



Appeal Decisions

Inquiry opened on 14 June 2022

Site visit made on 24 June 2022

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2022

Appeal A Ref: APP/K3605/W/22/3291461

Former Jolly Boatman and land adjoining Hampton Court Station, Hampton Court Way, East Molesey KT8 9AE

- 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 Alexpo Ltd and Network Rail Infrastructure Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2018/3810, dated 19 December 2018, was refused by notice dated 19 July 2021.
 - The development proposed is demolition and redevelopment to provide 97 homes, a hotel (84 beds) and retail units for uses within Use Class E, together with access, station interchange, car parking, servicing, new public realm, landscaping and other associated works.
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Appeal B Ref: APP/K3605/W/22/3290981

Western part of Cigarette Island, east of Jolly Boatman and Hampton Court Station site, East Molesey KT8 9NE

- 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 Alexpo Ltd and Network Rail Infrastructure Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2018/3803, dated 19 December 2018, was refused by notice dated 12 January 2022.
 - The development proposed is temporary car parking and associated works for Hampton Court Station to provide 110 spaces, for a period not exceeding 2 years from date of first use, and subsequent reinstatement.
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Decision – Appeal A

1. The appeal is allowed and planning permission is granted for demolition and redevelopment to provide 97 homes, a hotel (84 beds) and retail units for uses within Use Class E, together with access, station interchange, car parking, servicing, new public realm, landscaping and other associated works at the Former Jolly Boatman and land adjoining Hampton Court Station, Hampton Court Way, East Molesey, KT8 9AE in accordance with the terms of the application Ref 2018/3810, dated 19 December 2018, subject to the conditions set out in the attached Schedule 1.

Decision – Appeal B

2. The appeal is allowed and planning permission is granted for temporary car parking and associated works for Hampton Court Station to provide 110 spaces, for a period not exceeding 2 years from date of first use, and

subsequent reinstatement at the western part of Cigarette Island, east of the Jolly Boatman and Hampton Court Station site, East Molesey, KT8 9NE in accordance with the application Ref 2018/3803, dated 19 December 2018, subject to the conditions set out in the attached Schedule 2.

Preliminary matters

3. The Inquiry sat for six days on 14, 15 and 21 to 24 June 2022. By agreement with the parties, I made an unaccompanied visit to Hampton Court Palace on 20 June 2022, where a member of staff unconnected with the representations on behalf of Historic Royal Palaces (HRP) enabled me to gain access to various locations described in the evidence. By agreement with the parties, I carried out an unaccompanied visit to the appeal site and the surrounding area on 24 June 2022.
4. Discussions on a s106 Agreement (the Agreement) continued during the course of the Inquiry. The Agreement was finalised at a late stage so it was necessary to allow a period after the close of the Inquiry for a signed version to be submitted. The completed Agreement, which is dated 30 June 2022, is consistent with the final draft that was discussed at the Inquiry. The Agreement would make provision for:
 - a contribution to the future improvement and maintenance of Cigarette Island Park;
 - delivery of 12 of the residential units as affordable housing, together with an early stage review and a late stage review which would secure additional affordable housing in the event that viability improves during the course of the development;
 - open space for public use;
 - highway improvements;
 - a car club; and
 - travel planning.
5. Part of the application site, within the proposed riverfront open space, is in the ownership of Surrey County Council (SCC). This land would not be bound by the Agreement, although SCC is a party to it. The Council, the appellants and SCC agreed that delivery of the open space could be secured by a Grampian condition requiring the developer to secure an agreement or licence from SCC to enable this land to be laid out as proposed before the development is occupied.
6. At the Inquiry, the Council submitted a statement of compliance with the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) which considered the planning obligations against the tests set out in Regulation 122. The statement included references to relevant development plan policies and supplementary planning guidance. The Council and the appellants agreed that the obligations would satisfy the tests in Regulation 122, apart from the Cigarette Island Park contribution which the Council argued would not satisfy those tests. I shall return to the disputed contribution below. I agree that the other obligations would meet the tests and I have taken them into account accordingly in my assessment of the appeals.

7. At the Inquiry, the Council confirmed that the Agreement resolves its third and fourth reasons for refusal, which related to affordable housing and highways improvements.
8. The development plan includes the Elmbridge Core Strategy 2011 (CS) and the Elmbridge Development Management Plan 2015 (DMP). The Council has produced a draft Local Plan which has been approved for the purposes of consultation. The Council and the appellants agree that no weight should be given to the emerging plan at this early stage. I share that view.
9. Other relevant documents include the Design and Character Supplementary Planning Document 2012 (SPD), the East Molesey (Kent Town) Conservation Area Character Area Appraisal 2012 (CAA), a development brief for the Hampton Court Station and Jolly Boatman site, the most recent version of which was produced in 1999, and the Thames Landscape Strategy 1994. The earlier documents must be read in the context of more recent development plan policy. Also relevant is national guidance, including the National Planning Policy Framework (the Framework), National Planning Practice Guidance (NPPG) and the National Design Guide.
10. The appeal site has an extensive planning history, which is described in the Statement of Common Ground (SoCG). Permission was granted for redevelopment of the appeal site for a mixed use scheme including residential accommodation, a hotel, a care home and commercial uses, following an application made in 2008. The Council has confirmed that this proposal was lawfully commenced and that the permission remains extant. The current owners subsequently acquired the site and have pursued an alternative proposal since that time. At the Inquiry, the appellants accepted that the extant scheme would not be viable under current market conditions. It was not relied on as a fallback position. In my view the appellants were right to take that approach. I have therefore assessed the Appeal A scheme on its own merits and have not carried out any comparative exercise.
11. The applications were accompanied by an Environmental Statement (ES). I have taken the environmental information into account in my decisions.
12. Mr Keith Garner and the Hampton Court Rescue Campaign (HCRC) had Rule 6 status and appeared at the Inquiry.

Main issues

13. The main issues for Appeal A are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the historic environment;
 - whether the proposal would make sufficient provision for affordable housing; and
 - the effect of the proposal on highway networks and the extent to which it would support the objective of promoting sustainable transport.
14. The main issues for Appeal B are:

- the effect of the proposal on public open space; and
- the effect of the proposal on the East Molesey (Kent Town) Conservation Area.

Reasons – Appeal A

The effect of the proposal on the character and appearance of the area

15. The appeal site wraps around the railway tracks leading to Hampton Court Station, which is the terminus of a branch line from Surbiton. The station is a locally listed building. The northern part of the site previously accommodated the Jolly Boatman public house, which was demolished in 2002. This area was landscaped for the Olympic Games in 2012 and has since been used as a construction compound. At the time of my visit it appeared to be unused and was enclosed with hoardings. The eastern part of the site is a station car park, with capacity for around 204 vehicles. The western part lies between the station and the busy A309 Hampton Court Way. It includes a single storey building which is thought to be a former coal office. This area is used for second hand car sales and informal coach parking.
16. The site adjoins Cigarette Island Park to the east and is bounded by the Ember to the south. To the north, there are steps leading down from road level to moorings on the south bank of the River Thames. On the opposite side of the river, linked by Hampton Court Bridge, is Hampton Court Palace. The settlement of East Molesey is located to the west. The appeal site is within the District Centre of East Molesey, as defined by Policy CS1 of the CS. This is the second tier of the hierarchy of centres set out in the plan. Policy CS1 seeks to promote measures to safeguard and consolidate the role and function of such centres.
17. Policy CS7, which relates to East and West Molesey, identifies the need to pay attention to areas of high heritage value within and around the settlements. The accompanying diagram highlights Hampton Court Station as a location for station improvements and mixed use station redevelopment. The policy seeks to support the tourism role of Bridge Road and states that redevelopment at the station should improve facilities for visitors.
18. The proposal is for a mixed use scheme, which is consistent with the CS policies referred to above. The proposed land uses would be well integrated with each other and with the surroundings. The hotel, retail units and riverside café/restaurant would improve facilities for visitors. These facilities would also support the role of the District Centre. The scheme would deliver new housing on previously developed land in an accessible location.
19. The built form would create a coherent pattern of development, relating to the orientation of the railway tracks and Hampton Court Way. The eastern side of Hampton Court Way and the western edge of Cigarette Island Park would be enclosed by clearly defined frontages. The riverside building would not face squarely on to the River Thames. Rather, it would face towards Hampton Court Bridge, which is the main direction of travel for many visitors arriving at the station. There would be an improved route for pedestrians linking the station directly to the bridge. There would also be a pedestrian route leading to Cigarette Island Park. The highway works would include facilities for pedestrians and cyclists crossing Hampton Court Way and bus stops that

would be located directly in front of the station. Taken together, these features of the design would result in a place that would be accessible and easy to move around.

20. A new public space would be created between the station and the riverside. Two bays of the riverside building would project towards the river, creating a degree of definition to this space and an attractive corner for outdoor seating associated with the café/restaurant. For visitors arriving by train, the proposed riverside green would mark a point of arrival, providing views of the bridge, the river and the Palace itself.
21. Some parties have criticised the design of the public space on the basis that it would be crossed by the access to the proposed car park. This space would be experienced in the context of the traffic on Hampton Court Way and, at times, high levels of pedestrian traffic associated with the station. It would be a busy area, characterised by movement. In this context, I consider that the amount of traffic using the car park access is unlikely to have a significantly harmful impact. The crossing points have been designed with good visibility and ample space for pedestrians. There is no technical evidence that they would be unsafe. To my mind, the riverside green would be an attractive space for visitors, new residents and existing residents of East Molesey.
22. The riverside building would comprise three storeys with an additional storey accommodated within gables facing the river. The Design and Access Statement (DAS) indicates that the main facing material would be brick, with lighter coloured reconstituted stone window surrounds. Subject to appropriate colours and tones of the facing materials, which could be controlled by a condition, this approach would make reference to the materials of the bridge and the Palace. Gables and dormer windows on the upper level would create a varied roofline and reflect features typically found in the locality. The building would be set back from the river, maintaining the soft edge to the riverfront that is characteristic of the south bank opposite the Palace. The built form would be articulated by the step in the front elevation, the lively appearance of the ground floor commercial units, the gabled upper level and the use of a contrasting colour for the central bay. To my mind, the scale of the riverside building would be appropriate to its setting and the spaces around it.
23. The three apartment blocks facing Cigarette Island Park would comprise four storeys, although they would appear taller as seen from the park because they would be set on a podium above the car park. The upper level would be set back, with roof terraces enclosed in pergola structures. The distinctive treatment of the upper level, together with the depth and width of the podium gardens, would break up the mass of the built form. Whilst they would clearly be seen as part of a larger scheme, I do not think that they would be perceived as a single mass, either in views from the park or in longer views from the north bank of the River Thames.
24. At present the western boundary of the park is marked by a hedge and trees, with glimpses through to the station and buildings beyond. Whilst the vegetation within the park would remain, the proposal would bring about a significant change to the appearance of the western boundary. However, it does not follow that the change would be harmful. There are many townscape precedents for highly valued green spaces that are enclosed on one or more sides by appropriately scaled and well-designed buildings. In this case, a key feature of the park is the views it affords of the river and the Palace. Those

views would be unaffected. Moreover, there is currently very little natural surveillance of the park. The proposed apartments would provide that. I consider that, for some park users, this would become a more attractive public space as a result.

25. The southern wing of the southernmost apartment block would project towards the Ember, adjacent to the station platform. I consider that there would be sufficient set back to maintain the green edge to the riverbank at this point.
26. The Hampton Court Way building would comprise four storeys. The entrances to the hotel and retail components would be marked by projecting three storey elements, which would be well related to the scale of the 1930s Hampton Court Parade on the opposite side of the road. The fenestration would emphasise the vertical proportions of the elevation, breaking up the long façade. The residential component would be on a subtly different alignment and would rise to four storeys at the back edge of the pavement. When approaching from the south, along Hampton Court Way, the eye would be drawn to the curved corner of the residential block which would lead round to strongly expressed south facing balconies overlooking a proposed woodland garden.
27. An existing layby on Hampton Court Way would be altered to create a service bay. Although there would be a slight pinch point in the pavement at the southern end of the layby, there would be sufficient pavement width to enable pedestrians to pass freely. The Hampton Court Way building would face Hampton Court Parade across a relatively wide space formed by the main road, a highway verge and a service road. I consider that the height of the proposed elevations would not appear disproportionate or overbearing in this setting. I shall discuss the relationship between the proposed buildings and the locally listed station under the second main issue.
28. Some parties sought to criticise the design on the basis that it would not be sufficiently eye catching or innovative. I agree that this is not a design that seeks to make an assertive architectural statement. However, in this case I do not regard that as a negative. I consider that the design would result in a calm, well-ordered scheme with sufficient presence to hold its own in the street scene. It would respond to the townscape context. Mindful of the characteristics of well-designed places set out in the National Design Guide, and the features of the design discussed above, my overall assessment is that the proposal would represent good design as that term is used in the Framework. It would enhance the character and appearance of the area.
29. I conclude that the proposal would accord with Policies CS1 and CS7 insofar as they seek to consolidate the role of centres and secure mixed use development at the station. It would accord with Policy CS12, which seeks to ensure that development respects the waterside environment, and with Policy CS14 which seeks to protect green infrastructure and local landscape character. It would accord with Policy CS17, which promotes high quality design that maximises the efficient use of urban land whilst integrating sensitively with locally distinctive townscape. It would also accord with Policy DM2, which promotes high quality design, and with Policy DM13 which seeks to protect the character of the river and its landscape.

The effect of the proposal on the historic environment

30. Many heritage assets are identified in the evidence. Of these, the Council and the appellants agreed that the following designated assets are at issue in this appeal¹:

- Hampton Court Palace (Scheduled Monument and Grade I listed building);
- Hampton Court Palace Registered Park and Garden (RPG) (Grade I), including the Privy Garden and the Sunk Garden and the individually listed structures within them;
- Banqueting House (Grade I listed building);
- Lower Orangery (Grade I listed building);
- Trophy Gates (Grade I listed building);
- Barracks (Grade I listed building);
- Hampton Court Bridge (Grade II listed building);
- Bridge over the River Ember (Grade II listed building);
- Listed Buildings opposite the Trophy Gates (considered as a group);
- East Molesey (Kent Town) Conservation Area; and
- Hampton Court Green Conservation Area.

In addition, a number of non-designated heritage assets are identified in the evidence. Those most significantly affected by the proposals would be Hampton Court Station (locally listed building) and Cigarette Island Park. Although the park is not locally listed, in my view it has sufficient heritage interest to be treated as a non-designated heritage asset for the purposes of this appeal.

31. There would be no direct impacts on any listed buildings. The potential for effects on such assets is through development in their settings. It is convenient to group some of the assets together for the purposes of describing these effects.

Hampton Court Palace and associated heritage assets

32. The Palace complex includes the Palace itself, together with the RPG and individually listed structures within the gardens, Banqueting House, Lower Orangery, Trophy Gates and Barracks. Historic England (HE) has commented that the monument is of exceptional significance through its high quality of architecture, extent and survival, archaeological interest and historical association with key historical figures such as King Henry VIII, Cardinal Thomas Wolsey and Sir Christopher Wren. There are key views from the Trophy Gates to the west front, from the gardens to the east front and from the Barge Walk to the Privy Garden and south front. These views would be unaffected.

¹ Heritage Statement of Common Ground. Although the parties did not refer to Hampton Court Park Conservation Area, I have taken it into account.

Contribution of setting to significance

33. The appeal site lies within the setting of the Palace complex and it is therefore necessary to consider the extent to which it contributes to significance, or the ability to appreciate significance. The Council argued that the appeal site makes a valuable contribution to the appreciation of the historic location of the Palace, set within a broadly rural context. This view gains support from HE, who commented that:

"harm would be caused because the largely undeveloped view from the Privy Garden and Barge Walk to the development site currently allows visitors to receive an insight into the historic experience..."²

34. Historic Royal Palaces made a similar point, commenting that the view towards Cigarette Island Park gives the impression that the area is *"peacefully unaffected by the development surrounding it"*³. The Gardens Trust commented that the river setting of the Palace has *"survived remarkably unchanged"*⁴. I do not agree with this analysis. First, as one moves around the Palace complex, there are many locations from which the busy Hampton Court Bridge and the settlement of East Molesey are clearly in view. These locations include parts of the Barge Walk and the Banqueting House.
35. Second, whilst the view southwards is attractive and verdant, it provides little, if any, insight into the way the landscape has changed over the centuries. At the time of Henry VIII, the appeal site was within an area used as a royal hunting park. There was little evidence before the Inquiry as to how the landscape would have looked at that time. The Knyff view of 1700 and Rocque's map of 1745 show an enclosed agricultural landscape to the south of the river. This changed radically with the arrival of the railway in the 19th century. Ordnance Survey maps from 1868 through to 1934 show the station site with more sidings, coal yards and buildings than are seen today. It would have had a more industrial character than it has now. Further significant change resulted from the construction of Hampton Court Bridge and the formation of Cigarette Island Park in the 1930s.
36. These layers of history contribute to the significance of the Palace. For example, the station was an example of 19th century railway construction that was intended to promote tourism, reflecting a growing ability to travel and to visit historic sites. The park illustrates an early 20th century approach to municipal improvement projects, with the objective of providing a more appropriate setting for the Palace. However, it is important to bear in mind that the view across the river and Cigarette Island Park towards the appeal site is largely a result of 20th century changes. Very little of the site itself is visible in such views.
37. There is no evidence of any functional link between the site and the Palace prior to the construction of the railway, other than the period when it was part of a much wider hunting park. The station currently provides an important functional link because many visitors pass through it on their way to the Palace. The station and its surroundings therefore affect the experience of arrival. There are also views of the Palace from parts of the appeal site. In my

² HE letter of 14 May 2021

³ HRP letter of 8 February 2019

⁴ The Gardens Trust letter of 11 February 2019

analysis, these are the main ways in which the appeal site currently contributes to the ability to experience the Palace complex.

Visual representations

38. Visual representations were provided by the appellants and by Mr Garner. I shall refer to these, respectively, as MH and MSE viewpoints (VP)⁵. MH and MSE used different methodologies. However, for most viewpoints, there was no material difference in the height or extent of the proposed development as it would appear in the view⁶. The differences lay in the presentation of the results, for example in the amount of sky or contextual townscape seen in the image, or in the way the proposed development was shown. However, such images can only show representative viewpoints. They cannot replicate the experience of visiting the Palace and can only be an aid to judgements made on site. I have therefore had regard to both sets of images, on that basis. It is not necessary for me to comment further on the pros and cons of the alternative methodologies used by MH and MSE.
39. There are also visual representations contained in a Historic Environment Impact Assessment prepared by Dr Rutherford. These were not claimed to be accurate visual representations. I consider that the proposed buildings are illustrated in a way that is less accurate than the MH and MSE representations. I have therefore attached little weight to these images.

Western approach to the Palace including Trophy Gates, Trophy Drive, Barracks and Thames Path⁷

40. The most visible part of the proposal would be the riverside building. This would be orientated towards the bridge, rather than the Palace, and would be set back from the river bank. The western elevation would be seen obliquely and would be heavily filtered by trees, even in winter views. There would be a change in views towards the appeal site, with the built form of East Molesey extending further to the east, beyond the trees of Cigarette Island Park. However, there would not be a material change in the general character of the view, the key components of which would still include the river, the bridge and the verdant character of Cigarette Island Park.
41. In this part of the Palace complex the attention of the visitor is naturally drawn to the richness of the surrounding heritage assets, including the Trophy Gates and the Barracks. The west front of the Palace is the predominant feature of interest and the focus of attention. The appeal scheme would be a component within the wider view, looking away from the main features of interest. It would be seen in the context of the bridge and other buildings within East Molesey. For reasons discussed above, I consider that the scale of the appeal scheme would be appropriate to its setting and would not harm the character and appearance of the riverfront. It would not harm the ability to experience the Palace complex or the associated heritage assets.

⁵ The appellants' visual representations were prepared by Millerhargreaves and Mr Garner's were prepared by MSE

⁶ MH identified an error in MSE VP 9. A revised MSE VP 9 was submitted during the Inquiry. MSE did not dispute the height and extent of the proposed buildings shown in the MH representations

⁷ MH VP 1, VP 3, VP 4 and VP 6 and MSE VP 2 and VP 3 are representative views

The Privy Garden and the south front⁸

42. The Privy Garden has a strongly axial design, with the principal axis running south towards the river. The Tijou screens allow views southward, out of the garden, across the river to Ditton Field. Raised terraces on either side of the gardens further reinforce the axial nature of the layout. Whilst these terraces provide some incidental views westward towards the appeal site, these are not designed views. The terraces were intended to afford views of the Privy Garden itself.
43. Due to the screening effect of the trees in Cigarette Island Park, there would be virtually no summer views of the appeal scheme and winter views would be heavily filtered. The attention of the visitor would be powerfully held by the Privy Garden and its relationship with the magnificent south front of the Palace. If the visitor were to notice the appeal scheme, it would be a background feature. The appeal scheme would not be of sufficient scale or presence in such views as to distract from the heritage assets or to materially harm the ability to experience them.
44. The MSE images identified a potential partial view of the roof of the riverside building from the south terrace within the Privy Garden⁹. Only a small part of the roof of the proposed building would be potentially visible above a garden wall. Moreover, this view could only be obtained from a small section of the south terrace. This does not alter my conclusion that there would be no harm to the ability to experience the Palace or the RPG in this part of the complex.
45. Although the roof of the Palace is accessible via a service stairway, there is no evidence that the roof was historically a viewpoint enjoyed by visitors. Some visitors are now able to visit the roof, and some modern adaptations have been installed to enable that to happen in safety. The views are spectacular, encompassing a near 360 degree panorama for miles around. However the main contribution to the experience of the Palace and the RPG is the ability to see the assets in bird's-eye view. The appeal scheme would not materially alter that experience.

The Banqueting House and Banqueting House Terrace¹⁰

46. The Banqueting House, which has a richly decorated interior, was built close to the river on the edge of the Palace complex. The size and placement of the windows indicates that the building was designed to take advantage of attractive river views. From three sides of the principal room there are views up river, down river and straight across to Cigarette Island Park. Even so, there is no evidence that these were designed views in the sense that the design of the building sought to focus a view on any specific structure or landscape feature. On the contrary, the historic sources discussed above show that the land across the river was simply agricultural land at the time the Banqueting House was built.
47. Openings were made in the wall to the Banqueting House Terrace, providing similar views across the river. These were subsequently blocked off and have been re-opened in recent times.

⁸ MH VP 5 and MSE VP 5 and VP 7 are representative views

⁹ MSE VP 6

¹⁰ MH VP 2 (from the Barge Walk) and MSE VP 8 (from Banqueting House Terrace) give some indication of views from within the Banqueting House but they cannot replicate such views

48. In winter views Hampton Court Parade is visible through the trees in the park. The proposed buildings would be more visible, being taller and closer to the viewpoint. The three apartment blocks facing the park would be the most visible components. Even so, they would be background features seen across the river and intervening park, filtered by trees. The mass of the new built form would be articulated in the ways described above, such that it would not appear as a single block. This would represent a change in the view, but to my mind it would not change the general character of the view. The river and planting along its banks would remain as the main focus of attention. The ability to appreciate the significance of the heritage assets would not be harmed.

Other heritage assets within the Palace complex¹¹

49. These include the Lower Orangery, the Sunk Garden¹², the Fountain Garden and individual listed structures located within the gardens. For all these assets the potential for intervisibility with the appeal proposal is less than for the assets discussed above. Moreover, for all these assets, the visitor would be strongly immersed in the immediate surroundings of the palace and the RPG. Any potential impact through competition with or distraction from the assets would be significantly lower than the impacts discussed above.

Views from Hampton Court Station

50. There are views of the Palace from trains arriving at the station. Similar views can be gained from the platform when there is no train in the way¹³. Only a small section of the Palace can be seen in summer but the view is more extensive in the winter. These views would be obscured by the proposal. The views that would be lost are likely to have existed in more or less their current form since the latter part of the 20th century. Before then, the more industrial nature of the station's surroundings would have dominated the foreground. Even so, the proposal would remove an existing opportunity to experience the Palace from this location.
51. On the other hand, the experience of those arriving at the station, heading for the Palace, is currently diminished by the poor state of the public realm. The proposed riverside green would open up new views of the Palace from the station. It would also provide a safe, attractive and direct pedestrian route from the station entrance to Hampton Court Bridge. These positive changes would enable visitors to better experience the significance of the Palace at an important point of arrival. They would outweigh the loss of views from the platform, such that, overall, there would be an improved ability to experience the Palace.

Trees in Cigarette Island Park

52. The main landscape feature of the park is an avenue of large mature horse chestnuts alongside a riverside promenade. These trees were planted following the creation of the park in the 1930s. Some of the trees within the original avenue are no longer present. There are also several holm oaks which have been planted within the avenue and between the promenade and the river

¹¹ MH VP G and VP H and MSE VP 5, VP 7, VP 9 (as amended) and VP 10 are representative views

¹² The Sunk Garden is also referred to as the Pond Garden in the evidence

¹³ MSE VP 1

bank. HE and The Gardens Trust have referred to the health of the trees and the possibility that their screening effect may diminish over time.

53. The appellants subsequently commissioned an arboricultural report on the trees in question. This concluded that it is likely that the horse chestnuts are affected by leaf miner each year but this is unlikely to have a long term effect on their health and longevity. The report states that there is evidence that some of the trees were previously affected by bacterial bleeding canker but this disease is now only active in one semi-mature tree, which is not an important part of the tree screen. Overall, the report concludes that the horse chestnut trees are in good condition and that their health has recently been improving. At the Inquiry, Mr Garner disagreed with the estimates of longevity set out in the arboricultural report. Dr Rutherford, who appeared on behalf of Mr Garner and The Gardens Trust, argued that diseases and storm damage are unpredictable. However, no party provided any site-specific technical evidence to counter the arboricultural report.
54. The holm oaks are evergreen with visually dense crowns. They could increase the screening effect over time. On the other hand, some parties consider that the holm oaks are not historically appropriate and should be removed. Discussions have taken place with Council officers about a project to selectively remove trees from within the park.
55. The Agreement includes a financial contribution to the future improvement and maintenance of Cigarette Island Park, which is in the control of the Council. At the Inquiry, the Council submitted that this obligation would not meet the requirements of Regulation 122 of the CIL Regulations. I share that view because no specific outcome from the application of the funds has been identified that could be seen as mitigating impacts of the appeal scheme. Accordingly, I have not taken this contribution into account.
56. The trees are not within the control of the appellants. However it is relevant to note that the trees are within a conservation area and are controlled by a public body (the Council) which may be expected to exercise its functions accordingly. Moreover, the trees are a much-valued and highly prominent feature of the riverside landscape. It is reasonable to assume that the Council will act responsibly in relation to their long term management. It is not for me to say whether that should include removing all or some of the holm oaks. That is a matter to be decided locally.
57. My assessment is made on the basis of the current condition of the trees, as described in the report discussed above, and the fact that they are in the control of a responsible public body. I take into account that it is possible that the density of the tree screen may diminish over time to some extent, whether through the loss of individual trees (perhaps through disease or storm damage) or through management decisions to remove some trees. However, in all the circumstances, I consider that it is unlikely that the degree of screening would change sufficiently to alter my conclusions.

Night time views

58. The apartment blocks facing the park would emit light as a consequence of normal domestic occupation. However, I accept the appellants' evidence that the amount and character of light emitted would be different to the uniform light levels required for commercial buildings. Moreover, the appeal site is in

an urban setting where street lighting and lights from buildings are to be expected. There is also lighting within the Palace complex.

Conclusion

59. I have taken account of the views expressed by HE, HRP and The Gardens Trust. HE did not object to the proposal, although it considered that there would be some harm to the setting of the Palace. HRP and The Gardens Trust did object. However, I have reached different conclusions for the reasons set out above.
60. My overall assessment is that, whilst there would be some change to the setting of the Palace and its associated heritage assets, that change would not be harmful. There would be an enhancement in relation to views from the station and the arrival experience which would outweigh any loss of views there.
61. I conclude that there would be no harm to the settings of Hampton Court Palace, Hampton Court RPG, the Trophy Gates, Barracks, Banqueting House or Lower Orangery or to any of the individually listed structures within the gardens. My conclusion in relation to the statutory duty¹⁴ is that the settings of the listed buildings would be preserved.

Hampton Court Bridge

62. The bridge, which was built to designs by Sir Edward Lutyens in the 1930s, is a large-scale engineering structure with a dramatic form. This is best appreciated in views from the riverside, including views from the Barge Walk. Whilst the appeal scheme would be seen in such views, it would be set back from the river as described above. In any event, the bridge is experienced in the context of development at East Molesey and on the north bank. The setting of the bridge would be preserved.

Bridge over the Ember

63. This is a smaller single span bridge, also by Lutyens, which is best appreciated from riverbank locations to the east. These views would not be materially affected. The bridge can also be seen from the station platform. Whilst part of the appeal scheme would be seen in the same view, it would be set back from the river behind the proposed woodland garden. There would be no harm to the ability to experience the listed bridge and its setting would be preserved.

Listed Buildings opposite the Trophy Gates

64. There is a group of listed buildings facing Hampton Court Way, including the Mitre Hotel, Palace Gate and Palace Gate House. These 18th and 19th century buildings are of historic and architectural interest, reflecting historic change around the Palace in that period. Insofar as setting contributes to their significance, it is their group value and relationship to the Palace that is most important. They are separated from the appeal site by the river and Hampton Court Bridge. The appeal scheme would be visible in the same view as these buildings in some views from Hampton Court Way. However, this change would not affect the ability to experience the listed buildings. Their settings would be preserved.

¹⁴ Planning (Listed Buildings and Conservation Areas) Act 1990, section 66

65. The Old Court House and other listed buildings to the south of Hampton Court Green are separated from the appeal site by intervening development, such that the appeal site does not contribute to their appreciation.

East Molesey (Kent Town) Conservation Area including Hampton Court Station and Cigarette Island Park

66. The East Molesey (Kent Town) Conservation Area Character Area Appraisal and Management Proposals (CAA) notes that there was little settlement in the area before the arrival of the railway in 1849. As well as bringing visitors to the Palace, this stimulated residential development. The CAA's summary of townscape features contrasts the development of broad streets for detached Edwardian and Victorian villas in large plots with the varied and tightly enclosed built form of Bridge Road in the historic core of the settlement. The CAA identifies important views, including views of the Palace from Hampton Court Bridge and Cigarette Island Park and the view of the station along Creek Road.
67. The station is identified in the CAA as an important local landmark. However, it is also described as lacking a sense of arrival or cohesion with the townscape of the historic core. The poor environment for visitors arriving at the station is identified as a negative feature of the conservation area. The station is a locally listed building. I consider that it has architectural interest, having been designed to respect the architecture of the Palace by the architect Sir William Tite. It also has historical interest associated with the growth of leisure travel in the 19th century and with the growth of the settlement of East Molesey.
68. The main elevation faces west, where there was once a bridge over the River Mole linking the station to East Molesey and the previous Hampton Court Bridge. The 1930s was a period of great change for East Molesey. The River Mole was diverted and its former course infilled for the construction of Hampton Court Way. The current Hampton Court Bridge was also built at this time. Cigarette Island, which had been used for shacks and holiday homes, was purchased by the Office of Works and made into a public park. I have treated the park as a non-designated heritage asset for the purposes of this appeal. I consider that it has significance, in that it illustrates an approach to environmental improvement related to the setting of a historic site before the advent of the modern planning system.
69. As noted in the CAA, the station forms a focal point and a visual stop in views along Creek Road. The pitched roof and dormer windows of the proposed riverside building would rise above the station in this view, such that the distinctive gables of the station would no longer be seen against the backdrop of trees in the park. This would result in some loss of the landmark quality of the station. That said, the north elevation of the proposed Hampton Court Way building would be well separated from the station, such that the station would still be prominent in views from Hampton Court Way.
70. Although the riverside building would be taller than the station, the built form would be articulated in the ways described above. It would be separated from the station building by the station canopies. In my view these features of the design would enable the transition in scale to be accommodated without the riverside building appearing over dominant. The station would become the focal point of the appeal scheme. The continued functional role of the station,

together with the striking design of the station building and the improved public realm that would result from the appeal scheme, would ensure that it would retain its role as a focal point and a landmark within the wider conservation area. Moreover, the appeal scheme would address the poor environment and lack of visual cohesion identified in the CAA as negative features. These positive aspects would outweigh the impact on the view along Creek Road, such that the overall impact on the station as a locally listed building would be beneficial.

71. I have commented above that the proposal would bring about a significant change to the appearance of the western boundary of Cigarette Island Park. However, it does not follow that the change would be harmful. Enclosing the western side of the park with well-designed buildings would not harm its significance as a non-designated heritage asset.
72. I have considered the other designated and non-designated heritage assets in the conservation area that were described in the evidence. I do not think that the significance of any of these other assets would be harmed by the appeal scheme.
73. Under the first main issue I concluded that the proposal would represent good design, as that term is used in the Framework, such that it would enhance the character and appearance of the area generally. Mindful of the statutory requirements relating to conservation areas¹⁵, I have identified one element of harm relating to the view of the station along Creek Road. On the other hand, I have identified the following enhancements:
- new public realm in a key riverside location, enabling new and improved views of Hampton Court Palace and Hampton Court Bridge;
 - creating a sense of arrival and improving the environment for visitors arriving at the station;
 - well-designed buildings that would reinforce the role of the station as a focal point in the conservation area; and
 - addressing the current lack of coherence in the urban design of Hampton Court Way.
74. These enhancements would outweigh the element of harm that I have identified. I conclude that, overall, the proposal would enhance the character and appearance of the East Molesey (Kent Town) Conservation Area.

Hampton Court Green Conservation Area

75. The conservation area extends to the middle of the River Thames and includes the listed buildings opposite the Trophy Gates, the north bank of the river west of Hampton Court Bridge and Hampton Court Green. The appeal scheme would be at its most visible in views from Hampton Court Bridge. However, the ability to see well-designed buildings, set back from the riverfront, on the opposite side of the river would not harm the character and appearance of the Hampton Court Green Conservation Area.

¹⁵ Planning (Listed Buildings and Conservation Areas) Act 1990, section 72

Hampton Court Park Conservation Area

76. The conservation area extends to the middle of the river opposite Cigarette Island Park. For the reasons given above, in relation to Hampton Court Palace and the RPG, I do not consider that there would be any harm to the character and appearance of the Hampton Court Park Conservation Area.

Conclusions

77. I conclude that the proposal would not result in harm to the settings or the significance of the scheduled monument of Hampton Court Palace, the RPG or any of the listed buildings identified in the evidence. The settings of the listed buildings would be preserved. The proposal would enhance the character and appearance of the East Molesey (Kent Town) Conservation Area. There would be no harm to the character and appearance of any other conservation area. The proposal would enhance the significance of Hampton Court Station, a locally listed building. There would be no harm to the significance of Cigarette Island Park, which I have treated as a non-designated heritage asset for the purposes of this appeal.
78. The proposal would accord with Policy CS7, insofar as it requires development to enhance the character of the area, including areas of heritage value such as the East Molesey (Kent Town) Conservation Area. It would accord with Policy CS14, which seeks to protect green infrastructure and local landscape character, and with Policy CS17 which seeks to ensure that development integrates sensitively with heritage assets. It would also accord with Policy DM12 which seeks to protect and enhance the Borough's historic environment.

Whether the proposal would make sufficient provision for affordable housing

79. Policy CS21 states that, on sites such as this, the Council will require 40% of residential units to be delivered as affordable housing. However, the plan allows for viability to be taken into account. The appellants submitted a viability report, which concluded that 12 affordable units was the most that could be provided. Although this report was updated for the Inquiry, the conclusion was the same. The Agreement would secure the delivery of 12 affordable dwellings. It would also provide for review mechanisms, at early and late stages in the development process, which could enable more affordable units to be provided in the event that viability were to improve.
80. The appellants' appraisal includes a payment of £1.6 million to Network Rail for upgrading the station. This sum has been treated as a development cost in the viability calculation. I do not agree with that approach. Other than the demolition of some outlying structures, there are no works to the station itself specified in the application. There is no mechanism within the planning process to require any such works. That said, the viability appraisal has been independently reviewed on behalf of the Council. The review concluded that, even if the payment were excluded from the development costs, this would not change the conclusion that 12 affordable units is the maximum that can reasonably be achieved.
81. At the Inquiry, HCRC questioned whether the scheme would be viable at all. However, my assessment of this issue is based on the viability reports that

have been submitted. Bearing in mind that these have been independently reviewed on behalf of the Council, it is reasonable to rely on this evidence.

82. In the light of the updated viability report and review, the Council accepted that the Agreement resolves its third reason for refusal, relating to affordable housing. I share that view. I conclude that the proposal would make sufficient provision for affordable housing and would accord with Policy CS21.

The effect of the proposal on highway networks and the extent to which it would support the objective of promoting sustainable transport

83. The proposal includes closing the existing access to Cigarette Island Park and creating a new access, to serve both the appeal scheme and the park, opposite River Bank. A signalised junction would be created, thereby providing access to the site and facilitating turning movements between River Bank and Hampton Court Way. An existing gyratory system at the River Bank/Hampton Court Way junction would be removed, reducing the number of access points to the main road and freeing up highway land for public realm enhancements. The highway works would also include widening Creek Road at its junction with Hampton Court Way to facilitate turning movements there. Delivery of the highway works would be secured through the Agreement. At the Inquiry, the Council confirmed that the Agreement would resolve its fourth reason for refusal, relating to highway improvements.
84. The ES included modelling of the highway works. This showed that, without the proposal or the associated highway works, congestion would increase. With the proposed development and highway works in place, there would be a reduction in congestion. Neither the Council nor the highway authority raise any objections to the proposal in terms of impacts on the highway network. Indeed, both Councils agree that this would represent a significant benefit of the proposal.
85. The proposal includes a new station forecourt, which would accommodate southbound bus stops and taxis. The existing pedestrian crossing in front of the station would be widened to a toucan crossing, linked to the traffic signals at the River Bank/Hampton Court Way junction. As discussed above, there would be new pedestrian routes from the station entrance to Hampton Court Bridge and Cigarette Island Park. Taken together, I consider that these measures would support sustainable transport by improving safety and convenience for pedestrians, cyclists, bus passengers and those using Hampton Court Station.
86. Some parties argued that the works are no more than is required to meet the needs of the development, so they should not be regarded as a benefit of the scheme. I disagree. It is fair to point out that the new junction is needed to provide safe and suitable access to the appeal scheme. However, the highway works would reduce congestion and increase safety for all highway users. To my mind that should be regarded as a significant benefit of the proposals.
87. The existing station car park accommodates around 200 cars, although it is not fully used for much of the time. The proposal would accommodate a similar number, in a two level basement. The car park would continue to be operated as a station car park. New residents, the hotel operator and others would be able to purchase permits to park there. The need for car parking has been assessed in the ES. Both the Council and the highway authority are satisfied with the amount of parking proposed.

88. HCRC and other interested parties argued that the parking surveys did not take account of times when the car park is busy with visitors to the Palace. It was also pointed out that coach parking would be displaced. The car park would continue to provide some capacity for those visiting the Palace. However, the Council and the appellants agree that this would essentially be a commuter car park, to serve the station, which would have capacity to accommodate the new land uses proposed within the appeal scheme. I share that view. There is no requirement for the appellants to provide parking to accommodate events that occur at the Palace.
89. I conclude that the proposal would be beneficial to the operation of the highway network and would support the objectives of promoting sustainable transport. It would accord with Policy CS25, which seeks to promote sustainable travel and to improve transport infrastructure. It would also accord with policy DM7 which requires that there should be safe and convenient access from the highway for pedestrians, cyclists and motorists and that parking provision should be appropriate to the development.

Other matters

South Western Railway Act 1913

90. If development at the appeal site were to exceed 50 feet in height, then it would be necessary to seek consent under the 1913 Act¹⁶. HCRC and other interested parties argued that the appeal scheme would exceed that height, although this was not agreed by the appellants. The 1913 Act is a separate legislative regime. It is not for me to say whether it would apply in this case or, if it did, what the outcome might be. It is important to note that the 1913 Act does not preclude development, rather it establishes a consenting process if certain conditions are met. The Council and the appellants agree that the 1913 Act does not contain anything that prevents the determination of the appeal or which dictates its outcome. I share that view.
91. I take account of the fact that the 1913 Act could introduce an element of uncertainty or delay in the implementation of the appeal scheme. However, the same could be said of many issues that those promoting development may need to resolve. I do not think that the 1913 Act has a significant bearing on my assessment of effects on the historic environment. That assessment is based on the up-to-date evidence before the Inquiry, including current conditions on the ground, considered in the light of current law and policy.

Social and economic benefits

92. The Council cannot currently deliver the five year supply of housing sites that is required by the Framework. The appellants accept that delivery of the appeal scheme would not be straightforward, such that it may not result in housing delivery until late on in the five year period. Even so, there is a general imperative to boost the supply of housing land. There is also a great need for affordable housing in Elmbridge and there is a need for smaller units. Moreover, the appeal scheme would generate employment during construction and in the operational phase and there would be an economic benefit from spending by new residents.

¹⁶ Inspector's note – At the Inquiry it was suggested that the Department of Culture, Media and Sport is the successor body for decision making under the 1913 Act. However, for the purposes of this appeal, it does not matter which government department is responsible.

93. I attach little weight to local financial considerations such as council tax receipts, business rates, new homes bonus or CIL because there is no evidence that any of these receipts would be deployed in a way that would help to make the appeal proposal acceptable in planning terms. I do not agree with the Council's suggestion that the benefit attributed to housing delivery should be reduced because the appellants are not themselves housebuilders. In my experience, that is not an unusual situation. The Council and the appellants agree that little weight can be attached to the emerging local plan at this stage, so the prospect of new housing that may be delivered through that plan does not reduce the benefit of housing that would be delivered by the appeal proposal. In all the circumstances, I attach significant weight to the delivery of market and affordable housing, together with the associated economic benefits.

Flood risk

94. The appeal site is at risk of flooding from the adjoining rivers. The ES included a flood risk assessment. The Environment Agency sought extensive additional modelling work. The results of this work are set out in an updated flood risk assessment. The Council and appellants agree that the Agency is now satisfied that the proposed development is acceptable in flood risk terms and would not result in an increased risk of flooding off site. The flood risk assessment made recommendations regarding finished floor levels for various components of the scheme, flood resilience measures and measures to avoid loss of flood storage capacity. Implementation of these measures could be secured by a suggested condition. There is also a suggested condition requiring approval of a flood management and escape plan. I consider that flood risk has been appropriately taken into account in the design of the appeal scheme and that, subject to the suggested conditions, the proposal would be acceptable in terms of flood risk.

Living conditions of nearby residents

95. The spacing between the appeal scheme and Hampton Court Parade has been described above. I do not consider that the proposal would have an unacceptably overbearing impact on existing dwellings on the opposite side of Hampton Court Way. The ES included assessments of daylight and overshadowing. The Council and the appellants agree that the proposal would not result in a significant loss of light to any existing properties in Hampton Court Way. Impacts during construction would be temporary and could be mitigated through suggested conditions. This is not a matter that weighs against the appeal.

Other environmental considerations

96. The ES has also assessed impacts relating to ecology, air quality, ground conditions and archaeology. Where appropriate, mitigation would be secured through planning conditions. The Council has not raised any objection in relation to these matters and I see no reason to take a different view.

Alternative proposals

97. The Council suggested that there could be an alternative scheme which would deliver similar benefits with less harm. Mr Garner, HCRC and others have promoted a proposal for the site to become public open space, rather than

being developed with a mixed use scheme. However, as I have decided that the appeal scheme would accord with the development plan and would be beneficial, it is not necessary for me to comment further on these alternative proposals.

Interested parties

98. The officer's report noted that over 1,800 letters of representation, together with some petitions, were received objecting to the proposal. There were around 150 representations in support. Further representations were made in response to consultation on the appeal. The main matters raised were those that have been discussed above.

Conclusions on Appeal A

99. For the reasons given above, I find that the proposal would accord with those policies of the development plan relating to consolidating the role of centres, securing mixed use development at the station, enhancing the character of the area (including areas of heritage value), ensuring that development respects the waterside environment, promoting high quality design, protecting and enhancing the historic environment, providing affordable housing, providing safe and convenient access and promoting sustainable travel. As I have not identified any significant conflicts with the development plan, I conclude that the proposal would accord with the development plan as a whole. Planning permission should therefore be granted unless there are material considerations that indicate otherwise.
100. The re-use of previously developed land, enhancements to the East Molesey (Kent Town) Conservation Area, the delivery of housing, including affordable housing and the associated economic benefits and improvements to the safety and capacity of the highway network are matters that weigh significantly in favour of the appeal. No other considerations that weigh significantly against the appeal have been identified. It follows that the appeal should be allowed.

Reasons – Appeal B

The effect of the proposal on public open space

101. The appeal site comprises around 0.38ha of land in the western part of Cigarette Island Park. It is an open grassed area, used as public open space in conjunction with the rest of the park. Policy DM20 states that existing open spaces should not be built on unless the open space is surplus to requirements, it would be replaced by alternative provision or the development itself would be for alternative sports and/or recreation provision. There is no suggestion that the proposal would meet any of the exceptions set out in the policy. The proposal would therefore conflict with Policy DM20. It would also conflict with Policy CS14, which gives a high level of protection to green infrastructure assets.
102. The car park would be formed of rigid plastic matting on a permeable stone base. Subject to a suitable scheme of reinstatement, which could be secured by a condition, I consider that the land could be restored to its former condition when the car park is no longer required. The loss of public open space would therefore be temporary. The rest of the park would continue to be available to the public whilst the car park was in use. One of the main features

of the park is the views that it provides of the River Thames and the Palace. These views would be unaffected.

The effect of the proposal on the East Molesey (Kent Town) Conservation Area

103. As discussed in relation to Appeal A, I have treated Cigarette Island Park as a non-designated heritage asset for the purpose of this appeal. It is also an important green open space which makes a positive contribution to the character and appearance of the conservation area. Formation of a car park, albeit temporary, would detract from the landscape character of the park, resulting in harm to the character and appearance of the conservation area.
104. There is an underground air raid shelter in the north west corner of the park. This has also been identified as a non-designated heritage asset. The shelter, which appears as a low grassy mound, is close to the proposed vehicular access point. However, the Council and the appellants agree that a condition could be imposed requiring approval of construction details for the access, to mitigate any impacts on the underground structure.
105. Two smaller trees would be removed to enable the access to be located away from a large horse chestnut forming part of the avenue. Three parking bays would be partially within the root protection area of the horse chestnut. This could be accommodated satisfactorily with appropriate tree protection measures, which could be secured by a condition. Other trees in the vicinity of the car park could be protected by appropriate fencing to keep vehicles clear of root protection areas.
106. I consider that the proposal would conflict with Policies CS7, CS17 and DM12, in that it would harm the character and appearance of the conservation area. In the terms of the Framework, this would be less than substantial harm. The harm would be temporary and reversible.

Other matters

107. The need for the proposal only arises if the Appeal A scheme is implemented. The benefit of the Appeal B scheme is that would avoid the need for the station redevelopment to be phased, with a consequent reduction in the overall construction period. It would also avoid the potential for displaced station parking to increase the demand for on-street parking in East Molesey. The Council and the appellants agree that these benefits would outweigh the temporary harms relating to open space and the conservation area.
108. I agree with the Council and the appellants that there would be no harm to the settings of any of the designated heritage assets discussed in relation to Appeal A. Interested parties have raised concerns regarding highway safety and traffic generation. However, the proposed car park would merely replace the existing station car park, so would not itself generate additional traffic. There is no technical evidence of any harm in terms of highway safety and the highway authority has no objections subject to suggested conditions.
109. Interested parties have referred to covenants that may affect the use of the appeal site for purposes other than public open space. However, that would be a matter for the developer to resolve with the Council as land owner. It does not affect my conclusions on the planning merits.

Conclusions on Appeal B

110. I conclude that the proposal would be contrary to the development plan in that it would result in a loss of open space and harm to the character and appearance of the conservation area. It would also harm Cigarette Island Park, which I have treated as a non-designated heritage asset. The harms would be temporary and reversible.
111. Any harm to the conservation area is a matter of considerable importance and weight. Nevertheless, applying the approach in the Framework¹⁷, I find that in this case the temporary and reversible harm to the park and the conservation area would be outweighed by the public benefits of reducing the construction period and reducing the potential for additional parking on the streets of East Molesey.
112. I consider that the same public benefits would outweigh the conflicts with Policies DM12, DM20, CS7, CS14 and CS17 that I have identified above. This is a case where there are other considerations that indicate a decision other than in accordance with the development plan. Accordingly, the appeal should be allowed.

Conditions

113. The Council and the appellants agreed on schedules of suggested conditions for each appeal¹⁸. I have considered these suggestions in the light of Planning Practice Guidance. Whilst I have made some changes to detailed wording in the interests of clarity, the substance of the conditions that I have imposed is consistent with the conditions discussed at the Inquiry. Some conditions require matters to be approved before development is commenced. This is necessary because the conditions address impacts that would occur during construction and/or they could affect the design in ways that would need to be resolved at an early stage. The appellants have agreed to the pre-commencement conditions.

Conditions – Appeal A

114. Condition 2 requires development to be in accordance with the plans, in the interests of certainty. Condition 3 requires approval of external materials to protect the character and appearance of the area. Conditions 4, 5 and 6 require implementation of the access to Hampton Court Way as approved, approval of a Construction Transport Management Plan and provision of parking and turning areas. These conditions are needed in the interests of highway safety. Condition 7 requires provision of cycle parking in the interests of sustainable transport.
115. Conditions 8, 9, 10 and 11 require submission of a Parking Management Plan, a Servicing Management Plan, details of waste collection points and a Waste Management Plan. These conditions are needed to ensure that the proposed parking and servicing arrangements operate as intended, in the interests of highway safety and sustainable development. Conditions 12, 13, 14 and 15 relate to tree protection, site supervision, tree retention and details of proposed tree planting. These conditions are needed in the interests of biodiversity and the character and appearance of the area.

¹⁷ The Framework, paragraph 202. See also paragraph 203 in relation to non-designated heritage assets

¹⁸ The schedules discussed at the Inquiry are Documents 21 and 22

116. Conditions 16, 17, 18 and 19 require implementation of mitigation relating to protected species, submission of a Sensitive Lighting Management Plan, a further badger survey and approval of a Construction Ecological Management Plan. These conditions are needed to avoid harm to protected species. Condition 20 requires implementation of a programme of archaeological work to protect the archaeological potential of the site. Conditions 21, 22, 23 and 24 require approval of measures to achieve satisfactory noise levels within the new flats, submission of details of noise insulation between commercial units and residential accommodation, arrangements to control noise from fixed plant and machinery and an assessment of vibration from the railway. These conditions are needed to protect the living conditions of future occupiers and neighbouring residents.
117. Condition 25 requires submission of an air quality study to review the effect of the completed highway works, together with arrangements for securing any optimisation of the new works (such as adjusting the operation of traffic signals) in the interests of air quality. Condition 26 requires a scheme to provide fresh air ventilation to protect the living conditions of future occupiers. Condition 27 sets emissions standards for any gas-fired CHP plant in the interests of limiting harmful emissions. Conditions 28 and 29 require submission of a Delivery and Service Plan and a Construction Management Plan in the interests of protecting the living conditions of neighbouring residents. Condition 30 secures arrangements to assess and if necessary remediate any ground contamination, in the interests of managing risks of pollution.
118. Condition 31 requires approval of measures to mitigate predicted wind levels at the entrance to the proposed Hampton Court Way building, in the interests of the amenity of occupiers of and visitors to the proposed development. Condition 32 requires approval of measures for monitoring vibration impacts on Hampton Court Bridge in the interests of protecting the listed building. Conditions 33, 34 and 35 require submission of a surface water drainage scheme, details of how the scheme would be protected during construction and verification of the completed works. These conditions are needed in the interests of managing risks of flooding and pollution.
119. Condition 36 requires the scheme to achieve Secured By Design status in the interests of community safety. Conditions 37 and 38 require implementation of flood protection and mitigation measures, including measures to ensure that the scheme does not impede the flow of flood water. Condition 39 requires provision of a buffer zone adjacent to the Ember in the interests of protecting habitats and biodiversity. Condition 40 requires submission of a Landscape and Ecological Management Plan in the interests of protecting and enhancing biodiversity.
120. Condition 41 requires submission of a Flood Management and Escape Plan to facilitate the safe evacuation of residents and to manage risks of pollution in the event of flooding. Condition 42 is a Grampian condition that would require the developer to enter into an agreement or licence with SCC to enable existing highway land owned by SCC to be landscaped. This is necessary because SCC owns a strip of land within the appeal site. The condition would ensure that the proposed riverside public open space could be delivered as shown on the plans.

121. I have not imposed a suggested condition requiring submission of a travel plan. This condition would duplicate provisions contained within the Agreement, so it is not necessary.

Conditions – Appeal B

122. Condition 1 confirms that the car park would be for a temporary period of two years and Condition 2 requires approval of a scheme of restoration, in the interests of the character and appearance of the area. Condition 3 requires development to be in accordance with the plans, in the interests of certainty. Condition 4 requires parking spaces to be laid out in accordance with the plans and Condition 5 requires measures to prevent vehicular access from the car park to Cigarette Island Lane. These conditions are needed in the interests of highway safety. Conditions 6, 7 and 8 require approval of details of tree protection, site supervision and tree planting. These conditions are needed in the interests of biodiversity and the character and appearance of the area.
123. Condition 9 requires the implementation of a programme of archaeological work in the interests of protecting the archaeological potential of the site. Condition 10 requires approval of details of the temporary access road in the interests of protecting an air raid shelter, which is a non-designated heritage asset. Condition 11 requires submission of a security scheme, in the interests of public safety. Condition 12 requires the car park to be constructed using porous matting at existing site levels, in the interests of managing flood risk. Condition 13 requires provision of a buffer zone adjacent to the Ember in the interests of protecting habitats and biodiversity. Conditions 14, 15, 16 and 17 require implementation of mitigation relating to protected species, submission of a Sensitive Lighting Management Plan, a further badger survey and approval of a Construction Ecological Management Plan. These conditions are needed to avoid harm to protected species.

David Prentis

Inspector

APPEARANCES

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FOR HAMPTON COURT RESCUE CAMPAIGN	
Andrew Roberts	
INTERESTED PARTIES	
Tony Nockles	Local resident
Cllr Tony Popham	Member, Elmbridge Borough Council

DOCUMENTS

DOCUMENTS SUBMITTED AT THE INQUIRY	
1	Opening statement for the appellants
2	Opening statement for Mr Garner
3	Chronology submitted by Dr Rutherford
4	List of Mr Garner's visual representations
5	Letter from The Gardens Trust of 9 June 2022
6	Opening statement for the Council
7	Mr Nockles' speaking notes
8	Opening statement for Hampton Court Rescue Campaign
9	Dr Rutherford's revised Table 1
10	CV for Mr Finch
11	Photographs submitted by Mr Garner
12	Mr Roberts' speaking notes
13	Dr Rutherford's note on trees
14	Report on Cigarette Island Trees (Elmbridge Borough Council)
15	Representation from Jack Warshaw
16	Heritage Statement of Common Ground
17	Dr Miele's correction sheet
18	Enlarged print of Millerhare visual representations
19	Mr Garners revised visual representation for Viewpoint 9
20	Red Loft letter responding to Inspector's questions on viability
21	Schedule of suggested conditions for Appeal A
22	Schedule of suggested conditions for Appeal B
23	Mr Roberts' note on conditions
24	Draft S106 Agreement
25	Official copies of title plans
26	Closing statement for Mr Garner
27	Closing statement for Hampton Court Rescue Campaign
28	Closing statement for the Council

29	First Secretary of State and West End Green (Properties) Ltd v Sainsbury's Supermarkets Ltd [2007] EWCA Civ 1083
30	Closing statement for the appellants
DOCUMENTS SUBMITTED AFTER THE INQUIRY	
31	Appellants' agreement to pre-commencement conditions (email of 26 June 2022)
32	S106 Agreement dated 30 June 2022

SCHEDULE 1

CONDITIONS FOR APPEAL A

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in strict accordance with the following list of approved plans:

451-01-07-001 (P1), 451-01-07-002 (P1), 451-01-07-003 (P1),
451-01-07-004 (P1), 451-01-07-010 (P2), 451-01-07-011 (P1),
451-01-07-012 (P1), 451-01-07-013 (P1), 451_01_07_050 (P2),
451_01_07_051 (P2), 451_01_07_052 (P2), 451_01_07_100 (P2),
451_01_07_101 (P2), 451_01_07_102 (P2), 451_01_07_103 (P2),
451_01_07_104 (P2), 451_01_07_105 (P1), 451_01_07_106 (P1),
451_01_07_150 (P2), 451_01_07_151 (P2), 451_01_07_152 (P2),
451_01_07_153 (P2), 451_01_07_154 (P1), 451_01_07_155 (P1),
451_01_07_200 (P2),

451_01_07_201 (P3), 451_01_07_202 (P1), 451_01_07_203 (P2),
451_01_07_204 (P2), 451_01_07_205 (P2), 451_01_07_400 (P1),
451_01_07_401 (P1), 451_01_07_402 (P2), 451_01_07_403 (P2),
451_01_07_404 (P2), 451_01_07_405 (P2), 451_01_07_406 (P2),

451_01_07_407 (P1), 451_01_07_408 (P2), 451_01_07_500 (P1),
451_01_07_501 (P1), 451_01_07_502 (P1), 451_01_07_503 (P1),
451_01_07_504 (P1), 451_01_07_505 (P1), 451_01_07_506 (P1),
451_01_07_507 (P1), 451_01_07_508 (P1),

CIV16694CSA950047-A013, CIV16694 SA 05 0011 Rev A01,
CIV16694 SA 05 0015 Rev A02, 13473-105-WIE-ZZ-XX-DR-V-77001 P05,
13473-105-WIE-ZZ-XX-DR-V-77022 P04,
HCS-WSL-ZZ-ZZ-DR-5-040125 P03, LN00-532-L-200 Rev 05,
LN00-532-L-507 P03, LN00-532-L-508 Rev P03, LN00-532-L-509 Rev P01,
LN00-532-L-510 Rev P01, LN00-532-L-700 Rev 08.

3. No above ground works for the buildings hereby permitted shall take place until samples of the materials to be used on the external faces and roofs of the buildings have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. The development hereby approved shall not be first occupied until the modified vehicular/pedestrian/cycle access to Hampton Court Way has been constructed and provided with visibility zones in accordance with the approved plans to a specification that has been submitted to and approved in writing by the Local Planning Authority. Thereafter the visibility zones shall be kept permanently clear of any obstruction over 1.05m high.
5. No construction of the buildings hereby permitted shall commence until a Construction Transport Management Plan (CTMP) to include details of:

- a) parking for vehicles of site personnel, operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials;
- d) programme of works including measures for traffic management;
- e) provision of boundary hoarding behind any visibility zones;
- f) HGV deliveries and hours of operation;
- g) vehicle routing;
- h) measures to prevent the deposit of materials on the highway; and
- i) on site turning for construction vehicles

has been submitted to and approved in writing by the Local Planning Authority. The approved CTMP shall be adhered to throughout the construction period.

6. The development hereby approved shall not be first occupied until space has been laid out within the site in accordance with the approved plans for car parking (totalling 207 vehicles), for the loading and unloading of vehicles and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking, loading and unloading and turning areas shall be retained for their designated purposes.
7. The development hereby approved shall not be first occupied until facilities have been provided for secure parking of bicycles in accordance with the plans hereby approved. Thereafter the facilities shall be retained as approved for the lifetime of the development.
8. The development hereby approved shall not be occupied until a Parking Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate how the different uses within the development will be accommodated. The Parking Management Plan shall be implemented as approved and shall thereafter be adhered to for the lifetime of the development.
9. The development hereby approved shall not be occupied until a Servicing Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate how the uses within the Hampton Court Way building will be serviced and managed to prevent conflict between different users of the proposed layby on Hampton Court Way. The Servicing Management Plan shall be implemented as approved and shall thereafter be adhered to for the lifetime of the development.
10. Prior to the commencement of above ground works for the development hereby approved details of the collection point for residential waste in the Hampton Court Way building shall be submitted to and approved in writing by the Local Planning Authority. The collection point shall be in the form of a

layby adjacent to the building that will be kept available for refuse collection purposes on collection days. The proposed development shall be carried out in accordance with the approved details and shall thereafter be permanently retained as such.

11. Prior to the commencement of above ground works for the development hereby approved a Waste Management Plan including details of the waste storage areas to serve the proposed villas shall be submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate that the waste storage areas would have sufficient capacity to service the number of flats in each block, so as to accommodate fortnightly collection of rubbish and recycling waste. The Waste Management Plan shall be implemented as approved and shall thereafter be adhered to for the lifetime of the development.
12. No development including groundworks and demolition shall take place until all supporting arboricultural information has been submitted to and approved in writing by the Local Planning Authority. This shall include details of:
 - a) existing trees and hedges to be retained in the form of an updated Tree Survey and Arboricultural Impact Assessment, in line with BS5837:2012;
 - b) measures to protect existing trees and hedges during construction, demolition and delivery/storage of materials and machinery, including a Tree Protection Plan;
 - c) methods of demolition within the root protection areas (RPA) as defined in BS 5837: 2012 of retained trees;
 - d) construction and installations (including methodologies) within RPA that may impact on retained trees;
 - e) full specification for the construction of any roads, parking areas, driveways or hard surfacing, including details of no dig specification and extent of the areas to be constructed using no dig surfacing;
 - f) arboriculturally sensitive trial pit investigation to determine the presence of roots on the western side of the existing boundary wall in the RPA of tree T21 to determine the final construction design of the proposed access road and its impact on the tree's root system;
 - g) all arboricultural site monitoring and supervision required for the duration of the development; and
 - h) foundation designs and any other proposals involving below ground excavation that may impact on RPA.

The development shall be implemented in strict accordance with the approved details.

13. A completion schedule/report of all arboricultural site supervision and monitoring approved pursuant to Condition 12 shall be submitted to and

approved in writing by the Local Planning Authority within 20 working days of the substantial completion of the development hereby approved. This shall include evidence of compliance through supervision and monitoring of the agreed activities by a suitably qualified arboriculturist.

14. All existing trees and hedges inside the identified site boundary shall be retained, unless shown on the approved drawings as being removed, and the paragraph below shall have effect until the expiration of five years from the first occupation of the proposed development.

No retained tree or hedge shall be cut down, uprooted or destroyed, other than in accordance with the approved plans and particulars. If any retained tree or hedge is removed, uprooted or destroyed or dies, another tree or hedge of similar size and species shall be planted at the same place, no later than the next available planting season.

15. Prior to the commencement of above ground works for the development hereby approved details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include species, sizes, locations, planting pit design, supports, and guards or other protective measures to be used, planting times, provision of suitable soil volumes to sustain the trees into maturity and maintenance schedules for aftercare to ensure good establishment.

All tree planting shall be carried out in accordance with BS 8545:2014 and the details approved prior to the occupation of any part of the development or in accordance with a timetable approved by the Local Planning Authority. If within a period of five years from the date of the planting of any tree, that tree, or any planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of same size and species shall be planted at the same place, in the next available planting season or sooner. The development shall be completed in accordance with the approved details.

16. The development shall be carried out in accordance with the conclusions and recommendations in the submitted '*Preliminary Ecological Appraisal*', author Waterman Infrastructure and Environment Ltd, dated November 2018, Appendix 14.2 of the Environmental Statement; '*Bat Survey Report (Buildings and Activity Surveys)*', author The Landscape Partnership Ltd, dated 21 August 2018, Appendix 14.3 of the Environmental Statement; '*Bat Survey Report (Trees)*', author The Landscape Partnership Ltd, dated 21 August 2018, Appendix 14.4 of the Environmental Statement; and '*Lighting Proposals*' detailed within Appendix 14.5 of the Environmental Statement, including any biodiversity enhancements.

17. Prior to the commencement of above ground works for the development hereby approved a Sensitive Lighting Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Sensitive Lighting Management Plan shall be written in accordance with the recommendations of the Bat Conservation Trust's document entitled '*Bats and Lighting in the UK - Bats and The Built Environment Series*'. The Sensitive Lighting Management Plan shall be implemented as approved and shall thereafter be adhered to for the lifetime of the development.

18.No development including groundworks and demolition shall take place until a survey of the application site by an appropriately qualified ecologist to check for any new signs of badger sett construction has been undertaken and a report of the survey has been submitted to and approved in writing by the Local Planning Authority. If the survey identifies any badger activity, details of mitigation measures to prevent harm to badgers shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved measures shall be adhered to throughout the construction period.

19.Prior to the commencement of the development hereby permitted a Construction Ecological Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall detail how ecologically important features on and adjacent to the development site will be protected. The CEMP shall build on the recommendations of paragraph 5.16 of the '*Preliminary Ecological Appraisal*', author Waterman Infrastructure and Environment Ltd, dated November 2018, Appendix 14.2 of the Environmental Statement and shall include:

- a) a risk assessment of potentially damaging construction activities;
- b) measures to avoid and reduce impacts during construction;
- c) location and timing of works to avoid harm to biodiversity features;
- d) responsible persons and lines of communication; and
- e) use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to throughout the construction period.

20.No excavation shall take place until the applicant has secured the implementation of a programme of archaeological work to be conducted in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

21.Prior to the commencement of the development hereby permitted, a scheme to demonstrate that the internal noise levels in the table below will be achieved within the residential units shall be submitted to and approved in writing by the Local Planning Authority:

		Recommended Noise Level (dB)
Daytime Noise (0700-2300)	Indoor Living Area/Bedrooms	<35 LAeq,16h
Night time Noise (23:00-0700)	Inside Bedrooms	<30 LAeq,8h <45 LAmx,Fast

Prior to the occupation of the development hereby permitted the approved scheme shall be fully implemented and a verification report shall be submitted to and approved in writing by the Local Planning Authority. The

scheme shall thereafter be retained as approved for the lifetime of the development.

22. Prior to the occupation of the development hereby permitted, a Noise Insulation Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate how the construction of the separating floor/ceilings to the flats directly above those premises falling within Use Class E would exceed an airborne sound insulation value of 65 dB (20 dB above the standard required by the Building Regulations Document E).

The approved Noise Insulation Scheme shall be fully implemented for each unit within Use Class E before the use of that unit commences.

A suitably qualified person shall carry out post-completion testing to ensure that the above sound insulation value has been achieved. The results of the assessment shall be submitted to and approved in writing by the Local Planning Authority before the use of any unit within Use Class E commences.

The works shall thereafter be permanently retained in accordance with the approved Noise Insulation Scheme.

23. Prior to the use of any fixed plant, machinery, air-moving extraction, filtration or refrigeration equipment or air-conditioning units on the development hereby approved, a noise assessment shall be carried out at one metre from the façade of the nearest noise sensitive receptor, which demonstrates that the following noise criteria can be complied with:

The measured or calculated rating level of any plant and equipment shall be lower than the background by 5dB(A) at any time or by 10 dB(A) if there is a particular tonal, impulsive or discrete component to the noise.

The assessment shall be submitted to and approved in writing by the Local Planning Authority before the plant or equipment is brought into use.

The assessment shall be carried out by a suitably qualified acoustic consultant/engineer and be in accordance with BS4142: 2019 '*Methods for rating and assessing industrial and commercial sound*'.

If the assessment identifies that mitigation measures are required then details of those measures shall be submitted to and approved in writing by the Local Planning Authority prior to implementation. Thereafter any measures required must be installed and retained for as long as the plant or equipment is in use.

24. Prior to the commencement of above ground works for the development hereby permitted a vibration impact assessment from the railway on all residential properties hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall be carried out in accordance with the method and rating system as detailed in BS6472-1:2008 - *Guide to evaluation of human exposure to vibration in buildings*. The raw data gathered shall be presented as an appendix to the assessment

and the report shall include details of the recommended remedial measures should vibration levels be unacceptable.

Within 28 days of completion of the development, there shall be an assessment of the vibration levels to ensure compliance with the above condition. The results of the assessment shall be submitted to and approved in writing by the Local Planning Authority.

25. Within 18 months of completion of the development hereby permitted, including the highway improvement scheme, an air quality study of the highway improvement scheme shall be submitted to and approved in writing by the Local Planning Authority.

The study shall compare the existing (pre-highway improvement) air quality (to include NO₂, PM_{2.5} and PM₁₀) to that of the post highway improvement scheme using data captured after the development has been in place for up to 12 months.

The study shall make recommendations on optimising the highway improvements scheme to facilitate further improvements in air quality, without detrimental effects on the capacity and safety of the new highway scheme.

Those measures within the submitted air quality study that are approved by the Local Planning Authority shall be implemented within six months of the approval. The measures shall thereafter be permanently retained as approved.

26. Prior to the commencement of above ground works for the Hampton Court Way building hereby permitted, a scheme to provide fresh air ventilation to habitable rooms for the residential units with windows facing west and south shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the occupation of the said residential units in the Hampton Court Way building the ventilation scheme shall be implemented as approved and a verification report shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall thereafter be permanently retained as approved.

27. Any gas-fired CHP plant shall meet a minimum emissions standard of:

- a) spark ignition engine: 250 mg NO_x/Nm
- b) compression ignition engine: 400 mg NO_x/Nm

28. Prior to the occupation of the development hereby permitted, a Delivery and Service Plan for all commercial outlets that aims to protect the surrounding residents from noise shall be submitted to and approved in writing by the Local Planning Authority. The Delivery and Service Plan shall be implemented as approved and shall thereafter be adhered to for the lifetime of the development.

29.No development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include measures to ensure that best practicable means are deployed in the management of noise, odour, vibration, dust and lighting during the construction of the development. The CMP shall be implemented as approved and shall thereafter be adhered to throughout the construction period.

30.The following steps must be completed to ensure the potential for contamination has been investigated and the necessary action taken to make the development site suitable for its proposed use. No development shall take place until step (a) has been completed by a competent person. There shall be no occupation of any part of the site by any end user prior to the terms of this condition being met in full.

a) Site investigation, method statement and remediation

- i. A written site-specific investigation plan providing details of the intrusive ground investigation for soil, gas and controlled waters where appropriate shall be prepared by a competent person and submitted to and approved in writing by the Local Planning Authority. The ground investigation plan shall be based on the information obtained from the submitted phase 1 *'The Former Jolly Boatman and Hampton Court Station'*, Waterman, December 2018, ref WIE13473-105-ES.1.1.1 (ES, Chapter 12 Ground Conditions and associated figures and documents).
- ii. The site investigation shall be undertaken in accordance with the scheme approved by the Local Planning Authority. The results of the site investigation, a refined conceptual model and a risk assessment of any contamination found shall be submitted to, and approved in writing by, the Local Planning Authority.
- iii. A written Method Statement detailing any remediation requirements shall be submitted to and approved in writing by the Local Planning Authority.

b) Development in accordance with the Method Statement

The development of the site shall be carried out in accordance with the approved Method Statement and any addenda submitted to and approved in writing by the Local Planning Authority. Any post remediation monitoring identified in the Method Statement shall be installed by the developer within the timescales identified in the Method Statement and maintained and operated for as long as is identified by the Method Statement.

c) Unsuspected contamination

If, during development, contamination not previously identified is found to be present at the site then no further development shall be

carried out until the developer has submitted, and had approved in writing by the Local Planning Authority, a written addendum to the Method Statement detailing how the unsuspected contamination shall be dealt with.

d) Piling

If piling is to be used on site, no development shall take place until a Foundation Works Risk Assessment for piled foundations has been submitted to and approved in writing by the Local Planning Authority. Piling shall be undertaken only in accordance with the method outlined in the approved Foundation Works Risk Assessment.

e) Imported material

Clean, uncontaminated rock, soil, brick rubble, crushed concrete or ceramic only shall be permitted as infill material. The developer shall not import any material until a sampling programme, including appropriate import criteria for the proposed end use and frequency of sampling, has been submitted to and approved in writing by the Local Planning Authority. The developer shall carry out the approved sampling programme to check that all imported material conforms to the agreed criteria. The sampling program shall also include samples taken from the imported material after final placement. Written confirmation of the suitability of all imported materials shall be provided to the Local Planning Authority as part of step (f). This shall include both the results of the sampling programme and also details of the origin, transport, final deposition and any temporary stockpiling of the imported materials.

f) Completion of Verification Report

Verification by an independent, competent person must be carried out prior to occupation of any part of the site by any end user.

Upon completion of the remediation detailed in the Method Statement, and before occupation of any part of the site by any end user, a written Verification Report shall be submitted to and approved in writing by the Local Planning Authority. The report shall provide verification that decontamination and installation of post remediation monitoring have been carried out in accordance with the agreed Method Statement (and any addenda thereto) and that the site is suitable for the permitted end use.

The scheme may be phased to enable occupation prior to completion of the entire site. Where this approach has been taken, separate Verification Reports for each phase shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the defined area by any end user.

31. Prior to the commencement of above ground works to the Hampton Court Way building, a scheme for mitigating the wind levels at the entrance to the Hampton Court Way building shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme and shall be retained as such for the lifetime of the development.
32. No development shall take place until a scheme for monitoring and management of the vibrations from the construction works on Hampton Court Bridge has been submitted to and approved in writing by the Local Planning Authority. The proposed works shall be carried out in accordance with the approved details.
33. No development shall take place (with the exception of foundations) until the design of a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The design must satisfy the Sustainable Drainage System (SuDS) Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, the Framework and the Ministerial Statement on SuDS. The drainage details shall include:
- a) evidence that the proposed solution will effectively manage the 1 in 30 and 1 in 100 year (plus 40% allowance for climate change) storm events (associated discharge rates and storage volumes shall be provided using a maximum discharge rate of 29.4 l/s);
 - b) drainage design drawings and calculations to include a finalised drainage layout showing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (such as silt traps or inspection chambers);
 - c) details of drainage management responsibilities and maintenance regimes for the drainage system; and
 - d) a plan showing exceedance flows during rainfall greater than design events or during blockage and how property on and off site will be protected.

The surface water drainage scheme shall be implemented and thereafter permanently retained and managed in accordance with the approved details.

34. Prior to the construction of the drainage system approved pursuant to Condition 33, details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational shall be submitted to and approved in writing by the Local Planning Authority. The protection measures shall be implemented in accordance with the approved details and retained throughout the construction period.
35. Prior to the first occupation of the development, a Verification Report carried out by a qualified drainage engineer shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the drainage system has been constructed in accordance with the scheme approved

pursuant to Condition 33 (or any minor variations that have been approved in writing by the Local Planning Authority). The Verification Report shall provide details of any management company and state the national grid reference of any key drainage elements (such as surface water attenuation devices/areas, flow restriction devices and outfalls).

36. Prior to the occupation of the development hereby permitted the proposed development shall achieve the full Secure by Design award.

37. The development hereby approved shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) by Waterman Infrastructure and Environment Ltd dated November 2019 (Appendix 11.1 of the Environmental Statement) and the Flood Risk Assessment Addendum by Waterman Infrastructure and Environment Ltd dated March 2021 and the following mitigation measures it details:

- a) finished floor level for more vulnerable uses to be above 9.40m AOD (the FRA quotes that more vulnerable uses will be set to 10.88m AOD);
- b) flood resilience measures to be included on ground floors;
- c) lower ground floor (undercroft parking area) to be above 7.25m AOD;
- d) undercroft parking area to have four large openings (8.34m wide and 2.45m high) in the eastern face of the building, as shown in Appendix E; and
- e) a single access ramp to the basement which rises to 9.10m AOD (0.16m above the maximum flood level of 8.94m AOD) before dropping below ground, preventing flood water from entering the basement from the ramp.

These mitigation measures shall be fully implemented prior to occupation and shall thereafter be retained throughout the lifetime of the development.

38. No development shall take place until the detailed design of the eastern facade of the car park and any fencing (temporary construction fencing or permanent boundary fencing) has been submitted to and approved in writing by the Local Planning Authority including details of permeability to flood waters. Thereafter the development shall be carried out in accordance with the approved design and no subsequent amendments shall be made without having been approved in writing by the Local Planning Authority.

39. No development shall take place until a scheme for the provision and management of a minimum 8 metre wide buffer zone, measured from the top of the bank, alongside the watercourse known as the Ember, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be approved in writing by the Local Planning Authority. The buffer zone scheme shall protect the Ember during the construction and operation of the development and

shall serve as a green space and part of the river corridor. The scheme shall include:

- a) plans showing the extent and layout of the buffer zone;
- b) details of any proposed planting scheme to enhance the site for wildlife (all planting to use native species of local provenance);
- c) details demonstrating how the buffer zone and watercourse will be protected during development and managed/maintained over the longer term;
- d) details of any fencing, which should have a design that allows species such as hedgehogs and badgers to pass through/under; and
- e) details of ecological enhancements such as the provision of bat/bird boxes within the new buildings, bankside ecological enhancements and removal of hard banking.

40. No development shall take place until a Landscape and Ecological Management Plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas, has been submitted to and approved in writing by the Local Planning Authority. The landscape and ecological management plan shall be carried out as approved and any subsequent variations shall be approved in writing by the Local Planning Authority. The landscape and ecological management plan shall include the following elements:

- a) extent and type of new planting (which is to be of native species);
- b) a plan showing the number and location of the enhancements listed in the Waterman Infrastructure and Environment Limited '*Preliminary Ecological Appraisal*' (November 2018);
- c) maintenance regimes; and
- d) management responsibilities and arrangements for appropriate funding.

41. Prior to the occupation of the development hereby permitted a Flood Management and Escape Plan shall be submitted to and approved in writing by the Local Planning Authority. This plan shall include evacuation details for occupants including a management plan for the evacuation of cars from the floodable basement. The development shall thereafter be managed and operated in accordance with the approved Flood Management and Escape Plan.

42. None of the buildings hereby permitted shall be occupied until the developer has entered into an agreement or licence with Surrey County Council that provides for existing highway land owned by Surrey County Council to be landscaped in accordance with landscaping plan LN00532_L-200 rev 05 or such other landscaping scheme as may be submitted to and approved in writing by the Local Planning Authority.

SCHEDULE 2

CONDITIONS FOR APPEAL B

1. The use of the site for car parking shall cease and all associated structures and features shall be removed before the expiration of two years from the first use of the temporary car park hereby approved.
2. Use of the site for car parking shall not commence until a scheme detailing how the land will be restored to its former condition has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for implementation. The restoration scheme shall be implemented in accordance with the approved scheme and timetable.
3. The development hereby permitted shall be carried out in accordance with the following approved plans:

451_01_07_005 P1
451_01_00_07_H5 P1
CIV SA 04 0007 A07
CIV SA 04 0018 A01
4. Use of the site for car parking shall not commence until space has been laid out within the site in accordance with the approved plans for vehicles and cycles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes throughout the temporary period of the development.
5. Use of the site for car parking shall not commence until details of a temporary physical barrier to prevent the formation of unauthorised access to Cigarette Island Lane from the temporary car park and warning signs at or near the junction of Cigarette Island Lane and Hampton Court Way have been submitted to and approved in writing by the Local Planning Authority. The barrier and warning signs shall be implemented as approved before the car park comes into use and shall be retained as such throughout the temporary period of the development.
6. No development including groundworks shall take place until all supporting arboricultural information has been submitted to and approved in writing by the Local Planning Authority. This shall include details of:
 - a) existing trees and hedges to be retained in the form of an updated Tree Survey and Arboricultural Impact Assessment, in line with BS5837:2012;
 - b) measures to protect existing trees and hedges during construction, demolition and delivery/storage of materials and machinery, including a Tree Protection Plan and how the tree protection measures will be installed in accordance with the approved plans and maintained for the course of the development works;

- c) construction and installations (including methodologies) within root protection areas that may impact on retained trees;
- d) specification for the construction of the temporary road surface and parking areas including details of the no dig specification and extent of the areas to be constructed using no dig surfacing;
- e) arboricultural site monitoring and supervision required for the duration of the development; and
- f) works that may impact on root protection areas.

The development shall be implemented in accordance with the approved details.

7. The completion schedule/report of all arboricultural site supervision and monitoring approved pursuant to Condition 6 shall be submitted to and approved in writing by the Local Planning Authority within 20 working days of the substantial completion of the development hereby approved. This shall include evidence of compliance through supervision and monitoring of the approved activities by a suitably qualified arboriculturist.
8. No development including groundworks shall take place until full details of all proposed tree planting have been submitted to and approved in writing by the Local Planning Authority. Details are to include species, sizes, locations, planting pit design, supports and guards or other protective measures to be used. Details shall also include planting times, provision of suitable soil volumes to sustain the trees into maturity and maintenance schedules for aftercare to ensure good establishment. All tree planting shall be carried out in accordance with BS 8545:2014 and the details approved prior to the occupation of any part of the development or in accordance with the timetable approved by the Local Planning Authority. If within a period of five years from the date of the planting of any tree, that tree, or any planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of same size and species shall be planted at the same place, no later than the next available planting season. The development shall be completed in accordance with the approved details.
9. No development shall take place until the applicant has secured the implementation of a programme of archaeological work to be conducted in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.
10. No development shall take place until construction details of the temporary access road and all other infrastructure in the vicinity of the air raid shelter have been submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate how below ground impacts on or close to the air raid shelter will be avoided or minimised, how the loads from cars using the access road will be spread and how the earthwork mound will be reinstated to its current condition and appearance once the temporary car park and access are removed. The development shall be implemented in accordance with the approved details.

11. Prior to the commencement of above ground works a security scheme for the car park shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate how Designing Out Crime has been taken into account in relation to security and user safety for the car park. The approved scheme shall be implemented and thereafter maintained throughout the temporary period of the development.
12. The development hereby permitted shall maintain existing ground levels and shall use porous matting to form the car park surface resulting in no loss of flood storage and no changes to flood flow routes. The ground levels and matting shall remain in that form throughout the temporary period of the development.
13. No development shall take place until a scheme for the provision and management of a minimum 8 metre wide buffer zone, measured from the top of the bank, alongside the watercourse known as the Ember, has been submitted to and approved in writing by the Local Planning Authority. The buffer zone scheme shall protect the Ember during construction and operation of the temporary car park and shall serve as a green space and part of the river corridor. The development shall be carried out in accordance with the approved scheme and thereafter maintained as such throughout the temporary period of the development.
14. The development shall be carried out in accordance with the conclusions and recommendations in the submitted '*Preliminary Ecological Appraisal*', author Waterman Infrastructure and Environment Ltd, dated November 2018, Appendix 14.2 of the Environmental Statement; '*Bat Survey Report (Buildings and Activity Surveys)*', author The Landscape Partnership Ltd, dated 21 August 2018, Appendix 14.3 of the Environmental Statement; '*Bat Survey Report (Trees)*', author The Landscape Partnership Ltd, dated 21 August 2018, Appendix 14.4 of the Environmental Statement; and '*Lighting Proposals*' detailed within Appendix 14.5 of the Environmental Statement, including any biodiversity enhancements.
15. Prior to the commencement of the works, a Sensitive Lighting Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Sensitive Lighting Management Plan shall be written in accordance with the recommendations of the Bat Conservation Trust's document entitled '*Bats and Lighting in the UK - Bats and The Built Environment Series*'. The Sensitive Lighting Management Plan shall be implemented as approved and shall thereafter be adhered to throughout the temporary period of the development.
16. Prior to the commencement of the works hereby permitted a survey of the site by an appropriately qualified ecologist shall be undertaken to check for any new signs of badger sett construction on the site. A report of the survey shall be submitted to and approved in writing by the Local Planning Authority. If the survey identifies any badger activity, mitigation measures to prevent harm to badgers shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works. The approved measures shall be adhered to throughout the construction period.

17. No development shall take place until a Construction Ecological Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall demonstrate how ecologically important features on and adjacent to the development site will be protected. The CEMP shall build on the recommendations of paragraph 5.16 of the '*Preliminary Ecological Appraisal*', author Waterman Infrastructure and Environment Ltd, dated November 2018, Appendix 14.2 of the Environmental Statement and shall include:

- a) a risk assessment of potentially damaging construction activities;
- b) measures to avoid and reduce impacts during construction;
- c) location and timing of works to avoid harm to biodiversity features;
- d) responsible persons and lines of communication; and
- e) use of protective fences, exclusion barriers and warning signs.

The development shall be implemented in accordance with the approved CEMP.

End of conditions