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## **Transcript of representation by Ted Cremin to Audit, Standards and Statutory Accounts Committee Meeting, 10th Nov 2022**

I am Chair of the Twickenham Riverside Trust, owners of the Diamond Jubilee Gardens, a significant part of the proposed Twickenham Riverside Development site.

The development is a £32.5m line item on the 2022-23 plan and I would like to bring some significant areas of risk to the Audit Committee's attention.

### **Leader Roberts has warned residents of an impending financial storm, and difficult decisions to come:**

- Inflation is spiralling. The report to next week's finance committee highlights the resulting "significant pressure on the Council's budgets" as a "key risk".
- This is expected to be further compounded by next week's financial statement from the Chancellor announcing deep public spending cuts, including in local government.

### **And yet:**

- £4m has been spent on this scheme, and there is still NO approved planning, a full 16 months after application.
- A further half a million pounds is required for the Council's unwinnable Compulsory Purchase Order and Section 19 Public Inquiries.
- The Council needs to win ALL THREE Public Inquiries, the defendants just one.

### **Setting the unwinnable Public Inquiries to one side:**

- Ellera Hall in Teddington has seen a 50% increase in build costs due to "significant inflation"
- Teddington Riverside: 220 units built. 100 sold at bulk discount to overseas investors. 100 units unsold.
- Twickenham Station Development: 119 units built, 80 sold at bulk discount to an overseas investor

Can this Committee justify the risk of pursuing this controversial, unpopular and legally terminal scheme?

Does continuing on this path represent Value for Money?

Is this what 'getting it right' looks like?

I have over 20 years' experience delivering large, complex outsourcing engagements with the world's biggest companies. I understand just how essential managing risk is to delivering value.

### **So, let's talk about risk.**

#### **Firstly: Contractual Commitment**

In the Council's accounts for 2021/2022, there is a Contractual Commitment of £32.2m for this Development:

- To whom are the Council contracted at this stage?
- What are the penalties for termination?

#### **Secondly: Shortfall**

With the rising inflation and increased building costs combined with a predicted fall in house prices:

- Have the scheme's financials been robustly adjusted?
- What is the shortfall to be funded by the taxpayer?
- Does the scheme represent Value For Money?

#### **And finally: Affordable housing**

The scheme relies on the housing association receiving a government grant:

- With no guaranteed planning approval and with the CPO scheduled for June next year, what is the risk that this grant will no longer be available?

In summary, this scheme faces major financial and legal risks that make it undeliverable. This is a pre-covid scheme that needs to be re-examined in our post-covid reality.

**Let's work together to get this right.**

## **Questions for the Twickenham Riverside Sponsor Board (TRSB)**

The Twickenham Riverside Development is overseen by the Twickenham Riverside Sponsor Board (TRSB).

Members of the TRSB are:

Officers:

- Mike Jackson – Chief Executive (formerly Mark Maidment)
- Paul Chadwick – Director of Environment and Community Services (lead officer on the project)
- Fenella Merry – Director of Resources
- Louise Round – Managing Director of the South London Legal Partnership
- Dave Sharp – or another officer deputising for Property Services

Members:

- Cllr Roberts – the Leader
- Cllr Brown – finance portfolio
- Cllr Millard – housing portfolio
- Cllr Neden-Watts – environment portfolio
- Cllr Chard – ward councillor

The TRSB has met on the following dates (date of request of meeting dates: 31.8.2022):

- 22.04.20
- 30.06.20
- 22.07.20
- 03.09.20
- 03.02.21
- 09.04.21
- 16.06.21
- 10.09.21
- 30.06.22
- 16.08.22

Neither agendas nor minutes of meetings of the TRSB are available to the public.

Some questions members of both the Audit, Standards and Statutory Accounts and the Finance, Policy and Resources Committees might wish to consider in liaison with the TRSB:

**At what stage in the CPO process did the Project Team seek legal advice regarding its CPO from appropriately qualified CPO/Section 19 specialists?**

It has been over two years since the Council formerly indicated (in October 2020) its intention to use CPO powers. Hopkins had been appointed in March 2020 and had first met with the Twickenham Riverside Trust (TRT) in June 2020.

In March 2021 the TRT informed the Council, in the presence of the Project Team's (non-CPO specialist) legal advisors, that the Council's proposed CPO/Section 19 case was fundamentally flawed. The Trust outlined how the Council's case was flawed.

In June 2021 the Council published its draft CPO Statement of Reasons (SoR) in the Reports Pack of the June 2021 Finance Committee. The fundamental flaw at the core of the CPO remained.

In August 2021, the planning application for the CPO scheme was submitted.

In September 2021, TRT again informed the Council that its CPO/Section 19 case was fundamentally flawed, again explaining why. TRT's advisors had told the Trust exactly how the Council would need to amend its CPO/Section 19 case. Other than withdrawing its CPO, there was only one option left open to the Council.

This time, the Project Team made the last-minute adjustment to its CPO/Section 19 SoR (exactly as the Trust's advisors predicted it would, once informed that its case was flawed) before presenting it to the November 2021 Finance Committee. The rationale for the change to the SoR was not explained in any detail to the Committee.

The Council submitted its SoR to the Secretary of State's Office and in November 2021 the Trust submitted a series of formal Objections, to both the CPO and the use of Section 19 of the Acquisition of Land Act 1981. These Objections were simultaneously submitted to the Council and also uploaded to the Trust's website. They can be viewed [here](#) (scroll down to the section entitled "Richmond Council's Compulsory Purchase of Diamond Jubilee Gardens").

Since submitting its Objections in late 2021, the Trust has repeatedly requested a formal, legal response from the Council. This has not been forthcoming.

An Acquiring Authority is obliged to address Objections in detail in its CPO Statement of Case.

The Council's Statement of Case (SoC) was due to be submitted in mid July 2022. However, a matter of days before the submission deadline - with the dates for the CPO/Section 19 Public Inquiries having been set by the Planning Inspectorate and the CPO Case Management Conference fewer than two weeks away - the Council called for an adjournment as it needed to apply for a Stopping Up Order.

The need for a Stopping Up Order had formed part of the draft SoR back in June 2021.

Had the Council not started the procedure around obtaining a Stopping Up Order when it did (July 2022), both Public Inquiries (scheduled for early November 2022) would have taken place with no planning approval having been granted.

The Council's SoC is now due to be submitted to the Planning Inspectorate mid December 2022, the Planning Inspectorate having set the new dates for the 12 days of Public Inquiries in June 2023.

NOTE: The Planning Committee will consider the Planning Application on November 24th 2022. This date was announced the day after the most recent meeting of the Audit Committee.

**How many members of the TRSB have read firsthand the Council's CPO/Section 19 legal advice?**

However, the Council's revised case remains as fundamentally flawed as its original one. It relies on a highly unusual 'hybrid' use of Section 19 of the Acquisition of Land Act 1981, employing a very little used piece of legislation - clause (1)(aa) - about which there exists very little case law, but which was intended to apply to a completely different set of circumstances than those for which the Council is planning to use it. The Council is very much on uncharted legal territory, with an inappropriate use of the legislation at the core of its case.

A successful CPO cannot be implemented without a successful Section 19 Public Inquiry. As the Council's Section 19 case uses two pieces of the legislation - (1)(a) and (1)(aa) - the Council needs to be successful under both subsections.

**What was the justification/rationale for taking a scheme which has no planning approval and no guaranteed land assembly to RIBA Stage 4?**

Progressing a project to RIBA Stage 3 is required for a scheme to be submitted for planning approval.

The Project Team, however, took the decision, at considerable further expense, to progress the scheme to RIBA Stage 4, with no planning approval and with no guarantee of successful CPO/Section 19 Public Inquiries.

**Where is the Council's agreement with the Port of London Authority (PLA)?**

There is no signed agreement with the PLA. The PLA owns land on Twickenham Embankment needed in order to implement the scheme.

It has been reported to various committees since the February 2020 Finance Committee that the Council is "in a good place with the PLA." However, the PLA is, after making repeated representations on certain aspects of the scheme, now on the point of objecting to the scheme. This will undoubtedly affect any land transfer, and will most likely necessitate the PLA being brought back into the CPO.

**Is the TRSB confident that the highest standards have been applied to the consultation process around this scheme?**

The Council has carried out two public consultations variations of its CPO scheme - one in Aug/Sept 2019 aimed at finding a preferred concept scheme from the five shortlisted architects in the RIBA Competition (442 respondents) and one in January 2021, during the third national lockdown, on a scheme that differed significantly to the competition-winning scheme (817 respondents).

These consultations were both written and analysed by in-house teams. No independent outside agencies were used, unlike on previous large-scale council development proposals.

As mentioned above, the 2019 consultation was part of the RIBA 2019 Design Competition.

As part of the consultation process, 300 young people were asked to vote for their favourite scheme. Their votes appeared in a draft report (not made public), but were then redacted from the

published report. The young people had overwhelmingly not voted for the Hopkins scheme. The Hopkins scheme was subsequently announced as having won the Competition (as chosen by the Design Panel, chaired by Leader Roberts).

Who took the decision to remove these young people's votes from the 2019 consultation report?  
What was the justification in doing so?

In the January 2021 consultation, a matter of hours before the consultation was due to go live, a four-part question that asked for a single response was inserted.

This last-minute change to the previous wording of the draft consultation (of which TRT had sight) took place after the Project Team had received "feedback from members".

The question was also one of the very few that asked for a quantitative rather than a qualitative response i.e. it could be used to present % statistics regarding a response to the scheme in a way that most of the other consultation questions could not.

The statistics around this single response/four-part question have been repeatedly quoted, misrepresenting the %s as being attributed to any single one of the four parts, one of which was a powerful 'nudge' in the public debate about any development of Twickenham Riverside.

A consultation should not 'seek to conclude'. Nor should it use 'nudges' to elicit a particular response.

What checks and balances have been in place surrounding the public consultation process to ensure that the highest standards of best practice are maintained and that pressure is not being brought to bear on the in-house team from Members?