

MAYOR OF LONDON

Nicki Dale

South Area Team Manager
London Borough of Richmond Upon Thames
Development Planning
Civic Centre
44 York Street
Twickenham, TW1 3BZ

Our ref: GLA/4617/02/SG

Your ref: 18/3310/FUL

Date: 17 February 2020

Dear Ms Dale,

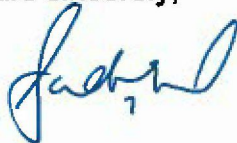
**Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008
Former Kew Biothane Plant, Local Authority Ref. 18/3310/FUL**

I refer to your letter of 7 February 2020, informing me that Richmond Council is minded to grant planning permission for the above planning application. I refer you also to the notice that was issued on 17 February 2020 under the provisions of article 5(1)(b)(i) of the above Order.

Having now considered a report on this case I am content to allow Richmond Council to determine the case itself, subject to any action that the Secretary of State may take.

In accordance with my Affordable Housing & Viability SPG a late stage review mechanism has been secured. To support you in this negotiation process, my planning officers would be happy to work with you to robustly scrutinise the applicant's financial appraisal and associated information.

Yours sincerely,



Sadiq Khan
Mayor of London

cc Tony Arbour, London Assembly Constituency Member
Andrew Boff, Chair of London Assembly Planning Committee
National Planning Casework Unit, DCLG
Lucinda Turner, TfL
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GREATER **LONDON** AUTHORITY

planning report GLA/4617/02

17 February 2020

Former Kew Biothane Plant

in the London Borough of Richmond Upon Thames

planning application no. 18/3310/FUL

Strategic planning application stage II referral

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008.

The proposal

Demolition of existing buildings and structures and redevelopment of the site to provide specialist older persons housing in a 4-6 storey building.

The applicant

The applicant is **Red & Yellow** and the architect is **Marchese Partners**.

Key dates

Stage 1 report: 19 November 2018

Council's Committee meeting: 24 July 2019

Strategic issues

Metropolitan Open Land: Very special circumstances have been demonstrated outweighing the harm the proposed development would have on Metropolitan Open Land. The proposal, therefore, accords with London Plan, London Plan Intend to Publish Version and NPPF.

Affordable housing: The affordable housing contribution was increased from Nil to £3,390,000 and secured in a Section 106 agreement.

Design and inclusive design: The landscaping and design are considered to be of high quality, incorporating the highest standards of accessibility and inclusive design.

Issues relating to **Energy, Water** and **Transport** were also resolved and relevant conditions and Section 106 obligations secured.

The Council's decision

In this instance Richmond upon Thames Council has resolved to grant permission subject to planning conditions and conclusion of a Section 106 legal agreement.

Recommendation

That Richmond upon Thames Council be advised that the Mayor is content for it to determine the case itself, subject to any action that the Secretary of State may take and does not therefore wish to direct refusal.

Context

1 On 19 October 2018 the Mayor of London received documents from Richmond Council notifying him of a planning application of potential strategic importance to develop the above site for the above uses. This was referred to the Mayor under Category 3D of the Schedule to the Order 2008:

- *'Development – on land allocated as Green Belt or Metropolitan Open Land in the development plan, in proposals for such a plan, or in proposals for the alteration or replacement of such a plan and would involve the construction of a building with a floorspace of more than 1,000 square metres or a material change of use of such a building'*

2 On 19 November 2018 the Mayor considered planning report GLA/4617/01 and subsequently advised Richmond upon Thames Council that the application was acceptable in principle, but that it did not fully comply with the London Plan and draft London Plan for the reasons set out in paragraph 69 of the above-mentioned report. However, the resolution of those issues could lead to the application being fully compliant with the London Plan and London Plan – Intend to Publish version.

3 A copy of the above-mentioned report is attached. The essentials of the case with regard to the proposal, the site, case history, strategic planning issues and relevant policies and guidance are as set out therein, unless otherwise stated in this report. On 24 July 2019 Richmond Council decided that it was minded to grant planning permission and on 07 February 2020 it advised the Mayor of this decision. Under the provisions of Article 5 of the Town & Country Planning (Mayor of London) Order 2008 the Mayor may allow the draft decision to proceed unchanged, or direct Richmond Council under Article 6 to refuse the application. The Mayor has until 21 February 2020 to notify the Council of his decision and to issue any direction.

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Consultation stage issues summary

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- **Energy:** The applicant must explore the potential for additional measures to deliver further carbon dioxide reductions. Once all opportunities for securing further feasible on-site savings have been exhausted, a carbon offset contribution should be secured to mitigate any residual shortfall.
- **Water:** Further information required to demonstrate the scheme meets London Plan and draft London Plan drainage policies. The scheme must be revised to ensure it meets water consumption targets.
- **Transport:** a revised transport assessment must be submitted. The quantum of cycle spaces for staff and visitors and passive electric vehicle charging points must be increased. Conditions and Section 106 obligations are required to secure the following; delivery and servicing plan; travel plan and construction and logistics plan.

Strategic planning policy and guidance update

6 Since consultation stage the following policy, draft policy and guidance are now material considerations:

- National Planning Policy Framework (2019) and National Planning Practice Guidance; and
- The Report of the Examination in Public of the draft London Plan was published in October 2019, and the London Plan – intend to publish version (December 2019) has subsequently been prepared. This should be taken into account on the basis described in the NPPF.

Application update

7 Since Stage 1, GLA officers have reviewed further information, and engaged in discussions with the applicant, TfL and Richmond Council with a view to addressing the outstanding matters, as set out below. Various planning conditions and obligations have also been proposed as part of the Council's draft decision on the case to ensure that the development is acceptable in planning terms.

Metropolitan Open Land

8 The development is proposed on Metropolitan Open Land (MOL), which is afforded the same protection as the Green Belt by London Plan Policy 7.17 and London Plan Intend to Publish Policy G3. It was established during the initial consultation stage that the proposal constituted inappropriate development, per the tests set out in Chapter 13 of the NPPF; therefore, the applicant was asked to demonstrate 'very special circumstances' which would outweigh the harm to the MOL.

Harms

9 In this instance, the harm to the MOL derives from two sources. First, inappropriate development, by definition, is considered harmful to the Green Belt (and therefore MOL), per Paragraph 143 of the NPPF. Second, the massing of the proposed building is clearly visible in verified views, demonstrating that the proposed development would create harm the visual openness of the MOL (although it should be noted that this harm was deemed less than substantial at the initial consultation stage). Any 'very special circumstances' case must outweigh these harms.

10 Following the consultation phase, the applicant put forward a 'very special circumstances' argument, which centres around the key elements summarised and considered below.

New public open space

11 The site comprises a large proportion of previously developed land and is currently inaccessible to the public. The proposal seeks to demolish redundant infrastructure, which would result in a reduction of the built footprint and hardstanding on the MOL, resulting in a significant uplift in publicly accessible open space. A comparison of the existing and proposed developed area is expressed in Table 1 below.

Table 1 - Existing and proposed development on MOL

	Existing	Proposed	Difference
Built Footprint	598.8 sqm	528.1 sqm	-61.7 sqm
Hardstanding	1,354.4 sqm	439.7 sqm	-914.7 sqm
Public landscaping	0 sqm	2,026 sqm	+2,026 sqm
Net loss hardscape area			-985.4 sqm
Net gain landscaped area			2,026 sqm

12 The proposed scheme would unlock 2,900 sqm of previously inaccessible area as landscaped space for public use by people of all ages and abilities. This new open space would contribute to the physical openness of the MOL, as compared to its current state, and provide new opportunities for outdoor recreation. The scheme would also introduce new connections to the Thames Path, creating better links for current and proposed residents to the MOL and Path.

Community Use

13 Proposed enhancements to the MOL landscaping include a community garden and children's play area. It is acknowledged that the garden will create opportunities for social encounter among local residents and the playspace would create an inclusive and stimulating environment for children, which benefits from informal community supervision.

14 The proposed development also includes a number of ground floor facilities that will be available for public use, subject to a community use scheme secured by the Section 106 legal agreement. These facilities include a restaurant/café, hair salon, hydrotherapy and exercise pool, and exercise facility. Access to these facilities is expected to provide opportunities for social encounter and promote wellbeing among local residents. It is acknowledged that flood risk precludes the provision of ground floor residential uses on-site, and these 'less vulnerable' community uses present an effective use and activation of ground floor space.

15 The applicants have further agreed to sign up to the Council's Community Toilet Scheme, which will further benefit the amenity of the MOL and Thames Towpath.

Biodiversity

16 The proposal includes a significant removal of hard landscaping and a strategy to deliver 700 sqm of net ecological gain through the creation of new habitats and ecological enhancements, including a bio-solar roof, introduction of meadow habitat, shrub planting, native trees and lawn, bird, bat and invertebrate bricks/boxes and deadwood piles and loggeries.

Extra care housing

17 The proposed development meets a recognised need for this form of specialist older persons housing and will yield quality of life benefits for future residents. It furthermore comprises a significant number of wheelchair accessible units and amenities. The scheme will contribute to the borough's housing targets and provide enhanced housing choice for an aging population in a manner that is both attractive and dignified.

Employment

18 The proposed scheme promotes local employment opportunities and training programmes through a Local Employment Scheme, which has been secured by way of a Section 106 legal agreement. In addition to the employment opportunities presented by the construction phase of development, operation of the facility is expected to require on average 80 full time equivalent jobs. This is expected to bring new employment, apprenticeship, and work-experience opportunities to the borough, which would not have otherwise been realised through a purely residential development, as per the site allocation.

Affordable housing

19 A £3,390,000 contribution towards affordable housing delivery has been secured in the Section 106 agreement. As set out in paragraph 26 below, this amount has been verified as the maximum level that the scheme can afford on a current day basis and is also subject to early and late stage viability reviews. This contribution (equivalent to 20-40 affordable housing units), will be applied to the Council's Housing Capital Programme, which is used to support the delivery of affordable housing in the borough. The Council has confirmed a pipeline supply of several potential donor sites where the commuted sum could increase the level of affordable housing delivered by the programme.

Metropolitan Open Land conclusion

20 In conclusion, having regard to the various key public benefits of the proposal (in terms of new public open space, community use, biodiversity, extra care housing, employment, and affordable housing), GLA officers are satisfied that Very Special Circumstances exist to outweigh the harm that the proposed development would have on the openness of Metropolitan Open Land. The proposal, therefore, accords with London Plan, London Plan Intend to Publish Version and NPPF.

Specialist older persons housing

21 At the time of the Stage 1 report, draft London Plan Policy H15 'Specialist older persons housing' and the Mayor's Housing SPG (paragraph 3.7.4) made a clear distinction between sheltered and extra care accommodation as Use Class C3 and residential nursing care accommodation as Use Class C2, under the Use Classes Order 1987. The proposed extra care accommodation was accordingly considered by GLA officers as C3 residential.

22 Following consultation stage, references to Use Class have been eliminated from the revised 'Specialist older persons housing' policy (now H13) in the London Plan – intend to publish version. The revised policy states that specialist older persons housing should deliver affordable housing in accordance with London Plan – intend to publish version Policies H4 and H5. This issue is considered below.

Affordable housing

23 As stated in the Stage 1 report, in the absence of a verified viability position the nil affordable housing contribution was considered wholly unacceptable at consultation stage. Additionally, the viability assessment submitted with the proposal did not meet the requirements of the Mayor's Affordable Housing and Viability SPG or the NPPG, so GLA officers requested a compliant assessment be submitted for scrutiny to ensure delivery of the maximum affordable housing contribution.

24 Following consultation stage, the applicant presented an affordable housing offer of £1,146,259; however, after further scrutiny this offer was considered unacceptable as it did not represent the maximum viable affordable housing contribution. Further to this GLA officers worked with the borough to robustly scrutinise the applicant's viability assessment and subsequently a £3,390,000 contribution has been verified as the maximum level that the scheme can afford on a current day basis. This financial contribution is equivalent to 20-40 affordable homes (depending on tenure, number of bedrooms and location within the borough), and will be ring-fenced for the delivery of additional affordable housing within the London Borough of Richmond as part of the Council's Housing Capital Programme. The Council has confirmed a pipeline supply of several potential donor sites where the commuted sum could increase the level of affordable housing delivered by the programme. Furthermore, early and late stage viability reviews will be secured within the Section 106 agreement in line with Policy H5 of the Mayor's Intend to Publish London Plan.

Design

25 At Stage 1 it was acknowledged that the design evolved appropriately in response to comments received at the pre-application meeting. The proposed stepped massing approach positively responds to the surrounding built context and the set back from the river frontage is characteristic of developments to the north and south of the site. The consideration given to landscaping and production of a high-quality landscaping plan was also welcomed. The design was accordingly supported; however, the applicant was advised to investigate design solutions to minimising the development's encroachment on the MOL.

26 Following consultation stage, the applicant evidenced a thorough investigation of design approaches to minimising MOL encroachment; however, the investigation concluded that any such alteration would impede accessibility for wheelchair users. It is therefore accepted that the building's current positioning presents the best possible option minimising MOL encroachment while ensuring inclusive design.

Inclusive design

27 At Stage 1 it was acknowledged that many of the design elements had been well thought out given the demographic characteristics of the future residents, including the provision of wheelchair accessible and adaptable dwellings; however, the applicant was requested to revise the pedestrian arrangement leading up to the principle entrance to include a delineated or segregated pedestrian-only path to ensure pedestrian safety. The applicant was also requested to revise the pedestrian route around the riverside from the front of the building to ensure that it is welcoming and usable.

28 Since the initial consultation stage, designs have been revised to ensure that vehicular and pedestrian routes leading up to the principle entrance are separated by a kerb with a dedicated pedestrian ramp, handrails, and landings. Additionally, the pedestrian route to the MOL and Riverwalk has been relocated from the car parking isle to adjacent the building where signage and a change of surface material/colour are proposed to highlight the route. Details pertaining to hard and soft landscaping, including vehicle and pedestrian access, and wheelchair user units have been secured by condition.

Energy

29 At Stage 1, the applicant was encouraged to explore further measures for delivering carbon dioxide reductions before securing a carbon offset payment to mitigate any shortfall.

30 Since the initial consultation stage, the applicant has undertaken further analysis in relation to mitigation and adaptation matters in order to ensure compliance with the London Plan and London Plan – intend to publish version energy policies. The carbon offset contribution, which would have been £127,440, was waived by the borough in view of the economic viability constraints to enable a greater contribution to be made towards affordable housing delivery, as per London Plan Policy 8.2 (which, in terms of planning obligations, places the highest importance on affordable housing and public transport improvements). Accordingly, given the absence of a carbon offset contribution in this case, the application does not fully comply with London Plan Policy 5.2 and Policy SI2 of the Intend to Publish London Plan. However, having regard to the general performance of the energy strategy overall (and its prioritisation of carbon dioxide savings in line with the London Plan energy hierarchy prior to the requirement for any residual offset payment); the established viability position; and, the wider benefits of the scheme, GLA officers are satisfied that on balance the absence of a carbon offset contribution in this case is acceptable.

Water

31 At Stage 1, the applicant was asked to provide further information to demonstrate that the proposed scheme meets water consumption targets and is policy compliant.

32 Since the initial consultation stage, the applicant has provided information demonstrating that the proposal is now generally in accordance with London Plan and London Plan – intend to publish version policies.

Transport

33 At Stage 1, the applicant was asked to increase the quantum of cycle spaces and passive electric vehicle charge points (EVCPs) as well as provide safe storage and charging facilities for mobility scooters and a revised transport assessment. A delivery and servicing plan, travel plan, and construction and logistics plan were further required to be secured by Conditions and a Section 106 legal agreement.

34 Since consultation stage, the applicant has increased the quantum of cycle parking from 26 to 40 spaces, which is considered reasonable given the intended resident profile and staff complement. The applicant has also confirmed the provision of safe storage and charging facilities for 14 mobility scooters and the electrical capacity to scale up the provision of passive EVCPs over time, as necessary. The commitments to provide cycle parking, scooter parking, EVCPs, a Construction Logistics Plan and a Delivery and Servicing Plan have been secured by condition. The commitment to provide a Travel Plan has been secured in a Section 106 legal agreement.

Response to consultation

35 Richmond Council publicised the application via site notices displayed in the vicinity of the site and a press notice in the local press. A total of 301 responses were received in support of the proposal, 171 responses were received in objection to the proposal, and 12 letters of observation were received by the borough. 15 letters of objection were received by the GLA. The reasons for objection are summarised below:

- Impact on traffic, particularly compromised safety and increased congestion
- Nil provision of on-site affordable housing
- Insufficient on-site parking, negative impact on parking in neighbourhood
- Noise, dust, and odours compromising residential amenity
- Inappropriate size and scale of development, loss of privacy
- Overshadowing of neighbouring properties
- Impact of construction on existing trees, roads, and traffic
- Inadequate public transport access to support site
- Appearance of the building (too institutional)
- Loss of MOL outlook for neighbouring properties
- Inadequate materials provided for public consultation
- Security concerns over increased access to neighbourhood from river path
- Disruption caused by increased visitor, medical, and ambulance traffic
- Disagreement that proposed development constitutes C2 Use Class
- Architecture of the proposed development is not in keeping with existing neighbourhood character.

36 Statutory consultees and other local groups have responded to the proposal as follows:

- **Environment Agency:** no objection subject to conditions.
- **FiSH:** Support for the development as an alternative to traditional institutional care and in recognition of the growing need for suitable accommodation for older residents who wish to downsize and are in need of early stages of care.
- **Historic England (GLAAS):** No objection – archaeological constraints are such that a two-stage archaeological condition could provide an acceptable safeguard.
- **Kew Residents Association:** objection over concerns about height, massing, traffic generation, emergency access, and road safety.
- **Kew Riverside Residents Association:** General support for residential development on the site and perception that the facility is a potential asset; however, objection over concerns about massing, height, architecture, parking, traffic generation, financial viability of the proposal, and increased petty crime and antisocial behaviour resulting from increased access to the river path.
- **The Kew Society:** The principle of a specialist extra care facility is supported; however, the Kew Society object on the basis that the massing and scale of the proposed building would harm the openness of the MOL, the design is not

in keeping with existing dwellings, public transport connectivity to the site is poor, and concerns related to insufficient parking, traffic generation, and the impact of construction on existing trees.

- **London Borough of Hounslow:** No comment.
- **Metropolitan Thames Valley:** Support for the proposal for its potential to maximise benefits of the site including community use of facilities, increased access to open space and the water, and the potential for social interaction. Metropolitan Thames Valley also support the proposal as a local Registered Provider who believes that there is a need for specialist Extra Care housing and facilities within the borough.
- **Thames Water:** The proposed development is located within 15m of a Thames Water Sewage Pumping Station, therefore the amenity of those that will occupy must be a consideration, as per the NPPF; therefore, Thames Water do object to the application on that basis. In the event that the LPA is minded to grant planning permission, a number of informatives and conditions are suggested.

Consultation conclusion

37 Issues raised as part of the local consultation process have been considered in this report, the Mayor's Stage 1 report, and the Council's committee report. Having regard to these, and the draft planning conditions and obligations to be secured with any permission, GLA officers are satisfied that the statutory and non-statutory responses to the public consultation process do not raise any material planning issues of strategic importance that have not already been considered in this report.

Draft Section 106 agreement

38 The draft Section 106 agreement includes the following provisions:

Financial contributions

- Affordable housing contribution: £3,390,000, to be paid in two tranches;
- Monitoring and implementation fee: £7,175;

Non-financial contributions

- Early and late stage viability reviews;
- Restriction of sales and marketing of Extra Care Units to LB Richmond-upon-Thames residents during the initial sales period;
- Local employment scheme;
- On-site care services available to residents at all times;
- Public space management and maintenance plan;
- Travel plan;
- Community use scheme ensuring local community access to the hydrotherapy and exercise pool, medical treatment centre, rehabilitation and exercise facilities, restaurant/café/bar, activity room, and hair salon;
- Car Club free annual membership for each Extra Care Unit;
- Minibus scheme providing travel free of charge for residents and staff;
- Restriction on residential parking permits;

Legal considerations

39 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor has the power under Article 6 to direct the local planning authority to refuse permission for a planning application referred to him under Article 4 of the Order. The Mayor may also leave the decision to the local authority. In directing refusal the Mayor must have regard to the matters set out in Article 6(2) of the Order, including the principal purposes of the Greater London Authority, the effect on health and sustainable development, national policies and international obligations, regional planning guidance, and the use of the River Thames. The Mayor may direct refusal if he considers that to grant permission would be contrary to good strategic planning in Greater London. If he decides to direct refusal, the Mayor must set out his reasons, and the local planning authority must issue these with the refusal notice.

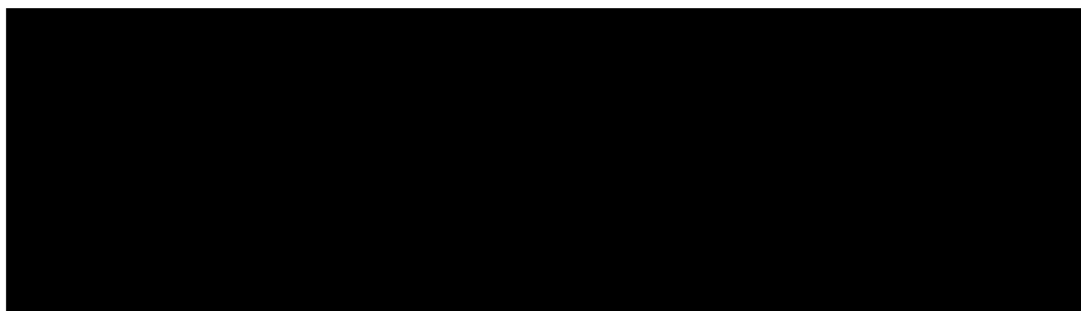
Financial considerations

40 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. Government Planning Practice Guidance emphasises that parties usually pay their own expenses arising from an appeal.

41 Following an inquiry caused by a direction to refuse, costs may be awarded against the Mayor if he has either directed refusal unreasonably; handled a referral from a planning authority unreasonably; or behaved unreasonably during the appeal. A major factor in deciding whether the Mayor has acted unreasonably will be the extent to which he has taken account of established planning policy.

Conclusion

42 The strategic issues raised at consultation stage regarding Metropolitan Open Land, specialist older persons housing, design, affordable housing, inclusive design, energy, water, and transport have been appropriately addressed, and conditions and Section 106 obligations secured. As such, the application complies with the London Plan and the Intend to Publish London Plan and there are no sound reasons for the Mayor to intervene in this case.



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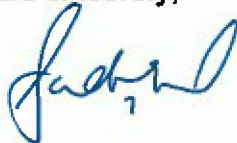
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7 Since Stage 1, GLA officers have reviewed further information, and engaged in discussions with the applicant, TfL and Richmond Council with a view to addressing the outstanding matters, as set out below. Various planning conditions and obligations have also been proposed as part of the Council's draft decision on the case to ensure that the development is acceptable in planning terms.

Metropolitan Open Land

8 The development is proposed on Metropolitan Open Land (MOL), which is afforded the same protection as the Green Belt by London Plan Policy 7.17 and London Plan Intend to Publish Policy G3. It was established during the initial consultation stage that the proposal constituted inappropriate development, per the tests set out in Chapter 13 of the NPPF; therefore, the applicant was asked to demonstrate 'very special circumstances' which would outweigh the harm to the MOL.

Harms

9 In this instance, the harm to the MOL derives from two sources. First, inappropriate development, by definition, is considered harmful to the Green Belt (and therefore MOL), per Paragraph 143 of the NPPF. Second, the massing of the proposed building is clearly visible in verified views, demonstrating that the proposed development would create harm the visual openness of the MOL (although it should be noted that this harm was deemed less than substantial at the initial consultation stage). Any 'very special circumstances' case must outweigh these harms.

10 Following the consultation phase, the applicant put forward a 'very special circumstances' argument, which centres around the key elements summarised and considered below.

New public open space

11 The site comprises a large proportion of previously developed land and is currently inaccessible to the public. The proposal seeks to demolish redundant infrastructure, which would result in a reduction of the built footprint and hardstanding on the MOL, resulting in a significant uplift in publicly accessible open space. A comparison of the existing and proposed developed area is expressed in Table 1 below.

Table 1 - Existing and proposed development on MOL

	Existing	Proposed	Difference
Built Footprint	598.8 sqm	528.1 sqm	-61.7 sqm
Hardstanding	1,354.4 sqm	439.7 sqm	-914.7 sqm
Public landscaping	0 sqm	2,026 sqm	+2,026 sqm
Net loss hardscape area			-985.4 sqm
Net gain landscaped area			2,026 sqm

12 The proposed scheme would unlock 2,900 sqm of previously inaccessible area as landscaped space for public use by people of all ages and abilities. This new open space would contribute to the physical openness of the MOL, as compared to its current state, and provide new opportunities for outdoor recreation. The scheme would also introduce new connections to the Thames Path, creating better links for current and proposed residents to the MOL and Path.

Community Use

13 Proposed enhancements to the MOL landscaping include a community garden and children's play area. It is acknowledged that the garden will create opportunities for social encounter among local residents and the playspace would create an inclusive and stimulating environment for children, which benefits from informal community supervision.

14 The proposed development also includes a number of ground floor facilities that will be available for public use, subject to a community use scheme secured by the Section 106 legal agreement. These facilities include a restaurant/café, hair salon, hydrotherapy and exercise pool, and exercise facility. Access to these facilities is expected to provide opportunities for social encounter and promote wellbeing among local residents. It is acknowledged that flood risk precludes the provision of ground floor residential uses on-site, and these 'less vulnerable' community uses present an effective use and activation of ground floor space.

15 The applicants have further agreed to sign up to the Council's Community Toilet Scheme, which will further benefit the amenity of the MOL and Thames Towpath.

Biodiversity

16 The proposal includes a significant removal of hard landscaping and a strategy to deliver 700 sqm of net ecological gain through the creation of new habitats and ecological enhancements, including a bio-solar roof, introduction of meadow habitat, shrub planting, native trees and lawn, bird, bat and invertebrate bricks/boxes and deadwood piles and loggeries.

Extra care housing

17 The proposed development meets a recognised need for this form of specialist older persons housing and will yield quality of life benefits for future residents. It furthermore comprises a significant number of wheelchair accessible units and amenities. The scheme will contribute to the borough's housing targets and provide enhanced housing choice for an aging population in a manner that is both attractive and dignified.

Employment

18 The proposed scheme promotes local employment opportunities and training programmes through a Local Employment Scheme, which has been secured by way of a Section 106 legal agreement. In addition to the employment opportunities presented by the construction phase of development, operation of the facility is expected to require on average 80 full time equivalent jobs. This is expected to bring new employment, apprenticeship, and work-experience opportunities to the borough, which would not have otherwise been realised through a purely residential development, as per the site allocation.

Affordable housing

19 A £3,390,000 contribution towards affordable housing delivery has been secured in the Section 106 agreement. As set out in paragraph 26 below, this amount has been verified as the maximum level that the scheme can afford on a current day basis and is also subject to early and late stage viability reviews. This contribution (equivalent to 20-40 affordable housing units), will be applied to the Council's Housing Capital Programme, which is used to support the delivery of affordable housing in the borough. The Council has confirmed a pipeline supply of several potential donor sites where the commuted sum could increase the level of affordable housing delivered by the programme.

Metropolitan Open Land conclusion

20 In conclusion, having regard to the various key public benefits of the proposal (in terms of new public open space, community use, biodiversity, extra care housing, employment, and affordable housing), GLA officers are satisfied that Very Special Circumstances exist to outweigh the harm that the proposed development would have on the openness of Metropolitan Open Land. The proposal, therefore, accords with London Plan, London Plan Intend to Publish Version and NPPF.

Specialist older persons housing

21 At the time of the Stage 1 report, draft London Plan Policy H15 'Specialist older persons housing' and the Mayor's Housing SPG (paragraph 3.7.4) made a clear distinction between sheltered and extra care accommodation as Use Class C3 and residential nursing care accommodation as Use Class C2, under the Use Classes Order 1987. The proposed extra care accommodation was accordingly considered by GLA officers as C3 residential.

22 Following consultation stage, references to Use Class have been eliminated from the revised 'Specialist older persons housing' policy (now H13) in the London Plan – intend to publish version. The revised policy states that specialist older persons housing should deliver affordable housing in accordance with London Plan – intend to publish version Policies H4 and H5. This issue is considered below.

Affordable housing

23 As stated in the Stage 1 report, in the absence of a verified viability position the nil affordable housing contribution was considered wholly unacceptable at consultation stage. Additionally, the viability assessment submitted with the proposal did not meet the requirements of the Mayor's Affordable Housing and Viability SPG or the NPPG, so GLA officers requested a compliant assessment be submitted for scrutiny to ensure delivery of the maximum affordable housing contribution.

24 Following consultation stage, the applicant presented an affordable housing offer of £1,146,259; however, after further scrutiny this offer was considered unacceptable as it did not represent the maximum viable affordable housing contribution. Further to this GLA officers worked with the borough to robustly scrutinise the applicant's viability assessment and subsequently a £3,390,000 contribution has been verified as the maximum level that the scheme can afford on a current day basis. This financial contribution is equivalent to 20-40 affordable homes (depending on tenure, number of bedrooms and location within the borough), and will be ring-fenced for the delivery of additional affordable housing within the London Borough of Richmond as part of the Council's Housing Capital Programme. The Council has confirmed a pipeline supply of several potential donor sites where the commuted sum could increase the level of affordable housing delivered by the programme. Furthermore, early and late stage viability reviews will be secured within the Section 106 agreement in line with Policy H5 of the Mayor's Intend to Publish London Plan.

Design

25 At Stage 1 it was acknowledged that the design evolved appropriately in response to comments received at the pre-application meeting. The proposed stepped massing approach positively responds to the surrounding built context and the set back from the river frontage is characteristic of developments to the north and south of the site. The consideration given to landscaping and production of a high-quality landscaping plan was also welcomed. The design was accordingly supported; however, the applicant was advised to investigate design solutions to minimising the development's encroachment on the MOL.

26 Following consultation stage, the applicant evidenced a thorough investigation of design approaches to minimising MOL encroachment; however, the investigation concluded that any such alteration would impede accessibility for wheelchair users. It is therefore accepted that the building's current positioning presents the best possible option minimising MOL encroachment while ensuring inclusive design.

Inclusive design

27 At Stage 1 it was acknowledged that many of the design elements had been well thought out given the demographic characteristics of the future residents, including the provision of wheelchair accessible and adaptable dwellings; however, the applicant was requested to revise the pedestrian arrangement leading up to the principle entrance to include a delineated or segregated pedestrian-only path to ensure pedestrian safety. The applicant was also requested to revise the pedestrian route around the riverside from the front of the building to ensure that it is welcoming and usable.

28 Since the initial consultation stage, designs have been revised to ensure that vehicular and pedestrian routes leading up to the principle entrance are separated by a kerb with a dedicated pedestrian ramp, handrails, and landings. Additionally, the pedestrian route to the MOL and Riverwalk has been relocated from the car parking isle to adjacent the building where signage and a change of surface material/colour are proposed to highlight the route. Details pertaining to hard and soft landscaping, including vehicle and pedestrian access, and wheelchair user units have been secured by condition.

Energy

29 At Stage 1, the applicant was encouraged to explore further measures for delivering carbon dioxide reductions before securing a carbon offset payment to mitigate any shortfall.

30 Since the initial consultation stage, the applicant has undertaken further analysis in relation to mitigation and adaptation matters in order to ensure compliance with the London Plan and London Plan – intend to publish version energy policies. The carbon offset contribution, which would have been £127,440, was waived by the borough in view of the economic viability constraints to enable a greater contribution to be made towards affordable housing delivery, as per London Plan Policy 8.2 (which, in terms of planning obligations, places the highest importance on affordable housing and public transport improvements). Accordingly, given the absence of a carbon offset contribution in this case, the application does not fully comply with London Plan Policy 5.2 and Policy SI2 of the Intend to Publish London Plan. However, having regard to the general performance of the energy strategy overall (and its prioritisation of carbon dioxide savings in line with the London Plan energy hierarchy prior to the requirement for any residual offset payment); the established viability position; and, the wider benefits of the scheme, GLA officers are satisfied that on balance the absence of a carbon offset contribution in this case is acceptable.

Water

31 At Stage 1, the applicant was asked to provide further information to demonstrate that the proposed scheme meets water consumption targets and is policy compliant.

32 Since the initial consultation stage, the applicant has provided information demonstrating that the proposal is now generally in accordance with London Plan and London Plan – intend to publish version policies.

Transport

33 At Stage 1, the applicant was asked to increase the quantum of cycle spaces and passive electric vehicle charge points (EVCPs) as well as provide safe storage and charging facilities for mobility scooters and a revised transport assessment. A delivery and servicing plan, travel plan, and construction and logistics plan were further required to be secured by Conditions and a Section 106 legal agreement.

34 Since consultation stage, the applicant has increased the quantum of cycle parking from 26 to 40 spaces, which is considered reasonable given the intended resident profile and staff complement. The applicant has also confirmed the provision of safe storage and charging facilities for 14 mobility scooters and the electrical capacity to scale up the provision of passive EVCPs over time, as necessary. The commitments to provide cycle parking, scooter parking, EVCPs, a Construction Logistics Plan and a Delivery and Servicing Plan have been secured by condition. The commitment to provide a Travel Plan has been secured in a Section 106 legal agreement.

Response to consultation

35 Richmond Council publicised the application via site notices displayed in the vicinity of the site and a press notice in the local press. A total of 301 responses were received in support of the proposal, 171 responses were received in objection to the proposal, and 12 letters of observation were received by the borough. 15 letters of objection were received by the GLA. The reasons for objection are summarised below:

- Impact on traffic, particularly compromised safety and increased congestion
- Nil provision of on-site affordable housing
- Insufficient on-site parking, negative impact on parking in neighbourhood
- Noise, dust, and odours compromising residential amenity
- Inappropriate size and scale of development, loss of privacy
- Overshadowing of neighbouring properties
- Impact of construction on existing trees, roads, and traffic
- Inadequate public transport access to support site
- Appearance of the building (too institutional)
- Loss of MOL outlook for neighbouring properties
- Inadequate materials provided for public consultation
- Security concerns over increased access to neighbourhood from river path
- Disruption caused by increased visitor, medical, and ambulance traffic
- Disagreement that proposed development constitutes C2 Use Class
- Architecture of the proposed development is not in keeping with existing neighbourhood character.

36 Statutory consultees and other local groups have responded to the proposal as follows:

- **Environment Agency:** no objection subject to conditions.
- **FiSH:** Support for the development as an alternative to traditional institutional care and in recognition of the growing need for suitable accommodation for older residents who wish to downsize and are in need of early stages of care.
- **Historic England (GLAAS):** No objection – archaeological constraints are such that a two-stage archaeological condition could provide an acceptable safeguard.
- **Kew Residents Association:** objection over concerns about height, massing, traffic generation, emergency access, and road safety.
- **Kew Riverside Residents Association:** General support for residential development on the site and perception that the facility is a potential asset; however, objection over concerns about massing, height, architecture, parking, traffic generation, financial viability of the proposal, and increased petty crime and antisocial behaviour resulting from increased access to the river path.
- **The Kew Society:** The principle of a specialist extra care facility is supported; however, the Kew Society object on the basis that the massing and scale of the proposed building would harm the openness of the MOL, the design is not

in keeping with existing dwellings, public transport connectivity to the site is poor, and concerns related to insufficient parking, traffic generation, and the impact of construction on existing trees.

- **London Borough of Hounslow:** No comment.
- **Metropolitan Thames Valley:** Support for the proposal for its potential to maximise benefits of the site including community use of facilities, increased access to open space and the water, and the potential for social interaction. Metropolitan Thames Valley also support the proposal as a local Registered Provider who believes that there is a need for specialist Extra Care housing and facilities within the borough.
- **Thames Water:** The proposed development is located within 15m of a Thames Water Sewage Pumping Station, therefore the amenity of those that will occupy must be a consideration, as per the NPPF; therefore, Thames Water do object to the application on that basis. In the event that the LPA is minded to grant planning permission, a number of informatives and conditions are suggested.

Consultation conclusion

37 Issues raised as part of the local consultation process have been considered in this report, the Mayor's Stage 1 report, and the Council's committee report. Having regard to these, and the draft planning conditions and obligations to be secured with any permission, GLA officers are satisfied that the statutory and non-statutory responses to the public consultation process do not raise any material planning issues of strategic importance that have not already been considered in this report.

Draft Section 106 agreement

38 The draft Section 106 agreement includes the following provisions:

Financial contributions

- Affordable housing contribution: £3,390,000, to be paid in two tranches;
- Monitoring and implementation fee: £7,175;

Non-financial contributions

- Early and late stage viability reviews;
- Restriction of sales and marketing of Extra Care Units to LB Richmond-upon-Thames residents during the initial sales period;
- Local employment scheme;
- On-site care services available to residents at all times;
- Public space management and maintenance plan;
- Travel plan;
- Community use scheme ensuring local community access to the hydrotherapy and exercise pool, medical treatment centre, rehabilitation and exercise facilities, restaurant/café/bar, activity room, and hair salon;
- Car Club free annual membership for each Extra Care Unit;
- Minibus scheme providing travel free of charge for residents and staff;
- Restriction on residential parking permits;

Legal considerations

39 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor has the power under Article 6 to direct the local planning authority to refuse permission for a planning application referred to him under Article 4 of the Order. The Mayor may also leave the decision to the local authority. In directing refusal the Mayor must have regard to the matters set out in Article 6(2) of the Order, including the principal purposes of the Greater London Authority, the effect on health and sustainable development, national policies and international obligations, regional planning guidance, and the use of the River Thames. The Mayor may direct refusal if he considers that to grant permission would be contrary to good strategic planning in Greater London. If he decides to direct refusal, the Mayor must set out his reasons, and the local planning authority must issue these with the refusal notice.

Financial considerations

40 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. Government Planning Practice Guidance emphasises that parties usually pay their own expenses arising from an appeal.

41 Following an inquiry caused by a direction to refuse, costs may be awarded against the Mayor if he has either directed refusal unreasonably; handled a referral from a planning authority unreasonably; or behaved unreasonably during the appeal. A major factor in deciding whether the Mayor has acted unreasonably will be the extent to which he has taken account of established planning policy.

Conclusion

42 The strategic issues raised at consultation stage regarding Metropolitan Open Land, specialist older persons housing, design, affordable housing, inclusive design, energy, water, and transport have been appropriately addressed, and conditions and Section 106 obligations secured. As such, the application complies with the London Plan and the Intend to Publish London Plan and there are no sound reasons for the Mayor to intervene in this case.

