



Appeal Decisions

Site visit made on 2 February 2010

by **Alan M Wood** MSc FRICS

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
5 March 2010

Appeal Ref: APP/L5180/A/09/2110641 [Appeal A]
37 Hamilton Road, Twickenham, TW2 6SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Bill Bailey on behalf of Hamilton Lofts Ltd against the decision of the Council of the London Borough of Richmond upon Thames.
- The application Ref 08/2870/FUL is dated 20 August 2008.
- The development proposed is described as the conversion of existing redundant industrial buildings into 21 flats, demolition of minor buildings and structures and construction of 6 new residential units, with 24 car parking spaces.

Appeal Ref: APP/L5810/E/09/2110657 [Appeal B]
37 Hamilton Road, Twickenham, TW2 6SN

- The appeal is made under sections 20 and 74 of the Town and Country Planning Act (Listed Buildings and Conservation Areas) 1990 against a failure to give notice within the prescribed period of a decision on an application for conservation area consent.
- The appeal is made by Mr Bill Bailey on behalf of Hamilton Lofts Ltd against the decision of the Council of the London Borough of Richmond upon Thames.
- The application Ref 08/3000/CAC is dated 20 August 2008.
- The works proposed are described as the conversion of existing redundant industrial buildings into 21 flats, demolition of minor buildings and structures and construction of 6 new residential units, with 24 car parking spaces.

Decision

1. I dismiss both Appeal A and Appeal B.

Procedural Matters

2. Notwithstanding the descriptions of the proposed developments above, Appeal A relates to the conversion of existing redundant industrial buildings into 21 flats and construction of 6 new residential units, with 24 car parking spaces. Appeal B relates to the demolition of minor buildings and structures.
 3. In respect of Appeal A, the Council has indicated that had an appeal against non determination of the application within the statutory period not been lodged, the application would have been recommended for refusal on the grounds that the proposed development would: (a) fail to provide a sufficient level of affordable housing in terms of number and tenure mix to compensate adequately for the substantial loss of employment floor space, (b) fail to provide appropriate contributions in the context of its Supplementary Planning Document: *Planning Obligations Strategy* (2005) [POS] towards education,
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health, public realm and open space, playing pitches and transport facilities within the borough which would place an unreasonable demand on existing local facilities, (c) fail to provide car club membership for all units and exemption from car parking permit eligibility, and (d) fail to meet the Council's target for CO2 emission reductions in new development via the use of renewable technologies.

4. In respect of Appeal B, the Council has indicated that had an appeal against non determination of the application not been lodged, the application would have been recommended for approval subject to conditions.

Main issues (Appeal A)

5. (a) Whether the proposed development would provide a sufficient level of affordable housing in terms of number and tenure mix, (b) the effect of the proposed development on existing facilities in respect of education, health, public realm and open space, playing pitches and transport facilities, (c) the effect of the proposal on sustainable modes of travel, and (d) whether the proposal would achieve the appropriate CO2 emission reductions.

Procedural Matter

6. A unilateral undertaking (UU) has been submitted by the appellant as part of the appeal process. The UU does not state anywhere however that it is a planning obligation as required by section 106 of the Town and Country Planning Act 1990 (TCPA). Section 106(9) requires that a planning obligation should be executed as a deed and should state that the obligation is a planning obligation for the purposes of section 106. By omitting the formalities as required by section 106(9) the Deed may fail. The definitions in the UU would also be improved by the suggested changes put forward by the Council as they would add more certainty.

Reasons

Appeal A

Affordable Housing

7. Policy CP15 of the of the London Borough of Richmond upon Thames Local Development Framework Core Strategy (2009) [CS] expects that 50% of all new residential units will be in the form of affordable housing with a tenure mix of 40% housing for social rent and 10% intermediate housing. The appellant has provided a viability appraisal which adequately demonstrates that the scheme's residual value would be lower than the existing site value. Accordingly the current market conditions would restrain the appellant from providing a level of affordable homes in accordance with the policy.
8. The UU indicates that the appellant would provide eight residential units in the form of affordable housing which approximates to 30% of the proposed development. The affordable housing accommodation would comprise three no 1 bed flats, three no 1 bed houses and two no 2 bed flats although this is not spelt out in the definition of affordable housing units in the UU and would not therefore be enforceable. All of the affordable units would be for housing for social rent. Given the current market conditions as indicated in the viability appraisal and the constraints of the site I consider that the level of affordable

housing proposed by the appellant would be acceptable in this case as would the tenure mix.

9. The Council however has indicated that any planning permission would be extant for a period of three years and market conditions could change during that period. It has therefore proposed that a financial monitoring and review procedure be required to allow the auditing of the development process on an open book basis in relation to build costs and final sales. There is however no provision for this mechanism in the UU. Affordable housing is an important facet in the government's overall housing strategy as is evidenced by national policies in Planning Policy Statement 3: *Housing* and in the London Plan Spatial Strategy for Greater London (2008) [LP] and the Council's Development Plan. I consider therefore that a monitoring review and arrangement would be appropriate in this case in order that an acceptable level of affordable housing would be achieved at the time that the site is developed.
10. The UU restricts the occupation of the market units to no more than ten prior to the affordable housing units being ready for occupation. The Council has indicated that this figure should be nine units. However, I find no compelling reason why the former figure would not be acceptable in this case.
11. I agree with the Council however that clause 1.1 of Schedule 1 of the UU is unclear and unenforceable and I consider the Council's proposed wording of the schedule to be generally more robust. The current drafting of the UU would leave the legal status of the obligation to transfer the land open to challenge as a transfer of property in a positive form is outside the terms of section 106 (1) of the TCPA. I also agree with the Council that there should be more than "reasonable endeavours" made to effect a transfer. The obligations are policy based requirements and therefore need to be more certain and robust.
12. Consequently, I conclude that, because of the shortcomings of the UU, the proposed development would not satisfactorily secure the appropriate provision of affordable housing. It would therefore conflict with Policies 3A.9, 3A.10 and 3A.11 of the LP, and Policy CP15 of the CS, and Policies BLT13 and EMP4 of the London Borough of Richmond-upon-Thames Unitary Development Plan: First Review 2005 (UDP), and the Council's Supplementary Planning Guidance: *Affordable Housing*. These policies promote the provision of affordable housing and specify the nature of its provision.

Effect on Existing Facilities

13. Policy CP16 of the CS asserts that new developments will be expected to contribute to any additional infrastructure and community needs generated by the development. The POS indicates that, in this case, financial contributions in respect of transport, public realm, health and education are required.

Transport

14. The Council has calculated the required transport contribution to be £70,652 in accordance with the POS. The appellant however has committed through the UU to construct a turning head within the site which would also be for public use. I agree with the Council however that the wording in the UU in terms of the rights to public use of the turning head need to be expressed in more unequivocal terms and be available from the date of the practical

completion of the development if the full benefit of the scheme is to be realised.

15. The appellant has indicated that the transport contribution should be offset by the cost of creating the turning head. I observed that the houses in Hamilton Road have no off-street car parking and the level of on-street parking restricts the road to what is effectively a single carriageway. There is no turning head in the road and therefore vehicles reverse significant distances to the junction with Edwin Road. In a previous appeals decision¹ at the site in 2007, the Inspector commented that the availability of a turning head would be a significant benefit to the residents and to highway safety and I concur with that view. He also considered that there are several options other than gates that could control the access.
16. Although a figure of £85,000 was quoted by the appellant at the 2007 Inquiry, no updated figure is before me. Whilst in principle I consider it would be reasonable to reflect the additional cost of the turning head when calculating the level of contribution, no analysis of the cost of constructing the turning head has been provided. The Inspector also referred to the methodology used by the Council to calculate the transport contribution in the context of the POS in respect of the proportionality in the variations between the PTAF factors applied. As in that case, there is no clear explanation for the variations which casts some doubt on the reasonableness of the scale of the financial contribution sought by the Council.
17. Accordingly I do not consider that there is compelling evidence before me that provision of the turning head would meet the requirements for a transport contribution even if the PTAF rationale had been clarified satisfactorily by the Council. I conclude therefore that the proposed development would fail to make an adequate and appropriate level of contribution to the existing transport infrastructure and consequently would conflict with Policy CP16, the POS and Policy TRN2 of the UDP which relates to the impact of new development on the transport infrastructure.

Education, Public Realm and Health

18. The UU contains a commitment for contributions of £17,800, 21,216 and 5,377 towards education, the public realm and health respectively. These figures differ only marginally from those calculated by the Council using the methodology in the POS. From the evidence before me, I am satisfied that these contributions are necessary in this case and I consider that the sums stated in the UU are acceptable. I agree with the Council however that the trigger point for the payment of the contributions (including any transport contribution) following the occupation of the seventeenth open market unit is unacceptable. The contributions are intended to fund schemes to offset the various impacts of the proposed development and delaying their payment until the majority of the dwellings have been occupied would inevitably delay the provision of those services.
19. I conclude therefore that the proposed development would, because of the timing of the proposed contributions, fail to provide adequate and appropriate

¹ APP/L5810/A/07/2041553 and APP/L5810/E/07/2041554

contributions to the existing education, public realm and health facilities accordingly would conflict with Policy CP16; and Policy 3A.26 of the LP and Policy HSG19 of the UDP which relate to contributions towards community facilities.

Sustainable Travel

20. Policy 3C.3 of the LP encourages shifts to more sustainable modes of transport and appropriate demand management. Policy CP5 of the CS requires car share facilities and car clubs to be established in appropriate new developments. The Council has indicated that measures aimed at discouraging car ownership and promoting sustainable travel patterns should be put in place to meet the requirements of the policies. In this case, such measures would include car club membership for all of the accommodation units and designation of a car club parking space on the appeal site.
21. From the evidence before me I am satisfied that these measures would be necessary in this location and the appellant has included clauses in the UU to this effect. However I consider that the clauses in the UU, which include the term "reasonable endeavours", introduce a measure of uncertainty into the obligation. I also note that if the lease referred to in clause 1.7 of Schedule 2 of the UU is not completed until the occupation of the twenty-seventh dwelling then the obligation would lapse. Furthermore, the provision of the car parking space in clause 1.8 of Schedule 2 is subject to the Accredited Car Club Provider complying with its covenants in the lease. The terms of a lease are however a private matter between the owner and the Car Club Provider and should not affect the principle of the obligation.
22. I also consider that the rewording of clauses 1.7 onwards of Schedule 2 of the UU as proposed by the Council would be more robust and would provide greater certainty. As stated above, the obligations are policy based requirements and therefore need to be more certain and robust.
23. Accordingly, I conclude that the proposed development would fail to make an adequate and appropriate level of contribution to sustainable travel and would therefore conflict with Policy 3C.3, Policy CP5, and Policies TRN2 and TRN4 of the UDP which relate to traffic impacts on the road network and parking standards.

CO2 Emissions

24. Policy CP1 of the CS refers to the requirement for development to meet the Code for Sustainable Homes level 3 standard for new homes and the EcoHomes excellent standard for conversions or the BREEAM excellent standard for other types of development. Policy CP2 seeks to achieve a reduction in CO2 emissions of 20% from on site renewable energy generation. The appellant has submitted a BREEAM Ecological Assessment and a EcoHomes Pre-assessment Estimate as part of the planning application process. Having regard to this information, I am satisfied that this matter could be dealt with by the imposition of a condition.
25. I find no detailed information before me however in respect of any forms of proposed renewable energy sources. In this respect therefore the proposed development would conflict with Policy CP2 and Policies 4A.1, 4A.3, 4A.4 and

4A.7 of the LP which relate to sustainable construction and renewable energy, and Policy BLT11 of the UDP which supports ecological design principles.

Other Matters

Interested Parties

26. Interested parties have raised a number of issues principally car parking, loss of light, noise and disturbance, overdevelopment and loss of employment land. I have dealt in some detail above with the impact of the proposal in respect of parking. From my observations I am satisfied that the proposed layout and configuration of the proposed development would not adversely affect the living conditions of the neighbouring occupiers.
27. From the evidence before me I consider that the amount of development proposed would not be disproportionate in terms of density or intensity in this location. The loss of employment land has to be balanced against the benefits of the proposal. Having had regard to the information before me and the comments of the Inspector with regard to the previous appeals, I consider that the loss of employment land would be justified in the context of Policy EMP4 of the UDP in this case.

Conclusion

28. For the reasons given above, the Appeal A does not succeed.

Appeal B

29. The guidance in paragraph 4.27 of Planning Policy Guidance Note 15: *Planning and the Historic Environment* states that consent for demolition should not be given unless there are acceptable and detailed plans for any redevelopment. In this case, whilst detailed plans have been submitted for a redevelopment proposal, I have concluded above that the proposal before me would not be acceptable. Therefore, in the absence of a satisfactory scheme for redevelopment, appeal B must fail.

Conclusion

30. For the reasons given above, Appeal B does not succeed.

Alan M Wood

Inspector



Appeal Decisions

Inquiry held on 26 September 2007

Site visit made on 28 September 2007

by **S R G Baird** BA (Hons) MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
15 November 2007

Appeal A: APP/L5810/A/07/2041553

37 Hamilton Road, Twickenham TW2 6SN

- 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 Hamilton Lofts Limited against the decision of the Council of the London Borough of Richmond-upon-Thames.
- The application Ref 06/3890/FUL, dated 8 November 2006, was refused by notice dated 19 March 2007.
- The development proposed is the part demolition of existing buildings, part refurbishment to provide one B1 work unit, 184 sq. m, and 31 residential units with 32 parking spaces.

Summary of Decision: I dismiss the appeal.

Appeal B: APP/L5810/E/07/2041554

37 Hamilton Road, Twickenham TW2 6SN

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for conservation area consent.
- The appeal is made by Hamilton Lofts Limited against the Council of the London Borough of Richmond-upon-Thames.
- The application Ref 06/4229/CAC is dated 8 November 2006.
- The demolition proposed is the Battery House, Engine Room, Boiler House and 2 workshops as shown on Drawing No. 3593 PL46.

Summary of Decision: I dismiss the appeal and refuse conservation area consent.

Procedural Matters

1. Had the Council been in a position to determine the application for Conservation Area Consent (Appeal B) it would have been refused for the reasons set out in the Annex to this notice.

Main Issues

2. I consider there are 4 main issues. The first issue is the effect of the proposal on the Hamilton Road Conservation Area and whether it would preserve or enhance its character or appearance. The second issue is the implications for neighbours' living conditions with particular regard to outlook, privacy, daylight and sunlight. The third issue is the implications for the supply of employment land/premises and affordable housing. The fourth issue is the adequacy of proposed contributions towards social and community infrastructure, with particular reference to transport.
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Reasons

Character & Appearance

3. The appeal site is located within the Hamilton Road Conservation Area where the objective of both local and national policy is to preserve or enhance the character or appearance of the area. No. 37 Hamilton Road is designated as a Building of Townscape Merit. Development plan policy seeks to encourage the preservation and enhancement of such buildings and protect their setting.
4. The Conservation Area comprises Hamilton Road and Warwick Road, 2 streets of Edwardian terraced houses and the former Hamilton Road Electric Works (No. 37). The terraces in Hamilton Road and Warwick Road are generally consistent, mostly comprising rows of 6 houses set at the back of the pavement and separated by narrow alleyways. Although some of the front elevations have been rendered or painted, overall the appearance of the terraces/houses is simple and consistent. The former Electric Works has 3 distinct, interlinked buildings. Building 1 is a 2-storey former office block, Building 2 is a taller, 3-storey former battery house and Building 3, which is taller again, is a large single storey building that housed the generators and steam engines. Building 3 has a single-storey out-rigger to the rear. These buildings are finished in a similar brick to the terraced houses and have a robust utilitarian appearance.
5. I consider No. 37, particularly the appearance of the southern and eastern elevations of Buildings 1 and 2 and the scale/mass of the group as a whole, when viewed from vantage points along Hamilton Road, makes a major contribution to the character and appearance of this Conservation Area. On entry into Hamilton Road, the facade and east elevation of Building 1, part of the facade of Building 2 and the upper gables of Buildings 2 and 3 are immediately visible and largely close off the view to the north. On the approach along Hamilton Road the buildings gradually fill more of the view until immediately south of the entrance gates all of Buildings 1 and 2 fill the view.
6. Similarly, there are views of the group from a pedestrian footbridge over the railway to the north-east. From here, the buildings are set back from the railway line and views are obtained over the roofs of the houses and across the railway of the upper parts of the 2 gable ends of Building 3. In all of these important views, No.37 sits comfortably with and does not dominate the smaller scale houses. In views from the open space to the rear and Warwick Road, the context of the site within the Conservation Area is less obvious and, in my view, these views are of lesser importance in defining the character and appearance of the Conservation Area.
7. I consider it is the first views of the buildings in the approach along Hamilton Road and to a lesser extent views from the railway bridge that set the context for and visual relationship between No. 37 and the houses and defines the character and appearance of the Conservation Area. I acknowledged that the evidence regarding historic and functional links between No.37 and the housing is tenuous. However, there is a strong visual relationship and I consider that the group of buildings make a significant and positive contribution to the character and appearance of the Hamilton Road Conservation Area.

8. The only significant alteration proposed to Building 1 is the introduction of dormer windows to the east and west facing roof planes. In my experience, dormers in a building of this type are not an untypical feature. Here the proposed dormers would be substantially inset from the gables and would not appear incongruous. The proposal involves the alteration and complete rebuilding, using materials/windows from the existing buildings, of the facade of Building 2 and the re-introduction of a pitched roof. Notwithstanding the reuse of materials, I consider the nature and extent of the alterations, which include the insertion of full height glazed doors on all 3 floors to replace some windows, the addition of balconies on the first and second floors and the creation of a vehicular access to an underground car park, would materially and adversely alter the character and appearance of the Building 2.
9. The location of a site within a Conservation Area is not a bar to sympathetic modern development. However, I am concerned about the impact of the scheme behind Building 1, which would replace Buildings 2/3, and the design of the mews houses. Here, the main part of the replacement building would be 4-storeys high with a flat roof. This part of the building, which would span the full width of Buildings 1 and 3, would be approximately 1m higher than Building 3, which is the highest building on the site. I note the alterations to the external finishes to the 4-storey building to "lighten" its visual impact. However, I consider the box like shape of the building and its resultant substantial scale and mass directly behind Building 1 and the altered façade of Building 2 would appear obtrusive and completely and unacceptably dominate views of these buildings from Hamilton Road and from the north-east. The mews houses are designed in a similar style and other than the proposed colour of the brickwork draw on no design features from No. 37 or the houses in the Conservation Area. Given their closeness to No. 37 and that they would be read in the same view, I consider they would not be sympathetic to the setting of the building.
10. I consider the combined impact of the development to the rear of the site and the mews houses would materially and unacceptably alter the visual relationship between the appeal site and the adjoining houses and would not preserve the character or appearance of the Conservation Area. Therefore, on this issue, notwithstanding my conclusions relating the impact of the changes to Building 1, I conclude that the proposed development would conflict with development plan and national planning policies to preserve the character or appearance of the Conservation Area.
11. Regarding the application for Conservation Area Consent for demolition, the guidance in paragraph 4.27 of Planning Policy Guidance Note 15 - Planning and the Historic Environment says that consent for demolition should not be given unless there are acceptable and detailed plans for any redevelopment. Here whilst detailed plans have been submitted and I note the conclusions of the development appraisals supplied and the evidence regarding the structural condition of the building, I have concluded that the proposal before me would fail to preserve the character or appearance of the Conservation Area. Therefore, in the absence of a satisfactory scheme for redevelopment the Conservation Area Consent appeal must fail.

Living Conditions

12. The development plan requires that new development should be of a high standard of design and layout ensuring that the living conditions of nearby residents are not unacceptably affected. Dealing first with sunlight and daylight, the submitted drawings provide a check on these matters based on guidance produced by the Building Research Establishment (BRE). In terms of daylight, the drawings show that although Plots 8 and 9 are just on the margins of the position suggested by BRE guidance there would be no material loss of daylight. Moreover, the houses at the northern end of Talbot Road benefit from an open aspect to the north, which would mitigate any loss. Whilst a similar exercise does not appear to have been carried out for the mews houses, Plots 10 to 13, I do not consider that any loss of daylight would be material or unacceptably affect the houses immediately to the rear. In terms of sunlight, the appellant produced sunlight/shadow plots relating to the existing and proposed developments for the 21 March, which BRE guidance indicates is an appropriate date for such an assessment. The houses on Talbot Road are to the east of the site, and sun plots show that the existing development already casts a significant shadow across their rear yards. In these circumstances and based on the evidence before me, I consider the proposed development would not make this situation materially worse.
13. Turning now to loss of privacy through overlooking, the rear elevations of Plots 8 and 9 would not contain windows and whilst Plots 10 to 13 contain windows these are high level windows and as such there would be no overlooking of existing yards or windows. As to the 4-storey block and service landings, I consider, given the degree of separation and the limited field of view from service landings, that there would be no material overlooking or perception of overlooking of the existing yards/habitable rooms.
14. I am, however, concerned about the impact on the outlook of residents on Talbot Road. Whilst Plots 8 to 13 would replace existing garages of varying height, the new dwellings would be significantly higher and apart from a narrow gap between Plots 9 and 10 and a gap to the northern boundary, they would run along the rear of Nos. 35 to 53 Talbot Road. The gap between the rear outriggers of houses on Talbot Road and the houses along the common boundary would vary between some 6.6m and 7.9m to the rear elevations and some 9.5m and 10.3m to the ridges. The rear elevations of Plot Nos. 8 and 9 where they would face Nos. 47 to 51 Talbot Road would be substantially higher than the boundary wall and include a steeply pitched roof. Moreover, this part of the development would be seen against the backdrop of the 4-storey element. The rear walls of Plot Nos. 10 to 13 would protrude above the rear boundary wall and have a similar steeply pitched roof to the ridge. I consider the combination of the limited separation, the height of the buildings and the steeply pitched roofs would result in a development that would appear dominant and overbearing when viewed from the rear yards and habitable rooms of adjoining properties making them considerably less pleasant places to live. The impact on Nos. 47 to 51 Talbot Road would be exacerbated by the backdrop of the 4-storey part of the scheme the overall effect of which would not be mitigated by the open aspect to the north.
15. On this issue, my conclusions on the loss of daylight, sunlight and privacy are outweighed by the unacceptable impact of the development on the living

conditions of adjoining residents through it being dominant and overbearing. As such, the proposal would conflict with objectives of development plan policies to protect the living conditions of nearby residents.

Employment Land/Premises & Affordable Housing

16. Unitary Development Plan (UDP) Policy EMP4 requires that premises last used for employment purposes should remain in employment use providing they are compatible with the amenity of the surrounding area and access to the site is adequate. Reuse or redevelopment for Class B1 purposes is highlighted as being acceptable and will be a normal requirement. The use of employment premises/land for other uses will only be acceptable where amongst other things the site has severe site restrictions in terms of access and servicing which make continued use inappropriate or the site has poor accessibility by public transport and continued use would generate large numbers of trips by private car. The policy recognises that mixed use schemes can maintain or increase employment on the site. Factors taken into consideration include the amount of employment floorspace, the mix of uses, access and design.
17. Currently, Building 2 is partly occupied by a small local brewery to store kegs and a music producer; the remainder of the buildings are vacant. The Council indicated that whilst it would resist large scale B8 storage uses, it considers the site would be suitable for high quality B1 office development and that it would not be opposed to small scale B1 industrial uses. The Council's position is based on the findings of an Employment Land Study (ELS) it commissioned to inform emerging planning policy. I have noted the appellant's concerns regarding the nature of the study and the concerns raised by the Inspector in a recent case (APP/L5810/A/06/2019066). In that case, I am not aware what information the Inspector had before him relating to the study. However, whilst I note that the study is not based on a full survey of employment land/premises in the Borough, I consider some weight can be attached to its findings.
18. In brief, the ELS identified an increased demand for high quality office space and warehouse space and a reduced demand for land/premises for industrial uses. The ELS suggests that high density employment uses such as offices should be located within areas with, amongst other things, good public transport. Here, the site has a Public Transport Accessibility Level (PTAL) of 2, which Transport for London (TfL) categorises as poor. Whilst the ELS suggests a robust policy on protecting sites, the language used does not indicate that all sites must be protected. The Council's assertion that the site has potential for high quality office use is not supported by evidence. Moreover, the Council did not challenge the appellant's detailed evidence that there are plenty of much better located, more accessible, high quality office buildings and sites in the local area which are currently vacant. In this context, I am unable to conclude that the appellant's suggestion of a mixed use scheme to include residential development should be resisted on the grounds that the land/buildings should be protected for office purposes.
19. In terms of redevelopment or refurbishment for industrial purposes, the appellant's evidence regarding the lack of viability of such schemes was not challenged. The ELS suggests that where appropriate, in terms of public transport accessibility and local character, redevelopment of premises in B1

use should intensify the current use of the site. Here, however, it is accepted that vehicular access to the site from the main road network is poor. In particular Hamilton Road is a narrow residential street with high levels of on-street parking throughout the day and access by large volumes of heavy vehicles could create significant congestion. The photographic evidence submitted by residents graphically illustrates these problems. In my view, the intensification of industrial /commercial traffic on Hamilton Road would be unacceptable both in terms of the impact on residents' living conditions and the safety and free flow of traffic. Similarly, given the nature of the access, the use of the site/buildings for large scale warehousing or open storage would not be appropriate.

20. Whilst the ELS suggests that where appropriate the provision of premises for start-up companies and suitable for small firms should be encouraged, I do not consider the fact that planning applications at Crane House and Norcutt House represents, on its own, a proven demand for such development in this area. Moreover, it appears to me that there is a long history of the non-implementation of industrial permissions on the Norcutt House site. In light of all these factors, I conclude that the proposed scheme would not conflict with the overall objectives of Policy EMP4 regarding the protection of employment land.
21. UDP policy seeks to maximise the provision of affordable housing with 40% of housing provided over the plan period being affordable. Adopted Supplementary Planning Guidance (SPG) seeks to achieve at least 40% of new housing units as affordable of which 75% should be social rented housing with 25% for key worker/shared ownership housing.
22. Here, the level of affordable housing would comprise 4 two-bed and 5 one-bed social rented flats and 3 one-bed shared ownership flats. Given my conclusion regarding Policy EMP4, the requirement for affordable housing would be 40% of which 75% should be social rented and 25% shared ownership. Here the proportion of affordable housing would be 39% with a proposed mix in line with SPG. The Council acknowledged that the mix of housing was acceptable, that the proposed scale of provision was not significantly below the SPG requirement and that the nature of the shared ownership housing would accord with SPG. The Council's concern relates to the mix of the social rented housing, particularly the provision of one-bed flats. SPG and the Housing Strategy 2004/07 indicate that affordable housing for rent should be primarily focussed on the provision of 2 and 3-bed family housing. On sites where there are too few affordable units to allow for a mix of sizes, priority will be given to 2-bed units for rent.
23. In addition to SPG, which was adopted in 2003 and the Housing Strategy, I have been provided with the Executive Summary of a Local Housing Assessment (LHA) carried out for the Council by consultants in April 2007. The Basic Needs Assessment Model (BNAM), which is a recognised method of calculating affordable housing requirements identified a significant shortfall of affordable housing in the Borough and a shortfall of all sizes of accommodation with the largest shortfall being for one and 2-bedroomed units. In addition, the LHA looked at housing requirements across all tenures using a Balanced Housing Markets (BHM) assessment. Amongst other things, this reinforced the conclusion of the BNAM suggesting that there was a significant shortfall of

affordable housing of all sizes of accommodation most notably 2 and 3-bedroomed homes. In addition, the BHM noted that household projections indicate an increasing proportion of one person households in Richmond in the next 15 years. In this case, the affordable housing would be managed by a recognised Registered Social Landlord. In this context, I consider it is important to note that whilst the BHM indicated that there is a large surplus in the private rented sector of all dwelling sizes, many households view this sector as undesirable as a long term solution to their needs because of its temporary nature.

24. In light of these factors, particularly the up to date assessment contained in the LHA, I consider the proposed nature and scale of affordable housing would be consistent with the objectives of development plan policy and SPG guidance. My conclusion on this matter is reinforced by the absence within the development of usable amenity space suitable for children, the location of the site adjoining a railway and the distance to an area of public open space. In this respect, I consider the proposed development is materially different to the terraced houses on Hamilton Road which have private rear yards that can be used as play space.

Financial Contributions

25. The UDP seeks to ensure that larger developments, particularly residential developments, provide benefits commensurate with the scale of the development. A Planning Obligations Strategy, which has been adopted as SPG, sets out the methodology for calculating the scale of financial contributions for, amongst other things, recreation, transport, educational and health facilities.
26. The appellant has submitted an engrossed S106 Unilateral Undertaking providing for financial contributions towards amenity improvements, education, primary healthcare and transport. The quantum of all the contributions except that towards transport has been agreed. In this case, based on a formula which takes into account a Trip Generation Factor and a Public Transport Accessibility Factor (PTAF), which is linked to a site's PTAL rating, the Council seeks a transport contribution of £146,288. The S106 Undertaking provides for a contribution of £24,816 for the carrying out of safety measures on local roads, the construction of a vehicular turning head to adoptable standards and public use of the turning head.
27. The appellant submits that the Council has failed to justify the need for an additional contribution on the grounds, there are doubts about the appropriateness of the PTAL rating and the PTAF factor to be used in the formula, that no account has been taken of the benefit that would flow from the provision of the turning head and cost of this to the development, that no public transport/highway improvement schemes are identified to which the contribution would relate and that the level of payment sought would make the development unviable.
28. Dealing first with the concerns regarding PTAL/PTAF, the PTAL rating of a site identifies which PTAF factor is used in the formula for calculating the financial contribution. TFL give the site a PTAL rating of 2 and the appellant's Transport Assessment suggests a PTAL rating of 2/3. During the Inquiry, the Council

provided a specific PTAL calculation for the site. One of the measures used to calculate the PTAL rating is the walking time from the appeal site to public transport access points. For rail services, the maximum walking time is usually defined as 12 minutes or a walking distance of 960m. Twickenham Station is a some 1,100m walk from the appeal site. The site specific PTAL run used as one of its parameters a 12 minute walk time based on an average walk time of 4.8km per hour. On this basis the station does not fall to be included within the calculation and the computer run confirmed the PTAL rating of 2. However, the Inquiry heard evidence from an interested person that the walk to the station took approximately 7 minutes.

29. Whilst I have no doubt that some residents use the station, no survey evidence was submitted to substantiate the 7-minute walk time. In my experience, such a walk would, for the average person, exceed 12 minutes. Indeed the appellant's own Transport Assessment submitted as part of the Design and Access Statement suggests that "Twickenham railway station ... may be considered beyond acceptable walking distance from the site for many people." In these circumstances, I have no reason to discount the PTAL rating of 2.
30. Although the PTAF factor is a fundamental part of the formula for calculating financial contributions, the appellant identified significant variations between the PTAF factors applied. From PTAL 4 (good accessibility) to PTAL 3 (Moderate Accessibility) the PTAF factor changes by 20%. However, between PTAL 3 and PTAL 2 (Poor Accessibility) the PTAF factor changes by 100%. In this case, other than referring to the use of national travel data bases to calculate the PTAF, the Council was unable to explain what appear to be to be material variations between the various PTAFs. Thus, the absence of a logical explanation for the variations casts some doubt on the reasonableness of the scale of the financial contribution sought by the Council.
31. Turning now to the benefit of the turning head and the impact this has on the development, I consider that as a matter of principle in any negotiation regarding the level of a financial contribution it would be reasonable to consider benefits that might be derived from a development, the cost of those benefits to the developer and whether they should be offset against the financial contribution. However, the Council is not bound to accept any such offer particularly if it considers the money it is being asked to forgo would have greater public benefit if spent elsewhere.
32. Houses on Hamilton Road have no off-street car parking and on-street parking reduces the road to almost a single-carriageway. There is no turning head, carrying out a 3-point turn is very difficult and drivers reverse considerable distances along the road to Edwin Road. Thus, the availability of a turning head would be a significant benefit to the residents and highway safety. Whilst the development would need to provide a turning area for its residents there is no indication that it would need to be constructed to adoptable standards. I note the Council's submissions on the practicality of controlling the access, but there are several options other than gates that could control access.
33. If public access were permitted, it would be prudent to construct the turning area to adoptable standards. A figure of £85,000 was quoted as the extra cost of bringing the area up to adoptable standards. In addition, it was suggested that public use of the turning head would have an impact on the selling price of

the units and management costs although no evidence was submitted to support this assertion. In principle, although I consider it would be reasonable to reflect the additional cost of providing the turning head when calculating the level of contribution, I have not been provided with an analysis of the total cost. Therefore, I am unable to conclude whether the difference between what is offered and what is sought by the Council reasonably reflects the additional cost to the appellant.

34. Both development plan policy and national guidance in Planning Policy Guidance Note 13 – Transport seek to carry forward the objective of promoting sustainable development through, amongst other things, promoting modes of transport other than the private car. As such planning obligations may be used to achieve improvements to public transport, walking and cycling. In this case, I consider it reasonable to conclude that a development comprising 31 dwellings would have some impact on existing services and journeys to work. Thus, having regard to the objectives of local and national policy it would not be unreasonable to expect the development to make a contribution.
35. Whilst the Council acknowledged that no specific transport schemes had been highlighted, the money could go towards improvements in local bus services and bus lanes/cycle lanes. SPG indicates that it will not always be practical to identify specific projects in every case. SPG recognises that small developments are likely to have cumulative impact on existing infrastructure and identifies a number of broad priorities on which contributions would be spent. In the case of transport, the priorities are reflected in the Local Transport Strategy. Thus, I consider that the absence of specific schemes would not conflict with the thrust of national policy as contained in paragraph B8 of Circular 05/2005 - Planning Obligations.
36. Turning now to viability, the SPG indicates that the overall extent of the obligation sought will have regard to what is reasonable in terms of the scale of the development, its impact and the requirements of the development plan. Paragraph B9 of Circular 05/2005 indicates that obligations should be fairly and reasonably related in scale and kind to the proposed development and reasonable in all other aspects. In terms of the ability of the development to deliver on the nature of the planning obligation sought, the crux of the matter appears to relate to the identification of the existing use value (EUV) and the level of yield used.
37. Here, the appellant bases the EUV on the rent paid by the outgoing tenant, which the Council does not dispute. The Council acknowledged that yields in this area could be in double figures. Taking this approach, I consider the difference between a yield of 10% and 12% appears academic. Based on a yield of 10% it strikes me that the Council's desire to obtain the level of transportation contribution generated by the Planning Obligations Strategy would materially affect the viability of the proposed scheme. In these circumstances, such an approach would conflict with the guidance contained in paragraph B9 of Circular 05/2005.

Other Matters

38. I fully understand the residents' frustrations and concerns regarding car parking and traffic generation. In this case the proposed level of on-site car

parking would be consistent with the Council's current standards. In terms of traffic generation any use of the site whether it is substantially residential led, a reuse of the site in its current form or redevelopment/refurbishment along the lines suggested by the Council would involve traffic of varying type and intensity using Hamilton Road. From what I have seen, read and heard in evidence I consider there is no basis to dismiss this appeal based on the effect of traffic generation or parking on the adjacent highway network.

Conclusions

39. Notwithstanding my conclusions regarding the effect on employment land, the nature of affordable housing and the planning obligation sought by the Council and having regard to all other matters, I consider the unacceptable impact the proposal would have on the character or appearance of the Hamilton Road Conservation Area and the living conditions of adjoining residents are compelling reasons to dismiss Appeal A. In the absence of a satisfactory scheme for the redevelopment of the site, Appeal B is also dismissed and I refuse Conservation Area Consent.

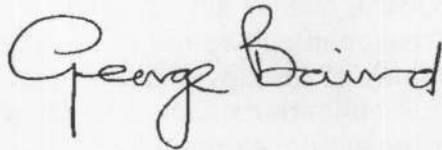
Formal Decision

Appeal A

40. I dismiss the appeal.

Appeal B

41. I dismiss the appeal and refuse Conservation Area Consent for the demolition of the Battery House, Engine Room, Boiler House and 2 workshops as shown on Drawing No. 3593 PL46.



INSPECTOR

APPEARANCES

FOR THE APPELLANT

Ian Bedford of Counsel instructed by Mr J Blackwell of Cunnane Town Planning.

He called:

Mr J Blackwell BA (Hons) Dip TP, MRTPI
Partner, Cunnane Town Planning;

Mr M D Rockel MA (Cantab), C Eng, MICE
Director, Frenndcastle Management Limited;

Mr D Keates
Associate Partner, Martin Campbell & Company;

Mr C Lawrence Dip Arch, Dip Cs, IHBC, RIBA
Principal, Acanthus LW Architects;

Mr T J Barnard BSc (Hons) C Eng, MStructE
Director, Barnard & Associates Ltd.

FOR THE LOCAL PLANNING AUTHORITY

Ian Albutt of Counsel instructed by the Legal Department, London Borough of Richmond-upon-Thames.

He called:

Mrs S E Tamplin Dip TP, Dip AC, IHBC, MRTPI
Team Leader, Appeals & Enforcement, LB of Richmond;

Mr E J Kitchen BA (Hons), MA (Hons)
Conservation Officer, LB of Richmond;

Mr M Stock BSc Eng, RIBA;

Mr C Marsh FRICS, MRTPI
Principal, Christopher Marsh & Co. Limited.

INTERESTED PERSONS

Mr P Lineham, 51 Talbot Road, Twickenham TW2 6SJ.

Miss P Bronsdon, 46 Hamilton Road, Twickenham TW2 6SN.

Miss R Thomson, 48 Hamilton Road, Twickenham TW2 6SN.

Mrs C Cooper, 49 Talbot Road, Twickenham TW2 6SJ.

Cllr. C Head, Home Lodge, 13 Gloucester Road, Teddington, Middlesex TW11 0NS.

Cllr D Marlow, 4 Allbrook Close, Teddington, Middlesex TW11 8TY.

DOCUMENTS SUBMITTED AT THE INQUIRY

- Doc 1 - Summary of objections, Mr P Lineham.
- Doc 2 - Statement and 3 photographs, Miss R Thomson.
- Doc 3 - Statement of objections, Miss P Bronsdon.
- Doc 4 - Statement of objections, Mrs C Cooper.
- Doc 5 - Statement of objections, Cllr D Marlow.
- Doc 6 - Statement of objections, Cllr C Head.
- Doc 7 - Copy of S106 Unilateral Undertaking submitted by Hamilton Lofts Ltd.
- Doc 8 - Council's comments on S106 Unilateral Undertaking.
- Doc 9 - Measuring Public Transport Accessibility Levels, Summary.
- Doc 10 - Pages 1 & 17, Extracts from a Flood Risk Assessment, Hamilton Road, Twickenham, submitted by the appellant.
- Doc 11 - PTAL Study Report File, 37 Hamilton Road, submitted by the Council.
- Doc 12 - Existing Use Value, illustrations of variations submitted by the Council.
- Doc 13 - Proposed revision to suggested condition 20 submitted by the Council.
- Doc 14 - Employment Land Study submitted by the appellant.

PLANS SUBMITTED AT THE INQUIRY

- Plan A - Possible walking routes to Twickenham Station.
- Plan B - Historic footprints of 37 Hamilton Road.
- Plan C - Agreed separation distances to houses in Talbot Road.

ANNEX

Application Ref. 06/4229/CAC - Putative reasons for refusal

- 1 In the absence of sufficiently rigorous supporting evidence and the lack of an acceptable and approved redevelopment scheme, it has not been demonstrated that the principle of the demolition of 2 of the Buildings of Townscape Merit proposal is justified. Furthermore there is no justification for the demolition of the Buildings of Townscape Merit proposal that are located within a designated Conservation Area. Demolition of the buildings would be detrimental to the character and appearance of the Buildings of Townscape Merit in particular and Hamilton Road Conservation Area in general and would be contrary to Policies STG2, STG3, IMP1, BLT2, and BLT4 of the Unitary Development Plan: 2005 First Review and Policies 4B.10 and 4B.11 of the London Plan. It would also be contrary to advice in PPG15, Planning and the Historic Environment.
- 2 Demolition will harm the character and appearance of the Conservation Area due to the loss of the principal key landmark which forms the termination of the view north along Hamilton Road. The loss of the major part of the Hamilton Road electricity works will also undermine the strong spatial and historic relationship between the works buildings and the streets of terraced houses directly to their south. This would be contrary to policies STG2, STG3, IMP 1, BLT2 and BLT4 of the Unitary Development Plan: 2005 First Review and Policies 4B 10 and 4B.11 of the London Plan. It would also undermine the value of the designated Hamilton Road Conservation Area identified in the conservation area statement and appraisal (January 2006).
- 3 The demolition of Buildings 2 & 3 will result in a loss of an exceptional example of industrial archaeology in the Borough which would result in harm to the character and appearance of the Conservation Area. The historic significance of the industrial buildings in the development of Twickenham is considered to be the main justification for designation. This would be contrary to policies BLT2, BLT4 and BLT7 of the Unitary Development Plan: 2005 First Review and Policies 4B.10 and 4B.11 of the London Plan.