

The London Borough of Richmond upon Thames (Twickenham Riverside) Compulsory Purchase Order 2021 and

Application for a Certificate under section 19 and Schedule 3 of the Acquisition of Land Act 1981

Public Local Inquiry

OPENING STATEMENT
on behalf of the
ACQUIRING AUTHORITY

(1) Procedural requirements

1. The relevant procedural requirements for the Inquiry have been complied with.¹

(2) Defined Terms

2. The AA's Statement of Case contains a glossary of defined terms, which have subsequently been updated in the AA's proofs of evidence.² The terms used in this opening statement are those contained in the updated glossaries in the AA's proofs of evidence.³

(3) The Scheme Land: context

3. The Scheme Land is a unique site within Twickenham, being the only site available for redevelopment which directly connects the town centre and the river.⁴ It is also highly accessible by rail, road and local bus services.⁵
4. The Scheme Land comprises an area of 1.34 hectares and currently includes three retail units, with first floor commercial space, the Diamond Jubilee Gardens, a separate isolated area of open space, car parking and a number of derelict and disused areas.⁶ The Gardens are situated on the site of the former open-air swimming pool, which was closed in 1980 and never re-opened.⁷

¹ LBR21.

² LBR1A – 4A.

³ In response to TRT, there is now an amended definition of Derelict Areas (as well as of Play Space): LBR22.

⁴ LBR1A, para 4.1.

⁵ LBR1A, para 4.2; LBR3A, section 5.2.

⁶ LBR1A, para 4.1.

⁷ LBR1A, para 5.2. The Gardens are shown on Map M (LRB1B/5) and comprise 2737 sqm including a café building; 2510 sqm of the Gardens are subject to the lease to the Twickenham Riverside Trust (CD4.3K) The separate open space comprises 126 sqm as shown on CD4.3A.

5. The Scheme Land suffers from a number of serious issues. The Gardens are raised above the Embankment and have a limited connection to the river, with only one accessible entrance from the northern approach.⁸ This limits their connection with the river and creates a sense of seclusion that prevents natural surveillance.⁹ The Gardens provide an area of hard landscaping for events at the eastern end, two artificial grass lawns bordered by hedges, an enclosed play area, pétanque terrain, a sandpit and planting bed with a border of mature trees.¹⁰ However, due to the remains of the open-air swimming pool on site, there is limited capacity for the Gardens to support significant areas of natural planting.¹¹ The play area is visually disconnected from the rest of the Gardens by hedges.¹² The Gardens are separated from the river by a significant level change, a large unattractive retaining wall and railings, and a linear stretch of car parking along the Embankment.¹³ The buildings associated with the former swimming pool are derelict and hoarded off from the public due to reasons of public health and safety, resulting in a disused area that attracts fly-tipping.¹⁴ These buildings separate part of the Existing Designated Open Space from the Gardens.¹⁵ This area is isolated from the wider area and has no step free access.
6. It is widely acknowledged that the Gardens have been and continue to be subject to anti-social behaviour and criminal damage;¹⁶ this is in part attributable to their location, under-utilisation and lack of connectivity to the wider area.¹⁷
7. Whilst the Scheme Land has the potential to become a flourishing destination for all to enjoy, it currently includes buildings of no architectural merit and comprises a collection of spaces that lack cohesion and do not capitalise on their location on the edge of the river Thames.¹⁸

(4) The Scheme: description

8. The CPO has been made by the London Borough of Richmond upon Thames as Acquiring (“the AA”) so as to secure the implementation of the Scheme, which was granted planning permission on 21 December 2022.¹⁹ The CPO will facilitate the development, redevelopment and improvement of the Scheme Land so as to deliver significant social, economic and environmental improvements for the Borough.
9. In summary, the Scheme will deliver replacement open space, including a children's play area, sensory play elements, pétanque terrain, terraced lawns, seating, areas of soft landscaping and a town square/events space, including open space wrapping around and along Water Lane; a pedestrianised riverfront; 45 residential homes, including 21 affordable homes (50% by habitable room²⁰); an active ground floor frontage with commercial, retail and food and beverage units; a river activity zone including boat

⁸ LBR1A, para 4.7.

⁹ LBR1A, para 4.7.

¹⁰ LBR1A, para 4.6.

¹¹ LBR2A, para 4.4.

¹² LBR2A, para 4.5 and 4.6.

¹³ LBR1A, para 10.11.

¹⁴ LBR1A, para 4.4.

¹⁵ Plot 48 CD4.02A; the area of 126 sqm shown on CD4.3A.

¹⁶ For example at W1.1.02 pages 25 to 26.

¹⁷ LBR1A, para 4.6; LBR2A, para 4.11.

¹⁸ LBR2A, para 4.15.

¹⁹ CD3.40.

²⁰ This is compliant with policy H4 of the London Plan and policy LP36 of the Local Plan: LBR4A, para 6.21.

storage, changing space and pontoon; a designated servicing and loading area for Eel Pie Island; floating ecology for wildlife in the river; and ground floor public toilets.²¹

10. At the heart of the Scheme and its design is the delivery of an enhanced area of public space, reflecting the importance of open space to the community.²² The main activity areas, the play space, the pétanque space, the events space and grass lawn terraces would be located in the central part of the Future Designated Open Space.²³ All would be connected by a sloping path, steps and footpaths to ensure easy access between each area²⁴ thereby significantly enhancing the accessibility of the area as a whole.²⁵ This is enabled by the removal of the retaining wall across much the Scheme Land. The Future Designated Open Space has been designed with an emphasis on visual connection to the river, avoiding hedges, fences and other barriers as far as possible.²⁶ The removal of car parking along the Embankment would create an area for relaxation and an Events Space capable of hosting a range of activities.²⁷ This approach would ensure that the Future Designated Open Space is fully integrated into the Future Functioning Open Space. A café would be re-provided within the ground floor of the Water Lane building, which would benefit from outdoor seating and views over the open space and towards the river.²⁸
11. The delivery of housing is key to regenerating this part of the town centre. The Water Lane and Wharf Lane buildings, which provide residential units at the upper levels, provide bookends to the Scheme and provide active frontages at ground level.²⁹ The delivery of residential development as a means of contributing to the regeneration of the town centre is recognised as a key issue in the Twickenham Area Action Plan 2013 (“the TAAP”).³⁰ Local Plan policy LP34 identifies a housing target for the Borough of 315 new homes per annum and indicates that Twickenham can accommodate approximately 1000 – 1050 homes over the 10 year plan period.³¹ The London Plan, which was adopted in March 2021, identifies an increased annual housing target for Richmond of 411 new homes per annum, which is reflected in the emerging Local Plan.³² The Twickenham Riverside area is identified in the Local Plan³³ and the TAAP as an ‘opportunity area’, where residential units could be delivered in order to contribute towards Twickenham’s housing needs.³⁴ The AA faces significant challenges in delivering housing in the Borough, with more than two thirds of the Borough being protected by heritage or open space designations.³⁵ It is therefore of particular importance that the contribution of the Scheme Land towards meeting the housing need is optimised.

²¹ LBR1A, para 6.1; LBR2A para. 2.8.

²² LBR2A, para 10.11.

²³ LBR2A, para 11.9.

²⁴ LBR2A, para 11.9.

²⁵ LBR2A, para 10.28.

²⁶ LBR2A, para 11.9.

²⁷ LBR1A, para 9.14.

²⁸ LBR1A, para 6.5.

²⁹ LBR2A, para 8.2.

³⁰ LBR1A, para 9.7; CD2.05.

³¹ LBR4A, para 6.18.

³² LBR4A, para 6.17.

³³ CD2.04.

³⁴ LBR1A, para 9.7; LBR4A, para. 6.14.

³⁵ LBR1, para 9.33.1.

12. In addition to housing, the Scheme would deliver retail and office space. Five flexible retail units and a kiosk would be situated at ground floor level within the Water Lane building, which would be experienced as a continuation of the smaller retailers found on pedestrianised Church Street on the edge of the Scheme Land.³⁶ The net provision of new retail uses along Water Lane in a main town centre location would meet the objectives of Local Plan policy LP25, which seeks to protect the viability of the Borough's town centres.³⁷ The Wharf Lane building would provide flexible office space at ground floor level. The proposed office provision which would result in a net uplift on site, meets the objectives of policy LP41 which seeks to retain existing office floorspace and also promote new floorspace.³⁸ As well as being policy compliant, these uses bring vitality to the area and would help to activate the public realm at ground level.
13. The Wharf Lane building is critical to the Scheme and the delivery of economic and social benefits. The Wharf Lane building would create a backdrop to the proposed open space, activating the space through commercial ground floor uses³⁹ and enhancing the natural surveillance of the open space.⁴⁰ The proposed gastro pub/restaurant at the southern end of the ground floor of the Wharf Lane building would act as a destination for visitors and a focal point for activity.⁴¹ The toilets within this building would be open for the public, including outside opening hours.⁴² The terrace providing outside seating would form part of the Future Functioning Open Space.⁴³ The northern end of the Wharf Lane building would deliver managed office space with residential apartments at the upper levels.⁴⁴ The boathouse situated under the gastro-pub/restaurant and the new pontoon would enhance opportunities for visitors and local people.⁴⁵
14. The Scheme strikes a balance between the delivery of high-quality, enlarged replacement open space and other uses which are essential to enhancing the vitality of the open space and the wider area. This balance is critical to making the riverside an exciting destination, so as to attract people of all ages.

(5) The Scheme: collaboration and evolution

15. The Scheme is the result of a long process of evolution and collaboration with stakeholders.⁴⁶ The AA has engaged in consultation relating to the regeneration of the riverside since as early as 2010, the output of which has consistently demonstrated the local desire for the riverfront to be improved.⁴⁷ A Stakeholder Reference Group ("SRG") was established prior to inception of the Scheme in 2018, on which the Twickenham Riverside Trust ("TRT") and others were represented. The SRG was established to ensure that local stakeholder groups with an interest in the riverside were fully involved in the process and with a view to securing agreement in principle from

³⁶ LBR1A, para 6.5.

³⁷ LBR4A, para 6.24.

³⁸ LBR4A, para 6.24.

³⁹ LBR2A, para 11.6.

⁴⁰ LBR2A, para 6.5.

⁴¹ LBR2A, para 8.30.

⁴² LBR2A, para 8.30.

⁴³ LBR2A, para 8.30.

⁴⁴ LBR2A, para 8.31.

⁴⁵ LBR2A, para 9.7.

⁴⁶ LBR1A, section 7.

⁴⁷ LBR1A, para 7.2.

stakeholders at the earliest point.⁴⁸ The SRG met on eleven occasions between December 2018 and December 2020. The SRG included representatives from the TRT and Eel Pie Island Association, amongst other stakeholder groups.⁴⁹ The SRG had an integral role in shaping the brief and design development as well as helping the Council to ensure that as wide a population as possible was engaged with the design.⁵⁰ In particular, the groups represented at the SRG provided ‘principles for development’ in December 2018, which helped to shape the RIBA Full Design Brief. The principles provided by the TRT through this process were directly incorporated into the Design Brief.⁵¹ The SRG also elected a representative to sit on the Design Panel, which approved the Design Brief and selected the Hopkins concept design and design team through the competition process.⁵²

16. The AA chose to select the design team for the Scheme through a RIBA design competition, which was held between March 2019 and June 2020. On 6 February 2019, the TRT wrote to the Council to express its “*wholehearted*” support for the design process.⁵³ The process was overseen by a Design Panel, on which the SRG was represented, which evaluated the submissions and approved the final RIBA Full Design Brief.⁵⁴ The Design Panel selected five shortlisted teams from 54 expressions of interest, following which the full design brief was published in June 2019.
17. In September 2019, TRT wrote to the AA in support of the Hopkins concept scheme, indicating that “*the Trustees are unanimous in their decision that scheme number 1 [the Hopkins scheme] should be the preferred scheme among those that have been shortlisted*”.⁵⁵ In November 2019, the Design Panel selected the Hopkins team and concept design from those shortlisted. It is notable that the concept design supported by the TRT included a building with a significantly larger footprint on Wharf Lane than is now proposed; this footprint was subsequently reduced. As a result of the Environment Agency’s flood management requirements, the footprint of built development on the Scheme Land was reduced by some 33%⁵⁶ with a commensurate increase in open space.
18. Two separate four-week periods of public consultation were held. The first of these, held between September and October 2019, sought views on the five shortlisted concept designs.⁵⁷
19. Following the selection of the Hopkins team and concept design, the Design Team met with members of the TRT on at least ten occasions between June 2020 and May 2021.⁵⁸ Four of those meetings were with a specifically appointed selection of trustees who formed a Trust Design Subgroup.⁵⁹ The SRG also continued to hold meetings, with a total of eleven meetings held between December 2018 and December 2020. On 16 April 2020, the TRT provided a ‘minimum specification’ for the replacement open

⁴⁸ LBR1A, para 11.10 to 11.

⁴⁹ LBR1A, para 5.11.

⁵⁰ LBR1A, para 5.11.

⁵¹ LBR1A, 11.12.

⁵² LBR1A, para 11.15.

⁵³ LBR5, Apx 6: July 2018

⁵⁴ LBR1A, para. 5.11. The objectives of the Design Brief are summarised at LBR2A, para 5.4.

⁵⁵ LBR1A, para 5.13; LBR5, Apx 15.

⁵⁶ LBR1A, para 6.13; LBR2B(6).

⁵⁷ LBR1A, para 7.4.

⁵⁸ LBR1A, para 11.30.

⁵⁹ LBR1A, para 11.30.

space,⁶⁰ which was subsequently updated in June 2020.⁶¹ Following the Environment Agency consultation response, the concept scheme was further developed as engagement continued with stakeholders. A second period of public consultation took place in January to February 2021, which focussed on the Hopkins design as refined to take account of the Environment Agency's specific requirements. This disclosed a high measure of support from respondents for the Hopkins design.⁶²

20. The TRT provided a revised schedule providing detailed requirements for the open space on 29 March 2021.⁶³ The Design Team made amendments to the Scheme to ensure that as many of the requirements as possible were met prior to the submission of the application for planning permission in August 2021.⁶⁴

21. It is reasonable to conclude that the Scheme has been thoroughly consulted upon, offering residents and stakeholders several opportunities to influence the design.⁶⁵

(6) The need for the Scheme

22. The purpose of seeking to acquire the land and rights compulsorily is to facilitate the redevelopment of the Scheme Land and to enable the delivery of the Scheme benefits. These benefits would be economic,⁶⁶ social⁶⁷ and environmental.⁶⁸ The benefits of the Scheme are supported by a Social and Additional Value Assessment commissioned by the AA.⁶⁹

23. It has long been the intention of the AA to redevelop the Twickenham Riverside area, since the closure of the swimming pool some 40 years ago. A number of attempts to redevelop the area have come forward in the past for several different parcels of land, both by the AA and private developers. None of these previous applications have included an area as large as the Scheme Land and they have all failed for different reasons.⁷⁰

24. The AA has a clear vision for the Scheme Land, which would transform it into a flourishing centre for Twickenham.⁷¹ The Scheme benefits from full planning permission.⁷² Whilst various objectors have raised planning points in respect of the Scheme, such as the previous inclusion of the Gardens on the brownfield register,⁷³ there has been no material change in planning policy since the grant of permission. Issues such as the brownfield status of the land were fully explored as part of the

⁶⁰ LBR5, Apx 27.

⁶¹ LBR5, Apx 30.

⁶² LRB1A, para. 7.7

⁶³ LBR5, Apx 57.

⁶⁴ LBR1A, para 11.33. The AA was not able to commit to providing 5G facilities and splash pads. With regards to the former, there was insufficient clarity as to what was required. The AA did not consider that splash pads were appropriate for the open space in light of the infrastructure and maintenance requirements that they would entail.

⁶⁵ LBR1A, para 7.15.

⁶⁶ LBR1A, paras 9.2 – 9.6.

⁶⁷ LBR1A, paras 9.7 – 9.21.

⁶⁸ LBR1A, paras 9.22 – 9.30.

⁶⁹ LBR1A, paras 9.31 – 32.

⁷⁰ LBR1A, para 5.4.

⁷¹ LBR1A, para 9.3.

⁷² CD3.40.

⁷³ LBR4A, para 8.21.

determination of the planning application.⁷⁴ This inquiry is not the forum to revisit such decisions. The Scheme remains policy compliant, as found by the local planning authority, both in terms of national policy⁷⁵ and local policy.⁷⁶

(6) The Modified Order

25. The need described above provides a compelling case in the public interest for confirming the Modified Order. The benefits of the Scheme justify the compulsory acquisition of private interests, having regard also to the availability of compensation.
26. The powers pursuant to which the Modified Order has been made are the appropriate ones. The AA has needed to utilise these powers because it is not certain that it will be able to acquire all the land and new rights that are required by agreement, or where there is land in unknown ownership or with unknown interests. Single ownership and control of the Modified Order Land is essential in order to allow the Scheme to proceed and a whole site solution to be achieved.
27. As originally made, the Unmodified Order Land comprised approximately 2.03 hectares and was made up of leasehold interests in three retail units and one office unit with communal space at first floor; the Gardens, part of which is subject to a 125 year lease granted by the AA to the TRT in 2014 and comprising Designated Open Space; an area of derelict and disused land, including the buildings to the east of the Gardens; and highway land forming part of the Embankment, which was unregistered at the time of the Order.⁷⁷ The Unmodified Order Land also included the right to oversail over part of the Embankment promenade, reputedly owned by the PLA, for the purpose of constructing the Scheme.⁷⁸
28. Since the making of the Order, the AA has continued to keep the Order Land under review. It has proposed several amendments to the Order Land in response to points raised by objectors and in order to minimise the land proposed for compulsory acquisition. The Modified Order Land excludes four categories of plots, which are shown on the Proposed Modifications CPO Plan and Revised Open Space Plan.⁷⁹ The categories of land proposed to be excluded from the CPO are existing open space owned by the AA and to be retained as open space;⁸⁰ existing highway land that would remain as highway;⁸¹ and other land fully owned by the AA, which therefore negates the need to acquire any further interests⁸² or rights.⁸³ The effect of the modifications is to reduce the extent of the Order Land from 2.03 hectares to 1.72 hectares.⁸⁴ None of the modifications involve the acquisition of any additional land such as to engage section 14 of the Acquisition of Land Act 1981.⁸⁵

⁷⁴ LBR4A, para 8.22.

⁷⁵ LBR4A, para 6.112.

⁷⁶ LBR4A, para 6.99.

⁷⁷ AA Statement of Case, para 4.2.

⁷⁸ AA Statement of Case, para 4.3.

⁷⁹ CD4.2A and CD4.2B.

⁸⁰ AA's Statement of Case, para 5.3.1.

⁸¹ AA's Statement of Case, para 5.3.2.

⁸² AA's Statement of Case, para 5.3.4.

⁸³ AA's Statement of Case, para 5.3.3.

⁸⁴ AA's Statement of Case, para 5.5. This includes a correction to the size of plot 25 (as explained at para 5.4).

⁸⁵ The consequential modifications to the CPO and its schedules are at LBR23.

29. The Proposed Modifications and the Revised Open Space Plan were issued to all interested parties on 10 March 2023. Three responses to the modifications have been received within the requisite period for response. Each response stated that plots 27 and 85 (a small area of flowerbeds within highway land on the Embankment) should not be deleted from CPO. However, these areas do not need to be acquired so there is no basis for their retention in the CPO. The response by the TRT has been supplemented some months after the response period – it now refers also to plots 52 and 87. Plot 52 is not affected by the proposed modification and plot 87 does not need to be acquired by the AA.
30. As required by Government guidance,⁸⁶ the AA has sought to acquire the land and rights required for the Scheme by agreement. It has done so from before the making of the CPO and those endeavours continue.
31. The AA has been successful in negotiating with landowners in respect of a number of plots required for the Scheme. In particular:
- a. The AA has secured the surrender of the leasehold interests in two commercial properties on King Street, and a third is terminable at 10 weeks' notice;⁸⁷
 - b. The AA has been successful in negotiations with Eric Twickenham Limited in respect of plot 49 to the rear of King Street and has secured agreement in principle to allow the AA to carry out necessary works, whilst retaining access to the company's property at all times;⁸⁸
 - c. The AA has entered into discussions with UKPN in respect of an electricity substation on plot 50. All discussions to date indicate that an agreement can be achieved;⁸⁹ and
 - d. The AA has agreed terms with the PLA for the acquisition of its interest in land forming part of the Embankment, once it is registered with the Land Registry. The acquisition by the AA of this land is on the verge of completion.⁹⁰ The AA's agents have also been in negotiations with the PLA in respect of rights to oversail its retained land.⁹¹ These have led to the withdrawal of the PLA's objection to the CPO⁹².
32. The AA's agents have written to those with rights of light that may be impacted by the Scheme and those from whom the AA require rights to oversail cranes.⁹³ The AA is continuing to make efforts to engage with affected property owners.
33. As explained above, the AA sought to engage with the TRT from the earliest period. The first meeting took place between councillors, officers and the TRT in July 2018.⁹⁴ The views of the TRT have been integral to shaping the design selection process and

⁸⁶ 'Guidance on compulsory purchase process and Crichel Down rules' (2019), section 2 (CD4.1).

⁸⁷ LBR1A, paras 11.3 – 11.6.

⁸⁸ LBR1A, para 11.7.

⁸⁹ LBR1A, para 11.8.

⁹⁰ LBR1A, paras 11.69 – 11.71.

⁹¹ LBR1A, paras 11.73.

⁹² LBR25.

⁹³ LBR1A, paras 11.73 – 74.

⁹⁴ LBR1A, para 11.10.

the development of the design of the Scheme, both through participation in the SRG⁹⁵, having a representative on the Twickenham Riverside Design Group,⁹⁶ and ongoing collaboration between the TRT, its Design Subgroup⁹⁷ and the Design Team. From the initial invitation to provide ‘principles for development’ to be incorporated into the RIBA Full Design Brief in December 2018, until the final design for the submission of the planning application, the TRT’s requirements have been central to the development of the Scheme design.

34. In July 2019, the AA approached the TRT to offer to pay its reasonable legal fees for negotiating and entering into an option agreement.⁹⁸ This offer was reiterated and accepted by the TRT in October 2019. In December 2019, it was agreed between the TRT and the AA that they could move forward with agreeing a memorandum of understanding.⁹⁹ In April 2020, the parties met to agree heads of terms for a new lease or licence for the TRT under the Scheme¹⁰⁰ In June 2020, the TRT indicated that it could not agree to a plan for the proposed TRT lease/licence area until planning permission had been secured.¹⁰¹ The AA reluctantly sought approval for the use of compulsory purchase powers in November 2020, in light of the significant risk to the cost and programme of the Scheme posed by the TRT’s position. As a result of a representation from the TRT, the AA postponed the decision on the use of such powers until January 2021, to allow further time for progress to be made in negotiations.¹⁰² Negotiations over heads of terms between the AA and the TRT lasted for a period of some 18 months between December 2019 and June 2021.
35. Despite continued collaboration between the AA and the TRT, by June 2021 no agreement had been reached and the AA resolved to approve the use of compulsory purchase powers. Notwithstanding this, the AA has continued to meet with the TRT in respect of both design matters and with a view to reaching a negotiated agreement for a new lease/licence area. In January 2022, the AA were notified that some of the trustees had resigned. That letter indicated that the TRT were no longer meaningfully considering a negotiated settlement with the AA.¹⁰³ It has since been confirmed that the TRT had by that stage suspended negotiations on the heads of terms and that the trustees had voted to reject the Council’s proposal for a future role for the TRT in respect of the proposed lease/licence area, in the event that the CPO is confirmed.¹⁰⁴ Notwithstanding this, the AA continues to seek to work with the TRT to agree a lease or licence arrangement and will continue to do so if the CPO is confirmed.

(7) Scheme alternatives

36. Two alternatives to the Scheme have been mooted by objectors in the proofs of evidence. The AA does not consider that any of the alternatives proposed would be capable of delivering the benefits of the Scheme.

⁹⁵ LBR1A, paras 11.10 – 11.15.

⁹⁶ LBR1A, para 11.11.

⁹⁷ LBR1A, paras 11.30 – 11.33.

⁹⁸ LBR1A, para 11.38.

⁹⁹ LBR1A, para 11.38.

¹⁰⁰ LBR1A, para 11.42.

¹⁰¹ LBR1A, para 11.45.

¹⁰² LBR1A, para 11.48.

¹⁰³ LBR1A, paras 11.60 – 63.

¹⁰⁴ LBR1A, para 11.67; LBR5 Apx 84.

37. The TRT has suggested that the Scheme could be delivered without the development of the Wharf Lane Building.¹⁰⁵ The AA has responded to this alternative in its Statement of Case¹⁰⁶ and in its evidence.¹⁰⁷ The Wharf Lane Building is an integral component of the Scheme which delivers important benefits.¹⁰⁸
38. The alternative scheme suggested by Mr Vie¹⁰⁹ in his Proof of Evidence has been responded to by the AA.¹¹⁰ Mr Vie's alternative proposal is not deliverable.
39. The Scheme is the product of a rigorous design process, with input from key stakeholders throughout. It provides a whole site solution which is capable of delivering substantial social, economic and environmental benefits.

(8) Lack of impediments

40. There is considered to be no likely impediment to implementation of the Scheme. In particular:
- a. Planning permission has been secured for the Scheme. The planning conditions attaching to the permission are capable of being discharged in a timely manner;¹¹¹
 - b. The AA advertised its intention to make a stopping up order ("SUO") under section 247 of the Town and Country Planning Act 1990 between February and March 2023.¹¹² The AA has considered the objections received to the stopping up order and considers that there are no grounds for a further inquiry to be held. The GLA has agreed that no inquiry is required to be held and the AA proposes to confirm the SUO upon confirmation of the CPO;¹¹³
 - c. The traffic regulation orders required to facilitate the Scheme would be implemented through an Experimental Traffic Management Order, for which the relevant statutory processes would be followed. Any objections to the proposed orders would be considered by the AA's Transport and Air Quality Committee and if necessary, the AA would reconsult interested parties on any major modifications proposed.¹¹⁴ The traffic and transport implications of the Scheme were considered at length during the planning application process and led the highway authority to have no objections to the granting of the planning permission. A revised Stage 1 Road Safety Audit was carried out in October 2022 and all amendments to the highway network have been agreed in principle with the highway authority, which has responsibility for such matters;¹¹⁵

¹⁰⁵ Objection S-02; W1.1.01, page 62; S-2 REB.4, page 31ff.

¹⁰⁶ Paras 11.65 – 66.

¹⁰⁷ LBR1, para 9.33.

¹⁰⁸ Latterly, the TRT appears to be suggesting a further alternative scheme in its rebuttal evidence submitted last week, based on amendments to the development proposals promoted in 2017, to which the Environment Agency objected and which was subsequently withdrawn: S-2 REB4, page 9ff.

¹⁰⁹ NS-134.

¹¹⁰ LBR9, para 2.8.

¹¹¹ LBR4A, para 5.26 – 28; LBR1A, paras 13.3 – 13.4.

¹¹² LBR3A, para 6.8.5, as shown on the plan at CD4.06.

¹¹³ LBR24.

¹¹⁴ LBR1A, paras 13.19.

¹¹⁵ LBR1A, para 13.20.

- d. The AA has discussed the need for a flood risk permit to be obtained with the Environment Agency for the Scheme works. The Environment Agency has raised no objections to the Scheme design as proposed;¹¹⁶
 - e. The AA has had detailed engagement with the PLA in respect of the necessary river works licence from the PLA. The AA is satisfied that such a licence will be forthcoming; and
 - f. The AA has commenced the procurement process for contractors to construct the Scheme and an indicative programme has been prepared. The outcome of the procurement process will be ratified by the AA prior to the appointment of a contractor.¹¹⁷
41. The AA is clear as to the means of funding the Scheme. On 19 January 2023, the AA's Finance, Policy and Resources Committee approved the funding required for the Scheme. The estimated net cost to the AA is £20 million.¹¹⁸ The AA is committed to investing in the Scheme in order to deliver wider benefits and help regenerate Twickenham town centre.¹¹⁹
42. The land and rights included within the Modified Order are no more than necessary to implement the Scheme. The AA has given careful consideration to the need to include each parcel of land within the Modified Order and has continued to interrogate its justifications after the making of the Order.
43. In the light of the above, there are powerful grounds for confirmation of the Modified Order. In particular, the interference with human rights is justified and proportionate, having regard to the availability of compensation.¹²⁰

(9) Section 19

44. The Modified Order Land includes open space within the meaning of section 19(4) of the Acquisition of Land Act 1981 ("1981 Act"). The areas of open space over which powers of compulsory acquisition are sought are identified on the Revised Open Space Plan¹²¹ and comprise acquisition of part of the Gardens under section 19(1)(a) of the 1981 Act. The Modified Order Land also includes open space comprising part of the Gardens under section 19(1)(aa) of the 1981 Act, identified on the Revised Open Space Plan.¹²² The AA also seeks rights over open space under paragraph 6(1)(a) of Schedule 3 to the 1981 Act. Such rights will not result in the open space being any less advantageous to the public on the basis that they are rights to oversail cranes only.
45. As stated above, the AA has continued to interrogate the need to include all plots within the Order. This process has resulted in a number of plots being proposed to be removed from the Modified Order, as shown on the Revised Open Space Plan.¹²³ As a result of the modifications, the amount of lost open space would reduce from 1,388sqm to 1,336sqm; the amount of retained open space to be acquired reduces from 2,010 sqm

¹¹⁶ LBR1A, para 13.22.

¹¹⁷ LBR1A, para 13.24.

¹¹⁸ LBR1A, para 13.5.

¹¹⁹ LBR1A, para 13.5.

¹²⁰ LBR1A, para 15.7.

¹²¹ CD4.2B. Shaded in red.

¹²² CD4.2B. Shaded in orange.

¹²³ CD4.2B. Shown in hatched. Explained at LBR1A, paras 10.15.1 – 10.15.7.

to 1,428sqm; and the amount of exchange land reduces from 1,919sqm to 1,815sqm.¹²⁴ In all other respects the AA's case in support of the grant of the section 19 certificate remains as originally set out in the submission made on 4 November 2021.¹²⁵ As explained above, the Proposed Modifications and Revised Open Space Plan were issued to all interested parties on 10 March 2023.

46. With regards to the open space to be acquired under section 19(1)(a), the Scheme will deliver 1,815 sqm by way of Exchange Land, in comparison to 1,336 sqm of Lost Open Space.¹²⁶ That Lost Open Space calculation includes part of the café building.
47. The evidence for TRT identifies a number of plots which it seeks to argue ought to be included within the calculation of Lost Open Space and excluded from the calculation of Exchange Land.¹²⁷ On the one hand it seeks to treat circulation areas and areas of planting (however inaccessible) as open space within the meaning of section 19(4) and on the other seeks to exclude new circulation areas and areas of planting (which would form part of the Future Designated Open Space) from the Exchange Land.¹²⁸ This does not represent a coherent approach to the issue of quantum.¹²⁹
48. In terms of equality of advantage for the public, the Exchange Land cannot be considered in isolation from its future context, including the Future Functioning Open Space that will be delivered by the Scheme, when compared to the Lost Open Space in its context. The Scheme will deliver an increase in Future Functioning Open Space from 4445 sqm to 6005 sqm, an increase of 35%.¹³⁰ The Future Functioning Open Space would be equivalent in size or larger in every category other than planted areas,¹³¹ in circumstances where much of the existing planted areas in the south west of the Scheme Land is inaccessible. The size of the future Events Space on the Embankment is larger than the combined size of the existing artificial grass and the existing event space, even disregarding the additional space for events to be held on the grass lawn areas and parts of the circulation space. There would be a substantial increase in useable space when comparing the Existing Functioning Open Space, irrespective of how circulation space is treated (58% or 54% if circulation space is excluded).¹³²
49. Qualitatively, the Existing Functioning Open Space comprises three separate pieces of land which are split into a number of different types of space which are separated from each other by fences, hedges, retaining walls, road and car parking. The isolated piece of open space to the east of the Scheme Land cannot be used in conjunction with the rest of the open space in any meaningful way.¹³³ As stated above, the Existing Functioning Open Space fails to capitalise on the riverside location, being separated physically and visually from the river.

¹²⁴ LBR1A, para 10.15.8(a) – (c).

¹²⁵ LBR1A, para 10.15.9.

¹²⁶ LBR2A, Table 1.

¹²⁷ W1.1.02, pages 21 – 22.

¹²⁸ LBR16-2, paras 2.2 – 2.8.

¹²⁹ Additionally it is now argued by TRT that an area of fenced off scrubland with no access that falls outside the Gardens (comprising 100 sqm.) should be excluded from the Exchange Land, apparently on the basis that it should be treated as laid out as a public garden; it is not - it is distinct from the Gardens and not laid out as such: LBR16-2 para. 2.5.

¹³⁰ LBR2A, Table 2.

¹³¹ LBR2A, para 10.45.

¹³² LBR2A, para. 10.48

¹³³ LBR2A, para 10.42.

50. In comparison, the main areas of the Future Designated and Functioning Open Space are located adjacent to one another, allowing for them to be used flexibly, together or in tandem with the adjacent circulation space.¹³⁴ The Future Functioning Open Space is significantly more accessible than the existing. The Scheme would result in the removal of derelict and disused areas and make better use of the space, creating opportunities for a number of uses which would better appeal to all ages.¹³⁵
51. Although the lower areas of the Future Functioning Open Space would be exposed to flooding that is currently experienced by the entirety of the existing Functioning Open Space on the Embankment, the Scheme would also result in an increase in the amount of open space within Flood Zone 1, from 2652 sqm to 3107 sqm (as well as in Flood Zone 2).¹³⁶
52. The date for assessing equality of advantage is the date on which the Existing Designated Open Space is to be acquired under a CPO, being the same date that the Exchange Land must vest in the persons in whom the existing open space is vested. However, regard can be had to improvements to the Exchange Land proposed within the Scheme which are to take place after the date of the exchange.¹³⁷ The open space is anticipated to be completed within 24 months of the commencement of development, which will take place following the exercise of powers under the Modified Order.¹³⁸ Planning condition NS64 requires the submission and approval of a phasing plan prior to commencement of development to provide that all areas of open space, landscaping and play provision are provided as early as practicable as part of the development. In this case, the improvements to the Exchange Land are part of the very purpose of the Scheme and seeking compulsory acquisition of the Modified Order Land.
53. In respect of the open space to be acquired under section 19(1)(aa), the land to be acquired will be enhanced.¹³⁹ The acquisition is essential in order to reconfigure the open space on the Scheme Land and deliver the significant improvements in the quantity and quality of open space. Whilst the TRT suggest that the physical reconfiguration is outside the scope of ‘improving the management’ of the open space,¹⁴⁰ this position is unfounded. It appears to be predicated on the assumption that the power of improved management somehow cannot be used to alter the state of the open space, either alone or in conjunction with other land. It would have the curious consequence of requiring exchange land to be provided in circumstances where the acquired land would remain as open space, defeating the purpose of the provision. Although this is raised in the evidence of the TRT, it is ultimately a point for legal submission, The AA would request that, if this point is to be pursued, any such submission on behalf of the TRT is provided well in advance of their appearance on section 19 matters.
54. It will be submitted that the purpose of the acquisition of the Retained Open Space falls squarely within the ambit of section 19(1)(aa) and accords with the Guidance at para. 242 where land will continue to be used as open space.

¹³⁴ LBR2A, para 10.44.

¹³⁵ LBR2A, para 10.9.

¹³⁶ CD4.03G and 4.03H.

¹³⁷ LBR1A, para 10.46.

¹³⁸ LBR1A, para 10.45

¹³⁹ LBR1A, para 10.53.

¹⁴⁰ W.1.1.02, page 73.

55. There is a further legal point raised in the TRT evidence to which the same request applies. The TRT additionally suggest that the 125 year lease that it holds in the Gardens is an ‘incident’ within the meaning of section 19(1)(a) and 19(3) so that the Exchange land would be subject to this incident.¹⁴¹ By way of summary response, this argument is misconceived. The reference to ‘trusts, rights and incidents’ is not a means of re-creating a lease in land where that lease has been extinguished through compulsory acquisition. It is unclear in any event what the purpose of the suggestion is.

(10) Equalities considerations

56. At each stage of its formal decision-making, consideration has been given by the AA to potential equalities impacts pursuant to section 149 of the Equality Act 2010.¹⁴² The Scheme has been designed in accordance with relevant accessibility standards and would significantly improve accessibility in respect of the open space.

(11) Objections to CPO and application for a section 19 certificate

57. The AA’s responses to each the objections to the Modified Order and the application for a section 19 certificate are addressed in section 10 of the AA’s Statement of Case as well as being addressed thematically in the AA’s Proofs of Evidence. The AA has produced Rebuttal Proofs in response to the Proofs of Evidence of all objectors (LBR6 to 19).¹⁴³

58. The AA has continued to engage with objectors leading to the recent withdrawal of one of the five statutory objections (the PLA) and agreement in principle with another (Eric Twickenham Ltd). Indeed the PLA welcome the Scheme, along with the Environment Agency.¹⁴⁴ It has sought to engage with the TRT leading to what is understood to be agreement as to methodology and measurement of areas and as to a number of definitions and maps, several of which have been produced by the AA at the behest of the TRT. The AA is seeking agreement to that being formally recorded in a joint statement with the TRT on agreed and disagreed matters.

Andrew Tait KC

Daisy Noble

6 June 2023

¹⁴¹ W.1.1.02, page 68 ff.

¹⁴² CD1.06.

¹⁴³ With the exception of Councillor Samuel.

¹⁴⁴ CD3.37, page 45.