one takes the overall cost of building the Wharf Lane Building (taking into account building costs inflation) and the uncertain revenues to be generated from sales (taking into account recent drops in property values, higher

mortgage rates, the challenges of marketing and selling [family] flats above a noisy pub and in the knowledge of recent discounted bulk sales at similar large developments in Twickenham and Teddington to overseas investors) we are unconvinced that the Wharf Lane Building is likely to make the profit that the Authority hopes it might (and upon which its current viability assessment of a £20m shortfall is based).

31 So our view is that the £20m shortfall is an optimistic figure, which ultimately could be significantly higher, particularly given the fact that no building project ever gets cheaper once a spade is put in the ground.

32 And why do we mention this in the context of affordable housing? Because if one of the principal wellbeings sought by this Scheme is the provision of 21 affordable housing units, the Authority should rightly have considered how this might otherwise be achieved by a different scheme with a budget of £20m plus the £1m of CIL and the (undisclosed) Richmond Borough Affordable Housing grant that have already been earmarked for this Scheme. Has an assessment been made of the cost of only building out the Water Lane Building (retaining the affordable housing, café and retail units) with a true Twickenham Riverside park beside it (with no parking, no podium, no Wharf Lane Building, no private pub and no private flats)? A scheme that would deliver even greater benefits and which could be supported by all the community rather than divide it. And a Scheme which puts tranquil and affordable open space at the centre of Twickenham riverside rather than compromised open space which puts members of the public in conflict with each other, sits beneath the shadow of an overbearing building, removes 66 mature and healthy trees (and all ball games) in the process.

33 Alternatively rather than spending £20 million of taxpayers' money (plus the CIL) on 21 affordable units (at £1 million a flat – the most expensive affordable housing going) have the Authority considered spending that money on a programme of acquiring and converting to residential the substantial office space that has recently become (or is shortly to become) available in Twickenham town centre (for example

the three major high street banks that have closed there this year alone). Or have they considered spending the money on re-purposing its own underused office space in and around the civic centre in Twickenham. This could be done at a fraction of the price and would truly be impactful in terms of providing much needed affordable housing in the Borough.

34 And of course all that could be achieved alongside prioritising a larger better landscaped Twickenham riverside which would then help complete a virtuous circle - creating more affordable housing in central Twickenham whilst at the same time being within a short walk from a beautiful and affordable riverside park. More locals living in accommodation without their own outdoor space who will need affordable shared open space for play and recreation.

35 These are just a couple of examples but others options could and should have been considered before the Authority took their blinkered approach to this Scheme.

## **CONCLUSION WITH REFERENCE TO ‘WELLBEINGS’**

36 In many cases, the wellbeings listed in the Statement of Case under all three headings – Economic, Social and Environmental – are very general and often misleading. This document has shown how some are either just wrong or not backed up by evidence which encourages confidence that they would be delivered. To the extent that these factors are not substantiated, they do not “contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area” or therefore satisfy the requirement under Para 106 of the CPO Guidance.

## **FINANCIAL VIABILITY AND THE CONSIDERATION OF ‘ALTERNATIVES’**

37 This is with reference to 10.7.4 of the Authority’s Statement of Case: “the potential financial viability of the scheme for which the land is being acquired”

38 Paras 10.43-10.47 outline the Authority's funding intentions/available funding.

39 Viability has been a subject that has informed the Trust's discussions with the Authority right from the earliest days.

40 In January 2020, the Trust raised concerns about the height of the Wharf Lane Building. It was informed that the Wharf Lane Building was essential to the Scheme, as the market-value housing it delivered contributed significantly to the viability of the entire Scheme. At this stage, the Scheme was thought to be projected to make a c. £7.5m loss. The Scheme is now projected to make a £20m loss.

41 At a meeting with the Authority in early March 2023, the Trust asked if the Authority, contemplating a loss of £20m, had 'considered, tested and assessed' alternatives to its present Scheme that might present a similar financial loss but could be said to promote more successfully less readily quantifiable benefits (health wellbeings, for example). What would the viability of a Scheme look like without, for example, a Wharf Lane Building?

42 Whilst the Authority indicated it would revert to the Trust on this matter, nothing further has heard.

43 At a November 2020 meeting of the Authority's Finance, Policy and Resources Committee, at which the use of CPO powers was discussed, a committee member asked if consideration had been given, as part of the 2019 RIBA Design Competition, to concept schemes that would incorporate the Diamond Jubilee Gardens 'intact' (and would not therefore have required the use of CPO powers). Cllr Gareth Roberts, Chair of the Committee (Leader of the Council, Chair of the RIBA Design Panel, Chair of the Twickenham Riverside Sponsor Board) replied that had not happened:

“That’s all so much coulda, woulda, shoulda.”

A flippant retort, no doubt. But one that speaks to the lack of consideration of alternatives in order to ensure that the use of CPO powers is one of ‘last resort’.

44 Accordingly, the Trust would like set out a series of questions, some of which it has already raised with the Authority, around the question of viability. These questions relate most directly to the consideration of alternatives.

45 **(I)** It has been obvious since the early days of the development of the design of the Scheme that the Wharf Lane Building was the most controversial aspect because of the disbenefits it presents.

46 When the Winter Gardens disappeared from the Wharf Lane Building in September 2020 (the building was ‘compressed’ so that Wharf Lane could be widened in order to create flood storage lost from the Embankment) and simultaneously a 2.5m podium wall was introduced on the Embankment (to ensure the building was EA compliant regarding the location of flood defence walls in relation to any built structure), it was very poorly received by both the members of the Stakeholders’ Reference Group and the three non-councillor members of the RIBA Design Panel.

47 These three members of the RIBA Design Panel wrote to the Authority in October 2020: “We are unable to condone this approach and we repeat our position of regrettably being on the point of disassociating ourselves from Hopkins proposal for the redevelopment of Twickenham Riverside.”

48 The Wharf Lane Building results in the following disbenefits: the loss of trees (the late Queen’s Black Poplar, the established Indian bean trees that frame the Wharf Lane entrance to the Diamond Jubilee Gardens, two of the large hornbeams forming a ‘green curtain’ between the open space and the rear of the King St commercial

premises; the loss of considerable areas of hedgerow, to highlight just a few); necessitates the location of much of the 'uplift' in open space in a compromised Embankment-level location; overshadowing; loss of views/open aspect within the upper level open space; the sense of enclosure created by an overbearing building.

49 Has the Authority 'considered, tested and assessed' a Scheme without these disbenefits i.e. without the Wharf Lane Building?

50 What is the cost difference between a Scheme with and without the Wharf Lane Building?

51 **(2)** To what extent does the Wharf Lane Building directly contribute to the wellbeings promoted by the Authority's scheme? What is the 'cost' of these wellbeings i.e. directly related to the construction of the Wharf Lane Building, which will undoubtedly be the most expensive aspect of the development?

52 Has the Authority considered alternative schemes that would achieve comparable (or even better) wellbeings?

53 And if there were to be extra public cost without the Wharf Lane Building, would the additional resultant benefits enhance the wellbeings so as to make a scheme viable/justifiable against an enhanced Social and Additional Value Assessment (SAVA)?

54 Has a SAVA been commissioned for any other scheme than this one?

55 **(3)** This Scheme is set to cost taxpayers £20m (plus c.£25m in interest payments over 30 years). In addition, there is c.£1m of CIL, along with Richmond Affordable Grant (amount confidential).

56 Has the Authority considered alternative schemes that would achieve the same or better wellbeings where it has a budget of circa £25m to contribute?

57 **(4)** The Authority's May 2021 successful application (for £600k) to the Brownfield Land Register Fund (BLRF) stated: "Without this intervention of the BLRF the Council may decide not to fund the delivery of the Scheme therefore this intervention is enabling the delivery of all of the homes on the site. [...] Grant funding will unlock the site and the delivery of affordable homes."

58 At this stage, the 'viability gap' was estimated to be c.£7.5m. It is now £20m. The viability drawbridge was pulled firmly up when changes to the Wharf Lane Building were raised by the Trust, but the Authority's pockets have turned out to be sufficiently deep to find an extra £12.5m for the its Scheme, in spite of what is stated on its BLRF application.

59 What, therefore, does an 'unviable' scheme mean for the Authority? Where does its threshold of viability lie? If the Authority is able to indicate this, surely this will inform its ability to 'consider, test and assess' alternatives?