Report to the First Secretary of State

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an Inspector appointed by the First Secretary of State

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Date 2 April 2004

APPEALS DECISIONS

APPEALS ALLOWED

Report on Called-In Applications

by

The Council of the London Borough of Richmond-upon-Thames

for

Conservation Area Consent and Planning Permission

at

Twickenham Pool Site, The Embankment , Twickenham

Inquiry opened on 11 February 2004

Twickenham Pool Site, The Embankment, Twickenham

File Refs: APP/L5810/V/03/1128907 & APP/L5810/V/03/1128908

File Ref: APP/L5810/V/03/1128907
Twickenham Pool Site, The Embankment, Twickenham

- The application was called in for decision by the Secretary of State by a direction, made under sections 12 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990, on 29 September 2003.
- The application is made by the Council of the London Borough of Richmond-upon-Thames.
- The application ref.03/1142/CAC, is dated 01 April 2003.
- The demolition proposed is that of the pool changing and plant rooms with the exception of the retaining wall at rear ground floor.
- The reason given for making the direction was the Secretary of State considers that the development proposals may raise issues that conflict with Government guidance for conservation areas (PPG15 – Planning and the Historic Environment).
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application: (i) Whether the proposed development would prejudice proposals for the redevelopment of the former swimming pool site as a whole; (ii) The relationship of the proposal to government policy advice in PPG15 and in particular whether the proposal would preserve or enhance the character or appearance of the conservation area and whether demolition should be permitted in the absence of acceptable and detailed proposals for redevelopment of the site as a whole; and (iii) The relationship of the proposed development to policies in the UDP and the emerging UDP.

Summary of Recommendation: The application be approved, subject to conditions.

File Ref: APP/L5810/V/03/1128908
Twickenham Pool Site, The Embankment, Twickenham

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 29 September 2003.
- The application is made by the Council of the London Borough of Richmond-upon-Thames.
- The application ref.03/1141/FUL, is dated 01 April 2003.
- The development proposed is the demolition of 'pool building' (plant and changing rooms & entrance space); hard and soft landscaping of resultant footprint; partial clearance of poolside lido to form park and children's play area secured by fencing; steps from lower to upper areas; short-term scheme pending future redevelopment envisaged 5 year duration.
- The reason given for making the direction was the Secretary of State considers that the development proposals may raise issues that conflict with Government guidance for conservation areas (PPG15 – Planning and the Historic Environment).
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application: (i) Whether the proposed development would prejudice proposals for the redevelopment of the former swimming pool site as a whole; (ii) The relationship of the proposal to government policy advice in PPG15 and in particular whether the proposal would preserve or enhance the character or appearance of the conservation area and whether demolition should be permitted in the absence of acceptable and detailed proposals for redevelopment of the site as a whole; and (iii) The relationship of the proposed development to policies in the UDP and the emerging UDP.

Summary of Recommendation: The application be approved, subject to conditions.

Procedural Matters

1. The Inquiry sat on 11, 12, 13, 20, 26 and 27 February 2004. I carried out accompanied site visits on the first day and the last day. I also carried out several unaccompanied visits to the area around the site, in the course of the proceedings.

2. The Council, as applicant, landowner and local planning authority, promotes the proposals. Mr C W Wren and the Twickenham Riverside Terrace Group (TRTG) oppose the proposals while The Twickenham Society Group (TSG) offers support, with reservations. There were also oral and written representations to the Inquiry, in support and opposition.

3. As I set out in opening the Inquiry I have based the reporting of the Main Parties' cases on their closing statements. Copies are attached as documents. The numbers in brackets (--), within the text of the report, cross reference to the various documents while references [--] point to previous paragraphs in the report.

4. Minor revisions have been made to the original application drawings. As agreed at the Inquiry these revisions do not prejudice the position of any of the parties. Consequently, the application for conservation area consent has been dealt with on the basis of the un-numbered location plan, drawing R 391/11/B – Site Survey, drawing No.3 – Plans and drawing No.4 – Elevations and Sections and the application for planning permission on the basis of drawings C2799/100 revision P5 – Layout Plan and Location Plan, C2799/101 revision P4 – Elevations and C2799/102 revision P6 – Sections.

5. In the light of the House of Lords judgement in Shimizu (UK) Ltd v Westminster City Council, I raised the issue of the necessity for conservation area consent. The Council made representations on this matter and I deal with the matter in my conclusions.

The Site and its Surroundings

6. The application site is part (0.128 hectares) of the former Twickenham Swimming Pool complex, made up of the main building that housed the entrance, changing facilities and plant rooms, and part of the open pool terrace. The former Pool Building is broadly symmetrical and, in terms of its architecture, has been labelled 'Art Deco'. The former pool itself, and the remainder of its terrace and other, once ancillary buildings do not form part of the application site. The pool and the main building were closed in 1980 and the site has remained unused since, save for some community uses in the ancillary buildings. One is occupied by a charitable organisation called HANDS (Help a Neighbour in Distress).

7. The complex lies between Water Lane and Wharf Lane, to the south-east of Twickenham town centre. To the south-east of the site is The Embankment that borders the River Thames with a promenade around 8 metres in depth, punctuated by low brick planters, containing trees and shrubs. The river boundary is delineated by metal railings.

8. To the north-west of the former pool runs the service road to the retail units fronting King Street. This road is relatively narrow and is accessed from Wharf Lane and the Water Lane car park. The southern side of the service road is bounded by a combination of blockwork and red-painted timber panels, above a rendered base, that enclose the swimming pool site. A series of mature trees, within the site, project above the boundary.

9. The south-western boundary of the site, fronting Wharf Lane, is marked by a wall with a concrete panel fence above. The fence is partly concealed by overhanging vegetation and mature trees, growing within the pool site. Towards the junction with The Embankment, the wall and fence give way to a boundary wall and railing contiguous with the main pool building. To the north-west, at the junction with the service road, a former access to the pool site has been boarded up.

10. From Wharf Lane, the land falls markedly towards the river. The difference between the levels of the service road and The Embankment is around 1.8 metres. This gradient is not reflected on the pool site where levels have been raised, supported by a retaining wall that runs through the pool building.

11. To the east of the site The Embankment continues for around 400 metres until it reaches a sculpture garden and the gardens of York House. The area between this point and the site is more domestic in terms of its urban grain save for the Church of St Mary, listed Grade II* (Document 11 ID5). To the east of the junction of Water Lane and The Embankment is a grassed open area. To the north of this public open space is a relatively recent development of two-storey affordable housing. To the west of the site, upstream, are the residential developments of Eyot Lodge and Thames Eyot that lie within generous grounds. The latter is a substantial, four-storey block of flats. Both are private and provide no public access to the riverside. To the south-east of the site, separated by a river channel around 45 metres wide, is Eel Pie Island. Access to the island, for pedestrians, is gained by a footbridge from The Embankment. The island is developed with a mixture of bungalows, houses and boat building and repair facilities.

The Local Policy Context

12. For the purposes of Section 54A of the Town and Country Planning Act 1990 (as amended), the development plan for the area is the Richmond-upon-Thames Unitary Development Plan (UDP), adopted in October 1996.

13. It is also relevant to consider the policies within the First Review of the Unitary Development Plan (FRUDP) that was first published in May 1999. Further 'post deposit changes' were published in December 1999 and January 2000. The Public Inquiry opened in May 2000, concluding in November 2000. The Inspector's report was received in July 2001 (Document 5 CD14), the recommendations considered by the Council in November 2001 and those agreed set out in a 'Consolidated Changes' document.

14. The modifications were not placed on deposit because the Council wished to revisit a number of issues that arose post-Inquiry. This resulted in further modifications to the FRUDP being agreed by full Council on 17 December 2002, set out in a revision to the 'Consolidated Changes' document dated 31 December 2002. These further changes have been subject to a second Inquiry, the first session of which took place in July 2003. The second session commenced in October 2003, concluding in December 2003. The Inspector's report is expected in early Spring 2004 and the report to the Council's Cabinet on the Inspector's recommendations after that. Proposed further modifications will then be published and placed on deposit for 6 weeks and representations on those modifications considered and reported to Cabinet in the Summer of 2004. A resolution to adopt the FRUDP is expected in November or December 2004 (Document 11 ID17).

15. The site and its surroundings lie within the Twickenham Riverside Conservation Area, originally designated in January 1969. Details are given in the Twickenham Riverside Conservation Area Statement (Document 5 CD12) and there is also reference in the Twickenham Riverside and Queens Road Conservation Area Study (Document 5 CD13). The swimming pool site is identified as a location that would benefit from environmental improvement. The Embankment is designated as an 'Area of Special Character' in the UDP. That designation has been changed to 'Thames Policy Area' (TPA) in the FRUDP. The promenade is designated as Metropolitan Open Land.

16. The wider local policy context is set out in paragraph 3.1 of the Statement of Common Ground (Document 4). The UDP Policies are set out in full in Document 11 ID1 and the FRUDP Policies in Document 5 CD15.

17. In general terms, UDP Policy STG2 'The Environment' seeks to protect and enhance the natural and built environment. Criterion (b) refers, of relevance, to the conservation and enhancement of areas and buildings of historic or architectural interest or special townscape value. This is repeated within criterion (b) of FRUDP Policy STG2. UDP Policy STG3 'Conservation of Resources and Pollution' notes, amongst other things, that development should be consistent with the need to conserve energy, resources and materials and to reduce pollution. This approach remains intact within FRUDP Policy STG3.

18. In more specific terms, UDP Policy ENV1 'Areas of Special Character' notes that the character, scale and quality of major open spaces, historic buildings, townscape, views and skylines of designated areas of special character such as The Embankment, will be protected by, amongst other means, (A) retaining building, landscape features and open land or water that are important to the visual and/or historic character, landscape or nature conservation interests of the area and (B) allowing changes only where this will conserve the character of the area within and adjoining the area of special character.

19. The equivalent FRUDP Policy ENV26 'Thames Policy Area' seeks to protect and enhance the special character of the Thames Policy Area and areas such as The Embankment by, of relevance, (a) protecting and enhancing views and vistas of and from the Thames and its riverside landmarks as identified in Regional Planning Guidance 3B/9B 'Strategic Planning Guidance for the River Thames' (RPG 3B/9B), of 1997, and the Proposals Map; (b) identifying and protecting the special character of individual reaches; (c) ensuring a high quality design for buildings and spaces, appropriate to the identity of the context, so that the individuality of the reaches is protected; (d) ensuring that development establishes a relationship with the river and takes full advantage of its riverside location, addressing the river as a frontage and opening up views and access to it, taking account of the changed perspective with tides; (f) encouraging development that includes a mixture of uses, including uses that enable the public to enjoy the riverside, especially at ground level in buildings fronting the riverside and preparing design briefs as appropriate, in consultation with the local community, and requiring design statements from developers for all significant developments in the TPA and all riverside sites.

20. UDP Policy ENV3 'Metropolitan Open Land' (MOL), broadly speaking, aims to keep MOL in predominantly open use. In considering development on sites adjoining MOL any possible visual impact on the character of the land will be taken into account. This approach is repeated in FRUDP Policy ENV1.

21. UDP Policy ENV5 'Public Open Space' seeks to protect and enhance the visual quality of areas of public open space through the maintenance of a high standard of design in landscaping, boundary treatment, fencing materials, play equipment and other items of furniture and by ensuring a high quality of design in development within or adjacent to it. FRUDP Policy ENV 11 'Retention and Improvement of Public Open Space' repeats this stipulation and is expanded to resist the loss of any designated public open space.

22. UDP Policy ENV10 'Protection and Enhancement of Conservation Areas' sets out how the Council aims to preserve or enhance the character and appearance of conservation areas by, of relevance, (A) retaining buildings, or parts of buildings, and trees and other features that are important to the character or appearance of the area; (B) allowing development or redevelopment where this would preserve or enhance the character or appearance of the conservation area and (E) not granting conservation area consent for demolition that would be detrimental to the character of an area unless there are detailed proposals for an acceptable replacement. FRUDP Policy BLT2 treads a broadly similar path.

23. UDP Policy ENV33 'Environmental Improvements' encourages improvements in particular locations on the Proposals Map (Document 5 CD15). The swimming pool site is so identified. FRUDP Policy BLT26 repeats the UDP Policy.

24. UDP Policy RIV1 'Protection of Special Character' requires that riverside developments should protect the environment and character of the river with use(s) acceptable in a riverside location. UDP Policy RIV3 'Increasing Public Access' sets out to increase public access to the riverside and identifies ways that this might be achieved, including extensions to public open space. FRUDP Policy ENV27 'Access to the River Thames (Including Foreshore) and the Thames Path National Trail' has much the same purpose. UDP Policy RIV4 'Encouragement of Recreational Use' promotes recreational use of the river through new facilities and extensions to existing facilities. This approach is maintained in FRUDP Policy ENV28. UDP Policy RIV8 requires that, in considering the development of riverside sites, the Council will seek uses that are functionally related to the river, add to its character, and enable the public to enjoy it.

25. The UDP also has a site-specific Proposal T1 for the swimming pool site, the car park on Water Lane and nos.1-33 King Street (Document 11 ID1). This envisages development of the whole site, in accordance with a planning brief, to secure a high-quality environment commensurate with the key riverside and town centre location. The prime objective is to provide the community with leisure uses and increased opportunity to enjoy the riverside with a pedestrian link to the town centre. The proposal indicates that housing provision should include substantial affordable units and a reasonable proportion of small units. The proposal does not, specifically, preclude a short-term solution for the site. Prior to the adoption of the UDP the Council produced a Site Brief associated with Proposal T1, giving more details on land-use, design, access and parking (Document 5 CD11).

26. The FRUDP also contains a site-specific proposal for the site called Proposal T1 (Document 5 CD16). The essential differences are the deletion of the affordable housing (following construction of the affordable units on Water Lane) and greater emphasis on small residential units. The FRUDP Proposal T1 also makes specific mention of a possible temporary use, including open space. This particular element was added in the changes agreed by Full Council in December 2002 and was the subject of specific objections considered by the Inspector as part of the second FRUDP Inquiry. (Document 5 CD17). The Inspector released part of the report dealing with the amended FRUDP Proposal T1 to enable it to be considered as part of the Call-in Inquiry (Document 11 ID2). The principle of the proposed modification was accepted but some changes were recommended.

Regional Policy Context

27. The final version of the London Plan (TLP) has recently been published, superseding Regional Planning Guidance Note 3 'Strategic Guidance for London Planning Authorities' of 1996. Though not a statutory development plan, it is a material consideration.

28. TLP identifies a Blue Ribbon Network that includes The Thames. Policy 4C.12 sets sustainable growth priorities for the Blue Ribbon Network prioritising uses that require a waterside location. For sites unsuitable for such uses, developments should capitalise on the water as an asset and enhance the network. Policy 4C.17 seeks to increase public access alongside and to the network. Policy 4C.20 requires a high quality of design for all waterside development. Policy 3D.7 protects and promotes London's network of open spaces. Policy 4C.10 requires careful consideration of the historic environment. Policies 4C.13 and 4C.16 seek to increase use of the Blue Ribbon Network for passenger and tourist traffic and sport and leisure. Policy 4C.18 encourages new facilities that foster use and enjoyment of the network (Document 11 ID18).

29. Page 116 of the Thames Landscape Strategy: Hampton to Kew, of June 1994 (Document 5 CD27), refers to Twickenham Embankment: 'Car parking, vandalised brick planters and graffiti covered seats detract from the scene. The derelict swimming baths building is out-of-scale with the rest of the waterfront and introduces a rather bleak dead-end to the Embankment. The site offers a rare opportunity to make connections to the centre of Twickenham and a potential location for expanding the surrounding civic facilities'.

The Statutory Framework and National Planning Guidance

30. As the site lies within a designated conservation area the provisions of the Planning (Listed Buildings and Conservation Areas) Act apply. Section 72(1) requires that 'in the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

31. Linked to this, and of direct relevance is Planning Policy Guidance Note 15 – Planning and the Historic Environment (PPG15). Conservation area control over demolition is dealt with in paragraphs 4.25 to 4.29.

Planning History

32. The Twickenham Swimming Pool site was formerly occupied by Richmond House and its grounds. The site was purchased by the (then) Twickenham Urban District Council with the assistance of a loan from the Ministry of Health, with the intention of providing for public recreation. Richmond House was demolished in 1928 and the site remained open until the construction of the pool in 1934. The swimming pool was closed in 1980 after the council decided it was uneconomic to operate. Since then there have been four separate applications relating to the site.

33. The first was submitted by Marks & Spencer Plc in 1990 (90/1213/FUL). It proposed the erection of a food store, a community centre (YMCA), nineteen self-contained flats, public open space and a pedestrian link to the existing shopping area. The proposal was called-in by the then Secretary of State and subject to a Public Inquiry in February 1991. The Inspector recommended that planning permission should be refused, a recommendation accepted by the then Secretary of State and confirmed in a letter dated 19 August 1991 (Document 5 CD10). The Inspector's report (Document 5 CD10) makes no reference to a conservation area consent application for the necessary works of demolition. Such an application was considered by the Council at the same time as the planning application for redevelopment (90/1128/CAC). The application was subsequently approved subject to a condition that the building should be retained until redevelopment of the site commenced.

34. TRTG submitted an application in March 2001, proposing the removal of the top floor of the pool building and the creation of a roof terrace (01/0540/FUL). It also proposed converting the ground floor to a tourist information centre and boat hire booking office and filling in the pool to provide a riverside park. Further details of the application were provided as a background report to the Council's Planning Committee (Document 5 CD3).

35. The Council resolved to grant planning permission, subject to conditions. As the application was considered to be a departure from UDP Proposal T1, the application was referred to the Government Office for London, who indicated that the Council could decide the application. Conditional planning permission was granted. Officers considered that as the proposal constituted partial demolition (in other words alteration) conservation area consent was unnecessary in the light of the judgement in Shimizu (UK) Ltd v Westminster City Council. An application was submitted to the Council to discharge some of the conditions (01/0540/DD01). The details were partially approved in March 2003.

36. This was followed by another TRTG application (02/3826/FUL) to build three small A3 units on the site and a pontoon in the river. The application remains under consideration.

37. An application was submitted in 2001 for the comprehensive development of the pool site and adjoining land (01/2584/FUL) (the Dawnay Day Scheme). The proposal included the demolition of the existing buildings and the construction of a new, mixed-use development including housing, A1 and A3 uses, a 3 screen cinema, health club and swimming pool, public space and environmental improvements to The Embankment, Wharf Lane and Water Lane. The proposal also included the demolition of the ground floor of no.15 King Street to create a new pedestrian link through the development to the river. The application details are expanded upon in the background document to the report to the Council's Planning Committee of 31 July 2003 (Document 5 CD3).

38. The application was reported to the (then) Development Control Committee on 28 February 2002. However, by letter dated 27 February 2002, the Secretary of State issued a holding direction and directed the Council not to grant planning permission without specific authorisation. The resolution of the Committee was, subject to the permission of the Secretary of State, to grant planning permission subject to conditions and a legal agreement. The application was referred to the Government Office for London and was recovered by the Secretary of State in a letter dated 28 May 2002. A public Inquiry was scheduled for January 2003 but was not proceeded with because the Applicant did not produce the required Environmental Impact Assessment.

The Proposals

39. The proposals involve the demolition of much of the Pool Building (including the plant rooms, changing rooms and entrance structure) and the hard and soft landscaping of the site thereafter, together with the formation of a park and children's play area secured by fencing on part of the former pool terrace. The proposal is intended to have a life-span of five years (though this may be extended), providing a temporary public facility until a comprehensive plan for the larger site and adjoining land can be formulated.

40. The lower part, adjacent to The Embankment, would contain a gently ramped hard surfaced path, interspersed with seats, low walls and planting areas. Part of the existing retaining wall, within the pool building would be kept, and reinforced with new buttresses, in order to maintain existing ground levels. There would be a gated entrance, from Wharf Lane, providing ramped access to the upper level. The remainder of the site would be enclosed by a 2.4 metre high fence that would stand on the original retaining wall to an overall height of around 5.5 metres. A 1.8 metre high mesh fence would be installed on the Wharf Lane frontage.

41. Aside from the plans, the digital images (Document 11 ID3 and ID13) give details, before and after.

Other Agreed Facts

42. The Statement of Common Ground, agreed between the Main Parties, is attached as Document 4. The Flood Risk Assessment for the scheme, prepared by Scott Wilson in April 2003, (Document 5 CD2) is agreed between the parties as are the Environmental Audit dated June 2003 (Document 5 CD2) and the Bat Hibernation Survey, dated January 2004, (Document 6 Appendix 1 to Freer PoE). The Condition Survey prepared by Dearle & Henderson dated December 2003 and the Appendices thereto (Document 6 Appendix 3 to McKevitt PoE) and the estimated construction costs for reinstating the pool complex, also produced by Dearle & Henderson, (Document 6 Annexe 1 of Appendix 4 to McKevitt PoE) are also agreed.

The Case for Mr C W Wren

43. The main points are that the Pool Building has intrinsic merit, makes a positive contribution to the conservation area and its re-use is feasible and viable and could trigger regeneration of the site and wider area. Its demolition would be harmful to the conservation area and could prejudice the satisfactory long-term development of the whole site. In the absence of acceptable and detailed proposals for its replacement or for the redevelopment of the site as a whole, conservation area consent for demolition should be refused.

44. The application proposals are contrary to several UDP and TLP policies particularly those concerned with preserving or enhancing the character or appearance of conservation areas, the character and use of the TPA, and with conserving resources. Planning permission should be refused.

45. It is evident that Twickenham Swimming Pool:

    1) was built and opened with civic pride 70 years ago and is a distinctive and handsome Art Deco building of local interest possessing qualities of restrained grandeur, repose and vitality. It is one of only a few public buildings of its period alongside the upper reaches of the tidal Thames and relates to other Art Deco buildings in Twickenham Town Centre and to Thames Eyot, immediately upstream, that is designated as a 'Building of Townscape Merit' and located in the conservation area. As a major public building, it sits at one end of The Embankment, addressing the river as a positive frontage, in juxtaposition with the Church of St Mary;

    2) marked a historically significant change in land-use next to the river from private residential and commercial to public recreation and leisure and was built at a time when lidos, promoting health, fitness and pleasure for the masses, were internationally fashionable, providing a valuable leisure facility and enabling more people than ever to learn to swim;

    3) makes a positive contribution to the character and appearance of the conservation area by virtue of its architectural quality and distinction, its relationship to the river, and its historic association with public use of the riverside for leisure and recreation;

    4) is robustly constructed and could be refurbished to accommodate public and river-related facilities profitably. It would help regenerate the riverside, the remainder of the site and the surrounding area leaving 56% of the site frontage open to the river and allowing the provision of substantial areas of public open space on The Embankment and around the building, extending the river influence landwards;

    5) is not required to be demolished by UDP Policy T1 and retention would allow the rest of the site to be redeveloped in accordance that Policy; and

    6) is a significant investment in resources that would be squandered by demolition.

46. Supporting evidence for retaining the Pool Building is:

    1) The assessment by English Heritage, dated 06 May 2003, (Document 5 CD18) that, whilst making clear that the building is not of comparable quality to listed lidos, recognises that the location of the building and its Art Deco treatment give it an appropriate 'joie de vivre' and that the façade is similar to the listed Tinside Pool in Plymouth (Document 11 ID10).

    2) The Ancient Monuments Society letter of 8 January 2004, the SAVE Britain's Heritage letter of 12 January 2004, and the Twentieth Century Society letter of 21 January 2003 (Document 3).

3) Mr A Saharge's letters of 21 January 2003 and 25 February 2004 (Document 8).

4) Howard Vie's statement in broad support of the case for retention (Paragraph 59).

5) 'Farewell my Lido' published by the Thirties Society (now the Twentieth Century Society) (extracts at Document 11 ID9).

6) The Council's acknowledgement that Twickenham Pool was a social hub (Document 6 McKevitt POE paras 2.1.2-2.1.4). Dearle and Henderson's reports and Donaldsons' development appraisals confirm the revenue generating potential of the building (Document 6 McKevitt Appendix 3 and Annexe 1 of Appendix 4).

7) The letter from Richmond and Twickenham Friends of the Earth dated 1 February 2004 (Document 3).

47. There is a substantial body of opinion, much of it professional and recent, that explicitly supports the case for retention. The Pool Building is in a state of semi-dereliction following years of disuse and neglect and the repeated failure of redevelopment proposals. This may not be deliberate but the state of the Pool Building has been at the root of much of the adverse criticism and appears to have clouded some appraisals.

48. Even if the pool made little or no contribution to the character or appearance of the conservation area, there are no acceptable and detailed proposals for a replacement, as required by paragraph 4.27 of PPG15. The short-term proposals are inadequate in the following respects:

1) The proposed fence would be an unattractive and dominant feature. It would harm the character and appearance of the conservation area and the Thames Policy Area contrary to the UDP and the TLP.

2) The play area would be unrelated to the river with views out blocked by the fence. The seats at the level of The Embankment would enjoy worse views than those already available. The proposed uses, therefore, fail adequately to establish a relationship with the river, to take advantage of their riverside location, or to address the river as a frontage contrary to the UDP and TLP.

3) Demolition of the pool building would destroy the possibility of adapting it to accommodate leisure or community facilities enabling the public enjoyment of the riverside, contrary to the UDP and the TLP.

4) The proposal occupies only a small part of the site and would be unlikely to trigger regeneration of the surrounding area.

49. For these reasons conservation area consent and planning permission should be refused.

The Case for the Twickenham Riverside Terrace Group (TRTG)

50. In the main, the primary concern, given the original public use of the site, is the retention of significant public open space on the riverside while, by contrast, the Council's objective is to secure redevelopment, with an undefined level of public benefit.

51. The Council has not demonstrated that it accepts the UDP Inspector's recommendations with respect to 'immutable open space' (Document 11 ID2). The Council has yet to establish proper and acceptable development criteria for the site and the Policy T1 area, in the form of an 'acceptable and detailed' planning brief.

52. TRTG shares concerns about the general quality of design and materials of the Council's proposed scheme. These concerns were set out in some detail (Document 9 Consolidated Proof). The enlarged digital illustration (Document 11 ID13) raises further questions as to the quality and detail of those proposals and whether, even for a short-term scheme, they will actually enhance the conservation area.

53. The Council has argued that, as the TRTG scheme removed the first floor of the building and proposed alterations to the front elevation, TRTG cannot object to demolition. However this assertion fails to recognise that the TRTG proposal, and those prepared since and submitted to the Council, were based on concepts of re-use and sustainability. Were the scheme to be promulgated now, in the light of a renewed interest in Art Deco buildings, perhaps greater regard would be paid to the merits of the existing building and its contribution to the conservation area.

54. A partial, temporary solution would do little to lift the blight caused by the neglected Pool Building and site overall, or encourage the owner of the adjacent King Street properties to participate in the renovation of this run-down area.

55. The future preparation of a planning brief is welcomed. However, the Council's current short-term proposals do not form part of a sufficiently well defined long-term plan providing a reasonable level of certainty as to the extent of public access and use. Also, it does not set an acceptable, ultimate level of development on the site in the form of mass, scale, floor-space or basic urban design criteria.

56. TRTG is concerned that the Council's development ambitions as a landowner, rather than as a Planning Authority, have resulted in the exclusion of all but minimal 'riverside uses' from the short-term proposals.

57. The TRTG scheme has an extant planning permission that the Council could adapt and implement quickly. It provides a practical use of the whole site, and toilets, and significant public open space. The TRTG scheme was considered by the Council as representing too much of a risk in the hands of the community, but clearly these risks can be contained when in the hands of the Council.

Other Representations in Opposition to the Proposals

58. **The Twentieth Century Society** (letter 22 January 2004), **Ancient Monuments Society** (letter 8 January 2004) and **SAVE Britain's Heritage** (letter 12 January 2004) (Document 3) take a broadly common view that Twickenham Swimming Pool may not have sufficient architectural quality to warrant listed status but it makes a positive contribution to the conservation area it lies within. There is a possibility that it could be re-used and the concern at the threat of demolition is greater for the fact that there appears to be no long-term plan for the constructive re-use of the site.

59. **Mr H Vie** considers that the existing building makes a positive contribution to the conservation area, providing a backdrop to The Embankment, and should not, therefore, be demolished. The replacement proposals would have a negative impact as the blank walls and fencing would give the impression of a demolition site. The building is owned by the Council and their neglect has led to negative perceptions. If it was restored, and creatively re-used, its image would be transformed.

60. **Richmond & Twickenham Friends of the Earth** (letter 1 February 2004) (Document 3) wish to see a responsible attitude to energy usage, retaining that embodied within the existing structures, an approach supported by the UDP.

61. **Mr and Mrs G Marsh** submitted a marked up copy of a letter circulated by TRTG in August 2003 (Document 3). The view expressed is that the pool building should be used for different community groups and a pool for children and the open space maintained as a river park site.

62. **Mr R Walters** (Document 11 ID22) highlighted the problems of finding an acceptable scheme for the site that satisfies the Council, developers and the public, making a plea that a site brief be agreed between the community and the Council before it is approved.

The Case for the Council

63. The main points are that planning permission and conservation area consent should be granted. None of the evidence presented comes anywhere near justifying grounds for refusal. The proposals accord with the UDP and there are no other material considerations indicating that planning permission or conservation area consent should be refused.

64. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is of direct relevance. In South Lakeland District Council v. Secretary of State for the Environment {1992} 1 All E.R. 573, (Document 6) the House of Lords held that preserving the character or appearance of a conservation area could be achieved not only by a positive contribution to preservation, but also by development which left the character or appearance of the area unharmed. Paragraph 4.20 of PPG15 refers. Applying this test, the proposals enhance, or at the very least, preserve the character and appearance of the conservation area.

65. On the specific issue of whether the proposals involve "demolition" in the now accepted meaning of that word or are limited to 'alterations' such that conservation area consent is not required, advice inserted into paragraph 4.27 of PPG15 by Appendix E of Circular 14/97, and reaffirmed in Appendix D of Circular 01/01, is crucial. In the light of The House of Lords judgment in the case of Shimizu (United Kingdom) Ltd v. Westminster City Council {1997} 1 All E.R. 481, this provides 'that works for the demolition of an unlisted building in a conservation area must also involve the total or substantial destruction of the building concerned. This means that many works which involve the destruction of the fabric of part only of a building will not be works of demolition and will not require conservation area consent'.

66. The Council's proposal while it re-uses the ground floor retaining wall, undoubtedly involves the almost total demolition of the Pool Building. There may be a question around whether the Pool Building is one of a complex of buildings on the site. Gardline Shipping Limited v Secretary of State for the Environment, Transport and the Regions {unreported 10 March 1999, CO/1863/98 per Nigel MacLeod QC} (Document 6) is relevant. The Pool Building although part of a complex, comprises a distinct building in itself. As a consequence, conservation area consent is required for its demolition.

67. TRTG mention the concept of 'public trust land'. This no longer has relevance following various repeals of provisions of the Local Government Act 1972 and furthermore the Twickenham Pool Site was never public trust land in any event (Document 11 ID11).

68. The starting point for consideration of the applications is paragraph 40 of Planning Policy Guidance Note 1 – General Policy and Principles (PPG1). There is the added element of its location within a conservation area and the proposed demolition.

69. In the context of Section 72(1), it is sufficient for the decision maker to ask whether the development would harm the area. Thus if proposed development does anything other than adversely affect the character or appearance of the area and is otherwise unobjectionable on planning grounds, there can be no planning reason for refusing to allow it to proceed.

70. The essential first issue to be considered is the contribution of the Pool Building to the character and appearance of the conservation area and whether the replacement proposals would preserve or enhance its character or appearance.

The relationship of the proposal to Government policy advice in PPG15 and in particular whether the proposal would preserve or enhance the character or appearance of the conservation area and whether demolition should be permitted in the absence of acceptable and detailed proposals for redevelopment of the site as a whole.

71. In order to assess the relationship of the call-in proposals to Government policy advice in PPG15, it is necessary to consider a number of sub-issues:

Sub Issue 1: Does the Pool Building make a positive contribution to the conservation area?

72. The overwhelming balance of professional opinion is that the Pool Building does not make a positive contribution to the character or appearance of the conservation area (Document 6 Edis PoE para. 5.1.1). There are a number of previous assessments that add weight to that conclusion.

73. The 1991 Inspector's Report (Document 5 CD10) indicates that it was common ground, at that time, that the Pool Building made no positive contribution to the area. The Inspector concluded that the Twickenham Pool Site is an integral and important component of the conservation area and views from the south, south-east and east are of great importance as is the relationship of the site to King Street, in terms of connection and permeability. He went on to label the Pool Building as 'undistinguished'. The then Secretary of State for the Environment wholly agreed with the Inspector's conclusions. The weight to be placed on the decision is not reduced by the fact that the relevant guidance at that time was contained in Circular 8/87 because the advice on demolition of unlisted buildings in conservation areas was not substantially different to that in PPG15.

74. It is also relevant to consider views expressed in the context of the 'Dawnay Day' scheme (01/2584/FUL) which like the 1991 proposal proposed demolition of all the buildings on the Twickenham Pool Site (Document 5 CD17). English Heritage objected to the proposal but not on the basis that the Pool Building should be retained and regarded the building as having 'no distinction'. The Conservation Area Advisory Group objected to the scheme but, again, not on the basis of the loss of the Pool Building. No other objections were received on the basis that the Pool Building should be retained. The proposal was called-in (Document 11 ID6) but neither the grounds for the call-in, nor the issues identified by the Secretary of State, included the loss of existing buildings on the Twickenham Pool Site.

75. Mr Wren, in objecting to the 'Dawnay Day' scheme, wrote (Document 7 Wren Appendices A1.1, p. 19, para. 11) 'the existing swimming pool building is of no great merit, looms large on The Embankment, and cuts off the rest of the site from the river'. That is plainly inconsistent with his present views.

76. The planning permission TRTG obtained in 2001 involves the demolition of the whole of the first floor resulting in the loss of nearly all the features Mr Wren now says are of interest. It would leave in place only the ground floor that, on its own, even on Mr Wren's analysis, is of little or no interest.

77. The TRTG scheme is not viable. The Council does not rely upon it as a fallback but it is right to point to that planning permission as establishing the principle of partial demolition. The First Secretary of State must be taken to have implicitly accepted the principle of partial demolition by not calling-in the 2001 application.

78. English Heritage, the Conservation Area Advisory Committee, and other amenity groups and individuals did not object on the basis of the loss of any features of historic or architectural importance to the Pool Building (Document 5 CD17). The Council Officer involved (Document 5 CD17) noted that the TRTG scheme did not meet all the requirements of UDP Proposal T1 but responded to other important aspects, namely a part removal of the unattractive Pool Building. It was considered that this alteration would improve the appearance of the conservation area. The TRTG application was referred to the First Secretary of State but there was no intervention.

79. There were 14 objections to the current, short-term scheme (Document 5 CD3) and, for the first time, one raised the loss of the building. English Heritage had no objections to the scheme noting that the building makes no particular contribution to the conservation area. The relevant local amenity groups were broadly supportive of the proposals and raised no objection based on retention of the Pool Building.

80. The FRUDP Inspector's Report (Document 11 ID2) does not support the retention of the Pool Building and concludes 'the building should not be retained in any scheme'.

81. The most recent, external assessment of Twickenham Pool Site is by an English Heritage Inspector specialising in 20th Century architecture who was consulted by the Department of Culture Media and Sport in relation to an application for spot-listing in 2003 made by Mr Wren and Mr Chappell (of TRTG). She recommended that the building should not be listed because the relevant criteria were not fulfilled and the Department agreed (Document 5 CD18). The report was informed by the Thirties Society publication 'Farewell my Lido' (1991) (Document 11 ID9). The gazetteer makes no mention of the Twickenham Pool site.

82. The objections of the Twentieth Century Society, SAVE Britain's Heritage and the Ancient Monuments Society (Document 3) are also noteworthy. First, it is clear that none of these groups has, in the context of other proposals to demolish the Pool Buildings over the last 20 years, seen fit to object. None had the benefit of seeing the Council's submissions or sought to make any contact to discuss the proposals. Nor does it appear that many of the previous views expressed about the Pool Buildings were reported to these societies. The material Mr Wren sent to these Societies (Document 11 ID8) was the same material presented to the UDP Inspector in making his 'strong plea' for retention and the UDP Inspector's conclusion on that is clear. None of these societies appear to have visited the Pool Buildings, certainly none have contacted the Council to seek access. The position of the Twentieth Century Society appears untenable given that in 1991, they published 'Farewell my Lido', (Document 11 ID9) that considered, but failed even to mention the Twickenham Pool site.

83. Thus in order for Mr Wren's plea for retention to be accepted it is necessary for the First Secretary of State to determine:

    1) that English Heritage has consistently, over a number of years, got it wrong in not seeking to preserve the Pool Building;

    2) that two previous Inspectors, one in 1991 and one this year in the context of FRUDP, were wrong in indicating that the Pool Building should not be retained;

    3) that the various individuals and local amenity groups who have campaigned in relation to Twickenham Riverside over the last 20 years were wrong in never seeking to object to development on the basis of the loss of the Pool Building;

    4) that assessments of the Twickenham Pool Site in the context of various proposals, in the UDP and FRUDP, the Thames Landscape Strategy (Document 11 CD27) and Twickenham Riverside & Queen's Road Conservation Area Study (Document 11 CD13) were wrong in not seeking to preserve the building;

5) that the Twentieth Century Society, SAVE Britain's Heritage, the Ancient Monuments Society, in not previously objecting to the loss of the Pool Building were negligent.

84. The Council has produced the most comprehensive assessment of the Pool Building in relation to the Twickenham Riverside Conservation Area (Document 6 Edis PoE). The Twickenham Riverside Conservation Area Character Study published in November 1998 (Document 5 CD 13) identifies negative influences within the conservation area. Under the Twickenham Riverside sub-area it states 'the major problem....is the disused pool site which has blighted the western end of the embankment and is something of an anticlimax when compared to the generally high quality of the rest of the area', continuing 'it is therefore apparent that this part of the conservation area contains buildings and spaces of high quality, but that the enhancement of the Riverside has been hampered by the presence of the 1930s structures associated with the pool'.

85. The Thames Landscape Strategy (Document 5 CD 27) provides a detailed analysis of the area with a specific, negative reference to the Pool Building.

86. In this light, the conclusion on sub-issue 1 must be that the Pool Building does not make a positive contribution to the character and appearance of the conservation area.

Sub-Issue 2: If the Pool Building is determined to make little or no clear-cut positive contribution to the conservation area, should demolition be permitted in the absence of acceptable and detailed proposals for redevelopment of the Twickenham Pool Site as a whole?

87. There is no requirement to include the whole of the site in the short-term temporary scheme. PPG15 requires, in paragraph 4.27, that consent for demolition should not be given 'unless there are acceptable and detailed plans for any redevelopment'. The proposals bring forward a number of benefits without the remainder of the site being included (Document 6 Freer PoE para 6.11, Edis PoE para 6.4.1). Paragraph 4.27 of PPG15 must be applied to the short-term proposals without considering what might come forward in the long term.

88. The short-term proposals take in the most prominent part of the site as a whole fronting The Embankment, the River Thames and Wharf Lane. The remainder of the site would be screened by the proposals. This maximises the environmental benefit such that, in terms of any improvement to the character and appearance of the area, the inclusion of the remainder of the site would have only limited additional benefit (Document 6 Freer PoE para. 6.13, Edis PoE para. 6.4.1). Further, should for any reason the longer-term redevelopment of the site be delayed, the benefits derived from the proposals would remain.

89. In addition to the negative visual impact of the existing buildings, the site currently makes no contribution to the area in terms of community use. The retention of the Pool Building is not financially viable (Document 6 Mr McKevitt PoE). Consequently, if retained on site, the Pool Building would continue to make no positive contribution to the community.

90. Even if the longer-term redevelopment of the site is delayed, it is preferable in both visual and community terms to bring forward and realise the benefits derived from the short-term proposals. Indeed, any potential delay in securing the comprehensive redevelopment of the site would make it all the more important that an interim use of the site is brought forward.

91. In summary, there is no reason why demolition should not be permitted in the absence of acceptable and detailed proposals for redevelopment of the Twickenham Pool Site as a whole. If the First Secretary of State agrees that the Pool Building does not make a positive contribution to the character or appearance of the conservation area, the only issue is whether the short-term proposals preserve or enhance the character or appearance of the conservation area.