



Town and Country Planning Act 1990 (as amended)

Planning and Compulsory Purchase Act 2004

The Town and Country Planning (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 (as amended)

**PROOF OF EVIDENCE
FIONA DYSON
on behalf of London Borough of Richmond**

Site: Arlington Works, 23 - 27 Arlington Road, Twickenham, TW1 2BB

LPA reference:18/2714/FUL

Appeal PINs reference: APP/L5810/W/20/3249153

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1. EXPERIENCE

1.1 My name is Fiona Dyson, BA (Hons), MA. I have been employed by London Borough of Richmond and Wandsworth since 2013. I hold a Masters degree in Town Planning and have 14 years' experience in the planning profession. My job title is Senior Planning Officer.

1.2 Throughout my professional career I have been the case officer for a range of planning applications, including several major schemes for mixed use developments within the Borough.

1.3 I am familiar with the appeal site and its surroundings, and I have visited the site.

1.4 The evidence which I have prepared and provide for these appeals in this proof of evidence is true, and I confirm that the opinions expressed are my true and professional opinions.

1.5 Whether the reasons are looked at cumulatively or individually, the proof sets out that the scheme fails to comply with strategic or local policies.

2. INTRODUCTION

2.1 This proof of evidence has been prepared on behalf of the London Borough of Richmond (“the Council”) relating to the appeal submitted for Arlington Works, 23 - 27 Arlington Road Twickenham TW1 2BB (“the Site”).

2.2 The scope of this Proof of Evidence is to set out the planning policy context for the appeal and addresses the relevant planning concerns raised by the appeal scheme.

2.3 This proof should be read in conjunction with the proofs prepared by Alan Potter, Scott Davidson, Paul Bradbury, Barry Sellers, and Will Marshall.

3. DESCRIPTION OF THE SITE

3.1 The description of the site has been set out in the Statement of Common Ground.

4. PLANNING HISTORY

4.1 The site has an extensive planning history, with the most relevant being planning application ref: 94/2139/S191. The application description is: 'Use For The Refining Of Waste Oil (other Than Petroleum Or Petroleum Products) (to Include The Use Of Fuel Storage Tanks In This Connection)' The Council refers a copy of the Planning Permission and accompanying plan (CDH12). There has been dispute regarding the lawful area for waste as the plan does not outline the whole site. Irrespective of the site area, it was agreed that the site is expected to process up to 12,000 tonnes of hazardous waste within the West London Waste Plan area.

4.2 The planning application which is the subject of the appeal was received by the Council on 10/08/2018.

4.3 The Council Planning Committee considered the application at its meeting of 18.09.2019 and refused permission. The reasons for refusal were as follows:

Reason for Refusal 1 - Loss of Designated Waste Site

The proposed development, by reason of its complete loss of an existing safeguarded waste site and lack of satisfactory full and proper evidence to demonstrate there is satisfactory compensatory and equal provision of capacity for waste, in scale and quantity, elsewhere within the West London Waste Plan Area; would result in the unacceptable loss of land accommodating an existing waste management use which forms an essential resource for dealing with all waste streams within the Waste Plan area. The scheme is therefore contrary to policy, in particular, policies 5.17 and 5.19 of the London Plan (2016), policy WLWP2 of the West London Waste Plan (2015) and LP24 of the Local Plan (2018).

Reason for Refusal 2 - Loss of Industrial Floorspace

The proposed development, by reason of its complete loss of an existing industrial site and lack of satisfactory full and proper marketing evidence to demonstrate there is a lack of demand for continued use of the premises as a B2 use, or appropriate alternative employment generating uses, or other suitable evidence; would result in an unacceptable loss of an industrial site, to the detriment of the local economy and range of employment premises within the borough. The scheme is therefore

contrary to policy, in particular, policies 4.4 of the London Plan (2016) and LP42 of the adopted Local Plan (2018).

Reason for Refusal 3 - Affordable Housing

The proposed on-site affordable housing provision, by reason of its under provision of affordable units on site below the percentage required, would fail to meet any priority needs for rented affordable housing. The proposed shared ownership units would fail to meet the affordability criteria in the Intermediate Housing Policy and would fail to adequately contribute to the Borough's housing stock or maximise affordable housing. The proposal would therefore be contrary to policy, in particular, the NPPF, policies 3.13 of the London Plan (2016) and LP 36 of the adopted Local Plan (2018) and the Mayor's Affordable Housing & Viability Supplementary Planning Guidance and the Local Planning Authority's Affordable Housing Supplementary Planning Documents.

Reason for Refusal 4 - Design

The proposed development, by reason of its siting, footprint, mass and of the severe horizontal emphasis of the eastern elevation of the proposed main residential building, combined with the height and siting of the proposed smaller residential building, would result in a cramped and contrived form of over development of the site, and would appear overbearing on the existing Buildings of Townscape Merit (BTM) on site. The proposed development is therefore contrary to policy, in particular, the NPPF and policies 3.5 and 7.4 of the London Plan (2016), LP1, LP4 and LP39 of the Local Plan (2018) and the Design Quality Supplementary Planning Document.

Reason for Refusal 5 - Mix of Uses

The proposed development, by reason of its lack of segregated pedestrian/cycle access into/throughout the site and unsatisfactory siting and layout, would result in an unacceptable co-location of uses which gives rise to inappropriate conflict between users, to the detriment of the proposed commercial use operation and the safety/amenity of proposed residential occupants. The proposed development is therefore contrary to policy, in particular, the NPPF, policies 4.3 of the London Plan (2016), LP1 (A.6) and LP35(A) of the Local Plan (2018).

Reason for Refusal 6 - Transport and Highways

The proposed development, by reason of its lack of sufficient off-street parking provision, the loss of existing parking spaces on the access road and in the absence of a satisfactory parking survey to demonstrate there is capacity in the surrounding roads to accommodate the likely parking shortfall, would adversely impact on existing on-street parking conditions, the free flow of traffic and pedestrian and vehicular safety on the surrounding highway network. Furthermore, in the absence of a binding agreement to secure the removal of rights to parking permits and provision of car club memberships for prospective occupants, the application would fail to adequately promote sustainable modes of transport. The scheme is therefore contrary to the aims and objectives of policies, in particular, policy LP45 of the Local Plan (2018) and the adopted Front Garden and Other Off-Street Parking, and Planning Obligations Supplementary Planning Documents.

Reason for Refusal 7 - CO2 Emissions

The proposal does not meet the zero carbon homes policy targets and in the absence of a binding agreement to secure a financial contribution to a carbon offset payment, the proposal would fail to mitigate the impact of development on the environment. As such, the proposal is contrary the aims and objectives of London Plan Policy 5.2 and Policies LP20 and LP22 of the adopted Local Plan (2018).

Reason for Refusal 8 - Play Space

The proposed development, by reason of its insufficient provision of on-site children's play space, would fail to encourage and promote healthier and more active lifestyles. The proposals would therefore be contrary to policy. In particular the proposals would fail to comply with the aims and objectives of policies 3.6 of the London Plan (2011), LP31 of the adopted Local Plan (2018) and the guidance set out within the Mayor's SPG on Shaping neighbourhoods: Play and Information Recreation (2012) and the LBRUT Planning Obligations Supplementary Planning Document (2014).

5. APPEAL PROPOSAL

5.1 The details of the appeal proposal have been set out in the Statement of Common Ground.

6. RELEVANT PLANNING POLICY

6.1 The policy framework relevant to the determination of this appeal is addressed in detail by both my colleague Mr Davidson in his proof of evidence and the other expert witnesses. I have read their evidence and respectfully agree with and adopt their analysis for the purposes of preparing and presenting my own evidence.

6.2 The development plan comprises the Richmond upon Thames Local Plan, July 2018, the London Plan (2011) updated 2016. The policies within the Local Plan are considered generally compliant with the aims and objectives of the National Planning Policy Framework.

6.3 Policies in the Richmond upon Thames Local Plan of particular relevance to the reasons for refusal are:

- LP1 – Local Character and Design Quality
- LP4 - Non-Designated Heritage Asset
- LP20 – Climate Change Adaption
- LP22 – Sustainable Design and Construction
- LP24 - Waste Management
- LP31 – Public Open Space, Play Space, Sport and Recreation
- LP35 – Housing Mix and Standards
- LP36 – Affordable Housing
- LP39 – Infill, Backland and Backgarden Development
- LP42 - Locally important industrial land and business parks
- LP45 – Parking Standards and Servicing

6.4 Policies in the London Plan - Consolidated with Alterations since 2011 (March 2016) of particular relevance to the reasons for refusal are:

- 3.5 – Quality and design of housing developments
- 3.6 – Children and young people’s play and informal recreation facilities
- 3.13 – Affordable housing thresholds

4.3 – Mixed Use Development and Offices

4.4 - Managing industrial land and premises

5.2 – Minimising carbon dioxide emissions

5.17 – Waste Capacity

5.19 – Construction, excavation and demolition waste

7.4 – Local character

6.5 Reference is also made in this proof to relevant excerpts from the National Planning Policy Framework (NPPF) which are material considerations.

6.6 In December 2019 the Intend to Publish version of the New London Plan was published. This was the next stage beyond the Draft London Plan (July 2019) whose policies are referred to in the officer's report. The Intend to Publish version carries more weight than previous version, having taken into account the Inspectors' recommendations and progressed to the final stage prior to adoption. Whilst it is noted that the Secretary of State rejected the plan in March 2020 and required certain directions, it is considered that the policies not referred to in the directions carry 'reasonable' weight.

6.7 The Mayor has recently written to the Secretary of State (CDE37) to set out his intention to publish the emerging London Plan on the 21st December 2020. The Secretary of State responded to the Mayor (CDE38) with additional directions including providing boroughs in the difficult position of facing the release of Green Belt or Metropolitan Open Land with a greater freedom to consider the use of Industrial Land in order to meet housing needs. Following this, the Mayor has just published a newer version of the London Plan, the 'Publication London Plan' 21 December 2020 (CDD2). The Council has reviewed the document and the evidence submitted in the proof remains the same.

6.8 The following Richmond upon Thames Supplementary Planning Documents (SPD) and guidance are of particular relevance to the reasons for refusal and are material considerations:

Design Quality

Planning Obligations

Affordable Housing

Transport

7. THE MAIN ISSUES

7.1 The section explains why I consider the appeal proposal not to be in accordance with the adopted Development Plan for the reasons recorded in the Council's decision notice refusing to grant planning permission.

8. Reason for refusal 1: Loss of Designated Waste Site

8.1 Arlington Works is a designated waste site as set out in the West London Waste Plan. Prepared jointly by the six west London boroughs of Brent, Ealing, Harrow, Hounslow, Hillingdon, Richmond upon Thames and the Old Oak and Park Royal Development Corporation (OPDC), the West London Waste Plan (WLWP) identifies and safeguards sufficient sites for waste management facilities in the area to satisfy the waste apportionment targets established in the London Plan (2011). These were selected through a rigorous process lasting a number of years where the public and industry were invited to express their opinions and suggest suitable sites. Site no. 335 is the existing Arlington Works, in Richmond upon Thames.

8.2 With particular reference to Arlington Works, Appendix 2 on page 78 of the WLWP identifies this site (Operator: Sharpes Recycle Oil Ltd, Facility: Arlington Oil Reclamation Facility) as an existing waste management site in West London. The WLWP also makes it clear that this site counts against the apportionment figure. The relevant policy in relation to existing waste management sites is WLWP 2 – Safeguarding and Protection of Existing and Allocated Waste Sites. This policy states that land accommodating existing waste management uses -13- Official in West London will be protected for continued use for waste management. The safeguarding of these sites is required as they form an essential resource for dealing with all waste streams within the Waste Plan area. This policy ensures general conformity with Policy 5.17 G (a) and paragraph 5.82 of the London Plan (2011).

8.3 The West London Waste Plan (CDB3) states that to ensure no loss in existing capacity, re-development of any existing waste management sites must ensure that the quantity of waste to be managed is equal to or greater than the quantity of waste for which the site is currently permitted to manage, or that the management of the waste is being moved up the waste hierarchy.

8.4 The applicant submitted a report (Waterman Infrastructure and Environment, ref:WIE12815-100-R-3-4-1-WasteUseRpt) stating that the size and scale of the Arlington Works facility is insufficient to support the waste management facility types identified in a research study from 2004, nor the West London Waste Plan. The Waterman report also outlines that the site scored poorly in independent studies undertaken for the WLWP and that the application site is not considered by the WLWP to have potential for development as a waste management facility. The Council disagrees with these statements and refers to the evidence of Mr Potter. The Council must be led by the Development Plan unless other material considerations justify departing from the aims and objectives of adopted policy. In this I consider that there are no other material considerations which justify a departure from the policy.

8.5 The application is for proposed redevelopment of the site away from the existing waste use. As such, the application is required by policy to demonstrate that sufficient compensatory site provision has been secured elsewhere within the West London area at appropriate sites before release may be considered. It is not considered that the information supplied within the Waterman report sufficiently identifies that additional compensatory hazardous waste capacity does not exist within the West London waste Plan Area.

8.6 I refer to the evidence of Mr Potter of which I am in agreement. He has concluded that the appellant has failed to demonstrate that the tests of the Policy WLWP2 of the West London Waste Plan have been met. The law requires an application be determined in accordance with the development plan unless material considerations dictate otherwise; and both the West London Waste Plan and the London Plan form part of the extant development plan for the London Borough of Richmond. As a result of the above, subject to any material considerations justifying the permission (which I deal with below), the application falls to be refused.

9. Reason for refusal 2 – Loss of Industrial Floorspace

9.1 The remainder of the site which is not part of the waste use is in industrial use. The site consists of the following uses: Blacksmith, Carpenter, Car Repair, Stone Mason, Electric Repair (all within B2 Use Class), Upholstery and Studios (B1c Use Class) and Storage units (B8 Use Class). These are in addition to the site's use as an Oil Refinery (Sui-Generis Use Class).

9.2 The existing uses equate to 975.5sqm of industrial floor space. The proposed commercial use would have 610sqm. Policy LP 40 'Employment and Local Economy' seeks to retain employment floorspace and does not wish to encourage the change of use of employment sites to other uses. It requires that proposals for mixed-use schemes should maintain or improve the amount of employment floorspace on site.

9.3 Whilst the appellant has referred to the new use Class E, stating that a majority of the uses on site would fall into that category, regulation 7 of the use classes order amendment regulations 2020 (which effect the Part E use class): ascription of use Class E is only in respect of use of land which was in B1 or A1-3 use on 1 September 2020. A number of the uses were not in those use classes as at 1 September. Further, and in any event, the need for industrial land within the Borough has been demonstrated as set out below, and the Use Class E does not remove the protective policy for industrial land. The appellant has also argued that the uses under Class E can be transferred ultimately into either residential or non-industrial uses. This is hypothetical, and no evidence has been submitted to show that there is any realistic prospect of this occurring.

9.4 London Plan policy 4.14 Managing Industrial Land and Premises and Land for Industry and Transport SPG. Policy 4.14 of the adopted London Plan categorises LBRuT as Restricted Transfer of Industrial land to other uses. The new London Plan (Intend to Publish) addresses the need for boroughs to retain sufficient industrial, logistics and related capacity on a plan, monitor and manage approach. Evidence has been submitted by Mr Davidson regarding the policy context with which I agree.

9.5 In accordance with Local Plan Policy LP42 (Industrial Land and Business Parks), the Council must protect its very limited supply of industrial floorspace. Furthermore, draft Policy E4 of the Intend to Publish London Plan states "A sufficient supply of land and premises in different parts of London to meet current and future demands for industrial and related functions should be maintained".

9.6 Policy LP42 requires any development proposals to provide suitable replacement industrial uses and, if that is not possible, to replace the existing with industrial type uses; a full and proper marketing exercise of the site at realistic prices both for the existing use or an alternative industrial or other such employment use completed over a minimum period of two continuous years is required identifying that there is no demand for the site in its current use. Once this has been satisfied then the sequential test should consider alternative employment uses. The appellant's marketing report fails to comply with the criteria of policy LP42.

9.7 On the basis of the above, and the evidence provided by Mr Davidson, it is my opinion that the scheme would result in the loss of industrial floorspace, and insufficient justification has been provided in accordance with policy. Subject to any material considerations justifying the permission (which I deal with below), the application is contrary to policy and falls to be refused.

10. Reason for refusal 3 – Affordable Housing

10.1 Policy LP 36 of the Local Plan sets out that the Council will seek the maximum reasonable amount of affordable housing when negotiating on individual private residential and mixed-use schemes, having regard to the strategic borough-wide target and the individual circumstances of the site.

10.2 Richmond Council works in partnership with Registered Providers and provides public grants to maximise affordable housing. This is set out in both LP36 and the Affordable Housing SPD.

10.3 The appellant has offered 33.3% (8 units) on site. However, this amount is not maximised as required by policy. In particular, the appellant has not considered the potential for grant to alter the tenure/ improve the unit numbers and there is a lack of

evidence of engagement with Registered Providers. Without this being fully explored, the appellant has failed to demonstrate that affordable housing has been maximised.

10.4 Based on the outcome of the independent assessment by BPC and the lack of evidence of any engagement with Registered Providers, the Council is not satisfied that the proposed scheme, with the inclusion of eight shared ownership units, represents the best viable option for the site and it is not considered that the maximum reasonable contribution to affordable housing would be achieved.

10.5 I concur with the evidence set out by Mr Bradbury and his conclusions that that the proposed homes are not appropriately considered to be affordable housing thus defined. The failure justifies refusal as the scheme as submitted does not maximise affordable housing delivery meeting the Council's priority housing needs. It is noted that some affordable housing is being provided which is a benefit in light of the Council's needs, and this will be weighed in the balance when considering whether there are other material considerations.

10.6 Discussions between the Council and the appellant are ongoing in order to try and reach an adequate solution. Had the viability evidence been presented to the Council at an earlier stage of the appeal then this matter could have reached a conclusion. If there is an agreed position and this reason for refusal gets resolved, the weight placed on the provision of affordable housing will increase. This is dealt with in more detail below.

11. Reason for refusal 4 - Design

11.1 Policy LP 1 of the adopted Local Plan (2018) states that new development must be of a high architectural and urban design quality. Development must be inclusive, respect local and contribute positively to its surroundings based on a thorough understanding of the site and its context. Evidence submitted by Mr Sellers explores the design policy context in further detail.

11.2 It is acknowledged that the principle of the demolition of the existing steel-clad buildings and refurbishment of the existing Buildings of Townscape Merit would offer an opportunity to enhance the appearance of the application site, however the

scheme would fail to relate to the existing pitched-roof stable mews buildings (BTMs) to the south-west corner of the application site due to visual dominance and a lack of appropriate visual separation between the existing BTMs and the proposed main residential building.

11.3 I refer to the evidence by Mr Sellers, and I agree with his findings that the proposed development fails to make a positive contribution towards the local character, townscape and skyline and that it is harmful. I note the harm identified by Mr Sellers from a heritage/design perspective on the BTMs. Paragraph 197 of the NPPF requires the following assessment to be undertaken: [‘In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.’] I have considered that issue as part of the balancing process I conduct below.

11.4 It is my opinion that the application fails to comply with the NPPF (in design terms and, once the balancing act is undertaken below, the heritage policies for non-designated heritage assets) and policies 3.5 and 7.4 of the London Plan (2016), LP1, LP4 and LP39 of the Local Plan (2018) in terms of design.

12. Reason for refusal 5: Mix of Uses

12.1 Policy LP42 sets a sequential test which can include a mixed use including residential, providing it does not adversely impact on the other uses. This is also set out in LP40. Policy LP1 A.6 sets out that the “suitability and compatibility of uses, taking account of any potential adverse impacts of the collocation of uses through the layout, design and management of the site” will be considered when assessing proposals. This is to ensure development respects, contributes to and enhances the local environment and character. Paragraph 4.1.10 in the Local Plan deals with collocation and compatibility and indicates that the inclusion of residential might impact on the operation of other uses.

12.2 Policy LP35 A states that housing mix should be appropriate to the site-specifics of the location. Paragraph 9.2.2 states the appropriate mix should be considered on

a site by site basis having regard to its location, the existing stock in the locality and the character of an area and take account of existing infrastructure capacity such as schools and transport.

12.3 Emerging London Plan Policy E7 requires, with the aim of avoiding the comprising of the industrial use, any mixed-use development (which meets part C of policy E2) to include appropriate design mitigation in the residential element with particular consideration given to:

- a) safety and security
- b) the layout, orientation, access, servicing and delivery arrangements of the uses in order to minimise conflict
- c) design quality, public realm, visual impact and amenity for residents
- d) agent of change principles
- e) vibration and noise
- f) air quality, including dust, odour and emissions and potential contamination.

12.4 A successful mixed-use proposal needs to take account the operational needs and prospects of potential future businesses on site, so as not to prohibit such activities from operating successfully. The proposed layout includes commercial units situated at the rear of the site, whereas proposals commonly position most active uses / operational making areas at ground floor and providing a positive street frontage. This layout does not allow separate access for different uses, featuring shared access. It is not clear if there will be sufficient yard/loading space for future occupiers.

12.5 Furthermore, as set out in the evidence of Mr Will Marshall, the appellant has failed to demonstrate that they will be able to maintain a shared space carriageway width of 4.8m which is the minimum width set out in *Manual for Streets* (Department for Transport, 2007) which would allow a car to pass a heavy goods vehicle carrying refuse or recycling safely. The lack of width could force motorists to have to reverse vehicles for large distances which could lead to conflict with pedestrians who would share the road-space.

12.6 The proposed residential unit mix is considered appropriate to the location in

isolation: it includes 50% of two-bedroom units (of which 2 units have no private amenity space) and 29.2% three-bedroom units which may be occupied by small families.

12.7 The proposed use of the B1 commercial units is not clear, however It is noted that the access way to the site would have parking spaces located on both sides with no designated path for pedestrians. Due to lack of passing space for larger vehicles, it is considered this would lead to conflicts between users, to the detriment of proposed commercial use operation and the safety/amenity of proposed residential occupants. The residential-led mixed use development is therefore considered inappropriate and would be contrary to policies LP1 and LP35(A) of the Local Plan.

13. Reason for refusal 6 - Transport

13.1 A Transport Assessment (TA) has been submitted as part of the application, which examines the effects of the proposed development on the local highway network and surrounding public transport facilities. It also considers issues such as servicing the development, vehicular access and the effect of the development on the pedestrian environment and cycle routes. Evidence has been produced by Mr Marshall regarding the transport aspect of the development. I refer to his proof and concur with his findings.

13.2 The proposed development, when measured against the maximum off-street vehicular parking standards set out in LBRuT's Local Plan, would lead to overspill parking of up to one vehicle during the day because of the proposed office land use and up to 10 vehicles during the night-time because of the proposed residential dwellings. This is contrary to Local plan Policy LP45 and the maximum parking standards adopted by the Local Planning Authority and set out in Appendix 3 of the Local Plan (2018).

13.3 In the absence of a completed legally binding document to preclude any occupant of the new development from purchasing vehicular parking permits within any CPZ within the Borough, the scheme would result in an overspill of parking to the detriment of the surrounding area.

13.4 It is also noted that changes to the access road would result in a further overspill of 13 vehicles. The appellant has failed to submit a vehicular parking stress survey of all streets within 500m walking distance of the proposed development site, so it has not been proved that the overspill can be accommodated on the surrounding streets, which contradicts paragraph 1 of Policy LP45. Furthermore, the appellant does not own the land south of the access road, which is also outside of their red line, therefore they will not be able to make motorists using the area to park parallel to the carriageway.

13.5 It is of my opinion and as set out in the proof of Mr W. Marshall that the scheme fails to comply with Policy LP45 and para 108 of the NPPF Subject to any material considerations justifying the permission which is dealt with below, the application falls to be refused.

14. Reason for refusal 7 – CO2 emissions

14.1 London Plan Policy 5.2 Minimising Carbon Dioxide Emissions states that proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the Mayor's energy hierarchy. Policy 5.2 further states that carbon dioxide reduction targets should be met on-site or where clearly demonstrated this is not possible the shortfall may be provided off-site or through a cash-in-lieu contribution to secure savings elsewhere.

14.2 The submitted Sustainability and Energy Statement has been reviewed by Climate Integrated Solutions (CIS). It has been confirmed that further detail is required of the measures implemented at each stage of the cooling hierarchy in accordance with London Plan Policy 5.2 which states that energy assessments should include 'proposals to further reduce carbon dioxide emissions through the use of decentralised energy where feasible, such as district heating and cooling and combined heat and power (CHP)'. Additional information is therefore required where active cooling is recommended providing actual and notional cooling demand. CIS have confirmed that such detail could be secured by way of an appropriately worded planning condition.

14.3 Policy LP 22 of the Local Plan requires major applications such as this to achieve

zero carbon standards in line with London Plan policy. The development would adopt a number of sustainable features, including a combination of passive design measures (enhanced fabric efficiency of the building envelope, passive solar gain, natural daylighting, air leakage, inter alia), active design (efficient air, lighting and plant systems) and renewable energy technologies (photovoltaics and air source heat pumps) results in the development would achieve a 35.16% reduction over the 2013 Building Regulation standards. The reduction in emissions from renewable technologies would equate to 27.29%.

14.4 The proposal does not meet the zero carbon homes policy targets required by Policy LP22. The residual carbon dioxide emissions from the proposed residential units have been calculated as 15.612 tonnes. A zero-carbon payment to offset the 468.36 tonnes of CO₂ over a 30-year period would therefore be required.

14.5 It is noted that the applicant has offered a zero-carbon payment to offset the surplus the development will produce, however in the absence of a completed legal agreement securing the necessary zero-carbon payment to offset the surplus emission the development would produce over a 30-year period, the scheme fails to comply with Policy LP22.

14.6 It is my opinion that the policy is clear in the requirement for zero-carbon standards, this is also set out in policy 5.2 of the London Plan.

15. Reason for refusal 8 - Play Space

15.1 Policy LP31 of the adopted Local Plan seeks to maintain, and where possible, improve the children's and young people's play facilities in the borough. It is outlined that new development could lead to increased usage of, and therefore place additional burdens and strains on existing facilities. Consequently, developers for major applications will be required to submit a child occupancy assessment in line with the Mayor's child yield calculator.

15.2 There is no play space proposed on site, and the Council has used the Mayor's SPG Child Yield Calculator which estimates that the expected child population the proposed development would yield just under 10. Based on the Mayor's Play Space

SPG, a requirement of 85.6m² of child play space is required.

15.3 The GLA's Play SPG states that, for developments yielding less than 10 children, on-site provision is preferred but that a financial contribution towards off-site provision can be made where the accessibility standards can be satisfied.

15.4 Whilst the nearest existing play spaces do not quite fall within the reasonable distances laid out in the accessibility standards for any age group this only marginally falls short, therefore a financial contribution towards off-site provision for equipment and maintenance could be accepted.

15.5 Whilst the appellant has confirmed that they are willing to cover this cost, in the absence of a completed legal agreement securing the necessary payment, the scheme fails to comply with Policy LP31 of the Local Plan.

16 THE PLANNING BALANCE AND MATERIAL CONSIDERATIONS

16.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that determination of a planning application must be made in accordance with the development plan unless material considerations indicate otherwise.

16.2 Given that the appellant has queried the Council's housing supply, it is considered necessary to set out the Council's position on the 5-year Housing Supply. The NPPF requires the Borough to identify and maintain an effective rolling 5-year housing land supply. The Council's Housing Interim Position Statement was published in September 2020 and the AMR published in November 2020 (CDE5) and brings considerations on housing supply for the Borough up to date.

16.3 The Council has identified a potential of 2,208 units over the 5-year period (2020/21 to 2024/25), which exceeds the target in the London Plan 2015 and the target in the emerging new London Plan. Each site has been assessed for its deliverability (in accordance with the NPPF and PPG), in discussions with officers in development management and using monitoring resources.

16.4 Whilst the Council recognises the benefits of providing housing, given that a robust 5-year housing land supply has been identified, it is my opinion that there is no pressing need within the Borough. As a result, this factor provides little or no weight.

16.6 Given the Secretary of State's comments on the emerging London Plan, it is considered that full weight should be given to Policy LP42, which is consistent with para. 80 of the London Plan. The London Borough of Richmond has sufficient evidence that there is a shortage of industrial land as set out in the Employment Sites and Premises Study (Stage 1) 2016 update (CDE32).

16.7 As well as the above, the emerging London Plan is also considered to have reasonable weight. In accordance with paragraph 11 of the NPPF, the adopted policies are not out of date, therefore there is no tilted balance in this case.

16.8 The appellant has stated in their Statement of Case that the removal of a non-conforming use in a residential area will be a clear benefit of the scheme. The appellant refers to historic oil explosions on the site, however these were not significant in nature and are not considered reason for the loss of the designated waste site. The location of industrial buildings near residential areas is common within the London Borough of Richmond; the Council's records from 1st April 2016 onwards show no complaints regarding noise from neighbouring residents.

16.9 It is noted that there have been approximately 15 historic complaints to the Environment Agency mainly regarding odours between 1998-2011, however a majority of these (10) were from between 2000-2003, and whilst they were on a few occasions resulting from the cleaning of tanks or stagnant water, a majority of the time it was concluded to be a general gas smell in the area that could not be identified as coming from the Arlington Works site. This is not considered an excessive level of complaints over that time period and it is therefore not considered that there are any material considerations regarding the location of the waste site which outweighs the policies.

16.10 The appellant has stated that the development would have economic benefits and would provide high quality employment space. Whilst there may be some economic benefits to the scheme, it would not overcome the failure to meet policy LP42 of the Local Plan, which as set out above, is considered to hold full weight.

16.11 There is a need for affordable homes within the Borough. Whilst the scheme would provide 8 affordable housing units, this has not been maximised as required by Policy LP36 of the Local Plan. Despite the contravention to policy, it is noted that there is some weight in delivering affordable housing. Should this matter be addressed and a policy compliant offer be resolved via a legal agreement, the provision of affordable homes and support for market housing is considered to hold reasonable weight.

16.12 Looking at each of the reasons for refusal individually, it is not considered that the material considerations and the potential benefit of affordable housing would outweigh any of the singular reasons for refusal.

16.13 The reasons for refusal when looked at cumulatively would not be outweighed the material considerations and therefore still stand.

16.14 Should the Inspector conclude that there is a shortfall in the Council's 5-year housing land supply, then the tilted balance in paragraph 11 of the NPPF would apply. In accordance with paragraph 11d)ii of the NPPF it is considered that the harm as set out above would significantly and demonstrably outweigh the benefits of the scheme.

16.15 In the recent appeal decision of 4 Manor Road Ltd and Lulworth Homes Ltd against the decision of the London Borough of Richmond-upon-Thames (CDH13), the inspector conclude that even if there was a shortfall, it would not outweigh the need to protect particular matters which had specific protection (albeit conservation in that case). Irrespective of this decision, my view is that the identified harms do displace the tilted balance.

17 CONCLUSION AND SUMMARY

17.1 The proposed development fails to show that there is satisfactory compensatory and equal provision of capacity for waste, in scale and quantity, elsewhere within the West London Waste Plan Area and is therefore contrary to the Local Plan, London Plan and West London Waste Plan.

17.2 The proposed development would result in a complete loss of an existing industrial site and there is a lack of satisfactory full and proper marketing evidence to demonstrate there is a lack of demand for continued use of the premises as a B2 use, or appropriate alternative employment generating uses. The scheme is therefore contrary to Local Plan and the London Plan.

17.3 The proposal would result in a cramped and contrived form of over development of the site, and would appear overbearing on the existing Buildings of Townscape Merit (BTM) on site contrary to the development plan and the NPPF.

17.4 The proposed development would result in an unacceptable co-location of uses which would give rise to inappropriate conflict between users, to the detriment of the proposed commercial use operation and the safety/amenity of proposed residential occupants. The scheme is therefore contrary to policy LP1 and LP35(A) of the Local Plan.

17.5 The proposed development fails to provide sufficient off-street parking provision, the loss of existing parking spaces on the access road and in the absence of a satisfactory parking survey to demonstrate there is capacity in the surrounding roads to accommodate the likely parking shortfall, would adversely impact on existing on-street parking conditions, the free flow of traffic and pedestrian and vehicular safety on the surrounding highway network. In the absence of a completed legal agreement, the scheme fails to comply with the development plan.

17.6 The proposal does not meet the zero carbon homes policy targets and in the absence of a binding agreement to secure a financial contribution to a carbon offset

payment, the scheme fails to comply with policy.

17.7 The development proposal fails to provide insufficient provision of on-site children's play space and in the absence of a binding legal agreement to secure a financial contribution for off-site provision, the scheme fails to comply with policy.

17.8 Whether the reasons are looked at cumulatively or individually, the scheme fails to comply with strategic or local policies. The material considerations are not considered to outweigh the reasons for refusal and the tilted balance in paragraph 11 of the NPPF is not triggered. Therefore, as set out in the evidence and the accompanying proofs, I respectfully request that the Inspector dismiss this appeal.