

Consultation Response to the three linked planning applications (A-C) associated to the comprehensive redevelopment of the former Stag Brewery Site in Mortlake

Submitted by **Bruce Houlder CB QC**

9 Little St Leonards, East Sheen, SW14 7LT

Mobile: [REDACTED]

10th JULY 2019

Introduction

1. I wish to object to the scale and density of this development, the insufficiency of the proposed amendments and revisions, and the lack of evidence to support the conclusions drawn.
2. I have nothing in itself against the area being developed, to the presence of a school or the nature of any of the amenities. I have taken the trouble to consider all of the revised proposals in some detail.¹ The proposals and revisions do however highlight the paradox and conflicts of interest that develop between what an area such as Mortlake actually requires, and the interests of the developers who wish to make a profit out of their very considerable planned work. Specifically, I have been left extremely concerned by the wholly unchanged view, and apparent lack of justification provided by the LBRuT Transport Officer, in the teeth of local experience, and the statutory objectors concerns. I respectfully suggest that this officer should be closely questioned by the Planning committee before accepting the unchanged conclusions he appears to have reached. I shall seek to justify this serious comment below. Specific points that I make on the revisions are taken from a reading **of all the documents** provided on the 2019 revisions. I read the original plans and viewed them at the Sheen Lane library when originally displayed. I hope my comments on these revisions will be fully and carefully considered by those who take the final decisions.

¹ This was despite the fact that the letter sent to objectors and residents omitted to provide the link to the necessary part of the council website - which is actually difficult to locate. I had to write to get the link as the search engine only took me to the original unamended and now outdated proposals, and the links to consultees original observations.

3. My previous objections focussed on density of housing, population increase, air quality, an unrealistic assessment of traffic impact and the lack of "real world solutions" to the use of cars, and to transport generally. I have not attempted to comment here on any technical matter outside my area of knowledge.

4. I regret to say that these amendments make no really significant attempt to address the concerns of residential or statutory objectors. I noted with some surprise as I read through all of the documents, that it is not even seriously argued that they do. There are no solutions available or provided to assist with rail connections for the increased local population envisaged, even assuming that were possible without increased problems at the rail crossings.

5. It is a matter of considerable concern to read in these revised papers on transport that *"The LBRuT's Transport Officer does not object to the scheme. It is therefore considered that these discussions do not affect the planning assessment previously provided within the February 2018 Statement."* Precisely how this is a justified judgment remains a mystery. This bald conclusion that it "does not affect the original planning assessment" is conveniently provided as a justification for the proposals being made, and seems to place an as yet unjustified faith on the unsupported and somewhat circular conclusions of a single council officer. It is at this point that logic needs to be challenged, as at present his reasoning is hiding from sight, and takes no account of local experience. He seems unwilling to believe he has made a poor initial judgment about any thing at all.

6. I highlight the following statements (especially the last sentence of para 17.4 below) which rest on some rather vulnerable and arguably false premises concerning the justification in particular, although not exclusively, for the Transport Officer's conclusions.

7. The Addendum Town Planning Statement states that *"This Statement has considered the proposed amendments against the planning assessment contained within the February 2018 Town Planning Statement. It is concluded that the proposed development remains in accordance with relevant strategic and local policy objectives, and specific policy criteria."*

17.4 The proposals would continue to achieve the stated aims, objectives and aspirations of planning policy, including the provisions of the adopted development plan. The proposals are therefore acceptable in planning policy terms and there are no other material planning considerations that should prevent the scheme from being granted planning permission."

8. All this assumes that a genuinely thorough reassessment has been made in the light of all consultees' comments, including those made by residents. There is little evidence that this has occurred, and I should therefore politely suggest that the planning committee will need to approach these most recent submissions with considerable scepticism. It is difficult, the more one reads of these documents, to avoid the thought that conclusions are (consciously or otherwise) being motivated by a desire to support the developers and their project viability, that any careful attempt to regard objections as justified (I will illustrate this point below). The consequence of not doing so may be disastrous for the lives of those living in this end of the Borough and eventually for those who move into this increasingly dense and problematic confluence of polluted roads and housing. I note that further development is planned on the site of the old Barnes Hospital, a bare half-mile away, which will also present significant access problems.

Environmental, Transport and Traffic issues

9. I find the above quoted extracts (at para 17.4) appear to reach surprising conclusions, which seem in some areas to defy a lived local experience, and some logic. I am far from alone in noting the lack of a really sound traffic plan or realistic assessment of the future transport links in the immediate area. Tinkering with the road width, and layout, close to Chalkers Corner is a pitiful response to a real problem, quite apart from the effect on those who live close to that major junction. On transport issues, for the avoidance of doubt, I have taken account of the GLA draft plan and the LBRuT revised plan of July 2018. I regard Environmental, Transport and Traffic issues to be inextricably linked. I have noted that it is concluded that *"that there is no material change to the development under planning applications refs: 18/0547/FUL, 18/0548/FUL, 18/0549/FUL, from a transport perspective and that any assessments carried out present a worst-case assessment. Therefore, any conclusions drawn in the original TA dated February 2018 still stand within this addendum."*

10. It is reasonable to conclude that the "worst case assessment" can only be based on computer modelling which lacks an adequate programming protocol sufficient to address the nuances of the way traffic actually flows already in this area, and the multiple issues that tend daily to restrict existing traffic flows in the roads that lead into the bottleneck around this proposed development. This "no material change" approach smacks of some complacency and seeks to set a highly optimistic framework for the "worst case" scenario.

11. Traffic is also affected by the size of the development. I note that there is no change in the number of parking spaces available and in percentage terms a minimal reduction in the number of residential units (667 down to 663, but as a later document shows this involves an increase of 9 habitable rooms). Public amenity space is stated to be an *increase* when (unless this is a typing error – "38,943 up to 38,900") it is *actually a decrease*. I note also the policy is that parking spaces should decrease in the case of large developments such as this to discourage the use of cars. This has been applied to a negligible extent.

12. Increases to amenity areas are really minor design adjustments rather than any real attempt to accommodate objectors concerns. It is fair to say that the developers acknowledge in the Town Planning assessment that *"it is clear that the amendments to the proposed density levels are de minimis."*

13. The conclusions of the report, as well as sections 4 and 5 make clear that there is no change made as a result of these amendments to the environmental impact illustrated in the 2018 ES! Unless it is a term of art which has not been defined for the reader, I find it unrealistic to pretend (as the report does) that the effect of the building works on local residents will be *"insignificant"*.

14. One has to go to another of the revised 2019 reports to find this conflicting statement *"During the Works, a combination of nuisance effects from noise and vibration together with townscape, visual and built heritage effects could be experienced by receptors. The implementation of environmental control measures through a Construction Environmental Management Plan would minimise the nuisance effects on local residents, historic assets and conservation areas and pedestrians and other road users during the Works."* Minimising effects is not the same as rendering them insignificant. I

have no objection to the Environmental Management Plan of course, but rather to the unrealistic imagination that concludes that inconvenience will be insignificant. It smacks of a certain complacency.

15. The real (and significant) effect of this development is to be gleaned from the "Environmental Statement –no-technical summary" which has the assessment based on a start to the development in June 2019 with an aspirational finish date of 2027 (8 years). Peak development, it is claimed, is likely to be in 2022 by which time it is even uncertain that Hammersmith Bridge will have opened. This all assumes that disturbance of archaeological remains, and unanticipated issues, do not delay the work (e.g. medieval mansion - owned by Thomas Cromwell, Earl of Essex - to the west of Ship Lane). The demolition and construction involved in this proposed development is going to be highly significant and will have major adverse effect on the area, and it is scarcely credible to pretend otherwise. Even without the development, the observation of any sizable lorry or bus (as it is a major bus diversion route when rail problems arise) proceeding down the already restricted Sheen Lane will give even a casual observer the clearest illustration of what any increase in traffic or lorry movement will result at the Sheen Lane crossing. The delays at this crossing already have serious cumulative effects on the surrounding traffic in combination with continual issues in the Upper and Lower Richmond Road. By way only as an example, the observed delivery/collection of items to the Tesco's Local in Sheen Lane by a lorry at least twice a day close to the rail crossing provides a single daily example of how one lorry can cause traffic to seize up along this stretch going both North and South.

16. I have noted the Addendum Town Planning Assessment which states *"PBA's Technical Note 'Level Crossing Analysis' dated 28 January 2018 set out the likely impacts of the Stag Brewery development on the crossing based upon a detailed assessment of the likely movement of people and vehicles associated with the development and the outcome of highway modelling based on the TfL Strategic Highway Model (SOLHAM). It concluded that the impacts of the development would be modest and that the footbridge and the level crossing would continue to operate within recommended standards."* I have noted the few fairly cosmetic improvements that have been made.

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in the sky" to think that the much heralded improvement at Chalkers Corner will change the traffic incidents and jams that occur in Sheen Lane and close to this crossing. This scarcely requires an expert assessment to discern.

18. The environmental conclusions are surprising, as the profile of air quality issues is now a matter of national concern as well. Of course people must be provided with homes and schools to attend, and this brings its consequences. Nonetheless, there is, as the Council is well aware a huge and life-changing impact for those living at the junctions surrounding these developments and in the flats immediately adjacent to the development area, and balance must be struck which priorities the right to a family life, to life itself and health. I have noted to assessment made that the original air quality assessment remains accurate, but nonetheless remain wholly unconvinced by the argument made that the development will not make anything worse. This is based (or so it appears on close reading of the arguments) on the rather woolly and possibly false premise that things are going to get worse anyway as traffic and populations increases over time and the marginal Brewery air quality mitigation measures will be sufficient all things considered.

19. I illustrate this in the following way. The environmental statement makes its case on the effects in a manner notable for the sophistry of its language. It states *"highways works proposed would have a beneficial effect, and act as mitigation against the impact of the Stag Brewery element of the Development on air quality particularly at Chalkers Corner. Overall, the results of the computer modelling demonstrate that the Development would not to give rise to a significant air quality effect that would adversely affect the occupants of existing sensitive locations surrounding the Site or future residential and school users of the Development."*

20. What this appears actually to mean, when closely interpreted in the context of this document, is that the effect of *"the new highway works will reduce the adverse affects to less than they would have otherwise have been, and which will inevitably result; and that the construction of the development area won't be as bad, even though the increase in traffic that will result once it is completed (and once the population increases) obviously will"*. The use of words such as "overall" and "not significant" need to be closely examined, and they seem to be little more than an attempt to brush over the real difficulties that residential consultees who know the area (better than computer modelling) have foreseen. It is objectionable to describe such air quality and traffic

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21. Similarly the "Addendum Town Planning Statement " states in an apparent attempt to justify the word "insignificant" *"With development mitigation would be provided that would reduce exposure of residents to road traffic noise when compared to the No Development scenario. At LRR and Clifford Avenue beyond the solid wall the predicted increase in road traffic noise, when comparison is made between the No Development Scenario v Development Scenario, is acoustically regarded as insignificant and imperceptible.* This statement uses the opposite logic to the paragraph previously quoted. When interpreted in context, this appears to mean that *"things are going to get worse for the residents at Chalkers Corner anyway as time goes on, so doing what we plan to do with the Stag Brewery is not going to make much difference"* Again this is pure sophistry, and should not be considered as a reasonable response by the developers.
22. Reselton Properties Ltd in their Addendum Town Planning Statement 2019 state *"The amendments proposed are relatively minor within the context of the scheme and broadly speaking positively respond to consultee comments"*. How they "broadly speaking" respond to consultee comments, is actually impossible to see, but by use of this quoted phrase Reselton Properties Ltd seek to cover the reality that they cannot really meet the objectors comments without doing what they are not prepared to do. The consultees in this case are of course not the residents but the statutory consultees, the LBRuT and the GLA. They amendments are indeed minor, and given the scale of negative and constructive responses received to this development scheme do not address the major concerns of the residential objectors. There is indeed very little (if any at all) mention of the concerns of local residential objectors anywhere in these revision papers. It would have been helpful, even if not persuasive, for Reselton Properties Ltd to have included some recognition of the enormous number of contributions there have been, and some evidence of a genuine attempt to address the residential consultees' experiential concerns.
23. Although the traffic situation is currently exacerbated by the closure of Hammersmith Bridge, until a solution is found to the traffic issues in this area of London, the scale of this development remains quite clearly inappropriate. I note from the "Additional Viability addendum" that the slight reduction in car parking space requested by the GLA is simply a cost saving measure and not motivated by any desire to enforce the use of alternative means of transport. The developers have signally

failed to meet objections of TFL (supported by the GLA) summarised in the Addendum Town Planning Statement to reduce car parking spaces to discourage the use of cars by new residents.

Affordable Housing

24. I also note in the "Additional Viability addendum" that the view of the developers that the level of affordable housing in the current scheme design cannot viably increase. Incidentally, I am not persuaded the provision of affordable homes is in fact in line with GLA or LBRuT policy. It may be that I have misunderstood these policies, which I have researched.
25. The developers appear to refer to "viability" in reference to their own profit expectation. This conclusion, when taken in concert with the other revisions I have examined betray a failure to make a any serious attempt to produce a more modest, less expensive development plan, which could have provided a reasonable rate of return. It looks as though their investment so far in the development of a scheme that was never truly acceptable has led them to a Catch 22 position when they are now so committed that they do not want to revisit any less ambitious scheme. It is unacceptable that the community should now the consequence of this early lack of judgment in pursuing an overly ambitious scheme. The addendum Town Planning statement concludes *"The addendum submitted within this package of documents maintains the conclusion that the level of affordable housing in the current scheme cannot viably increase. This does not affect the previous planning assessment set out within the February 2018 Statement which concluded that if the FVA is accepted then in planning policy terms it is in accordance with the development plan."*
26. So "viability" appears to mean "viability in terms of profitability". Well, if it does not meet the GLA and BRuT policy on affordable housing the proposal as it at present stands should patently not be allowed to go forward. The policy does not say that a scheme must be affordable from the developer's perspective, which is the what they appear to be saying.

27. I have looked at the "design revisions". There are some sensitive local design and quality features noted (e.g. living roofs and historical design references), but the square rather block-like design for the main residential buildings seems unattractive and, therefore a lost opportunity. I appreciate that the design may be in order to create as many residential spaces as possible. This density is not ameliorated by the community areas provided which are somewhat meagre considering the population increase envisaged.

Concluding observations

28. It may be relevant to conclude by quoting directly from an email I have dated 13th November 2017 from Zac Goldsmith MP following an email I sent to him about the Stag Brewery redevelopment proposals. I have taken care to see that this quotation is not out of context. He replied to my concerns as follows:
29. *"It will be one of the most significant developments our borough has seen for a generation or more. Clearly we need to get it right, and the Council has a very tough balancing act to achieve. It needs to push hard to protect our green spaces, ensure the houses are proportionate, in keeping and attractive, and that we secure a good deal for the community. But if it pushes too hard, the developer can claim it is being unreasonable, and the planning powers transfer wholesale to the GLA. If that happens (and it happens all the time) then we will simply end up with vast blocks of housing."*
30. Our MP is of course correct to say we must get it right. The rest (in my view) is a superficial yet seductive argument that our representatives on the planning committee must reject. Decisions cannot be made out of an unjustified fear that "vast blocks of housing" will be the consequence, or even concerns about what the GLA might do.
31. I certainly trust the planning committee of local authority not to act unreasonably. Nonetheless the lack of reasoning in the documents on which I comment is evident beneath the detail. I know the Council will not allow the scare stories about of "vast blocks of housing" to become reality. What I do ask is that the comments I have made are seriously

assessed, and that the views of the Transport Officer are approached with care. If he is wrong, as I believe he is, then the consequences for us who live here, and for those who use the roads around here to travel to work and elsewhere, will be quite disastrous, and almost impossible to remedy retrospectively.

END

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24. I also note in the "Additional Viability addendum" that the view of the developers that the level of affordable housing in the current scheme design cannot viably increase. Incidentally, I am not persuaded the provision of affordable homes is in fact in line with GLA or LBRuT policy. It may be that I have misunderstood these policies, which I have researched.
25. The developers appear to refer to "viability" in reference to their own profit expectation. This conclusion, when taken in concert with the other revisions I have examined betray a failure to make a any serious attempt to produce a more modest, less expensive development plan, which could have provided a reasonable rate of return. It looks as though their investment so far in the development of a scheme that was never truly acceptable has led them to a Catch 22 position when they are now so committed that they do not want to revisit any less ambitious scheme. It is unacceptable that the community should now the consequence of this early lack of judgment in pursuing an overly ambitious scheme. The addendum Town Planning statement concludes *"The addendum submitted within this package of documents maintains the conclusion that the level of affordable housing in the current scheme cannot viably increase. This does not affect the previous planning assessment set out within the February 2018 Statement which concluded that if the FVA is accepted then in planning policy terms it is in accordance with the development plan."*
26. So "viability" appears to mean "viability in terms of profitability". Well, if it does not meet the GLA and BRuT policy on affordable housing the proposal as it at present stands should patently not be allowed to go forward. The policy does not say that a scheme must be affordable from the developer's perspective, which is the what they appear to be saying.

27. I have looked at the "design revisions". There are some sensitive local design and quality features noted (e.g. living roofs and historical design references), but the square rather block-like design for the main residential buildings seems unattractive and, therefore a lost opportunity. I appreciate that the design may be in order to create as many residential spaces as possible. This density is not ameliorated by the community areas provided which are somewhat meagre considering the population increase envisaged.

Concluding observations

28. It may be relevant to conclude by quoting directly from an email I have dated 13th November 2017 from Zac Goldsmith MP following an email I sent to him about the Stag Brewery redevelopment proposals. I have taken care to see that this quotation is not out of context. He replied to my concerns as follows:
29. *"It will be one of the most significant developments our borough has seen for a generation or more. Clearly we need to get it right, and the Council has a very tough balancing act to achieve. It needs to push hard to protect our green spaces, ensure the houses are proportionate, in keeping and attractive, and that we secure a good deal for the community. But if it pushes too hard, the developer can claim it is being unreasonable, and the planning powers transfer wholesale to the GLA. If that happens (and it happens all the time) then we will simply end up with vast blocks of housing."*
30. Our MP is of course correct to say we must get it right. The rest (in my view) is a superficial yet seductive argument that our representatives on the planning committee must reject. Decisions cannot be made out of an unjustified fear that "vast blocks of housing" will be the consequence, or even concerns about what the GLA might do.
31. I certainly trust the planning committee of local authority not to act unreasonably. Nonetheless the lack of reasoning in the documents on which I comment is evident beneath the detail. I know the Council will not allow the scare stories about of "vast blocks of housing" to become reality. What I do ask is that the comments I have made are seriously

assessed, and that the views of the Transport Officer are approached with care. If he is wrong, as I believe he is, then the consequences for us who live here, and for those who use the roads around here to travel to work and elsewhere, will be quite disastrous, and almost impossible to remedy retrospectively.

END