



Appeal Decision

Inquiry held between 12 October 2021 and 24 November 2021

Site visits made on 7 October 2021 and 2 December 2021

by Y Wright BSc(Hons) DipTP MSc DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2022

Appeal Ref: APP/Z5630/W/21/3278268

Tolworth Tower, Tolworth Broadway, Tolworth, London KT6 7EL

- 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 Healey Development Solutions (Broadway) Ltd against the decision of the Council of the Royal Borough of Kingston upon Thames.
 - The application Ref 21/00044/FUL, dated 17 December 2020, was refused by notice dated 20 May 2021.
 - The development proposed is Change of use of the existing 3rd to 22nd floors in Tolworth Tower from office (Use Class B1) to residential (Use Class C3), change of use of the existing 2nd floor from office (Use Class B1) to ancillary amenity space, including a residents gymnasium and lounge (Use Class C3), change of use of the existing 1st floor Car Park (sui generis) to create a flexible workspace unit (Dual Use Class C3/E), change of use of part of the existing ground floor undercroft from office (Use Class B1) to create freestanding retail kiosks (Use Class E) with associated external façade alterations and internal refurbishment works to Tolworth Tower; and the demolition of the existing retail units fronting Tolworth Broadway and the construction of two new buildings (T2 up to 19 storeys and T3 up to 15 storeys) with residential units, ground floor commercial space (Use Class E) and a public plaza; and the reconfiguration of the existing multi-storey car park, vehicle parking and servicing, along with the provision of associated cycle parking, refuse storage, amenity floorspace, landscaping and public realm works (existing M&S, Travelodge and RBK Council Car Park are retained and excluded from the proposals).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Inquiry sat for 12 days and I held an accompanied site visit on 2 December 2021 and an unaccompanied visit on 7 October 2021.
3. A revised description of the proposed development was agreed by the Council and the appellant as part of the planning application process, to add the storey heights of the proposed new towers T2 and T3. The Council determined the application on this basis. Accordingly, I use this revised description within the banner above.
4. The Council cannot demonstrate a five-year housing land supply. This is an agreed position between the main parties. Accordingly, paragraph 11 d) of the

National Planning Policy Framework (the Framework) is engaged. I consider this later in my decision.

5. The planning application was refused for ten reasons and at the time of the pre-Inquiry case management conference, nine main issues were identified. This was in response to the submission of further information on flood risk and drainage, which the Council confirmed would resolve this reason for refusal and as such it would not be defending it at the Inquiry.
6. An agreed Statement of Common Ground (SoCG) dated 15 September 2021, was submitted prior to the start of the Inquiry which sets out the policy context for the proposal, along with the matters of agreement/disagreement between the two main parties. A separate SoCG on viability was also submitted during the Inquiry. These are discussed where relevant below.
7. During the Inquiry, further information was submitted on fire safety, car parking and highway safety, along with details of a healthcare financial contribution, which the Council confirmed would resolve these reasons for refusal, subject to any necessary planning conditions and the planning obligation. As such, the Council confirmed that it would not be defending these reasons for refusal.
8. My consideration of whether the proposed development would be appropriately mitigated was set out as a main issue for the Inquiry. However, for the purposes of this decision, I have incorporated this logically into other relevant main issues. I therefore do not include this as a separate main issue.
9. During the Inquiry, a signed SoCG Addendum dated 14 October 2021 was submitted, clarifying matters relating to the Circular Economy and the Whole Life Cycle Carbon Assessments. Based on the updated evidence and subject to the imposition of a relevant condition, both the Council and appellant agree that these matters have now been resolved. I also note that the Greater London Authority (GLA) considers the updated evidence to be acceptable.
10. A planning obligation in the form of a dated and signed Section 106 unilateral undertaking (UU), was received on 6 December 2021, after the Inquiry closed and where necessary, is assessed below.
11. My attention has been drawn by both main parties to two previous planning applications for the site referenced 15/16356/FUL and 18/16764/FUL. These received Council resolutions to grant planning permission, subject to the completion of the Section 106 agreements, in 2016 and 2019 respectively. The Section 106 agreements for both of these applications have not been signed and decisions for each application have not been issued. I consider the relevance of these as material considerations, where appropriate, within my decision.

Main Issues

12. Taking account of the above, the main issues in this appeal are:

- The effect of the proposed development on the character and appearance of the site and the surrounding area;
- The effect of the proposal on employment and retail floorspace provision and the vitality and viability of the District Centre;

- Whether the proposal would provide acceptable measures in relation to energy (zero carbon), the circular economy and the urban greening factor;
- Whether the proposal makes adequate provision for affordable housing, taking account of the relevant policies of the development plan and the viability of the development;
- Whether the proposed development makes adequate provision for housing with 3 or more bedrooms, taking account of the relevant policies of the development plan, the location of the site and the housing needs of the Borough; and
- Whether the proposal would provide acceptable living conditions for future occupants with regard to the provision of outdoor private, communal and play spaces.

Reasons

Character and appearance

13. The appeal site is located within the Tolworth District Centre, which is characterised by a mix of commercial, retail and residential uses within buildings that vary in age, character and scale. The site forms part of the Tolworth Tower complex and is dominated by the presence of the existing 22-storey Tolworth Tower, an iconic landmark 1960s building. This currently vacant office building is the tallest and most prominent building within the context of the wider surrounding area. The complex also includes a two-storey podium including shops and a multistorey car park and an 8-storey linear building comprising a hotel and residential apartments.
14. The proposed development would include the change of use of the existing Tolworth Tower and the construction of two additional towers (T2 and T3). One of the Council's reasons for refusal relates to the siting of T2 and T3 as this would conflict with the locational requirements of Policy D9(B) of the London Plan: The Spatial Development Strategy for Greater London (2021) (LP). This policy sets out that Development Plans should define what is considered to be a tall building for specific locations and that they should only be developed in locations that are identified as suitable in Development Plans.
15. The Council has not undertaken a tall building assessment as yet, so suitable tall building locations have not been defined within the Borough, nor are they set out within local policy. Indeed the Royal Borough of Kingston upon Thames Core Strategy (2012) (CS) was adopted prior to the recent LP, so contains no such locations. However, CS Policy CS8 does include the statement that 'tall buildings may be appropriate in the Borough's town centres'.
16. The Council, in its statement of case, does not object to the overall height, mass and scale of the proposed tall buildings in terms of visual and townscape impact and confirms that the conflict with LP Policy D9(B) is technical in nature. Indeed, it is agreed in the main SoCG, that there are material considerations which support the proposed tall buildings in this location. Reflecting the GLA's supportive comments, these include the presence of the existing 22-storey building, the site's town centre location and the previous 2015 application, with a resolution to grant, as this also proposed to include two tall buildings of broadly similar height, mass and scale.

17. The proposed towers T2 and T3 would add substantial new tall built form to the appeal site. However, their overall scale, mass and height would appear subordinate to the existing dominant Tolworth Tower. Whilst these new towers would be prominent when viewed from within the site, the adjacent street scenes and the surrounding area, they would be seen within the context of the existing Tolworth Tower, other buildings within the wider Tolworth Complex, and their District Centre location.
18. Therefore, taking the above into account, I consider that, in principle, the site is an acceptable location for tall buildings. Accordingly, on this basis I conclude that the appeal scheme would not result in material harm to the character and appearance of the site or the surrounding area.

Effect on employment and commercial floorspace provision and the District Centre

Employment floorspace

19. It is agreed in the main SoCG that the existing Tolworth Tower comprises 19,080 square metres (sqm) of office space and that the proposed development would provide 529 sqm of flexible workspace, resulting in a net loss of 18,551 sqm of office floorspace.
20. The appeal site is located within the Tolworth Key Area of Change as defined in CS Policy T1. This seeks, amongst other things, to promote Tolworth as a business location and strengthen the vitality and viability of the District Centre. It also seeks to provide a range of new homes in various locations including on the Tolworth Tower complex. Figure 14 within the CS shows this complex is located within a Housing Opportunity Area.
21. Whether the site is within an Opportunity Area identified through LP Policy SD1, is a point of disagreement between the main parties, as the detailed boundary has yet to be set by the Council. A potential boundary is identified in the Council's emerging Local Plan, but as this is at such an early stage of production, and may be subject to significant change, I give this little consideration. Furthermore, even if the site was in an Opportunity Area, this would not automatically mean that loss of employment floorspace to residential use would be acceptable in this case.
22. CS Policy DM17 seeks to protect all employment land and premises in the locations specified in the policy, which includes Tolworth District Centre, unless it is shown that there is no need. The appeal site is clearly within the defined District Centre and the Tolworth Tower building, whilst currently vacant, has a lawful use as offices. It is therefore an employment premises. The site is also highlighted as an 'Other Employment Location' within the policy which seeks to protect employment premises 'to meet business needs and provide employment'.
23. CS Policy DM17 continues by indicating that alternative uses to employment will not be acceptable unless it has been demonstrated by 'sound evidence and rigorous marketing over a number of years (up to two years) that there is no quantitative or qualitative need for a range of employment uses'.
24. I acknowledge that the previous two schemes with resolutions for approval, were considered to be acceptable by the Council and that they include office to residential changes of use for Tolworth Tower. However, these proposals are not entirely comparable to the appeal scheme, due to a range of factors such

as the different ratio of proposed uses, levels of affordable housing or the provision of build to rent units, which all weighed in the planning balance at the time of decision-making. Whilst I note that the 2015 scheme is incorporated into the Tolworth Area Plan (2018), this does not have planning permission and the document is still in draft form and is unadopted.

25. I accept that prior to 2018 the evidence shows that the occupation of the office space had been in decline. Whilst it is common ground that the Council was satisfied with previous marketing evidence, the decisions were made in a materially different policy context, prior to the adoption of the new LP. Policy E1 of the LP includes seeking that 'existing viable office floorspace capacity should be retained....facilitating the redevelopment, renewal and re-provision of office space where viable and releasing surplus office capacity to other uses'. Whilst change of use of surplus office space to other uses, including housing, is supported by the policy, it is subject to proposals having considered lower cost and affordable workspace needs and the re-use of large office spaces for smaller office units. There is little submitted evidence to demonstrate that these factors have been adequately considered.
26. Within the LP's office guidelines classification, whilst the Tolworth District Centre is identified as having low commercial growth potential and high residential growth potential, it states that these centres show demand for existing office functions, generally within smaller units. Therefore, in this case, these new requirements amount to significant material changes to the policy framework.
27. Furthermore, whilst I note the marketing evidence provided, there is no substantive evidence that active marketing of Tolworth Tower has occurred since the 2018 application, or that its use for lower cost and affordable workspace and smaller office units has been adequately considered. Indeed, the office space in Tolworth Tower has been vacant since the end of March 2019 and the floors have largely been stripped out ready for future refurbishment.
28. I have carefully considered the evidence on the unsuitability of the building for contemporary office use, including concerns about the floor to ceiling heights, the single lift and stairway core and the lack of a primary access off Tolworth Broadway. However, I am not persuaded that these issues would prevent adequate service provision and use of the tower, or parts of it, for some employment purposes, particularly in the context of lower cost affordable and smaller units. I am also not satisfied that the evidence gives adequate reasons as to why using the tower for mixed residential and office uses would be impractical, particularly as this was considered to be acceptable in the previous 2015 scheme. Whilst I accept that the 2018 proposal did not include any office space, this was a build to rent scheme which was clearly taken into account at that time as part of the planning balance.
29. Having considered the evidence, including that submitted on office viability, general office supply and demand and recent new office developments in the locality, and taking account of the new policy framework, I am not satisfied that it adequately demonstrates that the office space in Tolworth Tower is entirely surplus or unviable, particularly in the context of LP Policy E1. I also note that for the purposes of establishing viability and an existing use value for Tolworth Tower, the Valuation Report (April 2021) relies on there being office

use demand for a significant number of floors once refurbished. Whilst this report recognises that Tolworth is a less well-established office location compared to other areas, it notes that other large 1960s office towers in the locality have been retained as office investments undergoing extensive refurbishments, which highlights some occupational demand.

30. Consequently, for the reasons set out above, and notwithstanding the provision of a small amount of flexible workspace proposed, there is insufficient evidence for me to determine that lower cost and affordable workspaces and/or small office unit use would be unfeasible in Tolworth Tower. Accordingly, I find that the proposed significant loss of employment floorspace is not robustly justified. On this basis the proposal would result in substantial material harm to the vitality and viability of the Tolworth District Centre.

Retail floorspace

31. The appeal site lies within the southern end of the Tolworth District Centre which consists of a diverse range of shops and services which extend along Tolworth Broadway and Ewell Road. The local policy framework, through CS Policies CS12 and DM19, seeks to enhance the vitality and viability of this Centre and retain shopping frontages, predominantly for retail use. The existing retail units within the appeal site, fronting Tolworth Broadway, are designated in the CS as a shopping frontage.
32. It is common ground that due to the revisions to the Use Classes, that retail uses are now within Class E, which includes wider commercial uses.
33. The appellant's Retail Health Check Statement (2020) concludes that the District Centre, on the whole, is 'vital and viable with no areas of fundamental weakness and vulnerability' and is 'considered to be healthy'. I have no substantive evidence to disagree with this conclusion.
34. The appeal scheme proposes the demolition of several retail units, resulting in the loss of around 629 sqm of retail floorspace at ground level, including two national chains. When compared against the extent of retail floorspace within the existing District Centre, this loss would be very modest in scale. Whilst the development would also result in the loss of around 898 sqm of retail floorspace at first floor level, this is predominantly used for storage and/or 'back-of-house' purposes and is not accessible by the public. Even if these first floor areas were considered to be active retail floorspace, I would still consider the scale of the loss to be relatively modest, when viewed in the context of the overall level of retail provision within the District Centre.
35. The scheme would instead provide 299 sqm of modern and flexible commercial floorspace at ground floor level as part of T2 and T3. Whilst this would mean that any storage and/or back of house uses would need to be incorporated into the available ground floor space, I see no reason why new modern units would not be attractive to potential future businesses. In my view, this attraction would be enhanced by the proximity of the adjacent public plaza which forms part of the scheme.
36. There was some discussion during the Inquiry regarding the size of the proposed plaza and the outcomes of the 2020 design review panel. However, based on the evidence, I am satisfied that the appeal scheme would offer a beneficial area of landscaped public realm within the District Centre, which it

currently lacks, and provide opportunities for shoppers and visitors to meet and socialise and increase dwell times in this locality.

37. Three 'pop up' retail kiosks are also proposed adjacent to Tolworth Tower, but as these would only provide an additional 42 sqm of retail floorspace, they would only have a minor positive impact on the District Centre.
38. The frontages of the proposed new commercial units would extend around the corners of the buildings and into the public plaza. Whilst this would not replicate the existing solid linear retail frontage, the physical extent of the frontages would be fairly similar.
39. Some of the existing retail units within the appeal scheme are currently vacant, with the Broadway bar having been closed for several years. There is no evidence before me that these units have been actively marketed over recent years. Neither is there any evidence of interest in their occupation, even though they are in a prominent public location.
40. Overall, whilst the appeal scheme would result in the loss of ground floor retail floorspace, this would be very modest in scale when compared to the extent of retail provision within the District Centre as a whole. Taking into account the minor positive impact of the kiosks and the benefit of the public plaza, I am satisfied that from a retail floorspace perspective, this would not materially harm the vitality and viability of the Tolworth District Centre and the proposal would accord with CS Policy DM19 and LP Policy E9. This lack of material harm results in a neutral impact.

Overall conclusion on this main issue

41. For the reasons set out above, I have found that from a retail floorspace perspective, the development would not result in material harm to the vitality and viability of the Tolworth Tower District. However, as a neutral impact, this does not overcome the significant loss of employment floorspace and my concerns about the lack of robust evidence on the feasibility for Tolworth Tower, or parts of it, to be re-used for lower cost and affordable workspaces and/or small office unit use. Accordingly, I conclude that the appeal scheme as a whole would result in substantial material harm to the vitality and viability of the District Centre.
42. Overall, the scheme would therefore be contrary to CS Policy CS12 which seeks to enhance the vitality and viability of Tolworth District Centre so that it remains a focus for 'walk to' services, shopping and other town centre uses and continues to provide employment opportunities; CS Policy DM17 and LP Policy E1.

Energy and urban greening

43. The Council is concerned that the proposed development would not accord with relevant energy and urban greening planning policies as it has 'failed to adopt a site wide approach towards heating and additional overheating measures' and 'would fail to provide the minimum Urban Greening Factor score of 0.4.' I consider both of these matters in turn.

Energy

44. The Mayor of London has declared a climate emergency and has committed to London becoming a zero-carbon city. LP Policy SI 2 seeks development that minimises greenhouse gas emissions and energy demand through application of the energy hierarchy of 'be lean, be clean, be green and be seen'. It states that all major development should be net zero-carbon, and how this is to be achieved must be demonstrated through a detailed energy strategy.
45. Further policy guidance is provided via the Mayor of London's Draft Energy Assessment Guidance (2020) (EAG). Whilst this is in draft form, it is common ground that it is the most up to date guidance. It clearly sets out the purpose, structure and content of an energy assessment, which must comply with LP Policies SI 2, SI 3 and SI 4.
46. Whilst not referenced in the reasons for refusal, both main parties have cited LP Policies SI 3 and SI 4 in their submitted evidence. LP Policy SI 3 seeks to ensure that relevant energy infrastructure is provided, and LP Policy SI 4 seeks to manage heat risk. I refer to these policies where relevant to my consideration of this appeal.
47. The appellant has submitted an energy statement for the Tolworth Tower Complex, dated September 2021. This in fact comprises two separate energy statements completed by different consultants at different times, one for the existing Tolworth Tower and another for the new build towers T2 and T3. The first energy statement (ES1) formed part of the evidence for the previous 2018 scheme to convert and refurbish Tolworth Tower. The 2021 version contains some updates, but does not substantially change the approach.
48. The energy statement for T2 and T3 (ES2), dated December 2020, was prepared for the proposal that is before me and was updated in September 2021 in response to comments by the GLA. This clarifies the use of ES1 for the appeal by indicating that as the proposed conversion of Tolworth Tower had already secured a resolution to grant planning permission, this part of the proposal, including the energy approach, 'was considered acceptable by the Council'. I note that whilst the Council considered ES1 to be acceptable at that time, it was for a different proposal.
49. The EAG identifies, amongst other requirements, that energy centres within a development must be minimised. Based on the two energy statements, energy provision to each of the three towers would be delivered separately within each building. The Tolworth Tower would be served by an independent gas fired boiler, supplemented by air source heat pumps (ASHPs) which would contribute approximately 13% of the overall heating and hot water demand, and a chilled water solution. The new towers would have ASHPs serving separate ambient loop circuits for each tower and an internal water heat pump located within each proposed apartment.
50. Whilst the appeal scheme would meet the minimum energy efficiency targets set out in Part C of LP Policy SI 2, the net zero carbon target would not be fully achieved on site. Consequently a cash in lieu contribution to the Council's carbon offset fund to the sum of £1,163,810 has been proposed by the appellant, as set out in the UU, to accommodate the carbon shortfall. The

policy permits this where it is 'clearly demonstrated that the zero carbon target cannot be fully achieved on site'. The EAG further advises that 'a cash in lieu contribution will be considered acceptable only in instances where it has been clearly demonstrated that no further savings can be achieved on site'.

51. I recognise that policy does not specifically state that a site wide energy network is mandatory. Separate energy approaches for different parts of a development site may well be justified for a scheme. However, such a decision should, in my view, follow a robust site-wide assessment, rather than be the starting point, otherwise I am uncertain as to how a proposal would be able to fully evidence that on-site carbon reductions have been maximised. Furthermore, the EAG clearly seeks the production of 'an energy assessment' and requires this to, amongst other things, report site-wide emissions and reductions, minimise the number of energy centres, and commit to a communal heat network where relevant.
52. I accept that an energy strategy for a development will be influenced by various factors that are not just energy related. Indeed, the EAG states that the provision of a heat network within each individual building could be a more appropriate solution. However, this does not detract from the key factor for my consideration in this case which is whether the available evidence clearly demonstrates that on-site carbon reductions have been maximised.
53. The appellant states, in their proofs of evidence, that the feasibility of a site-wide energy network was 'investigated during the early stages of the design process' for the scheme but was discounted for a number of reasons. This includes electrical demand and capacity, cost, site constraints and feasibility of interconnection, which I consider below. These investigations occurred after the previous planning application was determined and the energy approach for T1 was already set out in ES1. Details of the appellant's site-wide considerations have not been provided as part of the energy statements. Instead they have come to light through the proofs of evidence and the submission of further documents before and during the Inquiry. Notwithstanding this, it is still unclear to me whether these investigations have appropriately followed the required processes and I am unsure as to what part they played, if any, in determining the overall design and energy approach for the scheme, including T1.
54. In terms of electrical capacity I have considered the differing views on whether this is sufficient for a site-wide energy network. Whilst the submitted correspondence demonstrates engagement with independent distribution network operators, and through them the distribution network operator UK Power Network, it does not show that the quoted works constitute maximum supply. Neither does it confirm what the actual available electrical capacity is. Instead, it provides quotations for electrical work based on the submitted appeal scheme. My attention has not been drawn to any similar correspondence for a site-wide ambient loop proposal.
55. Reference is made in the correspondence to electrical capacity being 'really tied', and the consultants who undertook the energy assessment for T1 understood the high voltage network to be at capacity in the area. Whilst this implies there is an issue, the evidence does not clarify with any degree of certainty what this means for the supply and how much capacity is or is not available. Similarly, this lack of clarity extends to the correspondence on

decommissioning existing supplies of the commercial units and the removal and installation of substations. I cannot make assumptions on what may or may not be implied by statements. Therefore, having considered the electrical demand and capacity evidence, I am not satisfied that this provides enough clarity to determine that there would be insufficient capacity to support a site-wide ambient loop system.

56. The appellant states that a site-wide ambient loop network would be uneconomic. However, this appears to be based on updated cost comparisons between the scheme proposals and a centralised ASHP serving an ambient loop system for T1 only. A cost comparison between the full appeal scheme and a site-wide ambient loop network does not appear to have been carried out. In addition, the T1 ambient loop comparison includes costs for the reinforcement of the high voltage network, but I am unsure as to the justification for this. Moreover, it has been suggested that a site-wide ambient loop network could result in a reduction in carbon for the scheme, meaning either a lower or no carbon offset payment. As this is currently £1,163,810 this could be a significant saving. Overall, the available evidence does not provide sufficient clarification in this regard.
57. In relation to feasibility of interconnection, having considered the evidence and visited the site including the extensive basement area, I am not persuaded that this would be insurmountable. Indeed the appellant indicates that 'it would not be impossible to achieve interconnections between T1 and T2/T3', albeit that technical, operational and commercial factors would need to be considered in more detail.
58. I am also not satisfied that the available evidence adequately justifies the claim that there would be a lack of space for thermal storage and central ASHP units for a site-wide ambient loop network.
59. Based on the above, whilst I accept that there has been some investigation of site-wide energy solutions as part of the development proposal, including a hybrid approach, I am not satisfied that the submitted evidence demonstrates that these are unfeasible. Accordingly, I conclude that it has not been demonstrated that on-site carbon reductions have been maximised. The policy requirement for on-site net zero-carbon has not been achieved and the proposed energy approach is not justified.
60. In reaching my conclusion I acknowledge that the appeal site is not within a Heat Network Priority Area. There is also no submitted evidence of an existing or currently planned heat network system in the locality to which the site could connect, though the development does appear to include provision for future connection to a district heating network should one come forward. I also recognise that the measures for managing heat risk proposed to be incorporated into each building are acceptable. However these do not alter my conclusion.

Urban greening

61. As regards the matter of urban greening, the development proposes an urban greening factor (UGF) of 0.21. This is less than the recommended UGF target of 0.4 set out in LP Policy G5. The communal podium garden on the level 2 deck would provide the majority of the scheme's urban greening. The existing and proposed structural and loading capacity of the deck has been

appropriately assessed through the Structural Condition Report (2020). The application of a load balancing exercise to ensure that the scheme would exert the same or less load onto the existing structure as existing, is a reasonable approach. I have no substantive evidence before me to determine that the structure has the capacity to take a greater load or that structural reinforcements could be provided to allow the introduction of any new loads.

62. It has been suggested that additional vertical urban greening may be achievable within the development including through additional planters and climbing plants at various locations. Indeed the appellant's updated UGF assessment concludes that a further green wall could be provided, though as the elevation area is small it would only increase the UGF to 0.22. Other than this, I have no convincing evidence that additional planting could be effectively provided at other locations, due to the design of the existing structures, the accessibility of the servicing areas and restrictions from the existing building uses which are to remain.
63. Accordingly, due to the constraints of the appeal site, particularly the existing level 2 deck structure and its loading capacity limitations, I am satisfied that the lower UGF provision is justified and an acceptable level of urban greening would be provided within the development. In this regard I note that the GLA does not object to the 0.21 UGF provision proposed.

Overall conclusion on this main issue

64. For the reasons set out above, I have found that the proposed level of urban greening would be acceptable. However, this does not overcome the substantial concerns I have regarding the lack of robust evidence on whether the proposed development would be able to achieve net zero-carbon on-site, as required by policy. On this basis, I conclude that the scheme would be contrary to LP Policy SI 2.

Three bedroom provision

65. The appeal scheme proposes to provide 499 new dwelling units, of which 34 units would have three bedrooms, equating to 6.8% provision overall. Policy DM13 of the CS expects proposals to 'incorporate a mix of unit sizes and types and provide a minimum of 30% of dwellings as 3 or more bedroom units, unless it can be robustly demonstrated that this would be unsuitable or unviable'.
66. The scale of the need for dwellings with three or more bedrooms is undisputed. The level of provision proposed is justified by the appellant predominantly on the grounds that a higher level would reduce the amount of affordable housing proposed or result in the scheme being unviable overall. Whilst the proposed development would comprise flats located within a District Centre, surrounded by a large proportion of existing family homes, and having considered the submitted evidence, including an appeal decision for Surrey House (APP/Z5630/W/19/3223667), I see no reason why it would be unsuitable for the provision of three or more bedroom units in principle. I therefore turn to the viability of provision.
67. During the Inquiry, the appellant appraised three further scenarios at higher proportions of three bedroom provision, being 11.91%, 18.98% and 27.5%. In producing these the appellant has inevitably had to re-configure the unit size

offer to some extent, to fit more three bedroom units into the layouts. Whilst the proportion of studio units reduces, the proportions of one and two bedroom units remain relatively consistent throughout the scenarios, broadly reflecting the proposed appeal scheme.

68. All three additional scenario appraisals demonstrate that, with the inclusion of 50 affordable units, the scheme would be unviable. Whilst the evidence shows that all three additional scenarios would be viable if no affordable housing was provided, this would not be a policy compliant approach. Neither would reducing the amount of affordable housing to increase three bedroom unit provision. There is nothing in the evidence to confirm that the provision of three bedroom units trumps affordable housing provision in policy terms. Indeed, as discussed under the next issue, and due to the level of need identified, development plan policy (CS Policy DM15) states that 'delivery of affordable housing is a key priority and the Council will seek to maximise its provision'. Policy DM13 of the CS does not specify that three or more bedroom unit provision is a priority or should be maximised.
69. On this basis, I am satisfied that, based on the available evidence, the appeal proposal provides a proportionate mix of units that strike an appropriate balance to contribute to meeting a range of identified needs, including larger bedroom unit provision.
70. It is common ground that the smaller the size of the dwelling unit the higher the floorspace value per square foot. It has therefore been suggested that varying the unit mixes to include a greater proportion of studio and 1 bed units, could optimise viability and three bedroom unit provision. However, these scenarios are not before me and I must consider the appeal scheme based on the available evidence.
71. Overall, I conclude that the evidence robustly demonstrates that the provision of a minimum of 30% of dwellings as three or more bedroom unit within the scheme would be unviable. Taking into account the viability considerations, the proposed development makes adequate provision for housing with three or more bedrooms, which would contribute to meeting the identified need. The appeal scheme therefore complies with CS Policy DM13.

Affordable housing provision

72. The Council's reasons for refusal were based on the original planning application scheme which proposed 499 new dwelling units with no affordable housing.
73. The initial appeal proposal sought to provide 50 affordable units (125 habitable rooms) within T3, equating to 10% of overall unit provision and 11% by habitable room. Since this initial submission, the appellant has amended the proposal so that the 50 affordable housing units would be split between two of the towers, with 28 units in T1 (phase 1 of the development) and 22 units in T3, as part of phase 2. This latest proposal and the mechanism for the delivery of the units is set out in the appellant's completed UU.
74. There is no dispute that there is a pressing need for affordable housing within the Borough. In terms of the policy context for affordable housing provision, CS Policy CS10 seeks, amongst other things, 'to deliver new housing, and in particular to maximise the delivery of affordable housing'. CS Policy DM15

clarifies that relevant developments are expected to 'provide the maximum reasonable amount of affordable housing, subject to viability considerations'. On sites of 10 or more units the policy also requires 50% of units to be affordable. There is no dispute that the appeal scheme is unable to provide this level of affordable housing for reasons of viability.

75. LP Policy H4 sets out a strategic target 'for 50 percent of all new homes delivered across London to be genuinely affordable' and that major developments which trigger affordable housing requirements should be subject to the threshold approach set out in LP Policy H5 which seeks a minimum of 35%. LP Policy H5 states that where an application does not meet the affordable housing requirements set out in Policies H4 and H5, the application must follow the 'Viability Tested Route' which requires detailed supporting viability evidence to be submitted. LP Policy H5 and its supporting text clarify that a viability assessment is required to ascertain the maximum level of affordable housing that can be reasonably supported. The Mayor's Affordable Housing and Viability Supplementary Planning Guidance (2017) provides additional guidance.
76. Both main parties agree that the proposal must follow the 'Viability Tested Route' under LP Policy H5. The main areas of disagreement are whether the provision of affordable housing units proposed would be the maximum reasonable amount that is viable and whether the scheme would appropriately secure their delivery.
77. By dividing the affordable housing units between T1 and T3 I acknowledge that, due to a re-configuration of a few of the proposed floor layouts, the number of habitable rooms would be 119 (equating to 10.4%), which would be lower than the 125 habitable rooms (11%) that would be achieved if all the affordable units were in T3. However, this would only be a slight reduction and the scheme would still provide 50 affordable units. Furthermore, 56% of these affordable units would be delivered in the first phase of the development rather than waiting for the construction of phase 2. This would ensure that much needed affordable housing was delivered as part of the first stage of development. It would also provide a mix of tenures across the two phases, rather than locating all the affordable housing in one tower, contributing to the Framework's objective of creating mixed and balanced communities.
78. Based on the updated viability evidence submitted as part of the appeal, the Council has suggested that a higher number of affordable housing units could be delivered if they were all located in T3, to meet the policy requirement. However, the maximum reasonable amount of affordable housing would inevitably be dependent on several factors, including the mechanism by which units would be secured and the level of three or more bedroom provision. I have already considered the issue of three or more bedroom provision as set out above, so now turn to consider the other factors.
79. As regards securing the delivery of affordable housing if it was all located in T3, the standard approach would be for occupation restrictions to apply to a proportion of the general market units within T3 or phase 2 as a whole. However, this would not alleviate the Council's concerns that, once phase 1 is complete, phase 2 may not proceed because it would not be an attractive proposition economically for a developer. It is undisputed that the refurbishment of T1 is more profitable than the construction of T2 and T3 and

that there is inevitably a degree of cross-subsidisation. The Council has therefore suggested that some form of mechanism be added to the UU requiring completion of the entire development. No examples of this approach have been provided and neither has any suggested wording for this form of mechanism been submitted.

80. Whilst I acknowledge the Council's concerns, the suggested approach would be highly unconventional and in my view, would not satisfy the Community Infrastructure Levy (CIL) Regulation 122 test of necessity nor the test of being fairly and reasonably related in scale and kind to the development. Indeed, it is not unusual for site development to be phased over a period of time, for some parts of a site to be less viable than others requiring an element of cross-subsidisation, and for some benefits, such as affordable housing, to be delivered at different times within a scheme.
81. In response to the Council's concerns about whether phase 2 of the development would proceed, the appellant has suggested a different mechanism for my consideration and has included this in the UU, though they make it clear that they do not consider it is necessary. The 'optional delivery assurance mechanism' restricts occupation of the last 22 general market units in Phase 1 until specified demolition works for phase 2 have been carried out. This would mean that phase 1 would take on the costs of demolition instead of phase 2, reducing the financial burden on phase 2. However, I am also of the view that this mechanism is inconsistent with the same CIL Regulations tests as above.
82. The potential for further affordable housing has also been identified in other ways. Should the appellant not be required to pay any CIL as regards the proposed development of Tolworth Tower, because it would be treated as a building that is in lawful use, the UU provides for an additional 23 supplementary affordable housing units. This would increase affordable housing provision to 14.6% by number of units and 15% by habitable room. However, as the evidence does not clarify with certainty as to whether CIL would be payable or not, I can give no weight to these supplementary affordable housing units within my decision.
83. Whilst the UU also includes acceptable clauses for the provision of additional affordable housing subject to the submission of further viability information, this would only come into effect if substantial implementation of the scheme were to occur 24 months after the signing of the UU. As such, I give no weight to this provision within my decision.
84. Overall, based on the above, the proposal makes adequate provision for affordable housing. The evidence demonstrates that the proposed 50 affordable housing units, divided between T1 and T3, are viable and their delivery would be secured through the UU before the occupation of market homes in T1 and then T3. I therefore conclude that the proposal would provide the maximum reasonable amount of affordable housing on site in compliance with LP Policies H4 and H5 and CS Policies CS10 and DM15. It would also accord with the Mayor's Affordable Housing and Viability Supplementary Planning Guidance and the Framework which seeks the provision of affordable housing.

Living conditions for future occupiers regarding outdoor space

85. The Council's reasons for refusal are concerned with both the quantity and quality of the proposed outdoor space provision for future residents, and that the proposed development, due to the scale of the new buildings, would compromise the comfort and enjoyment of these open spaces.
86. The development proposes to provide outdoor space in the form of private terraces and balconies to T2 and T3, two communal spaces on the upper levels of T2 and T3, and a large communal space on the level two podium, which would adjoin all three towers. The large communal podium space would be for the exclusive use of the future residents of the development, including those from the Tolworth Tower where no private balconies are being proposed, for the agreed reason of preserving the building's existing 1960s architectural form. The communal areas would also include the provision of children's play space for different age ranges.
87. CS Policy DM10 seeks, amongst other things, the provision of adequate private and/or communal amenity space. Guidance on this is provided in the Council's Residential Design Supplementary Planning Document (SPD) (2013). Within this SPD, Policy Guidance 13 includes a minimum standard for the provision of private amenity space for new flats of 10 sqm per dwelling plus 1 sqm per additional occupant, 'unless it can be demonstrated that this would be at odds with the prevailing physical context and local character of development, e.g. town centre locations...'. This clearly applies a flexible approach to provision where circumstances are demonstrated.
88. The SPD also requires, through Policy Guidance 14, the provision of 50 sqm of communal amenity space per development, with any shortfall in private amenity space being added to this provision.
89. It is agreed in the main SoCG that using the Council's standards would equate to a calculation of 5,409 sqm of private and communal outdoor space. It is also agreed that 1,285 sqm of play space would be required to comply with LP Policy S4, which includes seeking good quality accessible play space. The SoCG states that this would result in a total area of 6,694 sqm. The specific amount of outdoor space that would be provided by the proposal is disputed by the main parties, with the appellant stating there would be around 5,409 sqm, and the Council expressing it would be around 5,257 sqm or less. Notwithstanding this quantitative disparity, it is clear that the scheme would not provide 6,694 sqm. However, I am not persuaded that it needs to, for reasons to which I now turn.
90. The appeal site is considerably constrained by its prominent urban location within the Tolworth District Centre, its densely developed character and the need to retain buildings, structures and adjacent existing businesses. These factors, together with the desire to preserve the architectural merits of the 1960s Tolworth Tower and resultant lack of balconies on this building, restrict the size and location of any available areas where outdoor space could be provided as part of the scheme. This includes the existing level 2 car park deck which has determined the location of the largest area of communal open space. Notwithstanding these constraints, the scheme would still provide a significant amount of outdoor space.

91. In addition, the proposed podium communal garden, would provide some multifunctional areas with overlapping uses for informal play and general recreational use. This would align with the Mayor of London's Shaping Neighbourhoods: Play and Informal Recreation Supplementary Planning Guidance (SPG) (2012) definition of multifunctional space. I see no reason why some of these spaces would not be 'genuinely playable' as defined by the SPG. It is therefore logical that such multifunctional spaces would count towards both general open space and informal play space.
92. Furthermore, the scheme would also provide an additional area of indoor play space for the 0-5 year age group which would be adjacent to, and linked with an outdoor play space for the same age range. This would be genuinely usable all year round.
93. I also acknowledge that there are other recreational facilities within reasonable walking distances from the appeal site, including Alexander Park to the north and Court Farm Fields nature reserve to the south, which provide a range of outdoor sport and recreational facilities. Whilst access to these areas would involve crossing some busy roads and junctions, most routes include appropriate pedestrian crossings. Furthermore, such routes are not uncommon in densely populated urban locations and, in my view, do not materially detract from their appeal for leisure and recreational use.
94. Taking the above into account I consider that the provision of the SPD standards for outdoor space at this site would be at odds with the prevailing context of the site in terms of its character and location. The significant quantity of outdoor space proposed within the scheme would therefore be acceptable. I also consider the amount of space for children's play would meet the 1,285 sqm requirement which complies with LP Policy SP4.
95. In considering the Council's concerns regarding the quality of the proposed outdoor space provision in relation to sunlight, daylight and wind, I do so in the context that I have already established that the site is heavily constrained. This has influenced the location of the proposed new towers, the position of the private balconies/terraces and the siting of the communal open spaces. In terms of the latter, the quality of the proposed podium is the area of most concern to the Council.
96. In respect of daylight and sunlight the accepted methodology for assessment is the Building Research Establishment's 2011 Site layout planning for daylight and sunlight: A guide to good practice (second edition) (the BRE guidance). For amenity areas 'to appear adequately sunlit throughout the year' this recommends that at least half of the area should receive at least two hours of sunlight on 21 March. The appellant's daylight and sunlight assessment, as updated to include the proposed podium area on top of the existing car parking ramp, demonstrates that around 56% of the overall podium area would receive at least two hours of sunlight on this date which would accord with the BRE guidance of being adequately sunlit.
97. Whilst certain areas, such as play area 2A, would achieve less than two hours of sunlight on 21 March, this does not automatically mean that future residents would not use those spaces. Furthermore, alternative areas would be available and the amount of sunlight to reach the podium would generally be greater during the spring and summer months, which is when it would be likely that

the outdoor space would be used more. This factor would also apply when considering wind conditions.

98. It is agreed that the Lawson Comfort Criteria is a robust methodology to assess wind microclimate conditions. The appellant has carried out a detailed summer season assessment which is an appropriate standard approach as this is when the space would most likely be used. The assessment demonstrates that with the appropriate mitigation installed, the proposed podium would predominantly achieve sitting comfort levels. Whilst there would be some standing conditions, these would be located in more active areas, such as the pathway, allotment and some play spaces. I recognise that the comfort levels would likely vary at other times of the year, but even so, the available evidence suggests that those on the podium would probably only increase by one category during windier conditions. I have no substantive evidence to consider this would not be the case.
99. There was particular discussion at the Inquiry about location 212 (as defined in the appellant's Wind Microclimate Proof of Evidence) achieving a standing comfort condition which the Council considers would not be acceptable for sitting. The standing comfort category is described in the methodology as 'gentle breezes' in comparison to 'light breezes' for the sitting category. I see no reason why gentle breeze conditions in this predominantly sunlit open artificial grass space would not be an attractive area for a variety of uses including sitting, standing activities, walking and children's informal play. Furthermore, this location is not proposed as a designated seating area within the scheme, so a standing comfort condition would be acceptable. I note that the designated seating areas within the scheme would achieve sitting comfort levels.
100. Based on the above, future residents would have a range of communal outdoor spaces for use which would be adequately sunlit in accordance with the BRE guidance and would provide satisfactory wind comfort levels. I therefore consider that the quality of the outdoor space would be acceptable.
101. Overall, I conclude that the proposal would provide acceptable living conditions for future occupants with regard to the quantity and quality of provision of outdoor private, communal and play spaces. Accordingly the comfort and enjoyment of the open spaces would not be compromised. The scheme would therefore comply with CS Policy DM10; CS Policy DM13 which, amongst other things, requires appropriate amenity space and play space provision; and SPD Policy Guidance 14 which requires communal open space to be designed to take advantage of direct sunlight.
102. It would also accord with LP Policy S4; LP Policy D6 which, amongst other things seeks the provision of sufficient daylight and sunlight that is appropriate for its context; and LP Policy D8 which includes ensuring 'that appropriate shade, shelter, seating and, where possible, areas of direct sunlight are provided' with other microclimatic conditions taken into account. In addition, the proposed development would comply with LP Policy D9, which, amongst other things seeks the careful consideration of 'wind, daylight, sunlight penetration and temperature conditions around the buildings' in order that the comfort and the enjoyment of open spaces are not compromised.

Other matters

103. As set out above, the Council does not object to the overall height, mass and scale of the proposed tall buildings, in terms of visual and townscape impact. I concur with this finding. However, concerns relating to design quality were raised in the Council's statement of case, which referred to the 'bland generic nature of T2 and T3'. Some local residents have also highlighted concerns relating to design. Whilst the Council's concerns in this regard do not form part of the reasons for refusal, they were nevertheless responded to by the appellant and discussed in some detail during the Inquiry.
104. Since the application was determined, the Framework has been revised. Whilst the achievement of good design has been a long standing key aspect of sustainable development within national policy, paragraph 126 of the Framework now states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning process should achieve. The Framework expands on this to define what is expected from proposals in this context and explains how well-designed places should be achieved, signposting the use of national guidance in guiding decision-making. The National Design Guide (January 2021) (NDG) sets out the key priorities for defining well-designed places.
105. The Council asserts that the design of T2 and T3 makes no attempt to match the interesting, striking and beautiful design features of Tolworth Tower. My attention has been drawn most notably to the prominent 'A' shaped structural pilotis which, in my view, do indeed form very striking and beautiful features which dominate the eastern and western elevations of the existing building. The other two elevations, by comparison are dominated by simple horizontal lines, with the northern elevation intersected by the vertical lift/stairway core.
106. In designing the proposed development that is now before me I recognise that, as part of the process, a version of the Phase 2 element only was assessed by a design review panel (May 2020). In response, the appellant made some alterations to the design of T2 and T3 to produce what is now the proposed scheme. Notwithstanding this, the Council considers that further improvements should be made.
107. The Framework seeks to ensure that developments establish or maintain a strong sense of place, by creating attractive, welcoming and distinctive places to live, work and visit. While I would not expect to see a pastiche of the existing tower, the proposed towers should be well designed, visually attractive and make a positive contribution to the quality of the urban environment while maintaining a strong sense of place. Compared to the iconic existing tower, the two new towers would lack any particularly distinguishing features to clearly differentiate them from any other tall building development.
108. I accept that some of the proposed architectural details for T2 and T3, such as the materials palette, would generally complement those of the existing tower. However, some other details, such as the prominent vertical structures of varying widths on the elevations, would appear overly stark in contrast to the elegant lines of the pilotis and the horizontal simplicity of the existing tower's main elevations. Whilst I acknowledge that exploring a bolder elevational treatment by echoing or contrasting the existing tower's horizontal elements was suggested by the design review panel, the sheer extent and boldness of the contrast, in this instance, would not be entirely sympathetic to

the iconic design of the existing tower. As a result the proposal would not maintain a strong sense of place. Therefore, having considered the architectural and planning evidence on design related matters, I do not consider that the design of T2 and T3 would represent a beautiful development as required by the Framework.

109. In this regard, and in combination with my findings on employment use, the vitality and viability of the District Centre and the energy approach, all of which form integral parts of a well-designed place, I conclude that the appeal proposal fails to accord with the provisions of the Framework.
110. The appellant has submitted a signed and dated UU which contains a number of obligations. As stated in my preliminary matters, the lack of a financial contribution towards healthcare provision was a reason for refusal, but as the UU now includes this obligation the Council has confirmed that this resolves their concerns.
111. Given that I am dismissing this appeal for other reasons it has not been necessary for me to consider the UU in any further detail, particularly as it consists of mainly neutral obligations so the development would be acceptable in those terms. The exception to this is those obligations relating to the proposed affordable housing provision, as these would provide a benefit. I have concluded on these elsewhere in my decision and have nothing further to add here. I will consider this matter further as part of the overall planning balance.

The Planning Balance

112. There is no dispute that the Council is unable to demonstrate a five year housing land supply. As such, adopted local plan policies relevant to the supply of housing are considered to be out of date and planning decisions on housing development must therefore be made in the context of Paragraph 11 d) of the Framework.
113. Paragraph 11 d) i states that the presumption should not be applied if the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development. It has not been suggested to me by either main party that this point is relevant to this case and I have no reason to determine otherwise. Therefore I now turn to paragraph 11 d) ii, which requires a balance to be undertaken whereby permission should be granted unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole'.
114. I have concluded that the proposal would result in significant loss of employment floorspace provision and that a lack of robust evidence exists on whether it would be feasible for Tolworth Tower, or parts of it, to be re-used for lower cost and affordable workspaces and/or small office unit use. Overall, I have found that the proposal as a whole would materially harm the vitality and viability of the District Centre. These factors carry substantial weight in the planning balance.
115. I have also found that the evidence is insufficient to determine with any degree of certainty that a site-wide energy approach would be unachievable. On this basis, it has not been demonstrated that on-site carbon reductions have been maximised. Accordingly the policy requirement for on-site net zero-

carbon has not been achieved and the proposed energy approach is not justified. Within the context of the London Mayor declaring a climate emergency and the need to urgently minimise greenhouse gas emissions and energy demand, this finding carries substantial weight. Whilst I have concluded that the urban greening provision would be acceptable this would be a neutral impact that carries no weight.

116. I have also concluded that the overall design of the development fails to comply with the provisions of the Framework and this further weighs against the decision.
117. In terms of benefits, the proposal would result in a sizable amount of new housing in an accessible location. In circumstances where a Council does not have a five year housing land supply, and in light of the imperative in the Framework to boost significantly the supply of housing, this carries substantial weight. Whilst I have determined that the provision of affordable housing and three bedroom units would accord with policy, as the actual number of units would be modest this carries only moderate weight.
118. The refurbishment of the vacant and deteriorating Tolworth Tower would ensure its long term retention and use. This benefit would carry some considerable weight. Other benefits offered by the proposed development in terms of the provision of the new public plaza, minimising the need to travel, the efficient use of brownfield land, construction jobs and investment into the local economy are all acknowledged. However, overall I am of the view that these would offer comparatively modest public benefits which only attract moderate weight.
119. I have determined that the scheme would provide adequate outdoor private, communal and play spaces, but these provisions would be necessary to mitigate harm and make the proposal acceptable. In terms of character and appearance I have concluded there would be no material harm. These are therefore neutral factors that carry no weight.
120. Whilst the development would accord with the Framework in a number of other respects, including flood risk and drainage, fire safety, car parking and highway safety, healthcare, the circular economy and whole life carbon, these are necessary to make the scheme acceptable and therefore attract neutral weight. They therefore carry no weight in the planning balance.
121. Overall, I conclude that the accumulation of harm I have identified above would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole. As such, the appeal proposal does not benefit from a presumption in favour of sustainable development.

Conclusion

122. For the reasons given above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Y Wright

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

James Burton of Counsel, instructed by Barry Lomax MPLAN (Hons) MRTPI, Head of Development Management, Royal Borough of Kingston upon Thames (RBKT)

He called:

Alex Maguire, BEng (Hons) CEng MCIBSE, Director, FLOH Consulting

Matthew Scott, MSc MA MRTPI AssocRCIS, Principal Consultant, Aspinall Verdi

Toby Feltham, DipTRP MRTPI, Lead Planning Officer (Strategic Major Developments/Planning Delivery), RBKT

FOR THE APPELLANT

Scott Lyness QC, instructed Anita Rivera and Roisin Hogan of Mishcon de Reya LLP

He called:

Steven Marshal Bachelor's Degree Master's Degree, Chartered Engineer, BB7

Lloyd Bush MSc, Director, Velocity Transport Planning

Jonathan Lonergan, Degree MSc, Director and Owner, EB7

David Price, Member of the Landscape Institute, Chartered Landscape Architect, Hyland Edgar Driver Landscape

Carl Standley, Low Carbon Consultant and Director, Couch Perry Wilkes LLP

Ruth Shilston, MEng, Chartered Engineer and Fellow of the Institution of Mechanical Engineers, RWDI Anemos Ltd

Mark Howard Taylor, BA Dip PGDip MRIBA, Chartered Architect, 3DReid

Richard Ashdown BA PGDip, Managing Director and Owner, Upside London Limited operating under the name of ULL Property

Piers Leigh, BSc MRICS MSIOR, Principal, Avison Young

Bob McCurry, BA MA MRTPI, Partner, Barton Willmore LLP

Peter Tanner, BSc MA, Senior Planner, Barton Willmore LLP

INTERESTED PARTIES

Ada Simpson

Local resident

Bridget Walker	Local resident
Councillor Alison Holt	Local Councillor
Councillor Thay Thayalan	Local Councillor
Councillor Lorraine Dunstone	Local Councillor

DOCUMENTS SUBMITTED DURING THE INQUIRY

- ID1 Appellant's opening statement
- ID2 Council's opening statement
- ID3 Ms Simpson's statement
- ID4 Cllr Thayalan's statement
- ID5 Cllr Holt's statement
- ID6 Cllr Dunstone's statement
- ID7 Mrs Walker's statement
- ID8 Architect presentation
- ID9 Council's document summary for witness: Mr Maguire
- ID10 Council's document summary for witness: Mr Scott
- ID11 Council's document summary for witness: Mr Feltham
- ID12 Statement of Common Ground Addendum dated 14 October 2021
- ID13 Emails between the appellant and the Council dated 7 and 8 October 2021 on urban greening
- ID14 Appellant's supplementary evidence in response to Council's rebuttal material (energy matters)
- ID15 Council's technical note relating to further evidence from appellant (energy matters)
- ID16 BRE Trust Site layout and planning for daylight and sunlight
- ID17 Thermal comfort guidelines for developments in the City of London
- ID18 Council Committee Report for application ref: 19/01228/FUL
- ID19 Appellant's rebuttal proof of evidence in relation to viability
- ID20 Appellant's supplemental rebuttal proof of evidence in relation to viability
- ID21 Statement of Common Ground – Fire Safety Roundtable Discussion dated 18 October 2021
- ID22 Draft Statement of Common Ground – Viability of Increasing the Provision of 3 Bed Units
- ID23 London Plan Annual Monitoring Report 16 2018/19 (March 2021)
- ID24 Council's Annual Monitoring Report 2017/18 and 2018/19
- ID25 Council's Housing Delivery Test Action Plan

- ID26 Inspectors' Panel Report of the Examination in Public of the London Plan 2019
- ID27 London Plan 2016
- ID28 Council's Proposals Map extract
- ID29 Council Committee Report extract – Surrey House 34 Eden Street
- ID30 CIL compliance statement
- ID31 Suggested planning conditions
- ID32 Draft S106 unilateral undertaking from Tolworth Tower Investment Limited
- ID33 Draft S106 Technical note on the optional delivery mechanism for affordable housing
- ID34 Draft S106 Explanatory note on affordable housing delivery

DOCUMENTS SUBMITTED AFTER THE INQUIRY CLOSED

- ID35 S106 unilateral undertaking from Tolworth Tower Investment Limited with consent from Situs Asset Management Limited, to Royal Borough of Kingston upon Thames, signed and executed on 6 December 2021