



## Appeal Decision

Hearing held on 12-13 May 2021

Site visit made on 14 May 2021

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 01 June 2021

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**Appeal Ref: APP/L5810/W/19/3234402**

**Adjacent to 118 Kneller Road, Twickenham TW2 7DX**

- 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 Franco Lumba against the Council of the London Borough of Richmond-upon-Thames.
  - The application Ref 19/0889/FUL, is dated 13 March 2019.
  - The development proposed is demolition of the existing salvage yard buildings (sui generis) to provide 8 residential units (comprising 4 dwellings (2x2 and 2x3 bed) and 4 flats (2x2 bed and 2x1 bed) with ground floor flexible commercial space (67.5 sqm GIA) including associated works.
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### Decision

1. The appeal is dismissed and planning permission refused for the demolition of the existing salvage yard buildings (sui generis) to provide 8 residential units (comprising 4 dwellings (2x2 and 2x3 bed) and 4 flats (2x2 bed and 2x1 bed) with ground floor flexible commercial space (67.5 sqm GIA) including associated works

### Procedural Matters

2. The appellant has provided two completed and executed Section 106 agreements. One enables a financial contribution to be made towards the provision of affordable housing (the AH S106) and the other seeks to restrict access to car parks and parking permits (the Parking S106). I have had regard to both agreements in my decision.

### Main Issues

3. The Council set out 10 putative reasons for refusal in its appeal statement. Based on these putative reasons, the main issues are as follows:
  - (a) the effect of the proposed development on the character and appearance of the area;
  - (b) the effect of the proposed development on parking availability and highway safety in the area;
  - (c) whether the proposed development would make adequate provision for cycle, refuse and recycling storage;

(d) the effect of the proposed development on the living conditions of neighbouring occupiers, with particular reference to outlook, privacy and light;

(e) the effect of the proposed development on the provision of employment floorspace, with particular reference to industrial floorspace;

(f) the effect of the proposed development on the provision of waste management facilities;

(g) whether the proposed development should make appropriate provision for affordable housing; and

(h) whether the proposed development would provide an appropriate standard of housing, with particular reference to housing mix, internal space standards, and inclusive access.

## **Reasons**

### *Character and appearance*

4. The appeal site comprises an existing salvage yard that has been in use for many years but is currently empty with the exception of a small rudimentary office building. The site is enclosed by corrugated metal fencing and forms a gap in the street scene between terraces of properties at 112-118 and 132-140 Kneller Road. The surrounding buildings are a mix of residential and commercial, with the latter including vehicle showrooms and servicing as well as a public house. The architectural quality along this section of Kneller Road is mixed, with piecemeal and less sympathetic development as noted by the Whitton and Heathfield Village Planning Guidance SPD 2014. The White Hart public house opposite the site is noted as a Building of Townscape Merit.
5. Building heights along Kneller Road vary but are no more than two storeys. Some buildings have sizeable roof extensions while the central gable on the terrace at Nos 132-140 is a large feature. Nevertheless, pitched roofs sloping down from a central ridge are commonplace. Materials vary from red brick to painted render elevations and a mix of clay tile or slate roofs. There is also considerable variation in terms of fenestration and shopfront designs.
6. The proposed development would occupy the full width of the site. The four terraced houses would mimic the terrace at Nos 112-118 in terms of height and design. While they could incorporate real or mock chimneys to reflect existing properties and could benefit from being set back behind a small front garden, they would have a satisfactory effect on the street scene.
7. The commercial unit and flats would be contained within a three storey structure with a crown roof. Due to the nature of the site boundary, it would project forward of Nos 132-140. The use of red brick at ground and first floor and the design of the fenestration throughout would be appropriate for the location. However, the crown roof would be large and bulky when viewed along the road, accentuated by the forward projection, the lack of a central ridge, and the use of tile cladding. The overall structure would be noticeably taller than the four proposed terraced houses and Nos 132-140 and would be overly dominant within the street scene. The two balconies on the front elevation

would appear incongruous in a road lacking in such features. The second floor balcony would appear particularly jarring and prominent given its height.

8. The design approach of an interesting corner building next to No 132 makes sense given the forward projection. Moreover, the principle of removing an unsightly yard and corrugated metal fencing would represent an enhancement in this rather architecturally mixed section of Kneller Road. However, the proposed development in terms of the scale and design of the three storey structure would be an unsympathetic and poor quality addition to the locality.
9. Concluding on this main issue, the development would have a harmful effect on the character and appearance of the area. Therefore, it would not accord with Policy LP1 of Richmond Local Plan 2018. While this policy seeks to make best use of land, its overarching aim is to secure high architectural and urban design quality, with development required to be compatible with local character and existing townscapes including in terms of its scale, height and detailing. The development would also not follow the advice in the Design Quality SPD 2006 and the Small and Medium Housing Sites SPD 2006, which advocate designs that respond to local character and context.

*Parking availability and highway safety*

10. The site has a PTAL rating of 2 which indicates relatively low accessibility to public transport. There are bus stops within a short distance of the site and Whitton train station and town centre are around a 15 minute walk. However, it is likely that future occupants of the development would want to have access to a car for various purposes. The surrounding streets are subject to a residents' parking zone, but this only applies on event days at Twickenham Stadium between specified hours. I do not have a definitive list of events per year, but they appear to be limited to certain weekends.
11. It was agreed at the hearing that the London Plan 2021 (LP) updates the car parking standards set out in RLP Policy LP45 and Appendix 3. LP Policy T6.1 and Table 10.3 state that up to 7 spaces would be required for the residential units in this location. Due to the proposed layout and site constraints, the development would not provide any off-street parking.
12. The Council considers that parking levels of 85% or more are an indication of parking stress. While not required in PTAL 2 locations, the appellant has carried out a parking survey of neighbouring streets which revealed that less than 85% of available space was occupied overnight. This would suggest that sufficient capacity exists for on-street parking. However, the survey was conducted during a school summer holiday in May 2018, contrary to Council guidance. It is likely that some households may have been away due to the holiday, producing a lower than normal result.
13. At my mid-morning site visit, I observed that the neighbouring streets only had a few available on-street spaces. While this is only a snapshot, it was during the working day when some people might be expected to be at work. Therefore, it indicates a potentially high level of parking demand in the evenings and at weekends in particular. Thus, it would be appropriate to carry out a parking survey in line with Council guidance to establish whether there is sufficient capacity.

14. The Parking S106 put forward by the appellant would prevent future occupants of the development from obtaining and using a parking permit during Twickenham event days or from parking in Council owned car parks other than on an individual paid-for basis. The lack of a parking permit would be inconvenient in terms of having to move a car outside of the zone. However, due to the seemingly infrequent number of event days, it is plausible that occupants would still look to park on the street at other times which could contribute to parking stress. Moreover, without more accurate information on parking levels, it is not clear whether the Parking S106 is necessary.
15. The appellant has also suggested access to a car club as another form of mitigation. However, there is limited evidence on the availability of car club spaces in the vicinity, with Zip cars more than a reasonable walk away based on map data from the appellant. Access to a car club would need to be secured via a legal agreement and it is not clear whether provision could be made by any car club provider and what effect it would have on parking levels.
16. Based on the evidence before me, the development would increase on-street parking which could result in negative effects on highway safety by affecting the flow of traffic. I acknowledge that the existing site has generated vehicle movements including lorries and employee traffic and that the proposed trip generation would be low given the size of the development. However, residential parking issues are often most acute in the evenings and at weekends and so these considerations do not alter my findings.
17. In conclusion, it has not been demonstrated that the development would have an acceptable effect on parking availability and highway safety. Therefore, it would not accord with RLP Policy LP45 or LP Policy T6.1 in terms of providing sufficient parking or demonstrating that car-free housing would be appropriate.

*Cycle, refuse and recycling storage*

18. RLP Policy LP44 seeks to encourage walking and cycling while RLP Policy LP45 requires development to provide for cycle parking in accordance with the standards set out in Appendix 3. This appendix refers to the LP for cycle parking matters. LP Policy T5 sets out the minimum number of spaces and requires cycle parking to be designed in accordance with the London Cycling Design Standards (LCDS). Section 8.5.3 of the LCDS requires individual or communal cycle storage outside the home to be secure and sheltered with convenient access to the street.
19. The development would provide 6 cycle parking spaces for the flats and 2 spaces per house in line with RLP and LP standards. However, the cycle storage for the houses would be in the rear gardens which have no external access to the road based on the proposed layout. This would mean that future occupants would have to wheel or carry bikes through their property. This would not provide desirable or convenient access and may discourage occupants from owning or using a bike.
20. RLP Policy LP24 requires the provision of adequate bin storage in line with the Refuse and Recycling Storage Requirements SPD 2015. The bin storage for the houses would meet the Council's required standards. The flats would require 4 standard wheeled bins in total and the commercial unit would need a similar amount. The refuse store at the rear of the development would appear to have

sufficient capacity to store this number of bins and keep the residential and commercial storage separate. Details could be secured via condition.

21. The red line site boundary is shown tight to the side elevation of the development, but there is an existing alleyway access to garages and properties at the rear of Nos 132-140. Therefore, I am satisfied that there would be sufficient room to access both the cycle and refuse store for the flats and commercial unit.
22. In conclusion, while the development would make adequate provision for refuse and recycling storage, it would not make adequate provision for cycle storage for the houses. Therefore, while it would accord with RLP Policy LP24, it would conflict with RLP Policies LP44 and LP45 as well as LP Policy T5 and the LCDS.

#### *Living conditions*

23. The development would project around 3.5m beyond the rear wall of the main property at No 118 and would present a two storey blank façade towards this property. However, the first floor bedroom window at No 118 would only have an angled view towards the development while windows in the single storey rear extension either look across the rear garden or towards the existing boundary fence. Therefore, the effect on the living conditions of occupiers of No 118 in terms of outlook would be acceptable.
24. There is a first floor side window at No 132 that would look directly at the development in terms of the three storey structure. It is not clear whether this window serves a habitable room, but there could be some negative effect in terms of outlook as well as privacy. From other properties on the south side of Kneller Road and the west side of Whitton Dene, while the development would be noticeable, sufficient distance would be maintained to avoid unacceptable effects on the outlook from windows or gardens.
25. The distance would also ensure no harmful overlooking of windows at these properties to the south and north-east. There would be some views into the rear gardens at Whitton Dene from the upper floors of the development. However, this would be across outbuildings and space at the bottom of these gardens rather than space immediately adjacent to the properties. Therefore, the effect of the development in terms of privacy would be acceptable.
26. Daylight to existing windows would meet the vertical sky component (VSC) test. A few windows would fall below a VSC value of 27% or greater, but would retain a value at least 0.8 of the existing value or mirror image value. Sunlight to windows would be maintained above recommended value in all cases apart from two, but these are east facing and not expected to receive significant sunlight in an urban context. Most rear gardens assessed would continue to receive at least 2 hours on sunlight on 21 March to at least 50% of the garden. The exceptions would be the gardens at Nos 116 and 118, but these already receive less sunlight due to their north facing orientation. Thus, the effect of the development in terms light would be acceptable.
27. In conclusion, the development would have an acceptable effect on most aspects relating the living conditions of neighbouring occupiers, but I have some uncertainties about the impact on the first floor side window at No 132 in terms of outlook and privacy. As a consequence, it has not been demonstrated that the development would accord with RLP Policy LP8, which seeks to protect

the amenity and living conditions for occupants of all properties, or the Residential Development Standards SPD.

*Employment and industrial floorspace*

28. The site as an existing salvage yard is regarded by the main parties to be in an industrial and employment use. RLP Policy LP40 seeks to retain employment land space. In exceptional circumstances, mixed use proposals are expected to retain and where possible enhance the level of existing employment floorspace. The policy advises that the inclusion of residential use within mixed use schemes will not be appropriate where it would adversely impact on the continued operation of other established employment uses within that site or neighbouring sites.
29. RLP Policy LP42 seeks to protect industrial floorspace noting the very limited supply of such space within the borough. The policy only permits the loss of industrial space where robust and compelling evidence is provided which clearly demonstrates that there is no longer demand for such a use, including the completion of a full and proper marketing exercise and the application of a sequential approach.
30. RLP Appendix 5 sets out the requirements for any marketing exercise including the need for it to be ongoing for a minimum period of two continuous years through a commercial agent. The sequential approach first looks at redevelopment for office or alternative employment uses. The approach is then required to look at mixed use including other employment generating or community uses, and residential providing it does not adversely impact on the other uses and maximises the amount of affordable housing delivered as part of the mix. The supporting text to RLP Policy LP42 advises that mixed use schemes should maintain or improve the amount of employment floorspace on site.
31. At a London-wide level, the Industrial Land Demand Study 2017 (ILDS) and the Industrial Land Supply and Economy Study 2015 (ILSES) note the decline in industrial land. The Mayor of London's Land for Industry and Transport Supplementary Planning Guidance 2012 (SPG) sets out a restrictive approach to the transfer of industrial sites to other uses. LP Policy E2 seeks to retain employment land. LP Policies E4 and E7 seek to retain industrial land with mixed use proposals only supported where, amongst other things, there is no reasonable prospect of the site being used for such purpose. Evidence to demonstrate this includes marketing exercises.
32. Marketing of the site began at the end of February 2018 and continued until March 2020 although the agent has been retained. The site was advertised on various marketing websites as commercial premises for rent or sale. It does not appear to my mind that there was any restriction placed on commercial or industrial uses within the marketing exercise. Interest in such uses were largely limited to parking and hand car wash options with no viable enquiries. The majority of enquiries related to the potential for residential development. Therefore, the marketing exercise appears satisfactory and in line with RLP Appendix 5.
33. Turning to the first part of the sequential approach, the marketing exercise indicates a lack of demand for office or alternative employment uses including social and community facilities. Land contamination and viability issues were



some of the concerns expressed by prospective enquiries. Moving to the second part of the sequential approach, the development would involve a mixed use commercial and residential scheme. The commercial space would generate employment. The flats and houses would not necessarily prejudice the commercial space as the latter could comprise a broad range of businesses that would be compatible with residential use. The scheme would also make the maximum amount of contribution to affordable housing as discussed below. Therefore, I am satisfied that the sequential approach is passed.

34. Despite the provision of a commercial unit, there would be a reduction in employment floorspace contrary to Policy RLP40 and the supporting text to Policy LP42. It was agreed at the hearing that the commercial unit could operate under the new Use Class E which includes a wide range of potential functions. This could generate more employment jobs than the existing salvage yard depending on the future occupier. However, this would be difficult to ensure in planning terms given the broad nature of Use Class E, even with a planning condition restricting any use to specific subsets within this use class. Thus, the focus of this appeal should remain on the provision of floorspace rather than job numbers.
35. In conclusion, the development would result in the reduction of employment and industrial floorspace contrary to LP40 and LP42, LP Policies E2, E4 and E7, the ILDS and the ILSES, and the SPG. However, the marketing exercise indicates little demand for industrial or commercial use and there is broad compliance with the sequential approach in Policy LP42. The mixed use nature of the development would maintain some employment floorspace and the residential element would not compromise this operation. Therefore, despite the policy conflicts, I find the effect of the development on the provision of employment and industrial floorspace to be acceptable in this instance.

#### *Waste management*

36. The site benefits from a lawful development certificate granted on 22 September 2004 confirming its lawful use as a scrap metal yard (*sui generis*). Around the same time, a waste management licence was issued by the Environment Agency (EA) to the operator (Trevor Frankling) of a company (Whitton Salvage Ltd) for vehicle salvage and disposal purposes. This operation continued up until 2020 when the operator died. Based on the evidence before me, it is reasonable to conclude that the lawful use comprises a form of waste management use. The question is whether that use is safeguarded in planning policy terms.
37. Policy WLWP2 of the West London Waste Plan 2015 (WLWP) seeks to protect existing waste sites in the plan area for continued use for waste management purposes. Development for non-waste uses will only be considered if compensatory and equal provision of capacity for waste is made elsewhere in West London. WLWP footnote 28 confirms that existing sites are those managing waste which are lawfully permitted to do so as set out in Appendix 2. This appendix includes the appeal site albeit it is erroneously shown as being within the London Borough of Hounslow. However, the footnote goes on to say that the latest list of existing sites will be found in local authority monitoring reports and safeguarded existing permitted facilities will be shown on Local Plan Policies Maps.

38. RLP Policy LP24 states that proposals affecting existing waste management sites will be assessed against the WLWP. The supporting text clarifies that sites in WLWP Appendix 2 were identified at a snapshot in time and the list can be revised. It goes on to say that the Council carries out regular monitoring of existing waste sites as part of its monitoring report.
39. The most recent monitoring report for waste sites is dated October 2017. No reference is made to the appeal site. The site does not appear on the Council's Policies Map either. It is possible that this is due to the Hounslow error in the WLWP. However, no correction has been made on this basis. To my mind therefore, the omission of the site means that it is not safeguarded by either the WLWP or RLP.
40. Policy SI9 of the London Plan 2021 (LP) sets out that existing waste sites should be safeguarded and retained in waste management use. Similar to the WLWP, the loss of such sites is only supported where appropriate compensatory capacity is made within London. LP paragraph 9.9.1 defines waste sites as land with planning permission for a waste use or a permit from the EA for a waste use. LP paragraph 9.9.2 clarifies that any proposed release of current sites should be part of a plan-led process rather than done on an ad-hoc basis.
41. The site does not have planning permission for a waste use, but as noted above it has received an EA licence. The site appears under the name Whitton Salvage in the London Waste Map as a hazardous waste site with a licenced tonnage of less than 15,000 tons. The map is based on information provided by local authorities and the EA. The age of the data underpinning the map is not clear, but at the hearing it was noted that the licence has expired following the death of the operator. If this were the case, then the site would not benefit from any safeguarding under the LP.
42. The site was identified in a call for sites consultation as part of the draft Richmond Site Allocations Plan in 2013. It was not included in the draft plan as it was a registered waste site where the change of use would be contrary to policy. However, this was a reflection of the context at this time and was based on policies that have since been superseded. Therefore, I give little weight to the 2013 consultation results as they relate to this appeal. While the recent Arlington Works appeal decision<sup>1</sup> states that the discontinued status of a waste operation should not mean that a site is no longer safeguarded, there was no dispute in that case that the site in question was a designated waste site in terms of the WLWP. Thus, the decision is of limited relevance to this appeal.
43. The site is located in a predominantly residential area which presents constraints on any waste management use. Any variation from the lawful use in terms of waste management could require planning permission and a new licence from the EA, neither of which are guaranteed. The marketing exercise discussed above has revealed little interest in an industrial use which could include waste purposes. Therefore, even if the site was still a waste site in planning policy terms, I have doubts that it would operate again for such purposes.
44. In summary, the site is not safeguarded by WLWP Policy WLWP2 or RLP Policy LP24 and so the proposal does not conflict with either policy. It would only be

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<sup>1</sup> APP/L5810/W/20/3249153



safeguarded by LP Policy SI9 if the existing licence had not expired. The proposal offers no compensatory waste capacity and so there would be conflict with LP Policy SI9 in the event there was still a valid licence. However, given the low likelihood of a waste management use resuming, I afford limited weight to that conflict. Therefore, I conclude that the development would have an acceptable effect on the provision of waste management facilities.

#### *Affordable housing*

45. One of the putative reasons set out in the Council's appeal statement referred to the absence of a contribution towards the provision of affordable housing. The appellant initially disputed whether or not the development was able to make such a contribution based on viability considerations. However, following discussions between the two parties, the appellant accepts that a contribution can be made. The maximum viable amount is agreed to be £242,000 which would be secured via the AH S106.
46. National policy discourages the provision of affordable housing for residential development of less than 10 units. However, the Council has set out why such provision should be made based on local evidence that indicates a substantial level of need and the reliance on small sites to help meet that need. The appellant does not dispute this position and I have no reason to take a different view in this case.
47. The AH S106 would be necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development. As a consequence, I can take it into account. On that basis, the development would make appropriate provision for affordable housing. Therefore, it would accord with RLP Policy LP36 which seeks to secure the maximum reasonable amount of affordable housing taking into account viability considerations. It would also follow the advice in the Affordable Housing SPD 2014.

#### *Housing standards*

48. At the hearing, the parties confirmed that the tenure mix of flats and housing would be broadly compliant with RLP Policy LP35(A) having regard to the location and the character of the area. I have no reason to disagree.
49. The floor plans clearly show shower trays rather than baths in the shower rooms of the one-bedroom flats. These rooms are slightly larger than they need to be which reduces the amount of floor area for the rest of the flat. If they contained baths, the overall floor area would be below the minimum in the Nationally Described Space Standard (NDSS). However, the differences are marginal and could be addressed through amended layouts.
50. Apart from the two-bedroomed flats, built-in storage is not shown within any of the units. However, there is scope to include this at ground floor for the houses and within the one-bedroomed flats by amending the size of the bedroom for example. This could be addressed through amended layouts. There are no cross-section drawings, but the elevation drawings show internal floor heights which indicate that a minimum 2.5m required by LP Policy D6 can be achieved. Again, this could be clarified through amended drawings. In terms of internal space standards, I am satisfied that the requirements can be met and could be secured via condition.

51. RLP Policy LP35(E) requires 90% of all new build housing to meet Building Regulation requirement M4(2) in terms of accessible and adaptable dwellings and 10% to meet requirement M4(3) in terms of wheelchair user dwellings. At the hearing, the parties agreed that it would not be viable to include a lift given the size of the development and so step free access is only needed at ground floor. This means that the flats only need to satisfy requirement M4(1). There was no dispute that the flats could not achieve M4(1) or that the houses could not achieve M4(2). Therefore, notwithstanding the policy conflict, I am satisfied that the development would provide adequate inclusive access.
52. In conclusion, the development would provide an appropriate standard of housing with particular reference to housing mix, internal space standards, and inclusive access. Therefore, it would accord with RLP Policy LP35, the NDSS, the Design Quality SPD, and the Residential Development Standards SPD 2010.

*Overall planning balance*

53. The development would provide new residential dwellings and a financial contribution towards affordable housing provision. It would re-use a site that has little demand for waste, industrial or employment use and would remove unsightly structures and fencing as well as adverse noise and environmental impacts from the salvage yard function. The potential to remove the existing dropped kerb at the site access would improve pedestrian safety along Kneller Road. Taken as whole, these benefits carry significant weight. The provision of an appropriate standard of housing is neutral in the overall balance.
54. However, the development would have an adverse effect on the character and appearance of the area. It has not been demonstrated that the development would have an acceptable effect on parking availability and highway safety. It would not make adequate provision for cycle storage. Taken as a whole, these adverse effects carry considerable weight. There are also uncertainties regarding the effect on the living conditions of occupiers at No 132. In conclusion, the development would be contrary to a number of policies in the development plan with insufficient considerations to outweigh the adverse effects and policy conflicts. This points towards the refusal of planning permission.

**Conclusion**

55. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

*Tom Gilbert-Wooldridge*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Jack Parker	Counsel, Cornerstone Barristers
James Lloyd	Planning Consultant, Create
Bryan Staff	Planning Consultant, Create

### FOR THE LOCAL PLANNING AUTHORITY

Thomas Faherty	Planning Officer, London Borough of Richmond upon Thames (LBRuT)
Simon Graham-Smith	Senior Planner, LBRuT
Paul Bradbury	Housing Development Officer, LBRuT
Joanne Capper	Principal Planner (Policy), LBRuT
Will Marshall	Principal Transport Planner, LBRuT

## **DOCUMENTS SUBMITTED AT HEARING**

1. LBRuT Waste Sites Monitoring Report 2017
2. Extract from the London Waste Map
3. LBRuT Refuse and Recycling Storage Requirements SPD 2015
4. Lambeth Council Parking Survey Guidance Note
5. Richmond Parking Survey Methodology
6. Caneparo Associates Parking Response Note May 2019
7. London Cycling Design Standards Chapter 8 (Cycle Parking)
8. LBRuT Local Plan 2018 Appendices 3 and 5
9. Appeal Decision APP/L5810/W/20/3249153 (Arlington Works)
10. Clearance Requirements for Waste and Recycling Bins
11. Draft Site Licence for Whitton Salvage Ltd from 2004

## **DOCUMENTS SUBMITTED AFTER HEARING**

1. Section 106 agreement relating to affordable housing
2. Section 106 agreement relating to parking