

**Application reference: 24/1647/FUL**  
HAM, PETERSHAM, RICHMOND RIVERSIDE WARD

Date application received	Date made valid	Target report date	8 Week date
28.06.2024	16.07.2024	10.09.2024	10.09.2024

**Site:**

Ham Gate, Richmond Park, Richmond,

**Proposal:**

Replace existing damaged cast iron gates and fence with like for like cast iron and aluminium gates and fence

**APPLICANT NAME**

Mr Paul Richards  
Holly Lodge  
Richmond Park  
Richmond  
Surrey  
TW10 5HS

**AGENT NAME**

Mr Ian Lapsley  
Glaston Hall  
Spring Lane  
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United Kingdom

**DC Site Notice:** printed on 19.07.2024 and posted on 26.07.2024 and due to expire on 16.08.2024

**Consultations:**

**Consultee**

English Heritage 1st Consultation  
21D Urban D

**Expiry Date**

13.09.2024  
09.08.2024

**Neighbours:**

Park Gate House, Ham Gate Avenue, Ham, Richmond, TW10 5HN, - 19.07.2024  
Ham Gate Lodge, Richmond Park, Richmond, TW10 5HW, - 19.07.2024  
The Lodge, Ham Gate Avenue, Ham, Richmond, TW10 5HN, - 19.07.2024

**History: Development Management, Appeals, Building Control, Enforcements:**

Development Management

Status: RNO Application: 94/2393/C84  
Date: 01/03/1995 Boundary Wall Repairs

Development Management

Status: NOP Application: 96/2088/C84  
Date: 28/10/1996 Partially Take Down And Rebuild To Repair And Make Safe Boundary Wall East Of Star And Garter Hill.

Development Management

Status: GTD Application: 15/3882/LBC  
Date: 26/10/2015 Reconstruction of damaged length of Grade II Listed 1 1/2 brick boundary wall between Cambrian Gate and Bog Gate , including new concrete strip foundation with piers and brick plinth to match existing. The wall shall be constructed in reclaimed bricks and mortar to match existing.

Development Management

Status: PDE Application: 24/1647/FUL  
Date: Replace existing damaged cast iron gates and fence with like for like cast iron and aluminium gates and fence

Development Management

Status: PDE Application: 24/1648/LBC  
Date: Replace existing damaged cast iron gates and fence with like for like cast iron and aluminium gates and fence

<b>Application Number</b>	<b>24/1647/FUL</b>
<b>Address</b>	Ham Gate, Richmond Park, Richmond
<b>Proposal</b>	Replace existing damaged cast iron gates and fence with like for like cast iron and aluminium gates and fence
<b>Contact Officer</b>	Izabela Moorhouse
<b>Target Determination Date</b>	10/09/2024

## 1. INTRODUCTION

This application is of a nature where the Council's Constitution delegates the authority to make the decision to Officers rather than it being determined by the Planning Committee.

Before preparing this summary report the planning officer has considered any relevant previous planning applications in relation to the development and considered any comments made by those interested in the application such as consultees with specialist knowledge and nearby residents.

By indicating that the development proposal complies with relevant Local Plan Policies, the planning officer is taking into account the information submitted with the application, any previous relevant applications, any comments received in connection with the application and any other case specific considerations which are material to the decision.

## 2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

The application site comprises the wall and associated gates which form an integral part of Richmond Park, a Grade I Registered Landscape. It is understood that the enclosing walls of Richmond Park are listed and could, in any case, be deemed curtilage listed. The gate is in the immediate setting of the Lodge at Ham Gate and Park Gate House (both Grade II) and contributes to their settings and thus significance.

- Archaeological Priority Area
- Area Susceptible to Groundwater Flooding >=75%
- Article 4 Direction - restricting basement development
- Richmond Park Conservation Area (CA62)
- Ham Common Conservation Area (CA7)
- Ham Gate Avenue – Highways Privately Maintained
- Ham Gate Avenue – Highways Publicly Maintained
- Historic Park / Garden – Richmond Park
- Metropolitan Open Land
- Ham and Petersham Neighbourhood Plan
- Public Open Space - Ham Common
- Public Open Space – Richmond Park
- Site Special Scientific Interest (SSSI) – Richmond Park
- SSSI Impact Risk Zone
- Protected Vista (Vista 23 Barnes)
- Ham and Petersham Village

## 3. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

The application seeks permission to *“Replace existing damaged cast iron gates and fence with like for like cast iron and aluminium gates and fence”*.

The full planning history can be viewed above. No relevant history.

## 4. CONSULTATIONS CARRIED OUT

The list of neighbours notified of this application are listed above. No representations have been received.

## 5. MAIN POLICIES RELEVANT TO THE DECISION

### NPPF (2021)

The key chapters applying to the site are:

- 4. Decision-making
- 12. Achieving well-designed places

## 16. Conserving and enhancing the historic environment

These policies can be found at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1005759/NPPF\\_July\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf)

### London Plan (2021)

Policy D1 – London's form, character and capacity for growth  
Policy D3 – Optimising site capacity through design led approach  
Policy D4 – Delivering good design  
Policy D12 – Fire Safety  
Policy HC1 – Heritage conservation and growth  
Policy G3 – Metropolitan Open Land

These policies can be found at: [https://www.london.gov.uk/sites/default/files/the\\_london\\_plan\\_2021.pdf](https://www.london.gov.uk/sites/default/files/the_london_plan_2021.pdf)

### Richmond Local Plan (2018)

The main planning considerations applying to the site and the associated Local Plan policies are:

Issue	Local Plan Policy	Compliance	
Local Character and Design Quality	LP1	Yes	<del>No</del>
Impact on Designated Heritage Assets	LP3	<del>Yes</del>	No
Impact to Neighbour Amenity	LP8	Yes	<del>No</del>
Green Belt, Metropolitan Open Land and Local Green Space	LP13	Yes	<del>No</del>

These policies can be found at

[https://www.richmond.gov.uk/media/15935/adopted\\_local\\_plan\\_interim.pdf](https://www.richmond.gov.uk/media/15935/adopted_local_plan_interim.pdf)

### Richmond Publication Local Plan (Regulation 19 version)

The Richmond Publication Version Local Plan (Regulation 19 version) and its supporting documents, including all the Regulation 18 representations received, was considered at Full Council on 27 April. Approval was given to consult on the Regulation 19 Plan and, further, to submit the Local Plan to the Secretary of State for Examination in due course. The Publication Version Local Plan, including its accompanying documents, have been published for consultation on 9 June 2023. Together with the evidence, the Plan is a material consideration for the purposes of decision-making on planning applications. The weight to be given to each of the emerging policies and allocations will depend on an assessment against the criteria set out in paragraph 48 of the NPPF. As the Council considers the emerging Local Plan to be sound and legally compliant, officers and Councillors should accord relevant policies and allocations weight in the determination of applications taking account of the extent to which there are unresolved objections to relevant policies. Note that it was agreed by Full Council that no weight will be given to Policy 4 in relation to the increased carbon offset rate, and therefore the existing rate of £95/t will continue to be applied; in addition, no weight will be given to Policy 39 in relation to the 20% biodiversity net gain requirement at this stage; all other aspects and requirements of these policies will apply.

Issue	Local Plan Policy	Compliance	
Local Character and Design Quality	28	Yes	<del>No</del>
Designated Heritage Assets	29	<del>Yes</del>	No
Green Belt, Metropolitan Open Land and Local Green Space	35	Yes	<del>No</del>
Impact on Amenity and Living Conditions	46	Yes	<del>No</del>

These policies can be found at

[https://www.richmond.gov.uk/media/22983/draft\\_local\\_plan\\_high\\_resolution.pdf](https://www.richmond.gov.uk/media/22983/draft_local_plan_high_resolution.pdf)

### Supplementary Planning Documents

Ham and Petersham Village Planning Guidance  
Listed Buildings  
Conservation Areas

These policies can be found at:

## **Other**

Ham Common Conservation Area Statement and Study  
Richmond Park Conservation Area Statement and Study

### **Determining applications in a Conservation Area**

In considering whether to grant planning permission with respect to any buildings or other land in a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this context, "preserving", means doing no harm.

To give effect to that duty, decisions of the court have confirmed that for development proposed to be carried out in a conservation area, a decision-maker should accord "considerable importance and weight" to the desirability of preserving or enhancing the character or appearance of the conservation area, when weighing this factor in the balance with other material considerations which have not been given this special statutory status. This creates a strong presumption against granting planning permission where harm to the character or appearance of a conservation area is identified. The presumption can be rebutted by material considerations powerful enough to do so.

In applications where the decision-maker is satisfied that there will be no harm to the character or appearance of a conservation area, the statutory presumption against granting planning permission described above falls away. In such cases the development should be permitted or refused in accordance with the policies of the development plan and other material considerations.

### **Determining applications affecting a Listed Building**

Sections 16(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that, when considering whether to grant listed building consent for any works, or whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. In this context, "preserving", means doing no harm.

To give effect to this duty decisions of the court have confirmed that a decision-maker should accord "considerable importance and weight" to the desirability of preserving the listed building or its setting when weighing this factor in the balance with other material considerations which have not been given this special statutory status. However, this does not mean that the weight that the decision-maker must give to the desirability of preserving the building or its setting is uniform. It will depend on, among other things, the extent of the assessed harm and the heritage value of the asset in question. This creates a strong presumption against granting planning permission where harm to a listed building or its setting is identified. The presumption can be rebutted by material considerations powerful enough to do so.

## **6. EXPLANATION OF OFFICER RECOMMENDATION**

The key issues for consideration are:

- i Design and Impact on Heritage Assets
- ii Metropolitan Open Land
- iii Impact on Neighbour Amenity
- iv Fire Safety

### **Issue i - Design and Impact on Heritage Assets**

*The NPPF (National Planning Policy Framework) advises good design is a key aspect of sustainable development and is indivisible from good planning and should contribute positively to making places better for people.*

*The NPPF states that there should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset the greater the presumption in favour of its conservation should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.*

*Policy LP1 of the Local Plan seeks to maintain and, where possible, enhance the high architectural and urban design quality which contributes to the character and heritage of the area.*

*Policy LP3 requires development to conserve the historic environment of the borough, and where possible make a positive contribution. Development proposals likely to adversely affect the significance of heritage assets will be assessed against the requirement to seek to avoid harm and the justification for the proposal.*

It is understood the enclosing walls of Richmond Park are listed (ref: TQ1992970973) and could, in any case, be deemed curtilage listed. The wall and associated gates form an integral part of a Royal hunting park, enclosed by Charles I in 1637, with later alterations and repair over time, of red and plumb brick around 8ft high. They form an integral part of Richmond Park, a Grade I Registered Landscape. These gates act as 'portals' to the Royal Park and are of a commensurate decorum. The gate is in the immediate setting of the Lodge at Ham Gate and Park Gate House (both Grade II) and contributes to their settings and thus significances. Accordingly, the gates and walls are very sensitive to change which would require clear and convincing justification.

However, little in-depth heritage assessment has been provided as part of the application to support and justify the proposals in accordance with the NPPF (para 200). The proposals should seek to understand the origins and intrinsic heritage significance of the current gates and the contribution of setting.

The proposal stems from recent damage caused by a vehicular collision, and it is understood certain aspects have been altered (without consent) and removed from site, namely the southern stand and lantern and associated railings and the gas mantel in the northern lantern, potentially amongst others. It is proposed to remove the existing gate, railings and lanterns and it is stated they will be replaced in a 'sympathetic style to match existing', whilst the pedestrian gates will be replaced in a lighter aluminium to assist the less ambulant. It is stated that the lanterns luminaires would be replaced 'like-for-like' but with LED 'light bulbs' and new brickwork might be required as patch repair. There is no associated 'Schedule of Works' to accompany a commensurate Heritage Assessment detailing methods and finishes and these works are not noted on the proposed drawing.

As a matter of principle, in the first instance, efforts should be made to repair and restore what has been damaged. It is unclear from this submission how this has been considered. This needs to be addressed. Should like-for-like replacement be justified, this could be supported assuming it is genuine like-for-like, based on castings, material matching and paint scrape research.

In terms of replacing the gates with aluminium, this will form a clear difference to the coarser grain cast iron and would be inauthentic. In the first instance, alternative means of retaining and retrofitting the current gates to enhance access needs to be explored.

In terms of the proposed LED luminaires, this is not supported and would require significant justification. I'm aware of mock 'gas mantle' LED fixtures on the market - albeit it is unclear what is actually proposed in this instance. However, these offer a poor replication of an authentic gas mantel, in particular the authentic traditional light omitted. Unless there is substantial justification otherwise, the authentic gas mantels should be reinstated. There is a plaque on the brick pier commemorating the restoration of these gas lanterns in the 20<sup>th</sup> Century.

In terms of the brickwork - a Schedule of Works should be submitted with associated high-resolution photographs of the affected areas - detailing the sympathetic remedial works proposed which should be based on the principles of minimal intervention. This should also set out the detailed approach to restoring and re-finishing the gates and lanterns in a sympathetic manner.

Potential measures are required to ensure damage is avoided in the future. Solutions could include traditional granite edge piers to prevent / mitigate significant collision damage. This should be explored as part of the package of works.

Due to the lack of justification and detail, officers have been unable to make a full assessment. However, based on the current proposals, the replacement of authentic original fabric with less sympathetic replacement would fail to preserve the special architectural and historic interest and heritage significance of the Richmond Park wall, contrary to s.16 of the Town Planning (Listed Buildings and Conservation Areas) Act 1990. That harm would pass in a lesser and commensurate way to the setting of the Lodge at Ham Gate (Grade II) and Park Gate House (Grade II), contrary to s.66 of the Town Planning (Listed Buildings and Conservation Areas) Act 1990.

As proposed, the scheme would not meet requirements of Local Plan policies LP1 and LP3 of the Local Plan, Publication Local Plan policies 28 and 29, as supported by relevant SPDs.

## **Issue ii – Metropolitan Open Land**

As the site is designated as MOL, London Plan policy G3 and Local Plan policies LP13 are relevant, as are paragraphs 137-151 of the NPPF on Green Belts, which applies equally to MOL. The government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence, as such it is a policy to restrain development.

Policy LP13 states that the borough's MOL will be protected and maintained in predominantly open use. Appropriate uses in MOL include public and private open spaces and playing fields and open recreation and sport. Development will be supported if it is appropriate and helps secure the objectives of improving the MOL.

Para 149 of the NPPF states that 'a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt'. For the purposes of the Act (section 336) the term building includes any structure or erection and therefore includes fences. Fences and gates are not listed as exceptions for the purposes NPPF para 149. The development thus falls to be considered under this para and should be regarded as inappropriate unless it meets one of the stated exceptions.

sets out that a local planning authority should regard the construction of new buildings as inappropriate development but sets out a limited list of exceptions to this. The following exception is relevant in this instance:

- Exception c) *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building*

It is noted that the application was not accompanied by an open space assessment. Had the application been considered acceptable in other respects, this would have been requested.

Whilst the above exception references buildings, the same principle can be applied to means of enclosure. The scheme results in a replacement gate and repair of the wall, no increase in height of the wall or gate is proposed. The proposals would not result in a development that is over and above the size of the original gate and wall. The gate is within a wide-open landscape, and read in that context, the works would have a negligible impact on openness. Therefore, the proposals will preserve the openness of the area and is considered 'appropriate'.

The proposed gate would retain permeability, allowing some views through and would retain the existing height of the gate, preserving openness. Thus, the fencing is 'appropriate development' in MOL.

An assessment is not made against London Plan G3 because the requirements of that policy are for the proposal to be assessed against the NPPF Green Belt tests.

It is concluded that the development is not inappropriate development and therefore the proposals comply with Local Plan Policy LP13 and Publication Local Plan Policy 35.

### **Issue iii – Impact on Neighbour Amenity**

*Policy LP8 requires all development to protect the amenity and living conditions for occupants of new, existing, adjoining and neighbouring properties. This includes ensuring adequate light is achieved, preserving privacy and ensuring proposals are not visually intrusive.*

*The Supplementary Planning Document for House Extensions and External Alterations also seeks to protect adjoining properties from visual intrusion, loss of light and privacy.*

Given the nature and the location of the proposals. No adverse impacts to neighbouring amenity are considered to arise as a result of the proposals.

The proposals comply with Local Plan Policy LP8 and Publication Local Plan Policy 46 as well as the relevant Supplementary Planning Documents.

### **Issue iv - Fire Safety**

*London Plan policy D12 requires the submission of a Fire Safety Statement on all planning applications.*

A Reasonable Exception Statement has been submitted to the Council - received 16/07/2024.

Had officers been minded to approve the application, the applicant would have been advised that alterations to existing buildings should comply with the Building Regulations. This permission is not a consent under Building Regulations for which a separate application should be made. A condition will be included to ensure

this is adhered to on an ongoing basis. Overall, the scheme can therefore be considered consistent with this Policy D12 of the London Plan.

## 7. LOCAL FINANCE CONSIDERATIONS AND OTHER MATTERS

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. The weight to be attached to a local finance consideration remains a matter for the decision maker. The Mayor of London's CIL and Richmond CIL are therefore material considerations.

On initial assessment this development is not considered liable for the Mayoral or Richmond CIL however this is subject to confirmation by the CIL Administration Team.

## 8. RECOMMENDATION

This recommendation is made following careful consideration of all the issues raised through the application process.

For the reasons set out above, it is considered that the adverse impacts of allowing this planning application would significantly outweigh the benefits, when assessed against the policies in NPPF (2021) and Development Plan, when taken as a whole.

### Refuse planning permission for the following reasons

#### Reason for Refusal – Heritage

The application, by reason of its lack of adequate information and justification in regard to replacement gates and repair to the wall, fails to demonstrate that the proposals would not adequately protect the designated heritage assets and thus prejudice their character and appearance. The current replacement of authentic fabric with less sympathetic replacement would fail to preserve the special architectural and historic interest and heritage significance on the Richmond Park wall, contrary to Section 16 of the Town Planning (Listed Buildings and Conservation Areas) Act 1990. The harm would also cause less than substantial harm to the setting of the Lodge at Ham Gate (Grade II) and Park Gate House (Grade II), contrary to Section 66 of the Town Planning (Listed Buildings and Conservation Areas) Act 1990. The application is therefore contrary to the Richmond Local Plan (2018) in particular policies LP1 and LP3, to the Publication Local Plan, in particular policies 28 and 29 as supported by the relevant Supplementary Planning Documents/Guidance, in particular, Conservation Areas, Listed Buildings, Ham and Petersham Village Planning Guidance, Ham Common Conservation Area Statement and Study and the Richmond Park Conservation Area Statement and Study.

#### Recommendation:

The determination of this application falls within the scope of Officer delegated powers - YES / ~~NO~~

#### I therefore recommend the following:

- |                         |                                     |
|-------------------------|-------------------------------------|
| 1. REFUSAL              | <input type="checkbox"/>            |
| 2. PERMISSION           | <input checked="" type="checkbox"/> |
| 3. FORWARD TO COMMITTEE | <input type="checkbox"/>            |

This application is CIL liable  YES\*  NO  
(\*If yes, complete CIL tab in Uniform)

This application requires a Legal Agreement  YES\*  NO  
(\*If yes, complete Development Condition Monitoring in Uniform)

This application has representations online (which are not on the file)  YES  NO

This application has representations on file  YES  NO

Case Officer (Initials): .....I.ZM..... Dated: .....16/09/2024.....

**I agree the recommendation:**



~~Team Leader/Head of Development Management/Principal Planner~~

Dated: ...16/09/2024.....

This application has been subject to representations that are contrary to the officer recommendation. The Head of Development Management has considered those representations and concluded that the application can be determined without reference to the Planning Committee in conjunction with existing delegated authority.

Head of Development Management: .....

Dated: .....