

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 ACQUISITION
AND SCHEDULE 3 OF LAND ACT 1981**

ACQUIRING AUTHORITY

NOTE ON LBR5 APPENDIX 35

LBR26

1. **LBR5 APPENDIX 35**

- 1.1 Item 46a of LBR5 refers to an email from the Council to the Trust regarding an offer made to the Trust and refers to that correspondence being included at LBR5 Appendix 35. LBR5 Appendix 35 omitted to include the correspondence referred to and dated 24 June 2020.
- 1.2 The omitted correspondence is submitted together with this document LBR26.

24th June 2020

Dear Anne,

Thank you for your response. I will address the points in your email, but first I think it is helpful to summarise the offers and concessions made by the Council thus far, to demonstrate how we have listened and responded to the requests made by the Trust from the start of the competition and why the area plan discussed at the previous meeting is our final offer.

Design Competition Brief

The brief that went to architects as part of the Design Competition included a section regarding the Diamond Jubilee Gardens which was agreed with the Trust. It originally asked for 2,250 sqm in a position so as not to be affected by flooding (based on a letter received from the Trust and your principles document). This was later amended to be 2,600 sqm above the 1 in 100 year plus 35%.

This is around 50 sqm more than the current Gardens according to the 2013 public notice (see slide 1 of the PowerPoint attached) and around 80 sqm more than the measurements show when the lease is overlaid onto the GIS map (see slide 2). For the purposes of the Brief, and to maximise provision, the Council were willing to round this up to 2600 sqm but now we must necessarily discuss specifics as the Trust are adamant about replacing like for like, so it is right to use the more accurate figure of 2550 sqm. It should be noted that 2550 sqm also includes the footprint of the café building at approximately 144 sqm.

It is also worth noting that the current Gardens are not all above the specified flood level, there is around 160 sqm, formed of the landscaped area in the southwest corner below the childrens' play area (see slide 3), that is below.

Hopkins' concept design and initial Trust feedback

Hopkins, in their winning concept design, provided 2,600+ sqm above the 1 in 100 year plus 35% flood level (attached – 'DJG_Hopkins_CompetitionDrawing'). By your own measurements, the concept design provided 2,665 sqm above the flood line. The feedback you gave was that, while the redlines had been met, the Trust felt that there was too much space between, and in front of, buildings that was not usable and no clear event space.

It is worth noting that by the same definition not all of the current Gardens are strictly usable. As well as the 160 sqm mentioned above being inaccessible and below the specified flood level, there is currently space surrounding the café and other areas such as entrances. Please see the PowerPoint where we have identified unusable spaces as an example – they amount to roughly 334 sqm of the current gardens. The latest area plan offered the Trust 2,574 sqm of usable space, with 2,189 sqm above the flood line. The current Gardens only has around 2,216 sqm of usable space giving only 27 sqm difference above the flood line but an additional 359 sqm of usable space.

After providing the Council with feedback on the original plan, at a meeting on 31st January 2020 the Trust presented three options on potential new footprints, all of which it was said at the time would be acceptable to the Trust. The Trust also said as long as the scheme delivered 2,600 sqm above the flood plain or "an area greater than 2,600 sqm above and below the flood plain" the Trust would consider it, with wording then drafted into the Heads of Terms by Pitmans. The Council left the meeting feeling positive and confident that the option including the Embankment could be acceptable to Councillors, having stated at the meeting that removal of the café would be a major

change to the design (both architecturally and financially), which the Council could not agree to. Following discussion with lead Members, and with a few suggested tweaks (to accommodate Eel Pie Island servicing and draw the line back from the Wharf Lane building), this option was accepted, and this was relayed to the Trust. This would have given the Trust well beyond 2,600 sqm above and below the flood plain. We discussed the revenue potential to the Trust and your ambition to make this a busy and exciting space, something we were happy and pleased to hear. We also agreed that the Trust could get rid of the current Management Agreement which requires them to take on the maintenance costs. This was a significant concession.

Later feedback from the Trust

Following this agreement, the tone from the Trust changed, and in the conference call on the 8th April the Trust were no longer willing to accept the plan that included the Embankment, nor include any plan in the legal agreements. This is something we felt went against all previous discussions and would leave both parties in a difficult position regarding certainty of what would be delivered. Furthermore, in our understanding this would not be acceptable to the Charity Commission as without a plan you could not demonstrate that you were getting comparable or improved area and functionality without defining the area that the surveyor would be reporting on. Exchanges between the lawyers following this made clear that the Council considered a plan to be essential in the interests of certainty for all parties.

This then led us to our most recent meeting with Hopkins on 5th June, who had revisited the Gardens and amended the design to give the Trust an event space above the 1 in 100 year plus 35% as well explaining that the gardens were terraced, not sloped and that the design significantly improved flood storage. In total the amount being offered was 3,014 sqm above and below the flood line. We feel this is a generous offer, giving the Gardens more space and placing them in a more central and visible location. It also substantially exceeds the definition within the drafted Heads of Terms of being greater than 2,600 sqm above and below the flood plain.

We have since heard that this plan does not meet your requirements and that the removal of the pavilion building would go some way towards meeting the Trusts objectives. We did explore carefully with the design team what impact this would have on the scheme. The key concern we and the team had was that its removal creates a “dead space” in the middle of the scheme which ruins the connectivity from Water to Wharf Lanes, losing key uses that will act as a draw for people and ensure that the space is busy all day, as well as impacting adversely on the architectural distinction of the scheme by removing the gable ends. It is clear in the engagement feedback, and discussions with stakeholders that the pavilion building is central to the design and the provision of a café in that space is supported by the wider community. Both the Council and Design Team agreed that removing the Pavilion building would have a detrimental impact on the design and we would not wish to pursue this option.

The Design Team have also questioned why only open space would need to be above the 1 in 100 year plus 35% to be deemed usable, given a flood at this level would by definition be extremely unusual (taking place once in the duration of your 125 year lease) and very unlikely to have a material impact on day to day or special event use. Should it occur there would be issues far greater than public space being inaccessible. Most of the riverside (including the majority of Water and Wharf Lanes) would be underwater.

Trust's principles and objects

We understand that the Trust must consider its objects and be able to demonstrate to the Charity Commission that it is getting equal or improved size and functionality from the new Gardens. We believe that you can clearly justify this based on the Council's offer.

The Trust's guiding principles taken from the letter 6th February 2019

- (i) *dimensions of any newly configured DJG: of proportions that can support community events and be enjoyed by a wide range of groups and communities*
- (ii) *be complementary to DJG in such a way as to enhance them and promote the public's enjoyment thereof but certainly not reduce their enjoyment and use thereof*

The Council proposal includes a larger events space above the flood line, as well as use of the wider gardens area. It also includes a children's play area which will be of equal or larger size, and certainly higher quality. It will include at least 2 pétanque pitches and the terraced areas offer flat spaces for the events to be held. The Hopkins design enhances the gardens not only in quality and size, but also location and footfall. We have letters and emails of support for the scheme from the Trust which would support this view.

The Trust's objects *are specifically restricted to the company's articles (and) must specifically restrict the company to only furthering the following;*

1. *To preserve and improve for the benefit of the public the riverside and its environs at Twickenham in the London Borough of Richmond upon Thames (and such other areas as the Trustees may from time to time decide);*
2. *To provide charitable facilities there for public recreation and community activities; and*
3. *To advance the education of the public in the history and environment of the area;*

The first point is addressed as above, regarding agreement that the Hopkins scheme will enhance and improve the riverside for the benefit of the public as captured in emails and letters from the Trust as well as the feedback from the public which clearly demonstrates support. As above, charitable facilities for public recreation and community activities will be provided – and the Council have also conceded that the Trust may have its own pricing schedule for events, keeping any revenue that it makes to enable to Trust to create a vibrant and lively riverside. Finally, opportunities for advancing the education of the public in the history and environment of the area can be discussed with the architects and we would be in support of any details which encouraged this.

Current position and final offer

Having worked closely with the team and carefully considered options raised by the Trust, we feel the latest plan presented offers an optimal solution and a clear and substantial improvement in in both the size and utility to the public of the Diamond Jubilee Gardens. Any further changes put other scheme objectives at risk and would affect the viability and cohesion of the scheme. Ultimately the Council, as well as the Trust, must consider the benefits for the wider community. This project is about regenerating Twickenham and bringing the riverside to life, the re-provision of the Gardens is only one aspect of this.

The below offers some comparisons of what the Trust currently have and what is on offer.

	Current Gardens	Council offer
Total footprint in sqm	Maximum 2,550 sqm	3,014 sqm

Usable space above 1 in 100 year plus 35% flood line in sqm (by the Trust's definition)	Maximum 2,216 sqm	2,189 sqm
Events space	Approx. 266 sqm with ability to spill out	404 sqm with ability to spill out
Play space (area with safety surfacing)	201 sqm	304 sqm
Pétanque	2 pitches	2 pitches with option for an additional

I would also like to pick up on matters outside of the site plan. While there have been compromises on both sides, the Council has conceded on / agreed to a number a key negotiating points that I think is worth highlighting:

The Trust has requested;	The Council has agreed;
To get rid of the management agreement and commitments within it – some of which are listed below.	To get rid of the MA with the key commitments captured in the Heads of Terms.
Not to pay for maintenance of the Gardens going forward (whereas under the current lease agreement, the Trust would be responsible for maintenance from May 2024)	To pay for maintenance indefinitely (a considerable ongoing financial commitment for the Council)
A new 125-year lease upon completion (which exceeds the remaining period on the current lease)	To a new 125-year lease
For the scheme to accommodate some key requirements in the design of the open space	To work up a key requirements document with the Trust, which could be agreed as part of the negotiation to give you assurances it will be delivered as well as ongoing engagement with the architects
To run the Embankment event space and be allowed to keep income	To accept this <u>and</u> offer financial support to the Trust for succession planning and establishing a new events programme/ infrastructure
To set their own pricing structures and rates	To give the Trust the freedom to run their own events and set the rates
£10,000 per month in liquidated damages to be paid to the Trust if the gardens are not delivered within the long stop date.	To the principle of paying liquidated damages while requiring on legal advice that they need to be a genuine pre-estimate of loss rather than a penalty clause

The Council in addition has also offered:

- £10k per annum for the Trust in the first four years following competition (which would not be required under current arrangements)

- Use of alternative riverside open space for events (after the long stop date, before the completion of the Gardens)

I ask that you carefully reflect on the above, and the extent it represents a clear improvement on current arrangements for Diamond Jubilee Gardens in the interests of the public and in line with Trust's objectives.

Trust email 12.06.20

In relation to the Pavilion building, I have addressed this issue above. We recognise the Gardens is a very important aspect of the scheme, but it is not the only aspect that needs careful consideration and which will improve the riverside for the benefit to local residents.

In regard to planning, as you are aware, we do not have permission yet, but are working towards a legal agreement with the Trust that would only kick in should we achieve planning and are starting construction. Therefore, the proposed arrangements only come into effect as and when planning consent is obtained.

Part of the planning process is design development which will include work on servicing and access. We have started engaging with Eel Pie Island Association and have committed to accommodating the largest vehicles required, but this work is ongoing and will take time and we require an agreement with the Trust long before the design will be finalised. I must note our concern that this is an example of where issues are being conflated, given that the access and servicing arrangements do not fall within the red line of the Gardens and are not included in the objects of the Trust.

Next steps

This all leaves us with the question of how to proceed. I would like to hear back from you, ideally in the next couple of working days, as to the Trust's comments on the above and whether you will reconsider, or indeed whether you can offer a solution as to how we can proceed which does not include the removal of the Pavilion building. Should your stance remain unchanged, and I do ask that you fully explain in relation to the Charity Commission process and your objectives why this may be, the Council will need to fully consider its options.

I look forward to hearing from you.

Yours sincerely,

Paul Chadwick

Director of Environment and Community Services
Serving Richmond and Wandsworth Councils