



Appeal Decisions

Inquiry Held on 9-12 & 16-19 October 2018

Site visits made on 8, 12 & 18 October 2018

by Nick Fagan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 29th November 2018

Appeal Ref A: APP/F5540/W/17/3192092

Park Road Allotments, Park Road, Isleworth, Middlesex TW8 8JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Northumberland Estates against the decision of the Council of the London Borough of Hounslow.
 - The application Ref P/2016/0717 & 00707/E/P110, dated 15 February 2016, was refused by notice dated 6 July 2017.
 - The development proposed is the erection of eight blocks of three- and four-storey buildings to create 119 flats and 8 houses (127 residential units in total) with car parking at basement and street level and associated works.
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Appeal Ref B: APP/F5540/W/17/3192086

Land at Syon Park, Brentford, Middlesex TW8 8JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Northumberland Estates against the decision of the Council of the London Borough of Hounslow.
 - The application Ref P/2016/0716 & 00707/E/P111, dated 15 February 2016, was refused by notice dated 6 July 2017.
 - The development proposed is the formation of a new allotment area with associated infrastructure.
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Decisions

1. Both appeals are dismissed.

Main Issues

Appeal A:

1. The extent to which the loss of Local Open Space caused by the proposal conflicts with adopted local policy and the level of harm thereby arising.
2. Whether the proposed development would harm the character and appearance of the area, including whether it would preserve or enhance the Isleworth Riverside Conservation Area.

Appeal B:

1. Whether the proposed development would adversely affect the significance of the Grade I listed Capability Brown designed Registered Park and Garden.
2. Whether it would preserve the settings of the Robert Adam designed Grade I listed Syon House and the Grade 1 listed Lion Gate and lodges onto London Road.

3. Whether it would preserve or enhance the Isleworth Riverside Conservation Area.
4. Whether the proposed allotments would encourage continued use of allotments and satisfactorily replace the Park Road allotments (which would be lost in the Appeal A scheme).
5. Whether the proposed development would be inappropriate on this Metropolitan Open Land (MOL), whether it would harm the MOL's openness, and whether it is necessary to establish 'very special circumstances' in terms of Green Belt/MOL policy.

Procedural Matters

2. Two signed S106 Unilateral Undertakings (UUs) dated 19 October 2018 were submitted on the last day of the Inquiry. I address these in more detail below.
3. The Council accepts, as set out in the Transport Statement of Common Ground, that its third refusal reason in respect of the appeal A scheme has been overcome by the appellant's submission of revised plans, which delete visitor parking spaces from the scheme and increase the amount of cycle parking.
4. In view of the joint proposals' aim to replace the allotments on Park Road with new allotments inside nearby Syon Park it seems logical and sensible to consider Appeal B first.

Description of the Area and Relationship of the Two Sites

5. Syon Park contains Syon House, the historic London seat of the Dukes of Northumberland dating back to Tudor times and which continues today. The House, originally built by Lord Protector Somerset in the mid-sixteenth century, was extensively remodelled both internally and externally by Robert Adam in the mid-eighteenth century at the time that Capability Brown re-landscaped the Park, including by the addition of Adam's Lion Gate entrance and lodges on London Road and a new carriage drive sweeping round towards the House over Adam's bridge spanning Brown's new serpentine lake.
6. Syon House and the Lion Gate and lodges are both Grade I listed buildings (LBs). The 80 hectare Park contains many other LBs, listed Grade II apart from the Conservatory to the north of the House and the Gate Lodges to the House which are also Grade I. Syon Park is listed Grade I on the list of Registered Parks and Gardens and is designated MOL. It lies on the north bank of the Thames opposite Kew Gardens, a World Heritage Site and it is situated within the buffer zone of the WHS.
7. The Park is situated behind a tall brick wall (also Grade II listed) immediately to the east of the historic Thameside village of Isleworth. The historic core of the old village, the riverside including Isleworth Ait (the island situated at this bend in the river, now a nature reserve), the famous London Apprentice pub and All Saints' Church as well as Syon Park all lie within the Isleworth Riverside Conservation Area (CA). Despite the suburban, predominantly twentieth century, development of London that has grown around it the area still retains its village feel and within the Park its arcadian landscape that links with Brown's works at Kew, Richmond and Hampton Court.
8. Park Road links the historic riverside of old Isleworth to the busy main A310 Twickenham Road and A315 London Road at Busch Corner. On its eastern side is the historic boundary wall of Syon Park with a wide belt of mature trees

behind it. Appeal site A is a 1.17 hectare area of historic allotment gardens on the west side of the road, which were provided for the local populace by the Northumberland Estate during World War I and have been used continuously as such ever since.

9. To the south of Appeal site A is the overgrown cemetery of All Saints' Church and accessed down a historic avenue of lime trees the Church itself. To the west is the post-World War II suburban housing development in first Snowy Fielder Way (SFW) and then Hepple Close, two cul-de-sacs beyond which are the higher bulkier buildings of West Middlesex Hospital. These cul-de-sacs are also within the CA. North of this is Isleworth Cemetery, which the Council intends to incorporate into the CA in the near future, and beyond this the modern predominantly three-storey residential development at Union Lane .
10. Appeal B is a site of 1.31 hectares within the currently grazed part of the historic Park just to the west of the Duchess Walkway, the public path which links the Duchess Gate on London Road to Syon House and the commercial facilities next to it, including the Hilton Hotel opened in 2011. The combined proposals are to redevelop the Park Road Allotment site with houses and flats and to relocate the allotments to this site in Syon Park, which is about ¾km away. Access to the new site would be via the Park's existing vehicular access off Park Road immediately to the south of Appeal site A.

Reasons – Appeal B

Effect on Designated Heritage Assets

11. Syon Park is one of the most important examples of Capability Brown's work because of its contribution to the arcadian Thames landscape and because his design legacy on the parkland is still recognisably intact, particularly in the area between Syon House and London Road, which is where the appeal site is situated. Only 35 of Brown's landscapes out of 170 are Registered at Grade I and this is only one of four of his landscapes in Greater London, the others being Kew Gardens, Hampton Court and St James' Park.
12. Brown's work in this part of the Park consisted principally of the creation of the curving serpentine lake, the planting of belts of trees to the boundaries and clumps or individual trees in a parkland setting and the creation of the carriage drive from Robert Adam's Lion Gate to link with his bridge over the lake before linking with the then existing Great Lime Avenue. Syon Park is typical of Brown's work in that he has created by these interventions the illusion of a never-ending arcadian landscape in what is a modestly sized area of only 26 hectares in this western side of the Park. The appellant acknowledges that the proposal would reduce the extent of the parkland laid out by Capability Brown. Historic England acknowledges that harm will be caused to the Registered Park.¹
13. However it is atypical of much of Brown's work which is generally exclusive enclosed landscapes designed to show off the owners' wealth and prestige, because the Lion Gate allows fairly extensive views into the Park from the public highway. This was clearly deliberate: Brown and Adam were working for the Duke at the same time. The Lion Gate and lodges, the lake and Adam's bridge over it and the carriage drive linking them and then opening up vistas of

¹ Tab 12 of TIS Evidence

the House down the Great Lime Avenue were planned together. As such the view into the parkland grazed by livestock, from the London Road, is as important to the park's significance as the view from the House itself, especially as the Lion Gate was conceived as the new grand entrance to the remodelled House. This view is very similar now to the view after the Brown and Adam works to the Park in the 1770s. For these reasons the setting of the Lion Gate, which extends not only into the Park but also to the suburban development on the north side of London Road, is a very important element of its significance.

14. Syon House can only be seen from the bridge over the lake where the carriage drive turns sharply eastwards down the Grand Lime Avenue. Views of the appeal site are severely constrained from the House by distance and the mature trees that effectively screen any views of it. However, setting is not confined to inter-visible views and the grand setting of the House includes, in the context of Brown's and Adam's works, the important carriage drive from the Lion Gate which was intended to gradually reveal to those travelling towards it the magnificence of the remodelled House and the status of the Percy family. As such the proposal would adversely impact on its setting. However, this impact would be relatively modest given the House's extensive setting and in my judgement insufficient to harm its overall significance as a LB, which in large part relies on its Adam interiors and its historic fabric.
15. However, the proposed allotments would be clearly visible from the Lion Gate, which is open and wide and allows expansive vistas across the parkland from London Road. By their nature the proposed allotments would retain the agricultural use of the site and would consist of predominantly open cultivated ground. But they would be divided from the rest of the grazed parkland by a stock proof fence and hedge, which are the antithesis of Brown's open landscape.
16. The garden sheds, tool stores, toilet/community shelter and steel dip tanks would be modest low and temporary structures in themselves. The taller sheds would be sited next to existing mature trees. But these structures and boundary features would, along with the appearance of the land divided up into 37 separate allotments, represent an alien intrusion into the Brownian parkland in a highly visible location. The reinstatement of historic tree planting belts either side of the lodges would not compensate for such a significant intrusion into Brown's historic parkland. The restoration of the carriage drive would clearly be a benefit but neither would this compensate for the above harm. In any case I am surprised that such "*a minor piece of work having a major effect*"² is not in the Estate's Management Plan for Syon Park³.
17. The allotments would also be visible from the Duchess Walk and the land adjoining it and from the road into the main car park and the Hilton Hotel as demonstrated by the verified photomontages in Viewpoints (VP) 2 and 4⁴. These are also prominent views to which the public have access.
18. There would be glimpsed views of the allotments from the bridge over the lake at VP3, and of course from the northern section of the carriage drive, which is to be restored under the proposals. The bridge, an early example of the use of

² NB EIC

³ CD-F7

⁴ Of CD-C7

wrought iron in such a structure, is a replacement of Adam's original bridge and is itself listed Grade II. There would be a marginal impact on its setting by the proposed glimpsed allotments but this would not in my opinion compromise its significance. The fact that the drive would not be open to the public and that the Estate has no intention of reopening the Lion Gate entrance does not however lessen the effect of the incursion of the alien form and appearance of the allotments into the open and grazed parkland, which forms the important southern setting of the Lion Gate and lodges.

19. Historic England advice states that "*the cumulative impact of incremental small-scale changes may have as great an effect on the significance of a heritage asset as a larger scale change*"⁵. The allotments would be a small-scale change in that they only form a small proportion of the area of the Park and would retain the openness of the land, especially when compared to the nearby Hilton Hotel. But they would in my view constitute, with the hotel, cumulative incremental change alien to the original design of the park by Brown. It is also noteworthy that the hotel was outside the area of the Park that was remodelled by Brown and in any case was justified as enabling development because it swept away a series of post-War buildings that themselves were damaging to the original Brownian design. This proposal lacks those merits.
20. Syon Park forms by far the largest and therefore most important of four character areas of the CA. Whilst the proposal would only affect a small proportion of it this effect would be contrary to the design principles adopted so successfully for this part of the Park by Brown and Adam together and it would therefore clearly fail to preserve the character and appearance of the CA.
21. For these reasons I conclude that the proposed allotments would result in less than substantial harm in terms of paragraph 196 of the National Planning Policy Framework (NPPF) to the Grade I Registered Park and Garden, the setting and thus significance of the Grade I listed Lion Gate and the character and appearance of the CA. Legal precedent determines that I must give considerable importance and weight to such harm. It is also important to note that the combined harm to these assets together is more than just the sum of the harm to each of them individually. This is because their significance is to a large extent dependent on their historical and aesthetic context as a fine example of Brown, the master landscaper and Adam, the master architect, working together to create this special and precious ensemble which has the highest level of heritage protection.
22. Policy CC4 (Heritage) of the Hounslow Local Plan (HLP) expects development proposals to conserve and take opportunities to enhance any heritage asset and its setting in a manner appropriate to its significance. Policy 7.8 (Heritage Assets and Archaeology) of the London Plan (LP) states that development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail. For the above reasons the proposed allotments in this location would fail to accord with these Policies.

⁵ CD-F11 #28

The Heritage Balance

23. This cumulative harm should be weighed against the public benefits of the proposals. The principal benefit of relocating the allotments here is to allow the Appeal A site to be redeveloped for private rental sector housing and thus provide a considerable continuing income stream to allow for the repair and refurbishment works to the exterior and interior of Syon House and to the Lion Gate.
24. These works require the expenditure of approximately £13 million and the Council does not contest that they are important and necessary. But it maintains that they could and should be funded in another way, without harm to the Park or other heritage assets. The appellant claims that the Council has not identified any other source of funding and that the proposals are the only way in which the necessary repair works to the House can be realistically funded.
25. However, I have only been presented with limited financial information relating to this project and the Syon Estate's accounts⁶ and have no understanding of the appellant's or the Duke's wider financial interests. The appellant is a major landowner (not just in this area) and it is not for the Council to demonstrate that funds could be generated from alternative areas of its business interests sufficient to finance the necessary repairs, even if it had the wherewithal to do so. On the contrary, the onus is on appellant to demonstrate that there is no way to fund the necessary repairs other than by implementing the proposals because of the harm to the Registered Park and the Lion Gate's setting, and I am not satisfied that it has done so. So whilst I agree that this harm must be balanced against the public benefits of the repair and restoration of the two Grade I LBs in the round, I am not convinced that alternative sources of funding do not or could not exist.
26. In other words, I am unconvinced that it is necessary to harm the Park and the setting of the Lion Gate in order to achieve the benefit of repairing and restoring Syon House. The appellant agrees that the repair and restoration works to the Lion Gate are already secured via the S106 agreement attached to the Hilton Hotel and the only benefit of the proposals would be to secure such works earlier. Whilst this would be beneficial I consider such a benefit to be relatively minor and do not therefore attach great weight to it.
27. The appellant also points to the opening up of this part of the Park to public access, where there is currently no such access. I attach little weight to this argument; first because the Estate could do this anyway, for instance by simply opening up the Lion Gate and the path of the old carriage drive; and second because it does not accept that access by allotment holders and their friends and families actually constitutes 'public access'.
28. I understand that a number of different locations within the Park were considered as possible sites for the allotments. I have seen no detailed analysis of those sites and the reasons why this particular site was preferred over the others. It may be that there are other sites within Syon Park where the impact on the Park and any other heritage assets would, on balance, be deemed to be acceptable. But for the above reasons the proposal's impact in this location would be unacceptable.

⁶ CD-B19

Whether the Proposed Allotments would Encourage Continued Use of Allotments

29. The Rule 6 Party (The Isleworth Society or TIS) do not consider that there would be equivalent provision of allotments on the proposed site. HLP Policy GB8 (Allotments, Agriculture and Local Food Growing) (criterion f) states that the Council will retain allotments unless it can be demonstrated that they are no longer required or viable for such purposes. Criterion (a) of GB8 states that the Council will encourage the continued use of allotments by retaining existing allotments and resisting their loss in accordance with the borough's Allotment Strategy (AS). Two of the key aims of this Strategy are to repair and invest in the infrastructure of allotments and projects which benefit existing and potential users; and to support existing allotment societies and foster the creation of self or partial management groups⁷.
30. As far as I can make out from Policy GB8 and the AS, there is a presumption that existing allotments will be retained unless their relocation would deliver benefits to existing allotment holders because, for example, the existing allotments are unviable in some way or the new allotments would provide better facilities. That does not appear to be the case here, as I heard at the Inquiry from many of the existing Park Road allotment holders.
31. In particular, in relation to the proposed facilities at appeal site B the existing allotment holders have set out a number of drawbacks. Whereas existing plot holders are allowed to install their own garden sheds and other structures such as polytunnels, sheds on the proposed allotments are to be shared between two allotment plots and other structures are likely to be restricted due to the site's location within Syon Park. These sheds would also be fairly small and grouped around the retained clumps of trees on the site such that some of the plots would be a considerable distance away from them. There would be one galvanised dip tank per 6-8 plots but no water taps comparable to those on the existing site. I also note that a sizeable minority of plots would be sited at least partially under the canopies or in the root protection areas of the existing retained trees, which would affect their suitability as allotments.
32. I agree with allotment holders that these drawbacks would, along with the virgin nature of the soil in this location compared to the long-tilled soil on the existing allotments, mean that the replacement allotments were not as good as the existing ones in Park Road. There would be advantages in the form of a dedicated turning and unloading area at the front of the site for vehicles and a toilet would also be provided, both of which are lacking at the existing site.
33. But on balance I consider the drawbacks of the new site to outweigh the advantages. I especially consider that expecting two plots to share a small garden shed, which may be located some distance away from their respective plots, to be practically unrealistic. I consider that the restriction on structures such as polytunnels and greenhouses would discourage the long-term take-up of the allotments. I note that the 30 December 2016 judgement of the First Tribunal which upheld the designation of the current allotment site as an Asset of Community Value (ACV) also concluded that this alternative allotment site was inferior to the existing one.⁸

⁷ CD-F4 #1.0

⁸ Appendix 1 of the Rule 6 Party Statement of Case, in particular #32

34. The appellant maintains that the new allotments would be reversible. Be that as it may it cannot be the appellant's intention to reverse them, because if it was then they could not be considered to be a permanent replacement of the allotments lost by the redevelopment of appeal site A. Consequently I attach no weight to this point.
35. For these reasons I conclude that the replacement allotments on this site would be likely to discourage the continued use of allotments in the local area contrary to HLP Policy GB8 and the Council's Allotment Strategy.

Effect on MOL

36. Policy 7.17 (Metropolitan Open Land) states that MOL is given the same level of protection as the Green Belt (GB) and that inappropriate development will be refused, except in very special circumstances. HLP Policy GB1 (Green Belt and Metropolitan Open Land) says the same and that the openness of GB and MOL will be maintained.
37. NPPF paragraph 143 states that inappropriate development is, by definition, harmful to the GB (and in this case MOL) and should not be approved except in very special circumstances. NPPF paragraph 145 states that the construction of buildings should be regarded as inappropriate in the GB (and MOL) subject to a number of exceptions including:
- a) buildings for agriculture and forestry; and
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the GB (and MOL) and do not conflict with the purposes of including land within it.
38. It is agreed by the parties that the proposed allotments would not change the agricultural use of the land and so the proposed sheds, tool stores etc, even assuming that such structures are properly defined as 'buildings', benefit from the exception in NPPF paragraph 145 a) above. However, even if the Council's interpretation – that the exception given to allotments does not fall within exception a) because it is covered by b) – is correct, the proposed allotments would in my opinion preserve the openness of the MOL because the incidental storage structures are small and low and would comprise only a very small proportion of the proposed open allotment site. The proposed allotments would not conflict with the five GB/MOL purposes set out in NPPF paragraph 134 precisely because they would retain open agricultural land, albeit with an altered appearance.
39. For these reasons the proposed development would not be inappropriate development and would not compromise the openness of Syon Park as MOL. There is therefore no need to establish whether 'very special circumstances' as defined by NPPF paragraph 144 exist. The proposed allotments would comply with LP Policy 7.17, HLP Policy GB1 and the relevant above paragraphs of the NPPF.

Appeal B Conclusion

40. The proposed allotments would not be inappropriate development within or harm the openness of Syon Park as MOL and would therefore accord with local

and national policy. However, they would cause less than substantial harm to the Grade I Registered Park and Garden and the Grade I Lion Gate and lodges and would fail to preserve the character and appearance of the CA and this harm would not be outweighed by the public benefits, contrary to local and national policy. Additionally, the new allotments would not be comparably as good as those existing and this would be likely to discourage the continued use of allotments in the local area contrary to HLP Policy GB8 and the Council's Allotment Strategy. As such the proposal clearly does not comply with the development plan as a whole. For these reasons the proposal is unacceptable.

Reasons – Appeal A

Loss of Local Open Space

41. The Park Road Allotment site is designated as Local open Space (LOS). HLP Policy GB2 (Open Space) states that LOS will be protected and enhanced. In particular criterion (g) of GB2 states that LOS will be protected from development unless it has been assessed as clearly surplus to requirements or it would be replaced by equivalent or better provision in a suitable location. It is not surplus to requirements because, as is clear from the evidence of TIS and the numerous objections from existing allotment holders on the site, there is still a substantial demand for plots on this site.
42. I acknowledge that there may be more vacant plots now than before the Estate took back in-house the management of the allotments. But it is clear to me that such a situation is likely to have come about because of the short duration of the new licenses granted to the incumbent plot holders and simply because of the uncertainty surrounding the site's future arising from this development proposal as acknowledged by the appellant⁹. Both these factors would have made prospective plot holders think twice, especially if, as I heard at the Inquiry, there is no certainty that they can count on harvesting the efforts of their labours.
43. As set out above, the proposed new allotments would not in my view comprise equivalent or better provision, principally because plot holders would be obliged to share small sheds and would find difficulty in obtaining permission to install structures like greenhouses or polytunnels. It is a reasonable expectation for allotment holders to be able to have their own shed; sharing one with someone else is impractical because there would be security implications for individual plot holders' possessions. Restricting polytunnels etc is likely to discourage the long term viability and success of the allotments because it would be likely to dampen the demand for plots.
44. The appellant argues that the proposal would not lead to a deficiency in publicly accessible open space. But that argument is irrelevant in terms of Policy GB2 for two reasons. Firstly, because it requires existing LOS to be protected from development "*especially where it would lead to a deficiency in publicly accessible open space*" (my underlining); that does not mean exclusively. Second, the ACV judgement concluded that it is not just allotment holders who can access the current allotments but all their families and friends and that the allotments further the social well-being of the wider community.¹⁰

⁹ PR #4.17

¹⁰Ibid, in particular #26, 27, 37 & 38

I agree with her that this is the case. For all these reasons the loss of this LOS is contrary to HLP Policy GB2.

45. LP Policy 7.18 also states that the loss of protected open spaces must be resisted unless equivalent or better quality provision is made within the local catchment area, and that replacement of one type of open space with another is unacceptable unless an up to date needs assessment shows that this would be appropriate.
46. In this case the proposals jointly result in the loss of the Park Road LOS. Even if the Appeal B site was considered acceptable (which it isn't) this would still have resulted in the overall loss of over a hectare of LOS as well as the loss of open grazing agricultural land and its replacement with the allotments, a different type of open space. For these reasons the proposed residential development of the Park Road site and the Appeal B replacement allotment scheme both fail to accord with LP Policy 7.18.
47. The appellant argues that there is a surplus of open space in the Isleworth area but it does not challenge the Council's/TIS's evidence¹¹ that there is an excess of demand over supply in respect of allotments in Isleworth. This argument may have carried some weight if appeal site B was suitable for allotments but since that is not the case the proposed residential development simply results in a loss of LOS allotment land, which the policy precludes.
48. The appellant's undisputed assertion that it could simply close the allotments overnight would not remove their LOS designation. I cannot understand why the Estate would choose to do so if this appeal fails since that would be in nobody's interest and would hardly add to the record of good custodianship of its land in the area. I note in this regard the ACV judgement's conclusion that "*there is no reason to expect that the demand for allotments will decrease and on the basis of the expressed support it is likely to increase*"¹². Bearing in mind the objections to the proposal and the continuing campaign to save the present allotments, I agree that the judge's conclusion on this point is still valid now.
49. The appellant criticises the Council for not disclosing that the site was allocated for residential development in the emerging Local Plan. The Council explains in its Note for the Inquiry¹³ the events leading up to the publication of the Local Plan Review (LPR) Consultation Document of October 2017¹⁴. Specifically, it points out (in paragraph 4 of this Note) that it was simply a human drafting error that resulted in the site wrongly being included in Appendix A of Part 2 of that Document. I agree that this is what appears to have happened, as evidenced by the copy of the tracked changes attached to ID11 containing Marilyn Smith the Interim Chief Planning Officer's instruction of 9 October 2017 to remove the site from the list. That is not surprising given the Council's Planning Committee's refusal of the two applications. The appellant does not question this explanation, I note, though it does point out that it was the Council's intention to allocate it, which is true.
50. This is a slightly embarrassing episode for the Council because the copy of the Consultation documents that went to the Council's Cabinet on 19 September 2017 (over two months after the applications had been refused by the Planning

¹¹ ID14

¹² Ibid, #41-43

¹³ ID11

¹⁴ CD-E12

Committee) still contained the site as a housing allocation. However, the Council state that the LPR consultation that took place between 23 October and 10 December 2017 made no mention of the site as a housing allocation¹⁵ and the appellant does not appear to dispute that. The Council and its officers are not immune from human error. In any case, this consultation was only a Regulation 18 Options consultation and so, even if the site had been included as an allocation site, I would attach little weight to it. The fact that it isn't included means that I afford this argument even less weight than that.

51. I consequently conclude that the proposed development would result in the unacceptable loss of LOS, specifically allotments for which there remains a proven demand in the area, contrary to HLP Policy GB2 and LP Policy 7.18. The requirements of these development plan policies are also the requirements of national policy as set out in NPPF paragraph 97, with which the proposal would also fail to comply with.

Effect on the Character and Appearance of the Conservation Area

52. I am required by statute to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA¹⁶. There is no doubt that the predominantly 3½ storey development of flats will significantly change the character of the site and the area adjoining it. But change does not necessarily equate to harm even in an area of historic open space.
53. Charlotte House Care Home (CH) opposite the site in SFW and the houses in SFW to the south are two-storey, as are those on Park Road to the south of the site. However the 1960s apartment blocks in Hepple Close, which is also in the CA, are three storeys, albeit with flat roofs. Many of the buildings on the riverside are also at least three storeys or more high. Furthermore Park Road and the site itself is dominated by the backdrop of the higher and much bulkier buildings at West Middlesex Hospital to the west of Hepple Close, which have a marked impact on the setting of the CA.
54. The layout of the blocks with the end gables of the northerly blocks facing park Road would, I consider, substantially help to reduce their impact on the Park Road street frontage. They would also be seen from the south with the backdrop of the hospital buildings behind them and their impact would consequently be in keeping with the character of the area, especially because the existing tree screen on Park Road would be retained and additional tree planting introduced in front of and between the blocks.
55. The flat Blocks B1 and C1 facing CH would be considerably taller than the Care Home but there is a sufficient gap between them and CH to prevent any overbearing impact. The scheme is well designed, taking its design cues from local buildings, has a good delineation between private and shared open space, would be well landscaped and would be built of high quality materials appropriate for the area. The link from the main access road between Blocks Band C into the existing lime tree avenue of the Church would be an elegant design solution that would help to knit the scheme into its urban context. The Council did not challenge the quality of the scheme's design.
56. To my mind the only significant impact of the scheme on the character and appearance of the CA would be that the gable of Block A, which faces onto the

¹⁵ ID11 #4

¹⁶ S72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

corner of SFW and Park Road, would block the glimpsed view of All Saints' Church tower from this location¹⁷. The Church tower can also be seen from some points on SFW and Blocks B1 and C1 would block those existing views.

57. The Church, which was predominantly rebuilt in 1970 following arson by a local schoolboy in 1943, has a significant presence in the CA, especially on the riverside itself. The Grade II* listed Church and The London Apprentice pub and the other residential LBs along this stretch of the river contribute significantly to the retained character and appearance of Old Isleworth. Much has been made by the Council and TIS of the Church tower's role in signalling or waymarking the heart of Old Isleworth including by its approach from the north down Park Road. I agree that this church tower (which is late fifteenth century and the oldest part of the Church), like all church towers, does indeed fulfil that role and that the blocking of views of it from the north would harm the Church's setting as a LB.
58. However, in my view it is the rebuilt Church's, including its unashamedly modernist twentieth century rebuilt addition to the tower, contribution to the Old Isleworth riverside that is most important, both as a LB and in terms of its importance to the character and appearance of the CA. In other words it is the views of the Church including its tower from the riverside that define its significance and a key element of the CA. Its significance and that of the CA as a whole would not therefore be unduly damaged by the proposed flats blocking views of the Church tower from the north.
59. The Council argues that the site forms a key open space that separates Old Isleworth from the twentieth century suburban development to the north. I disagree because there is twentieth century suburban development in SFW and Hepple Close and views from and over the site from the south are dominated by the hospital buildings. In my judgement it is Isleworth Cemetery that performs such a function and I can therefore appreciate why the Council is planning to incorporate it into the CA.
60. For these reasons I conclude that the proposed residential development would not significantly harm the character or appearance of the area and would preserve the character and appearance of the CA. It would comply with HLP Policies CC1 (Context and Character), CC2 (Urban Design and Architecture) and CC4 (Heritage), and with LP Policies 7.4 (Local Character) and 7.6 (Architecture), which together require development to be well designed and complement the character and appearance of the area.

Appeal A Conclusion

61. The proposed development would preserve the character and appearance of the CA. It would also deliver 127 new dwellings of a range of sizes appropriate to the need in the area including 46 discounted market rented units, a £30M construction project that will deliver a proportion of jobs for local people and economic benefits for the area and generate the £13M of funds from rental income that will deliver the repairs and restoration of Syon House. These would be significant benefits of the scheme, albeit that the additional dwellings are not needed to deliver a 5 year supply of deliverable sites in the Borough given that the Council can currently demonstrate over a 10 year supply.

¹⁷ Verified VP B in the D&AS – CD-B5 or VP2 on page 46 of CD-A5a

62. The appellants argue that there would be biodiversity benefits of the scheme and I do not disagree. But the current allotments provide a range of existing biodiversity benefits that would be (at least) partially lost through the scheme. On balance I consider that the overall effect on biodiversity would be neutral – and so this would not be a benefit.
63. Principally though, the proposal would result in the loss of LOS without its replacement by equivalent or better allotments contrary to the above Policies in the development plan. Whilst the HLP has no ceiling on the numbers of houses to be delivered and the development would generate an income to fund repairs to the principal Grade I LB this does not obviate the requirement in HLP Policy GB2 and LP Policy 7.18 to avoid the loss of LOS.
64. Just because there are a possibly greater number of policies within the development plan that the proposal would comply with than policies it does not mean that the development is acceptable. The appellant accepts that such a numerical approach is wrong and the absence of a range of possible types of harm (e.g. compliance with policies on housing mix, affordable housing, landscaping, air quality, flood risk etc) does not trump the harm identified above. I have assessed the proposal in terms of the main issues and Appeal A falls short on one of the two main issues, which means that it does not comply with the development plan as a whole. For these reasons the proposal is unacceptable. That reasoning of course also applies to appeal B.

The Planning Obligations

65. The obligations – UU1¹⁸ and UU2¹⁹ – between them require the owner (The Duke and other trustees) to:
- (a) carry out the approximately £13M worth of heritage works within a maximum period of 27 years from first occupation of the dwellings including works to Syon House, the Lion Gate and lodges, historic tree planting and restoration of the carriage drive from Lion Gate;
 - (b) submit a Travel plan, provide a car club space on the appeal A site and prohibit occupiers of the new dwellings from applying for a parking permit within the Controlled Parking Zone;
 - (c) provide a construction training scheme as part of the appeal A scheme or a contribution of £77,000 to the Council for such training and to implement the Considerate Contractor scheme;
 - (d) restrict commencement of development on site A until all the new allotment plots are provided, in the event that appeal B is unsuccessful not to implement the appeal A scheme, and the submission of an Allotment Management Plan and its implementation.
 - (e) provision of 46 discounted market rental units to be let out at a 30% discount for the lifetime of the development and 81 open market private rental market (OMR) units; and
 - (f) submission of a viability appraisal where the development in appeal A has not been implemented within 2 years of the above date and a post-occupation review when 75% of the OMR units are occupied, and the

¹⁸ ID16

¹⁹ ID17

payment of a deferred contribution should a surplus arise from the review.

The Council has agreed these obligations with the appellant and confirms that together with the agreed list of conditions²⁰ they satisfactorily address refusal reasons 4 and 6 of appeal A.

66. For the reasons given in the Council's CIL Compliance Schedule²¹ I am satisfied that all the above obligations would meet the relevant tests in *The Community Infrastructure Levy Regulations 2010*. However, these obligations only come into effect if the appeals are allowed and so I make no further comment on them.

Other Matters

67. Local residents and TIS have raised a number of other matters, in particular objections related to increased traffic and highway safety and flood risk. However, the Council as highway authority and the Environment Agency have raised no objections to the appeal A scheme on these grounds respectively and I am satisfied that the scheme would not lead to significant increased congestion or highway safety issues and would not result in increased flood risk for its own occupiers or existing nearby occupiers. I am also content that none of the other objections raised, except the main issues above, constitute reasons for dismissing the appeals.

Overall Conclusion

68. For the reasons given above I conclude that both appeals should be dismissed because both proposals are contrary to local and national policy and the presumption in favour of the development plan is not outweighed by other material considerations.

Nick Fagan

INSPECTOR

²⁰ ID9

²¹ ID13

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY: *Edward Grant* of Cornerstone Barristers

He called	Sophia Laird MA, Conservation Officer, London Borough of Hounslow (LBH) – Heritage
	Kiri Shuttleworth BSc (Hons) MA, acting Deputy Team Manager (West Team), LBH – Planning

FOR THE APPELLANT: *Sasha White* assisted by *Anjoli Foster* of Landmark Chambers

They called	Carl Vann BA (Hons), Grad Dip Arch, RIBA, ARB, Partner, Pollard Thomas Edwards – Design
	Nick Bridgland MA (Hons), MA, FSA Scot, IHBC, Heritage Director, Lichfields – Heritage
	Pauline Roberts BA (Hons), MSc, MRICS, MRTPI, Planning Director, Lichfields – Planning

FOR THE RULE 6 PARTY: *Charlotte Gilmartin* of 1 Crown Office Row

She called	Kate Harwood MA, The Gardens Trust – Syon Park heritage issues
	Laurie Handcock MA, MSc, Icen Projects – Heritage
	Christine Diwell, Secretary, The Isleworth Society (TIS) – Community issues including the allotments

INTERESTED PERSONS:

Annie Aloysius	Secretary, Park Road Allotments Association
Grace Gray	Local resident and allotment plot holder
Stephen Hurton	Chairman, Park Road Allotments Association
Nick Ferriday	Hounslow Friends of the Earth
Dr Daniel Vandenburg	Director, Hepple Close Management
Lynne McEvoy	Resident of Snowy Fielder Way
Thomas Elliott	Local resident

Vanessa Smith	Local resident
William Cran	Local resident
Cllr Tony Loucki	Ward Member for Osterley & Spring Grove and Member of Planning Committee
Rosemary Bunce	Committee Member of TIS
Peter Gallagher	Local resident
Chris Hern	Interested person
Anthony Agius	Hounslow Green Party
David Freeman	Local resident and allotment plot holder
Giles Denny	Resident of Snowy Fielder Way
Dr Valerie Snewin & Jane Perry	Local resident & plot holder respectively and authors of Vision for Park Road Allotments Site (Appendix 4 of TIS Proof of Evidence)
Jacki Thompson	Resident of Snowy Fielder Way

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Appellant's Opening Submissions
- 2 Council's Opening Statement
- 3 Rule 6 Party (The Isleworth Society's) Opening Submissions
- 4 Up to date vacancy record on Park Road Allotments Site
- 5 Chronology of pre apps, apps & appeals
- 6 Email dated 3/10/18 from appellant's solicitors to LBH re. Lion Gate track and drive restoration works re Hotel S106
- 7 Map of allotments within/accessible to residents of Isleworth
- 8 Comprehensive list of drawings
- 9 Final list of agreed conditions for both appeals
- 10 Appellant's letter of 10/10/18 agreeing to imposition of any pre-commencement conditions
- 11 Council's Note on emerging Local Plan allocations
- 12 The Duke's Power of Attorney including to Colin Barnes, the Estate's Director and signatory of the two UUs
- 13 Council's CIL Compliance Schedule
- 14 Council's updated details of current allotments in the Borough (Table 1A, revision to Table 1 of KS's Proof of Evidence)
- 15 Email from Colin Barnes dated 18/10/18 summarising the obligations in the Unilateral Undertakings (UUs)
- 16 Signed UU 1 relating to Appeal A dated 19/10/18
- 17 Signed UU2 relating to Appeal B dated 19/10/18
- 18 Revised upper ground floor plan Blocks A & B
- 19 Revised upper ground floor plan Blocks C & D
- 20 Council's Closing Submissions
- 21 Rule 6 Party's Closing Submissions
- 22 Appellant's Closing Submissions
- 23 Appellant's response to Closing Submissions of Council & Rule 6 Party