

LBR16-2

THE LONDON BOROUGH OF RICHMOND UPON THAMES

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 226(1)(a) AND
226(3)(b)**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
ACQUISITION OF LAND ACT 1981**

**THE LONDON BOROUGH OF RICHMOND UPON THAMES (TWICKENHAM
RIVERSIDE) COMPULSORY PURCHASE ORDER 2021**

AND

**APPLICATION FOR A CERTIFICATE PURSUANT TO SECTION 19 AND
SCHEDULE 3 OF THE ACQUISITION OF LAND ACT 1981**

**REBUTTAL PROOF OF EVIDENCE ON BEHALF OF THE
ACQUIRING AUTHORITY**

LBR16-2

IN RESPONSE TO EVIDENCE SUBMITTED BY:

**S-2 W1.1.02: TWICKENHAM RIVERSIDE TRUST (CELIA HOLMAN –
AUTHORITY'S CASE FOR USING S19(1) OF ALA 1981)**

1. INTRODUCTION

- 1.1. This is further proof of evidence (“rebuttal”) by witnesses for the Acquiring Authority in response to the statement prepared by Celia Holman (Twickenham Riverside Trust) regarding the ‘Authority’s case for using s19(1) of ALA 1981’ and the ‘Authority’s use of s19(1)(aa)’ (W1.1.02).
- 1.2. This is not intended to be an exhaustive rebuttal of the contentions made in Mrs Holman’s evidence. This document only deals with certain points where it is considered appropriate and helpful to respond in writing. Where specific points have not been dealt with, this does not mean that those points are accepted and that they may be dealt with further at the inquiry.
- 1.3. This rebuttal is divided into two parts, much like Mrs Holman’s statement, with the first part addressing s19(1)(a) points (pages 1 to 69 of Mrs Holman’s statement) and the second part addressing s19(1)(aa) points (pages 69 to 76 of Mrs Holman’s statement). In both parts points raised by Mrs Holman by theme are broken into sections, with witnesses addressing points relevant to their area of expertise.
- 1.4. The same references and abbreviations as used in the main Proofs of Evidence are used in this document.

PART 1 – s19(1)(a)

2. GENERAL (Paul Chadwick)

- 2.1. This section is being addressed by Paul Chadwick. Details of Mr Chadwick’s qualifications and experience are set out in his main Proof of Evidence (**LBR – 1A**).

Exchange Lane no less in area than the lost open space

- 2.2. There are a number of points raised, as follows:
 - 2.2.1. Open Space provided on Water Lane is not open space
 - 2.2.2. Wharf Lane Building forecourt is not open space but rather replaces existing open space
 - 2.2.3. Terraced Jubilee Gardens must be excluded from Exchange Land

- 2.2.4. Abridged version of the definition of open space used by the Council
 - 2.2.5. Council looking to argue at Inquiry that the terrace in the southwest corner should be excluded from existing open space
 - 2.2.6. Promenade flowerbed on the Embankment should be included as lost open space
- 2.3. In response to the first point, which is made on pages 3 to 7 in Mrs Holman's statement, the Council did not include the open space on Water Lane as a legal necessity. The open space on Water Lane is an important part of scheme, it allows for a better connection between the town and the river - including creating a view of Eel Pie Island bridge and connects to the rest of the open space. It is wide enough to have market stalls or other activities and will be landscaped. While next to the highway on Water Lane the open space is separate, with much of it at a different level. The Council contests that it does not meet the definition of open space as it will clearly have public recreational uses, with the opportunity for events and also ample seating for relaxation. While it does abut the buildings this does not mean that it has any less amenity value. Elements of the Gardens abut the Café Sunshine and have still been included in calculations of existing open space.
- 2.4. In response to the second point, which is made on pages 8 to 14 in Mrs Holman's statement, the Council does not accept that the Wharf Lane Building Forecourt (area of land between the north of the Wharf Lane building and the service road) is not open space. The area, which is fully accessible, directly adjoins the rest of the open space and provides an entrance to the central part of the site from the western side of the scheme. The space is similar to the area being considered open space in the current Gardens which forms an entrance to the Gardens; however in the new Scheme with the exception of a couple of trees to be planted to screen against the service road this is all accessible space, unlike the current gardens where most of this area is inaccessible with raised planting. The fact that it is next to a road, which is also the current arrangement, does not stop it functioning as open space, nor does the Council consider that there are concerns with servicing as by making Wharf Lane two way there is improved servicing in that area. Currently this area offers the only accessible route into the Gardens. In the future open space there are three accessible routes into the upper area (level with the Wharf Lane building). This area would not be lost as open space.

- 2.5. In response to the third point, mentioned on pages 15 to 19 of Mrs Holman's statement, this refers to an area of land next to the Gardens in the southeast corner (for reference this is a small part of land parcels 52 and 83), which is at a lower level to the Gardens and is completely inaccessible. This area of scrubland (c. 90 sqm) is not considered to be 'laid out as public garden' nor does it have any recreational use.
- 2.6. In response to the fourth point, mentioned on page 18 of Mrs Holman's statement, that the Council is using an abridged and misleading version of the definition of open space, this is not correct. The definition of open space used by the Council is as defined in the Glossary found in Mr Chadwick's Proof of Evidence (**LBR-1A**), which is that Designated Open Space means any land on the Scheme Land, laid out as a public garden, or used for the purposes of public recreation, within the meaning of the definition in section 19(4) of the ALA 1981.
- 2.7. In response to the fifth point, mentioned in page 19 paragraph 4 of Mrs Holman's statement, the Council will not be looking to argue at inquiry that 159sqm area of planting at the lower-level terrace in the southwest corner of the Gardens should be excluded. The key point to make is that this is inaccessible land however it has been included in calculations for Existing Designated Open Space (Map A – **CD 4.3A**) and Existing Functioning Open Space (Map B – **CD 4.3B**), notwithstanding its inaccessibility, as it forms part of the area leased to the Trust. This was explained in paragraph 4.7 of Mr Chadwick's Proof of Evidence (**LBR – 1A**).
- 2.8. In response to the sixth point, mentioned on pages 20 and 21 of Mrs Holman's statement, the flowerbed on the Embankment is designated public highway, as can be seen in Map I (**CD 4.3I**), and therefore is not lost open space. It is common to have planting on highway land.

Exchange Land must be equally advantageous

- 2.9. This is in reference to the points raised, from page 23 onwards in Mrs Holman's statement, that the Exchange Land is not equally advantageous to the lost open space.
- 2.10. In response, this has been addressed in detail in Section 10 of Mr Bannister's Proof of Evidence (**LBR – 2A**). The Exchange Land must be viewed in the context of the other open space to be retained or provided and the Scheme to be seen as a whole, please see below response (2.11).

Must only compare the Order and the Exchange land and nothing else

- 2.11. This is in reference to comments, made on page 24 onwards in Mrs Holman's statement, that the Council's Statement of Case refers to benefits and advantages of open space that falls outside the Exchange Land.
- 2.12. In response, the context in which the Exchange Land is to be provided cannot sensibly be ignored.

References in the Statement of Case refer to Council owned land

- 2.13. There were a number of points raised in reference to the fact that points raised in the Statement of Case refer to Council Land and do not require CPO powers, they are as follows:
 - 2.13.1. Instances of antisocial behaviour cited refers to land in the Council's ownership
 - 2.13.2. Negative impacts of derelict buildings
 - 2.13.3. Negative visual impact of parked cars
 - 2.13.4. Delivery of event space
 - 2.13.5. Accessibility improvements
 - 2.13.6. Improvements to biodiversity
- 2.14. In response to the first point, which is raised on page 26 in Mrs Holman's statement, The Council agrees that not all anti-social behaviour is limited to the Gardens, with a recent fire (May 2023) in one of the derelict buildings directly east of the Gardens suspected to be arson. However, the Gardens are subject to a number of instances, including antisocial behaviour, criminal damage, substance misuse. These instances are regular, with an attempted break resulting smashed windows at the Café Sunshine as recently as the w/c 8th May 2023. CCTV cameras were installed in the café in 2018 due to ongoing antisocial behaviour at the time and risk to employees working in the café, and while this might act as a deterrent it has not fully stopped instances and it is a continuing issue especially for the café and its staff. In regard to comments that this is similar to other local spaces in terms of instances, there is no evidence to support the Trust's comments. Whether the situation is better or worse than other local spaces is subjective and would require a like for like comparison (in

terms of size and location), which the Council does not do. The Park Guard Service patrol of all the Council's parks and open spaces, but due to the location and number of instances the Gardens is often on priority tasking list. The whole western side of the Scheme Land is isolated and lacks natural surveillance. Through a comprehensive redevelopment with activity happening across the space, including on the western edge, there will be better natural surveillance helping to improve the management of the space.

- 2.15. In response to the second to fifth points, which are mentioned on page 27 and 28 of Mrs Holman's statement, the Council considers that a comprehensive approach is needed to help bring about the benefits of the Scheme detailed in paragraphs 10.12 to 10.42 of the Statement of Case and Section 9 of Mr Chadwick's Proof of Evidence (**LBR – 1A**). This is why the Council sought the agreement of the Trust to include the Gardens in the RIBA Design Competition, which they willingly gave (see **LBR – 5** for full details on discussions with the Trust).

Comparisons between advantages of the Lost Open Space and the Exchange Land

- 2.16. There were a number of specific points raised on pages 29 to 33 of the statement that the Exchange Land is not as advantageous as that lost, as follows:
- 2.16.1. Some of the Exchange Land will have a significant risk of flooding
 - 2.16.2. New play area not all in Exchange Land
 - 2.16.3. Current artificial grass areas offer better amenity than proposed terraced lawns
 - 2.16.4. Café
 - 2.16.5. Vehicular movements near open space
 - 2.16.6. Event space
 - 2.16.7. Proximity to buildings
- 2.17. A comparison of the quality of the open space, including Exchange Land versus Lost Open Space can be found in Section 10 of Mr Bannister's Proof of Evidence (**LBR – 2A**).

- 2.18. In response to the first point, which is mentioned on page 29 of Mrs Holman's statement, flooding is addressed in detail in Section 10 of Mr Bannister's Proof of Evidence (**LBR -2A**) and in the accompanying appendix (**LBR – 2B(13)**).
- 2.19. In response to the second point, which is mentioned on page 29 of Mrs Holman's statement, while the Exchange Land contains only part of the new play area a complete new play area is being provided in the Scheme. The Exchange Land needs to be viewed within the wider context of the Scheme, as mentioned in 2.12 above. As well as Section 10 of Mr Bannister's Proof of Evidence (**LBR – 2A**) further information on the play area can be found in the Public Realm Strategy (**CD 4.07**).
- 2.20. In response to the third point, which is mentioned on pages 29 to 31 in Mrs Holman's statement, the Council considers that the terraced lawns (572 sqm) would have greater amenity value than the artificial lawn in the current Gardens. The terraced lawns offer an area of relaxation or play with views of the river. The current lawns do not have views of the river, feel isolated and are also surrounded by routes through the Gardens. The slopes between the new terraces are not steep and the lawns are stepped back from the road. The only reason the current Garden's lawns are artificial is due to poor ground conditions and natural grass failing to grow. The terraced lawns could offer the opportunity for games, but there are also other parts of Future Designated and Functioning Open Space where ball games etc could be played. The lawns cannot be seen in isolation, they are part of the Future Designated Open Space delivered by the Scheme.
- 2.21 In response to the fourth point, mentioned on page 31 of Mrs Holman's statement, concerning the current café and that under the current lease arrangement the Café will pass to the Trust in 2024, or when the current arrangements cease. The Trust are incorrect that this will pass to them in 2024, this is not in the lease or management agreement the Council has with them. The clause as drafted states that in the event of the cessation of the current arrangements by the Café Operator the lease would be handed over to the Trust. As the Council is also the café operator, the café would not pass the Trust to run until it stopped running the café. Should the CPO be confirmed, however, the lease would come to an end with any claim being one for compensation and a matter for the Upper Tribunal Land Chamber, should there be a dispute as to the quantum of compensation.
- 2.22 Regarding the point about the Café sitting within Red Land (i.e. assumed to mean Lost Open Space) it has been conservatively treated for the purposes of the section

19 process as lost open space, even though it is a building. With respect to the point about the Green Land (i.e. assumed to mean the Exchange Land) not containing a café or toilet, while not situated within the Exchange Land a new café and public toilets will be provided in the new Scheme.

- 2.23 In response to the fifth point, which is mentioned on pages 31 to 32 in Mrs Holman's statement, use of the Embankment within the Scheme Land will generally be limited to 7-10am and is to be controlled by the Council. The Embankment also only forms part of the Functioning Open Space to be provided in the Scheme. Vehicles movements will be on the highway, it is not unusual for highway and open space to side next to each other.
- 2.24 In response to the sixth point, which is mentioned on page 32 of Mrs Holman's statement, flooding is addressed in Section 10 of Mr Bannister's Proof of Evidence (**LBR -2A**) and in the accompanying appendix (**LBR – 2B(13)**). The new event space, which is larger than the existing, is flexibly designed to accommodate a number of different events, which is supported by the tiered seating. Further information can be found in the Public Realm Strategy (**CD 4.07**).
- 2.25 In response to the sixth point, which is mentioned on page 33 of Mrs Holman's statement, there are parts of the open space which are alongside the new retail units on Water Lane. This is addressed further in 2.3 of this rebuttal.

Date of exchange

- 2.26 This is in reference to points raised, on page 33 of Mrs Holman's statement, on the need for the Future Open Space to be set out for open space purposes and the lack of an Exchange Land Management Plan.
- 2.27 In response, there will need to be a period of time, following the acquisition of the open space, that the Exchange Land, nor indeed most of the Functioning or Designated Future Open Space, will be unavailable due to construction. An indicative programme was appended to Mr Chadwick's Proof of Evidence (**LBR – 1B(3)**). There is a planning condition to provide an open space phasing plan (NS64), this will be developed and submitted to the Local Planning Authority when a contractor is appointed and prior to the commencement of the development. Please see Section 10 of Mr Chadwick's Proof of Evidence (**LBR – 1A**) for further information.

Vesting

- 2.28 This is in response to comments, on page 68 to 69 of Mrs Holman's statement, that the Exchange Land will be subject to "incidents" which include the Trust's lease.
- 2.29 In response, my understanding is that any leasehold interests would be extinguished by the compulsory acquisition. The contention that "incidents" include leasehold interests is a matter for legal submission.

3. DESIGN AND OPEN SPACE (Chris Bannister)

- 3.1. This section is being addressed by Chris Bannister. Details of Mr Bannister's qualifications and experience are set out in his main Proof of Evidence (**LBR – 2A**).

Open space calculations

- 3.2. This is reference to points made on page 2 and the table provided starting at the bottom of page 21 of Mrs Holman's statement. There are a couple of specific points, which include:
- 3.22.1 Lost open space is 1,486.9 sqm not 1,336 sqm mentioned in the Statement of Case
- 3.22.2 As a result 269.7 sqm less Exchange Land is being offered by the Council than lost open space and therefore the Council fails to meet the first limb of s19(1)(a)
- 3.23 In response to both these points, Mrs Holman seeks to rebrand two areas as the "Water Lane retail walkway" and the "Wharf Lane Building Forecourt" as mere circulation space and argues that they should be excluded from the Future Designated Open Space. This is not the case as they function as entrance areas to the central part of the site with the widened Water Lane helping to open up views of the river and provide space for outdoor seating and market stalls etc. However, as my evidence has shown, even if they were classified as circulation space, when one does the same with the circulation space within the Lost Open Space the Exchange Land still has more usable space than the Lost Open Space (para ref required) and it is therefore not accepted that the Exchange Land is less in area than the Lost Open Space.

Comparison between advantages of existing open space and future open space (should this not be Lost OS and EL?)

- 3.24 There were a number of points contending that the Exchange Land is not as advantageous as the Lost Open Space, as follows:
- 3.24.1 Safety and security
 - 3.24.2 Public house v. public open space
 - 3.24.3 Lighting
 - 3.24.4 Stepped seating
 - 3.24.5 Open space for multi-functional use and amenity
 - 3.24.6 Ability to hold events
 - 3.24.7 Loss of trees and hedgerows
 - 3.24.8 Loss of sunshine / shadowing
 - 3.24.9 Visual amenity
- 3.25 In response to the first point, mentioned on pages 33 to 34 of Mrs Holman's statement, safety and security can be seen in various ways. The Future Designated Open Space is different to the existing and does not contain the same amount of fencing and hedges and is a lot more open in nature which could be seen by many people as being safer and more secure especially late at night. Mrs Holman raises concern over the use of part of the event space for limited traffic movements across the embankment. It should be noted that this is for only three hours during the early part of the morning and for the remaining 21 hours of the day there should be no vehicular traffic crossing the space, save in exceptional circumstances.. It should also be noted that the event space on the embankment is not the only space that is available and there are other play opportunities in other areas of the future open space that are not affected by the limited traffic movement across the embankment.
- 3.26 In response to the second point, mentioned on pages 37 to 38 of Mrs Holman's statement, it should be noted that the aim is that the venue is more of a gastro pub/ restaurant rather than a drinking establishment which the Council will have some control over through the leasing arrangements and licensing controls.

- 3.27 In response to the third point, mentioned on page 38 of Mrs Holman's statement, this seems to be a negative comment about the current lighting of the existing Gardens rather than anything to do with the proposal.
- 3.28 In response to the fourth point, mentioned on page 38 of Mrs Holman's statement, regarding the potential for the amphitheatre seating are to be used as an informal "drinking zone" the same could be said for anywhere in the proposed scheme or the existing Gardens so I fail to see the relevance of this. If it is intended to be related to its proximity to the pub then please see the response to item 2 above.
- 3.29 In response to the fifth point, on page 39 paragraph 2 she describes the existing Gardens as "a large contiguous and coherent single level open space" which she goes on to say contains "internal dividing hedgerows which create internal 'rooms' " ie. it is not one piece of open space but a series of spaces. She then goes on to contrast this with the future open space which she describes as "less coherent pockets of open space between commercial buildings, alongside a retail environment and adjacent to the various forms of vehicular movement". The reality is somewhat different as is demonstrated by a comparison of Map S (**LBR-2B(16)**) and Map T (**LBR-2B(16)**). Whilst the existing Gardens might all be in one place Map S shows that the Existing Functioning Open Space is actually comprised of three separate pieces of land located at different levels and bisected by a road and a busy car park that is full of cars for the vast majority of the day. Map T on the other hand shows that the Future Functioning Open Space is all together in one contiguous and coherent open space and whilst it might also be on a number of levels they are all interconnected by accessible routes and open and visually connected together whole as can be seen in the images in my evidence (Views B, C and D **LBR-2B(09, 10 & 11)**). Whilst there might be the occasional service vehicle crossing the embankment first thing in the morning the removal of the car park will significantly reduce the amount of vehicle movements in the vicinity of the open space and the Wharf Lane building will shield the main part of the open space from what remains of any vehicle movements in Wharf Lane. The reality is there will be less vehicle movements and they will be further away from the centre of the Future Functioning Open Space than they are in the Existing Functioning Open Space.
- 3.30 In response to the sixth point, mentioned on pages 39 to 40 of Mrs Holman's statement, there are constraints that apply to both spaces but then it is important to find creative ways to overcome those constraints. The future event space is affected by the risk of tidal flooding but as my evidence has shown (**LBR-2A** para 10.11 to

10.14) this rarely occurs in summer when most events are staged and there are ways of managing and closing highways when space is needed for special events. One of the big advantages however is that the future event space is part of one contiguous and coherent open space that is directly connected to the river and therefore capable of putting on events that are linked to activity on the river and able to celebrate the town's relationship with the river in a way that is not possible with the current open space.

- 3.31 In response to the seventh point, mentioned on pages 41 to 46 of Mrs Holman's statement, this matter was fully considered as part of the planning process and therefore deemed on balance to be acceptable. The Arboricultural Report (**CD 4.09A** and **CD 4.09B**) that was submitted as part of the Planning Application identified that approximately half of these trees (34) were of category C or lower and of the higher quality trees a number had some serious health problems including the Pin Oaks on the embankment and the hornbeams on the service road. The aim had been to try and retain as much as possible of the better-quality existing trees but due to the health concerns the decision was made to do what was better for the long term future of the open space and replace them with healthy trees. The original aim was also to retain and transplant the black polar to a better location within the new open space. Technical issues with moving the tree, coupled with advice that it was not suitable for its intended location due to its mature size and health and safety concerns over the tendency for black poplar to drop branches as they get older meant that this decision was revised as part of the planning application process .
- 3.32 In response to the eighth point, mentioned on pages 46 to 60 of Mrs Holman's statement, relating to sunlight on the open space, shadow studies have shown that the existing space is significantly affected in mid summer, from 5pm onwards, by shadows from the trees along the service road falling across the open space. The Future Designated Open Space (and the Future Functioning Open Space) will enjoy light in different areas at different times of the day. The Wharf Lane building is located to the south east of the main area of open space and sunlight shadow studies have shown that it will remain unaffected by shadows from the buildings until at least 11am from March through to September. Whilst the Wharf Lane building contains accommodation that is five storeys in height this part of the building is located further away from the Future Designated Open Space and the part of the building that abuts the space, and therefore ultimately controls the shadows, is only four storeys in height. The top level of this part of the building is also totally contained within the

pitched roof volume of the building, so the shadows caused by the building are effectively equivalent to those of three storey building. As can be seen from Mrs Holman's shadow study image on page 48 the shadow from the taller left hand part of the Wharf Lane building is landing on the lower right part of the building and you can still see sunlight hitting the top part of the right hand roof – this means that the shadow that is falling on the open space to the east is being caused by the lower roof and not the higher 18.3 metre high part (the 21 metres reported by Mrs Holman is not correct as that is measured from embankment level and the building does not go down to embankment level). The plan shown by Mrs Holman on page 49 is neither the existing condition or the future proposed condition but an amalgamation of both that is obviously designed to try and give the impression that the existing condition would be a lot sunnier. Whilst that might be true of the western part of the site the eastern part (to the west and south of the Water Lane building) is currently covered by redundant buildings that cast shadows. The reality is that in the existing Gardens the west part of the site enjoys the afternoon sun but in the future open space the sunlit space is not really any smaller it just moves further to the north east. The image of the Gardens at 5pm on 21st March on page 50 is also deceptive as by the time the dense vegetation (that Mrs Holman describes on page 11) is out in leaf (which it normally is by mid April) the reality is that it will also be casting long shadows. Similar comments apply to all the other images shown. Whilst we did produce our own comparative shadow studies they have not been made public till now due to the difficulty (as evidenced by Mrs Holman's images) of accurately modelling and portraying the shadows cast by the landscape elements which ultimately make such a difference to the sunlight hitting the ground on this site. In order to provide a comparative indication we have submitted (reference.....) our shadow studies that were produced in May 2021 and show the existing against the proposed for all seasons. The buildings are as submitted for planning but there have been some minor amendments to some of the trees (two extra trees have been provided on the embankment). In order to provide a realistic assessment the trees shown are assumed to have reached a reasonable level of maturity (10 – 15 years) but it is difficult to be precise with a natural living organism that changes with the seasons.

- 3.33 In response to the ninth point, mentioned on pages 61 to 68 of Mrs Holman's statement, the Wharf Lane building is tall but the extent of its height is somewhat exaggerated. The top of the ridge on the tallest element sits at +25.8 AOD (above Ordnance Datum). The Gardens sit at +7.5 AOD to 8.0 AOD so it rises approximately 18 metres above the Gardens. The 21 metre height that Mrs Holman mentions is

obtained by measuring from the embankment level (+4.8 AOD). I do not know the height of the church so cannot comment on that claim but with regard to it being substantially bigger than anything in the High Street the building at the junction of King Street and London Road (at the top of Water Lane) stands at +25.6 AOD which is only 200 mm less than Wharf Lane.

4. **TRANSPORT AND HIGHWAYS (Nick O'Donnell)**

- 4.1. This section is being addressed by Nick O'Donnell. Details of Mr O'Donnell's qualifications and experience are set out in his main Proof of Evidence (**LBR 3A**).

Comparison between advantages of existing open space and future open space

- 4.2. There were a number of specific points raised in reference the Future Open Space not being as advantageous in terms of highway and vehicular movements, they are as follows:
- 4.2.1. Vehicular movements through proposed open space
 - 4.2.2. Vehicular movements adjacent to proposed open space
 - 4.2.3. Cycle routes
- 4.3. In response to the first point, mentioned on pages 34 to 35 of Mrs Holman's statement, that some vehicles will pass through the middle of the Future Functioning Open Space which is adopted highway between 07.00 and 10.00 every day, and that this will impact on the ability of members of the public to enjoy this part of the Functioning Open Space at these times, and that as an example, young people will not be able to play/move freely in this area for fear of a road traffic incident. Please refer to page 19, Appendix A of the transport assessment of August 2021 (**CD 3.14**) which shows that this area is currently a car parking area with 58 vehicular parking bays. Pedestrians and cyclists pass through it but do not tend to use it as open space. The Scheme will replace these vehicular parking bays with six dedicated loading bays, two controlled parking zone bays, and one dedicated street traders licenced bay. As set out in Section 8.3 of the Transport and Highways Proof of Evidence (**LBR – 3A**), the Scheme will lead to a net decrease in vehicular trips through the King Street/Water Lane and King Street/Wharf Lane junctions between 08.00 and 09.00 on weekdays. This reduction, together with the physical measures intended to reduce vehicle speeds, as set out in Appendix **LBR – 3B(01)**, will help make the area safer

for pedestrians. Mrs Holman also states that they are concerned that the hours during which vehicles will be allowed to pass through the Functioning Open Space that is adopted highway are likely to be increased from the proposed hours of 07.00-10.00 every day. Any change to the hours of operation of the proposed bollards could only be implemented via a Traffic Management Order under S6 of the Road Traffic Regulation Act 1984 and the Council would have to follow the existing statutory consultation process set out in this Act. The Scheme is forecast to generate 22 net additional servicing vehicular trips per 12-hour day, 21 of which will be completed by light goods vehicles which will not have to pass through this area (see Table 6.24 of the Transport Assessment of August 2021, **CD3.14**) because they can turn safely at the southern ends of Water Lane and Wharf Lane (see Appendix D of the Transport Assessment of October 2022, **CD 4.8**). The evidence submitted in both iterations of the transport assessment would make it difficult to justify increasing the number of hours per day in which the bollards might be left open. Mrs Holman also states that members of the public will not be able to enjoy the Existing Designated Open Space which will be at the same level as the highway. The Drawing they use on page 34 to illustrate their point shows a width of 10m between the off side of the tracked HGV and the foot of the proposed steps of 10m at its narrowest point and 17.5m at its widest point. Members of the public could use this area without coming into conflict with motorised vehicles.

- 4.4. In response to the second point, mentioned on pages 35 to 36 of Mrs Holman's statement, that the Council has underestimated the number of vehicles that will use the proposed turning area at the southern end of Water Lane, the applicant submitted baseline average vehicular and cycle traffic flow data using the King Street/Water Lane priority bell-mouth junction at the AM and PM weekday peak hours as Appendix F of the Transport Assessments of both August 2021 and October 2022. Tables 6.17 – 6.23 of the Transport Assessment of August 2021 (**CD 3.14**) show how the applicant has used the nationally used trip generation database TRICS to forecast the number of servicing trips that all of the proposed land uses will generate. Table 24 of the Transport Assessment shows that the Scheme will create an increase of 22 servicing vehicular trips per 12-hour 07.00-19.00 standard assessment day, 1-2 of which will be made by HGVs. Section 4.8 of the Transport Assessment of August 2021 (**CD 3.14**) also sets out how the applicant used evidence provided to them by the Eel Pie Island Association to estimate the number of servicing trips generated by the island and the type of vehicle used for most of those trips. Most servicing trips are completed by light goods vehicle or car, both of which can turn safely at the southern

end of Water Lane, as set out in the updated vehicle swept path analysis submitted as Appendix D of the Transport Assessment of October 2022. The method the applicant used to forecast the number of serving trips and the types of vehicles likely to complete them is widely used in the planning system in England and Wales and the Council believes that the evidence provided in both versions of the Transport Assessment is acceptable. Mrs Holman also states that the turning area at the southern end of Water Lane is adjacent to the Future Functioning Open Space on The Embankment and within the terraced lawns and that this will affect the health and safety of members of the public that use it. Section 8.3 of the Transport and Highways Proof of Evidence (**LBR – 3A**) sets out that the Scheme will reduce the number of vehicular trips at the King Street/Water Lane junction, and Appendix A of the Transport Assessment of August 2021 (**CD 3.14**) sets out that 58 vehicular parking bays will be removed from The Embankment. The lower number of vehicular trips will reduce the risk of conflict between vehicles and members of the public that travel to and use these areas.

- 4.5. In response to the third point, mentioned on pages 37 of Mrs Holman's statement, the Council is not introducing a major cycle route along The Embankment, but Section 7 of the Transport and Highways Proof of Evidence (**LBR – 3A**) sets out how the Scheme intends to encourage a shift away from journeys made by private car and towards making them by sustainable modes of transport, including by bicycle, which is a key national, London-wide and local planning policy objective. Section 7 of the Transport and Highways Proof of Evidence describes how the reduction in the number of trips by private car to and from The Embankment that the Scheme will lead to, together with the physical changes to the highway on Wharf Lane, Water Lane, and the Embankment, that are proposed to reduce vehicle speeds and will help give priority to pedestrians and cyclists in this area.

PART 2 – s19(1)(aa)

5. GENERAL (Paul Chadwick)

- 5.1. This section is being addressed by Paul Chadwick. Details of Mr Chadwick's qualifications and experience are set out in his main Proof of Evidence (**LBR – 1A**).

S19(1)(aa) powers not part of the Council's original order.

- 5.2. This is in reference to comments made, on pages 70 and 71 in Mrs Holman's statement, to the fact the Council originally intended to only use s19(1)(a), but later changed to also include use of s19(1)(aa).
- 5.3. In response, this is correct. However, the Council subsequently made the decision to use s19(1)(aa) as well as s19(1)(a). It sought the relevant approvals at Committee in September 2021 (**CD 1.09**). The Order was made in reliance on both subsections.

To satisfy requirements of s19(1)(aa) Water Lane open space had to be added

- 5.4. This is in reference to comments made, on page 71 of Mrs Holman's statement, that the Council had to find additional land and therefore included the Water Lane Retail Walkway.
- 5.5. In response, this is addressed at 2.3 of this rebuttal. The open space on Water Lane is an important part of the Scheme and an integral part of the proposed open space.

Use of s19(1)(aa) is at odds with existing legal precedent

- 5.6. This is in reference to comments, on page 71 to 73 of Mrs Holman's statement, that the Council is using a novel interpretation of s19(1)(aa) which is at odds with existing legal orthodoxy.
- 5.7. This is a matter for legal submission.

No explanation as to why improved open space will improve its management

- 5.8. This is in reference to points made on page 71 in paragraphs 8 and 9 of Mrs Holman's statement.
- 5.9. In response, this is explained in the Statement of Case at paras 8.51 to 8.56 and at paras. 10.51 to 10.57 of LBR1A.

What area of the Future Designated Open Space would be owned by the Trust and how and why management of the retained open space would be improved.

- 5.10. This is in reference to points made on page 72, paragraph 2 of Mrs Holman's statement.

- 5.11. The Council has sought, in extensive dialogue, to engage with the Trust in respect of management of the future open space but the Trust has declined such involvement in principle. Improvement of management of the open space is addressed above.

Contesting anti-social behaviour

- 5.12. This is in reference to points made on page 72, paragraph 1 of Mrs Holman's statement.
- 5.13. In response, the Council has not stated that all anti-social behaviour in Twickenham Riverside is limited to the Gardens, please see the response at 2.14 of this rebuttal.

Council is current manager of the Retained Open Space and it is an abuse of statutory power

- 5.14. This is in reference to points made on page 73, paragraph 8 of Mrs Holman's statement.
- 5.15. In response, please refer to paragraph 5.30. In so far as this raises legal matters, it is a matter for legal submission.

Benefits for the management of the Retained Open Space should be seen in isolation

- 5.16. This is in reference to comments made on page 74, paragraph 2 of Mrs Holman's statement.
- 5.17. In response, it is considered unrealistic to consider these benefits in a vacuum, divorced from any context.

No plan for the future management of the open space

- 5.18. This is in reference to comments made on page 75, paragraph 1 of Mrs Holman's statement.
- 5.19. In response, an Open Space Management Plan has been conditioned by planning (NS38) and a document (**LBR – 1B(3)**) was appended to Mr Chadwick's Proof of Evidence that indicated how the Future Open Space will be managed.