

**Application no:** 2018/3810  
**Ward:** Molesey East Ward  
**Case officer:** Jennifer Margetts  
**Expiry Date:** 05/04/2019  
**Location:** Jolly Boatman and Hampton Court Station Redevelopment Area Hampton Court Way East Molesey Surrey KT8 9AE  
**Proposal:** Development to provide 97 residential units, a hotel (84 bedrooms) and retail units (within use classes A1, A2 and/or A3) together with access, station interchange, car parking, servicing, new public realm, landscaping and other associated works following demolition of some existing buildings and structures on site including Hampton Court Motors.  
**Applicant:** Alexpo Ltd and Network Rail Infrastructure Ltd  
**Agent:** Mr James Owens  
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**Recommendation: Refuse for the following reasons:**

1. The proposed development by reason of its excessive height, bulk, massing and design is considered to create an imposing and dominant development which is considered to be out of keeping with and harmful to the character of the area and the openness of the riverside and the adjacent green space in Cigarette Island Park. Furthermore, the height and mass of the buildings are not considered to relate to the massing of the train station building and would appear dominant and overbearing on the existing structures. The proposal is therefore considered to be contrary to policies DM2, DM12 and DM13 of the Development Management Plan 2015, policies CS7, CS12 and CS17 of the Core Strategy 2011, the Design and Character Supplementary Planning Document 2012 and the NPPF.
2. The proposed development is considered to cause harm to heritage assets on and around the application site including Hampton Court Palace and Registered Parks and Gardens, Hampton Court Bridge, Hampton Court Station and the Conservation Areas. The large number of heritage assets that would be harmed and the magnitude of that harm is not considered to be outweighed by public benefit. The proposed development is therefore contrary to policy DM12 of the Development Management Plan 2015, policies CS7 and CS17 of the Core Strategy 2015 and the NPPF.

3. The proposed development, by reason of the lack of a completed legal agreement in relation to the required affordable housing contribution, including an early review and late review mechanism, fails to provide the necessary contribution towards affordable housing contrary to the requirements of policy CS21 of the Core Strategy 2011 and the Development Contributions Supplementary Planning Document 2020.
4. The proposed development, by reason of the lack of a completed legal agreement in relation to highway alterations and improvements, fails to secure the reconfiguration of Hampton Court Way from Hampton Court Bridge near the River Ember Bridge as shown on the illustrative plan no. CIV16694CSA950047 together with the detailed design of these improvements and further safety audits, Travel Plan together with necessary monitoring fee, the provision of a car club with 3 electric vehicles and the provisions of a new bus layby in River Bank and the relocation of the two bus stops on Creek Road. As such, the proposed development would result in adverse highway and transport implications contrary to the aims of policy CS25 of the Core Strategy 2011, policy DM7 of the Development Management Plan 2015 and the NPPF.

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This application is brought to the Planning Committee due to the significant level of public interest.

## Report

### 1. Site Description

- 1.1 The application site (as shown in Figure 1) is located to the east of Hampton Court Way, East Molesey. The northern boundary of the site is the River Thames, beyond which lies Hampton Court Palace on the opposite bank. The eastern boundary of the site abuts Cigarette Island Park and to the south is the River Ember. The site consists of a number of parcels of land detailed below:

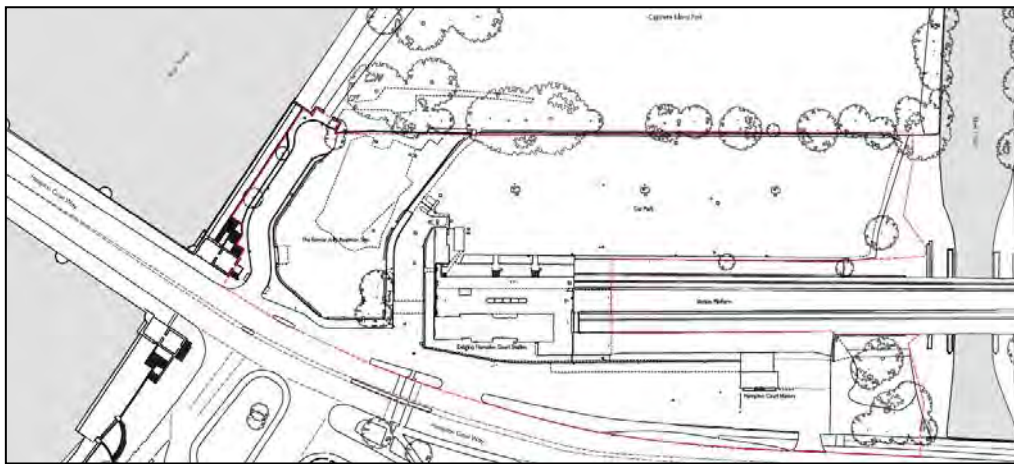


Figure 1: Existing site plan showing Hampton Court Station

#### Hampton Court Railway Station

- 1.2 This includes the locally listed station building, built in 1849 together with ancillary structures; surface car park for approximately 204 vehicles; train tracks; platforms; coach and bus parking area; and land to the southwest of the tracks, currently occupied by Hampton Court Motors which is a second hand car sales garage. The lawful use is for railway purposes, including the ancillary station car park and transport interchange. Hampton Court Motors had the benefit of a temporary planning permission for car sales which authorised the use for a year and has now lapsed. However due to the 10 year continuous use of the site and the lack of enforcement action this use is now considered lawful. The station building was previously considered for listing by Historic England. However, the request for listing was denied and therefore it remains locally listed.

#### The Jolly Boatman Site

- 1.3 This is separated from the station by the access to the station car park. The former building of this name was demolished in 2002. It occupied about one third of the site. The remainder was an outdoor standing and seating area for the food and drink use and included two mobile food kiosks. The site is surrounded by hoarding and is currently overgrown. The site contains the underground storage tanks which were installed by Gladedale Homes as part

of the implementation of planning permission 2008/1600 for the redevelopment of the site.

#### Highway

- 1.4 A small service access is located to the north of the Jolly Boatman site, which gives access for maintenance vehicles to Cigarette Island Park. This road is adopted Highway within the ownership and control of Surrey County Council. The road takes its access from Hampton Court Way and there is a small spur connecting it with the forecourt of the station.

#### Accesses

- 1.5 There are a number of accesses to the site including the access route to Cigarette Island Park to the north, the access to the station car park to the north of the station buildings, the bus layby, the access to the west of the station and the access to the car sales garage.

#### Other

- 1.6 There is a portion of undeveloped land to the south west of the station site between Hampton Court Motors and the River Ember. This land is owned by Network Rail and is covered by a Tree Preservation Order.
- 1.7 The application site is located within the East Molesey (Bridge Road) Village Centre and the East Molesey Kent Town Conservation Area as shown on the Elmbridge Borough Core Strategy 2011 Proposals Map. It is situated within the sub-character area MOL03: East Molesey Village and Hampton Court Station as defined in the Elmbridge Design and Character Supplementary Planning Document 2012. The site is situated approximately 420m to the north-east of the East Molesey Bridge Road Conservation Area.
- 1.8 The railway station building is locally listed and Hampton Court Bridge that crosses the River Thames by the site is a Grade II listed structure. Within the borough of Richmond is Hampton Court Palace, which sits to the north of the site beyond the River Thames. This is Grade 1 Listed and is a Scheduled Ancient Monument of international significance. Although outside the boundary of Elmbridge, it is classified as a key landmark on the Core Strategy Proposals Map, with strategic views from the Palace into the Borough to the east of Cigarette Island Park. The site is also situated to the south and west of Hampton Court Park and Bushy Park which are a Grade I Registered Park and Garden.
- 1.9 Much of the site is made up ground and it slopes gently down from the River Thames towards the River Ember. A submitted topographic survey indicates that the existing ground levels within the main site fall from west to east from approximately 9.0m above Ordnance Datum (AOD) to 8.4m AOD in the north and 9.0 AOD to 7.6m AOD in the south. The levels within the area for the proposed temporary car park are generally flat, varying between 7.5m AOD



and 7.6m AOD. In this report all building heights have been quoted from the 9.1m AOD datum of the station plinth.

- 1.10 The site is situated within Flood Zones 2 and 3a which are areas with medium and high probability of flooding. Flood Zone 3a covers part of the station car park and the land to the south of Hampton Court Motors. Cigarette Island Park to the east of the site is within Flood Zone 3b which is the functional floodplain and the highest risk category. The extent of Flood Zones 2, 3a and 3b are depicted in Figure 2 with Flood Zone 2 shown in lightest blue and Flood Zone 3a in the mid-blue and 3b in the darkest blue.

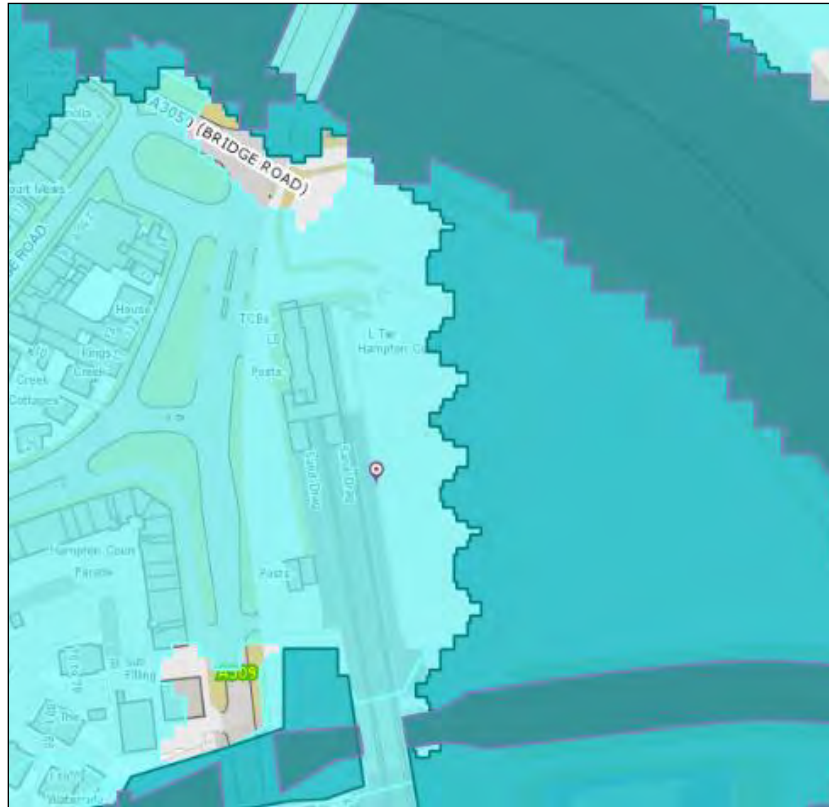


Figure 2: Flood plan for the site

A plan of the site and surrounding area showing the extend of Flood Zone 2 (lightest blue), Flood Zone 3a (mid-blue) and Flood Zone 3b (dark blue)

- 1.11 Hampton Court Way is a classified road (A309), running on an approximate north/south direction, and connects with Hampton Court Bridge to the north. The station itself is the terminus of the Hampton Court to London Waterloo service. The station has its own car park for rail passengers. There is also a bus interchange to the front of the station, serving bus routes R68 and 411.

## 2. Constraints

2.1 The relevant planning constraints are as follows:

- Air Quality Management Area
- Contaminated Land
- Conservation Areas

- Flood Zones 2 and 3 (including 3b)
- Surface Water Flooding
- Listed Buildings (Hampton Court Palace and Hampton Court Bridge)
- Locally Listed Building
- Thames Policy Area
- Tree Preservation Order

### **3. Policy and Guidance**

- 3.1 As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for any decision is the Development Plan. The decision on a planning application should be made in accordance with the development plan unless material consideration(s) indicate otherwise. As such, the local policies represent the starting point, with the other material considerations including the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and local supplementary planning documents being also relevant to the determination of this application:

#### Core Strategy 2011

- CS1 – Spatial Strategy
- CS7 – East and West Molesey
- CS12 – The River Thames Corridor and its tributaries
- CS14 – Green Infrastructure
- CS15 – Biodiversity
- CS17 – Local Character, Density and Design
- CS19 – Housing type and size
- CS21 – Affordable housing
- CS23 – Employment land provision
- CS24 – Hotels and Tourism
- CS25 – Travel and Accessibility
- CS26 – Flooding
- CS27 – Sustainable Buildings

#### Development Management Plan 2015

- DM1 – Presumption in favour of sustainable development
- DM2 – Design and amenity
- DM3 – Mixed Uses
- DM4 – Comprehensive development
- DM5 – Pollution
- DM6 – Landscape and trees
- DM7 – Access and parking
- DM8 – Refuse, recycling and external plant
- DM10 – Housing
- DM11 – Employment
- DM12 – Heritage
- DM13 – Riverside development and uses
- DM20 – Open Space and views
- DM21 – Nature conservation and biodiversity

Design and Character SPD 2012

Companion Guide: East and West Molesey

Development Contributions SPD 2020

Parking SPD July 2020

Thames Landscape Strategy

Landscape Character Reach 02 Hampton Court

East Molesey Kent Town Conservation Area Appraisal and Management Proposals 2012

Hampton Court Station and Jolly Boatman Sites Development Brief 1999

3.2 The current Planning Brief (herein referred to as the Brief) was formally adopted by Elmbridge in November 1999.

Aims:

3.3 The aims of the Brief are summarised within it as:

- To promote a comprehensive development of the site, to include a comprehensive solution for access.
- To enhance the site's role as a public transport interchange.
- To ensure that the development enhances the East Molesey Conservation Area and provides a scheme of the highest architectural quality which respects its location opposite Hampton Court Palace and adjacent to Hampton Court Bridge.
- To ensure that the development maximises the opportunity to improve the frontage of the River Thames and to encourage a range of uses which promote enjoyment of the River.
- To encourage environmental improvement of the site and the immediately adjacent highway.
- To enhance the site as a gateway to the borough, particularly for tourists visiting Hampton Court.
- To encourage a mix of uses appropriate to the site's location.

### **Changes Since Adoption Of The Planning Brief**

Flooding

- 3.4 The Brief makes no reference to flooding. At the time it was prepared the site was not shown to be at significant risk from flooding due to its height above the adjacent rivers. However, the Environment Agency has issued more cautious Flood Zone mapping since the Brief was prepared. Current flood zone maps identify a higher standard of risk, based on potentially higher flood levels and climate change adjustments. Consequently, the areas that are identified as potentially liable to flooding are more extensive than in the 1990s.
- 3.5 It means that, if the site is to be developed, any application now has to take account of the additional design constraints which the flood risk imposes – such as minimum floor height, safe dry access, flood compensation etc. These were not envisaged when the Brief was prepared. This has implications for the layout, height and use of any buildings, as well as the cost of construction.

#### Affordable Housing

- 3.6 The Brief also makes no reference to affordable housing and neither does it explain that omission. At the time it was adopted the Council was applying a policy of 30% affordable housing on sites of this size. The current Elmbridge policy is that 40% of all new housing on larger sites such as this should be affordable.

#### Status Of The Planning Brief

- 3.7 The Brief is a material consideration in the assessment of this planning application. The normal starting assumption would be that any application that follows the specifications in the Brief would be approved, unless there has been a material change in the planning circumstances that renders the Brief outdated or contrary to latest adopted policies. In this case there has been a material change of planning circumstances that must be taken into consideration and these must carry weight in the determination of planning applications on the site.
- 3.8 Since the adoption of the Brief the Council have adopted new Development Plan Documents in the form of the Core Strategy and Development Management Plan. The policies within the documents still broadly support the aims of the Brief in general, however these must also be considered together with the revisions to the flood risk categories and the increased requirements for affordable housing provision. These material changes have a bearing on the principle of development and, if the site is to be developed, may also affect the detailed design guidance within the Brief for what may be suitable on this site, and therefore in this regard the Brief may not be as strictly applied.

#### Extant permission

- 3.9 The applicant argues there is an extant planning permission in place on the application site under application reference 2008/1600 which is for the demolition and comprehensive redevelopment of Hampton Court Station, the Jolly Boatman site and adjoining land to include 66 residential units, retail and commercial floorspace (603sqm), 46 bedroom hotel (redesigned), 61 bedroom care home, refurbished railway station, new transport interchange, new areas

of public open space, car parking, highway improvements together with other works incidental to the proposed development.

- 3.10 Objections to the development have questioned whether permission 2008/1600 was actually implemented in terms of the extent of the works carried out to constitute commencement. The Council were served notice of the Developer's intentions to commence the development on 11 May 2013 in pursuance of the planning permission, works were then undertaken on the site on 3<sup>rd</sup> June 2013. A site visit was carried out by Officers on 14 June 2013 and photographs were taken of the works which had been undertaken at that time which consisted of the underground drainage tanks. The Local Planning Authority confirmed in a letter to the Developer dated 4 July 2013 that the works undertaken on the site represent a lawful implementation of planning permission 2008/1600. No formal Certificate of Lawfulness was submitted or determined, but there is no requirement to do so.
- 3.11 A previous planning permission in relation to the same land is capable of being a material consideration because a) if the permission is capable of implementation, it may provide a fall-back position, and b) in any event, there is a public interest in consistency of decision making. Officers do not have any further evidence before them to dispute the lawful implementation of planning permission 2008/1600. However, the weight applied to the extant permission on the site would still vary depending on the prospect of it being further implemented.
- 3.12 Planning application 2008/1600 was commenced in excess of 8 years ago. The works have not progressed on the site past the installation of the underground drainage tanks. Officers have not conducted a viability assessment to conclude whether it would be viable to complete the extant permission on the site. Evidence to demonstrate that the extant permission is no longer viable to implement was submitted by objectors to the development in the form of a letter from the Office of Rail and Road in relation the disposal of land at Hampton Court Station by Network Rail dated 14<sup>th</sup> February 2017. Annex A to that letter contains the proposed property disposal application form which includes the planning history for the site. This states that "a similar development was approved by the Council subject to a S106 Agreement in 2008. It did not proceed because it was not financially viable at the time." There is no evidence associated with the proposed property disposal application to substantiate this claim. Officers do not have any further evidence before them to assess whether the extant permission is viable to complete at the current time. The applicant has indicated verbally that they may consider the implementation of the riverside hotel element but have not indicated whether they would carry out the rest of the development on the remainder of the site. Officers consider that this indicates there is a possibility of part of the extant permission occurring.
- 3.13 Officers acknowledge that the previous application has set the parameters for what was previously considered to be acceptable on the site. However, there have been changes to planning policy since the approval of the application, which are discussed through this report, and an increased emphasis on the protection of heritage assets.

- 3.14 In light of the undemonstrated viability of the extant permission together with the changes to planning policy since the grant of planning application and importance of protecting heritage assets, it is considered that the previous permission carries some limited weight as a material consideration in the determination of this application.

#### **4. Statutory Duties**

The Local Planning Authority has statutory duties relating to the determination of the application which are set out in the following legislation:

- Section 70 of The Town and Country Planning Act 1990
- Section 38(6) of The Planning and Compulsory Purchase Act 2004
- Sections 16, 66(1) and 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990
- The Equality Act 2010

#### **5. Relevant Planning History**

- 5.1 The earliest planning record of the Jolly Boatman site was for a permission granted in 1948 for the erection of a refreshment pavilion and ice cream kiosk. During the late 1940s, 1950s and 1960s various applications were approved to allow extensions and additions to the structures on site.
- 5.2 The Jolly Boatman itself, which evolved from the refreshment kiosk over time into a two-storey public house, restaurant and music venue, was destroyed by fire in the mid 1980s.
- 5.3 The Station pre-dated planning legislation and the first record of planning permission dates to 1952 when approval was given for a change of use of part of the land from a builders' yard to the stationing and display of cars for sale and the use of the building as an office (7758). This has been continually renewed and expired in 2009. No further planning permission has been sought since this time and the Council has not taken any enforcement action against this development. The erection of showrooms for the sale of cars was refused in 1960 (18009).
- 5.4 On the station site outline planning permission (84/901) was refused in 1985 for a three-storey block of offices, new railway station and conversion of the existing railway station to offices with associated coach and car parking. This was refused due to conflict with office policies, adverse effect on the local environment and failure to achieve a comprehensive development with the Jolly Boatman site.
- 5.5 That refusal was taken to appeal. However, before the appeal was considered, the Council adopted a Planning Brief for the Hampton Court Station and Jolly Boatman sites (in November 1986). This had been prepared jointly by officers at Elmbridge Borough Council and Surrey County Council. It sought a comprehensive development of the site, primarily for leisure and tourist uses

with a refurbished station building or its replacement further south and the existing building re-used for another purpose.

- 5.6 The refused application 84/901 went to appeal where it was dismissed with the additional ground that it conflicted with the Brief, which had been adopted in the meantime, and promoted tourist uses rather than offices.
- 5.7 After the above proposal was refused, applications were submitted to jointly redevelop both the railway station and Jolly Boatman site.
- 5.8 Outline planning permission was granted in 1987 for a three-storey 76 bedroom hotel with ancillary accommodation, relocation of railway station and provision of 170 car parking spaces and 5 coach spaces (87/1180).
- 5.9 A further planning application was received in 1987 for timeshare accommodation, plus a hotel, restaurants, conference facilities, casino, sporting and recreational facilities and car parking. This application was refused as it was considered that the timeshare facilities were too similar to residential and therefore in conflict with the applicable Planning Brief at that time (87/1430).
- 5.10 A planning application was submitted in 1990 for a heritage centre, single-storey and two-storey restaurant buildings, extension and conversion of the railway building to a restaurant and two flats, new station, boat house office/studio buildings and car parking. This application was withdrawn prior to determination (90/0024) following criticisms of the scheme by the Council due to the inclusion of a significant amount of office space.
- 5.11 An application in relation to the Jolly Boatman site only was submitted in 1995 for a part two-storey/part single-storey building for use as a licensed premises/restaurant and was refused as being uncoordinated and non-comprehensive redevelopment, poor design, inadequate parking, and potential confusion and inconvenience in respect of access from Hampton Court Way (95/1003).
- 5.12 In November 1999 the Council replaced the Planning Brief with an updated version, in an attempt to encourage development. It had been noted that the earlier schemes had all either proved non-viable or had been unacceptable in planning terms. Some of this was because of constraints in the original Brief that limited the more viable uses, but also because it had failed properly to identify the costs involved in redevelopment. The new version was prepared with the assistance of consultants and adopted in November 1999. It sought to find a balance that allowed a sensitive development with a good mix of uses, while providing sufficient value to attract a quality development.
- 5.13 In 2007 planning permission was refused for the demolition and comprehensive redevelopment of Hampton Court Station, the Jolly Boatman site and adjoining land to include 66 residential units, retail and commercial floorspace (592 sqm), 46 bedroom hotel, 61 bedroom care home, refurbished railway station, new transport interchange, new areas of public open space,

car parking, highways improvements together with other works incidental to the proposed development. This was refused for the following reason:

‘The ‘Boathouse’ design for the hotel building facing the Thames would have an adverse impact on the character and appearance of Cigarette Island Park, Hampton Court Station (locally listed) and Hampton Court Bridge (Grade II Listed) as well as cross river views from the nationally designated Hampton Court Palace and the Thames Path, and the Molesey Conservation Area, contrary to national policies PPS1 and PPG15 as well as local saved policies ENV1, ENV2, HEN8, HEN11, RTT1, RTT2, RTT7, and the advice in the Thames Landscape Strategy.’

- 5.14 The design of this building was amended, and the proposal was resubmitted under application 2008/1600. The application was for the demolition and comprehensive redevelopment of Hampton Court Station, the Jolly Boatman site and adjoining land to include 66 residential units, retail and commercial floorspace (603sqm), 46 bedroom hotel (redesigned), 61 bedroom care home, refurbished railway station, new transport interchange, new areas of public open space, car parking, highway improvements together with other works incidental to the proposed development.
- 5.15 The Council resolved to grant permission on 18 December 2008, the full Council approving the application. The reasons for the grant of permission were summarised as follows:

“The proposal follows the recommendations of a detailed Planning Brief for the site and although it has been the subject of strong objection from some quarters it has attracted a satisfactory response from English Heritage, an enthusiastic response from CABE, and would deliver the redevelopment and regeneration of one of Britain’s ‘Worst Wasted Spaces’ (CABE). The proposal has also met the technical requirements of specialist consultees such as the Environment Agency and Surrey County Council as Highways and Transportation Authority. The application has been considered against all the relevant national and local policies as well as the representations and consultation replies, and in all the circumstances it is concluded that on balance there are insufficient overriding reasons to refuse planning permission in the public interest.”

- 5.16 A Judicial Review was lodged against the decision and this was considered by Mr Justice Ouseley in the High Court, case reference *Garner, R (on the application of) v Elmbridge Borough Council & Ors* [2011] EWHC 86 (Admin). The Claimants challenged the planning permission on the grounds that the Council had failed in its duty to have special regard to the setting of Hampton Court Palace and had failed lawfully to apply the sequential tests for development in a flood plain, set out in PPS 25 “Development and Flood Risk”. The Claimants also alleged that the reasons for the grant of permission were legally inadequate and that the relevant policies had not been summarised in the decision.



- 5.17 It was decided to carry out a rolled-up hearing since permission was refused on the setting ground because of a want of standing and delay but not on its merits, and on the second ground because of a want of arguable merits as well. The issue of standing was not pursued. Delay was argued, but not strongly, as going to discretion. The background is set out in R (Garner) v Elmbridge Borough Council [2010] EWCA Civ 1006, dealing with a Protected Costs Order.
- 5.18 The judgement dated 31<sup>st</sup> January 2011 sets out how Ouseley J considered the Council's statutory duty under section 66 when deciding to grant permission for this development. The case sets out how it was common ground that the duty in section 66 was not mentioned in the Committee Report for the 18 December 2008 meeting and that the Committee Report does not contain the language of that statutory provision. It does not set out the duty in the language of South Lakeland District Council stating that if development would harm the setting of a listed building, there should be a strong presumption against the grant of planning permission. The Council set out their case that the statutory duty was complied with. Ouseley J accepted that, provided the issue had approached in the right way, and that special regard had in fact been had to the desirability of preserving the setting of Hampton Court Palace and Bridge, the decision would not be erroneous in law simply because the statutory language or statutory test had not specifically been referred to as set out in R (Baker) v Secretary of State for Communities and Local Government [2008] EWCA Civ 141, para 37 Dyson LJ.
- 5.19 The case considered the planning history of the site and the Council's consideration and involvement with it through the preparation of the Planning Brief together with the careful consideration of development on the site and its relationship to Hampton Court Palace. The importance of all the history was stated by defendants to show that the Council's consideration of setting did not start and finish with the officer's report to full Council in December 2008, but rather the report was the last in a series of stages in which the setting of the Palace and the avoidance of harm to it had been very seriously considered.
- 5.20 The consideration of the case went through the planning history of the site including the adoption and application of the planning Brief, the pre application and planning application stage. This included analysis of statutory consultation responses together with Officers consideration of those, the Committee report, the site visit, discussions and decision making of Committee members. The decision concluded that the Council did fulfil its statutory duty under s66 when considering the impact of the development on the setting of Hampton Court Palace.
- 5.21 With regards to the consideration of the flood plain and the Sequential Test Ouseley J stated that the application of the Sequential Test is not sensibly applicable to a mixed use development which has to be on a particular site to achieve its regeneration and that the Council could proceed to consider the Exception Test. The argument of the Claimant then became that the Council should have considered whether all the elements were necessary for the viability of the regeneration of the site, and whether the vulnerable elements could be located out of the flood plain: the care home and residential uses in

particular. The argument further evolved to the effect that in judging viability and scheme content, the Council ought to have taken, not the land price agreed between Network Rail and Gladedale, but the residual value of the land for the development of what was permitted to be developed. This argument applied both to the application of the Sequential Test and Exception Test.

- 5.22 It was found that the Council had applied the Sequential Test and Exception Test appropriately and had not erred in law on that matter. The relevant policies were considered, applied on their terms, and the relevant considerations taken into account. It was concluded that there was nothing in the flood plain points.
- 5.23 With regards to the reasons for the decision it was agreed that the reasons were short and broad but adequate and were readily supported by the report to Council and therefore did not err in law. There was however no summary of policies where there should have been one. They were listed in the report but there is no summary of their import for the application, as opposed to a statement of the topics to which they relate. The relevant duty was not complied with but was wholly redeemable by reading the report. It was concluded that, as it was a small omission, it was a waste of time to require it to be complied with.
- 5.24 Following the above judgement an appeal was lodged against the order dated 31 January 2011 of Ouseley J dismissing the appellant's application for judicial review of the respondent's grant of planning permission on 16 June 2009 for the redevelopment of the site. The case was heard in the Court of Appeal before Lord Justice Pill, Lord Justice Toulson and Lord Justice Sullivan, the reference is *Garner and Ors v Elmbridge BC and Ors* [2011] EWCA Civ 891. Permission to appeal was found on two grounds, that the respondent had failed in its duty to have special regard to the desirability of preserving the setting of the Palace; and that the summary reasons given for the grant of planning permission were inadequate. The appeal was dismissed on both grounds.
- 5.25 Subsequent to this application, there have been a number of applications to discharge the planning conditions applied to application 2008/1600. A number of the conditions were appealed on grounds of non-determination, but the appeals withdrawn on the determination of parallel duplicate applications with the Local Planning Authority. The travel plan condition (number 13) was considered at a Hearing but was allowed.
- 5.26 Following the discharge of the planning conditions underground storage tanks were installed on the site by Gladedale Homes. They received confirmation from Elmbridge Council that this constituted the commencement of planning permission 2008/1600 which remains an extant permission on the site.
- 5.27 In relation to the current application there are two further items of planning history. The first, (2018/2065), was a request for a Scoping Opinion which is detailed in section 6 below.

- 5.28 The second is a planning application which is currently under consideration. This is application 2018/3803 for temporary car parking and associated works for Hampton Court Station to provide 110 spaces, for a period not exceeding 2 years from date of first use, and subsequent reinstatement. The proposed temporary car parking would be situated in Cigarette Island Park which is located to the east of the application site. The proposed temporary car parking is intended to accommodate the existing car parking on the site to prevent the need for a phased construction on the application site. However, the proposed temporary parking is not essential to the determination of the current application and therefore can be considered separately after the determination of this application.

## **6. Environmental Impact Assessment (EIA)**

- 6.1 The applicants submitted an EIA Scoping Report on 28<sup>th</sup> June 2018. The Environmental Statement for which the developer was seeking an opinion is intended to inform the decision maker of the likely significant environmental effects of the proposed development, both during construction and after completion. It identified measures to prevent, reduce or offset any significant effects on the environment and identify cumulative and residual effects.
- 6.2 The applicants identified in their scoping report the following key issues and likely significant effects to be addressed in the Environmental Statement (ES) as follows:
- Development Programme, Demolition and Construction
  - Socio-economics
  - Transport and Access
  - Air Quality
  - Noise and Vibration
  - Water Resources and Flood Risk
  - Ground conditions
  - Heritage (Below Ground Archaeology)
  - Ecology
  - Wind Microclimate
  - Daylight, Sunlight, Overshadowing and Solar Glare
  - Townscape, Visual and Heritage Impact
- 6.3 The Scoping Report was found to be satisfactory on the 24<sup>th</sup> August 2018. Elmbridge Borough Council and technical consultees after careful assessment considered the report submitted to be acceptable subject to detailed consideration of the issues raised in the Officer's Report and suitable statements and reports accompanying any future planning application for the proposed development of this site.
- 6.4 An Environmental Statement was submitted with the current planning application and reflects the scoping opinion issued by the Council on 24<sup>th</sup> August 2018. Technical consultees have reviewed the submitted information and an assessment of the contents of the Environmental Statement and the impact of the proposed development will be included in this report.

## 7. Proposal

- 7.1 The proposal is for a comprehensive redevelopment of the whole site including the former Jolly Boatman site, railway station (including the station building, car park, tracks, platform and land on the Hampton Court frontage), highway and the parcel of undeveloped overgrown land to the south-west of the station. The proposed development would provide 97 residential units with approximately 9,646 sqm (GIA) of open market housing and 1270 sqm of affordable housing. The proposed development also includes 3,171 sqm of C1 floor space to provide an 84 bedroom hotel, 435 sqm of A1 retail space and 268 sqm of A2/A3 café/restaurant. Proposed works also include access, station interchange, car parking, servicing, new public realm, landscaping and other associated works following demolition of some existing buildings and structures on site including Hampton Court Motors.
- 7.2 The proposal comprises 3 distinct elements which will be referred to throughout this report. These are the Riverside Building, the Villas and the Hampton Court Way Building. The development also includes a two storey underground car park, public realm space and private amenity space for the proposed residential units. The proposed layout of the site is shown in Figure 3 below.

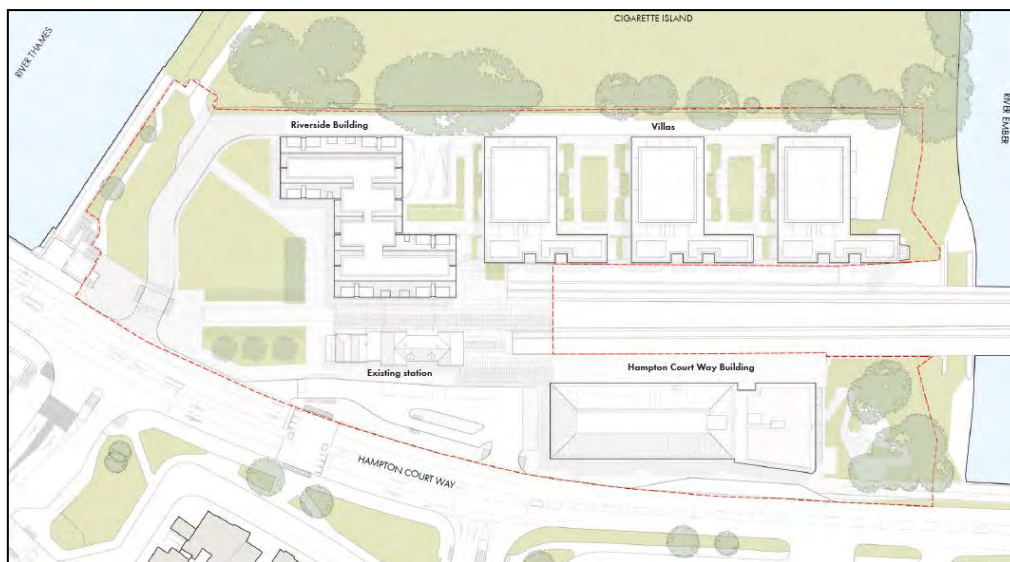


Figure 3: Masterplan showing layout of proposed development

- 7.3 No details have been provided of any proposed works to the train station. This is because Network Rail as a Statutory body have Permitted Development rights as set out in the Town and Country Planning General Permitted Development Order to carry out specific works without the need for planning permission.
- 7.4 There were a number of amendments and amplifications received during the course of the application. Five full re-consultations were carried out during the course of the application which included all neighbour notifications, those that had commented on the application as well as consultees. The details of these re-consultations are as follows:

- Re-consultation 21<sup>st</sup> and 22<sup>nd</sup> Feb 2019
  - Amended Plans showing change of external materials/appearance of the Hampton Court Way building
  - Updated Environmental Statement Heritage, Townscape and Visual Impact Assessment (Appendices 1-3)
  
- Re-consultation 6<sup>th</sup> March 2019
  - Amendment to the materials along the eastern elevation of the development
  - Amendment to the materials for the balconies and glazing of the north elevation of the riverside building
  - Additional information for noise and air quality
  - Amplifications detailed in letter from Agent dated 1<sup>st</sup> March 2019
  
- Re-consultation 24<sup>th</sup> April 2019
  - Additional site section plan from Hampton Court Way across the open space to Cigarette Island.
  - Email and amended plan confirming vehicle tracking for fire and refuse vehicles
  - Amended 'Dimensions Plan – Site Plan' and amplifying email which amends service road width from 3.5m to 3.7m and removes reference to measurements marker of 7.5m on south side of development.
  
- Re-consultation 3rd December 2019
  - Amendment to the submitted Flood Risk Assessment in Appendix 11.1 of the Environmental Statement.
  - Submission of a revised Flood Risk Assessment to overcome concerns raised by the Environment Agency.
  - This consultation also detailed that the following information was received during the course of the application which had not been specifically mentioned in previous notification letters as they related to amplifications to existing documents:
    - Additional noise and air quality information – Noise Assessment technical note and Air Quality technical note submitted 06/03/2019
    - Confirmation that the green space to the south of the proposed Hampton Court Way building would be private amenity space to serve the residents of that building – Email from agent sunken garden submitted 19/03/2019
    - Confirmation of ecological protection following the consultation response from Surrey Wildlife Trust to overcome their concerns regarding bats and veteran trees – Agent response to Surrey Wildlife Trust submitted 21/03/2019
    - Additional cross sections across the public space to the front of the site – Existing and Proposed Sections (P-P), Existing and Proposed Sections (Q-Q), Existing and Proposed Sections (R-R), Existing and Proposed Sections(S-S) submitted 27/06/2019
    - The minutes of the meeting between the Environment Agency, the Applicants and Planning Officer – Minutes of meeting with EA submitted 18/10/2019

- Re-consultation April 2021
  - Amendments to the submitted Flood Risk Assessment in Appendix 11.1 of the Environmental Statement. Submission of a revised Flood Risk Assessment to overcome concerns raised by the Environment Agency (received on the 31 March 2021)
  - Addendum to the Heritage Townscape Visual Impact Assessment to add a view from Hampton Court Way (south). (received on the 14 December 2020)
  - Updated Statements on Car Parking, Financial Viability and Ecology. (received on the 02 November 2020)
  - Written details of the Traffic Signals associated with the Highways Scheme. (received on the 17 March 2021)
  - An update to the Air Quality Report. (dated 09 April 2021)

## 8. Consultations

### Heritage and Landscape

8.1 The following statutory and non-statutory bodies have been consulted as part of this application:

Historic England – No objection (Final response May 2021).

8.2 Raised heightened concerns with regard to the tree screening between the development, Cigarette Island Park and Hampton Court Palace. The concern is heightened because of the diminishing health of the trees which would act as screening.

Recommendation to the LPA to seek legal advice with regard to the South West Railways Act 1913.

8.3 Advised that Dr Sarah Rutherford's Historic Impact Assessment had been reviewed and they reiterated their previous advice that the development would result in some harm to the setting of Hampton Court Palace and its environs, particularly the views from the Privy Garden and Barge Walk. The harm would increase if the tree screening were to diminish. Therefore, it is requested that the health of these trees and future planting is secured as part of any planning permission.

8.4 Historic England previously responded to the scoping opinion for the Environmental Statement detailing specific viewpoints in relation to Hampton Court Palace that they consider important for the consideration of the application.

8.5 In their main consultation response dated 30 January 2019 it is stated Historic England has no objection to the application on heritage grounds.

- 8.6 Historic England's consultation response highlights the exceptionally significant and sensitive group of heritage assets surrounding the site. They state that the proposals for the former Jolly Boatman site will not physically affect the fabric of any designated heritage assets but there will be impact to their settings. The proposed development will incorporate the locally listed railway station, but this effect is outside of the remit of Historic England to provide advice on, as is the Grade II listed bridge, both of which are wholly within the remit of the local authority.
- 8.7 The development within the Conservation Area is on the edge of the area and reasonably distant from the key residential zone within the Kent Town Conservation Area. There will be some impact upon the conservation area and specially upon the railway station building.
- 8.8 Hampton Court Palace is of exceptional significance as a heritage asset. The key views to the palace as presently experienced by visitors include from Trophy Drive to the west front, from the gardens to the east front, and from Barge Walk to the Privy Gardens and south front. The proposed development will not be visible in these views to the palace. Key views from the palace across the river have been shown in the documents submitted and from these the development will be extensively but not entirely screened by trees present both within the palace grounds and also on the riverbanks. Views from Trophy Drive, the west front and from the Privy Garden all indicate that the development will also be almost entirely screened by the trees when in leaf. The development will be more visible from the roof of Hampton Court Palace, and there are periodic tours on the roof, allowing the palace to be experienced by visitors from an elevated perspective.
- 8.9 With regards to the registered park and garden Historic England state that the application site is incidental in any of the designed or other significant views of the designed landscape at Hampton Court Palace, but it does form a prominent part of the setting of numerous designated heritage assets and occupies a key location from which many visitors gain their first glimpse of Hampton Court Palace as they emerge from the railway station. While existing views from Barge Walk, Hampton Court Palace's western forecourt and tiltyard, (likely) the Banqueting House, and (to a lesser extent) the raised walks within the Privy Garden include glimpses of existing buildings on both sides of the river, the proposed development will be a large new built form within the landscape of a greater scale, massing and height than these existing buildings [save for Hampton Court Palace itself]. Efforts have been made by the applicant to mitigate and reduce such visual impacts, such as: orienting the layout to Hampton Court Station and the train line so that the development does not directly front the river; staggering the northern, river frontage and setting it back from the river behind an area of public realm ('Riverside Gardens'); breaking up the eastern frontage with podium (1st floor) gardens; introducing a varied roofline; and utilising a conservative materials palette, including visually lighter treatments to upper storeys. While existing mature broadleaf trees within the registered park and garden and public open space at Cigarette Island will help to break-up the form of the buildings and provide some year-round screening in these views, parts of the development will remain visible even when the trees are in leaf. As such, the proposed

development still represents some harm to the settings of the registered park and garden and palace.

8.10 Historic England highlight that the continued presence of trees will be important to screen the development from views from the Palace. In accordance with the NPPF (paragraphs 194 and 196) the impact upon setting will need to be weighed against heritage benefits. The proposed development addresses a complicated site, the current (and long-standing) state of which has had an adverse effect on the setting of multiple designated heritage assets. The proposed development is less impactful upon heritage than previous applications and will replace the existing car park and station forecourt/car dealership and include public realm improvements to remove visually-intrusive elements such as hoarding around the Jolly Boatman site. In particular the proposed 'Riverside Gardens' will create an area of public realm which will greatly improve the sense of arrival at Hampton Court. Historic England confirm they have no objection to the application on heritage grounds.

8.11 Historic Royal Palaces – Object to the application (received May 2021).

- Advised that in view of the recent legal opinion regarding South Western Railway Act 1913, which seeks to limit the building heights to 50 ft (15.2 metres) within half a mile of Hampton Court Palace. This should be a material consideration in the planning process. The 1999 Planning Brief also states that development should be limited to no more than 3 storeys plus pitched roof.
- Concern was also raised with regard the covenants covering Cigarette Island Park and the protection which would be afforded to the landscape setting of the Palace. The development would overshadow and impede the public amenity benefit of the space.
- They further advised that the heritage status of the palace be attributed great weight. The visual impact, with regard to height scale and massing along the eastern elevation of the development would have a significant impact on the palace and gardens. The development would harm the important riverside parkland character and views (many cited within the objection). The impact on many of these views is not demonstrated in the applicant's submission but in Dr Sarah Rutherford's Historic Impact Assessment on behalf of the Garden Trust.
- The proposed public benefits do not outweigh the harm to the heritage asset and there are no real heritage benefits.
- Concern that the views from the train station and approach to train station (passengers) would be impeded.
- Concern regarding landscaping and tree canopy screening.
- The new traffic lights on Hampton Court Bridge require Listed Building Consent.



- Reiterated concerns over parking and impact on the local area.
- 8.12 Historic Royal Palaces had previously commented on the application and had not objected but detailed the significance of Hampton Court Palace as a schedule ancient monument and statutorily listed grade I, whose gardens and parks are included at grade I in English Heritage's Register or Parks and Gardens of special historic interest. They stressed the importance and significant of the setting of the Palace.
- 8.13 They confirmed that the proposed scheme addresses a major part of their concern with the extant permission on the site however they still have the following concerns:
- The Council should ensure that the extant permission on the site is extinguished if permission is granted for the proposed development and that the retention of the Jolly Boatman site as riverside and public space is secured in perpetuity through a legal agreement
  - Concern about the eastern elevation of the buildings and the materials proposed
  - Compliance with the height requirements for developments set out in The Railways Act and its aims to protect the setting of the palace. They raise where land levels should be measured from.
  - The importance of retaining and strengthening the tree screen on Cigarette Island
  - They are very concerned about the reduction in car parking spaces from the existing available parking. The parking surveys are not an accurate reflection of current parking patterns they should be improved and resubmitted.
- 8.14 Historic Royal Palaces sent a further response in which they detailed that they would like to see greater enhancement of the tree and landscape screen currently present on Cigarette Island between Hampton Court Palace and the proposed development. They provided details of suggested landscaping to strengthen the screening and confirm that they would like to work with the developer and the Council to enhance the screening of the western boundary and tree cover on Cigarette Island together with a landscaping design for the public realm area.
- 8.15 In response to these comments the applicant has amended the materials for the eastern elevation of the Villas to a buff brick. They have also amended the materials for the balconies and glazing of the north elevation of the riverside building. Historic Royal Palaces were notified of these changes and the following comments were received:
- S106 to secure the 'square' as open space is welcomed

- A single material across the three pavilions fronting Cigarette Island may appear as a block and HRP consider some variety could help to achieve a more recessive look. However, should tree planting proposed in the landscape scheme which was provided by HRP be implemented then the proposal would hopefully be adequately screened.
- Application of a restrictive covenant to both the height and any further development on the open space would be essential
- Low reflectivity glass is welcomed. HRP would prefer black or gunmetal handrails to white handrails
- No further comments to make regarding car parking.

8.16 Historic Royal Palaces sent a further response restating that they do not object to the scheme. This considers, in their opinion, the three main viewpoints which would have the most impact. With regard AVR viewpoint 1, a wintertime view, it is considered the loss of any mature trees would have a detrimental impact. Further emphasis is placed on the need for an agreed landscape mitigation strategy. In addition, the impact of the light pollution from habitable windows, particularly at night-time, is stated as a concern. With regard to AVR viewpoint 2, it is considered the impact during springtime would be similar to that of AVR 1. With regard to AVR viewpoint 2, the development appears to be screened by the more mature trees, but, is glimpsed at gaps between the taller trees. The light pollution would be less severe, but a glow may be visible. The light from penthouses may still be apparent. Historic Royal Palaces are concerned that no views from within Hampton Court Palace have been provided. They request that a plan is created to protect the tree cover on the western and riverside boundaries. They request that a light mitigation strategy is developed. It is requested that the traffic signals on Hampton Court Bridge be reconsidered, given the resultant detrimental impact on Hampton Court Palace and the Grade II listed bridge.

8.17 The Gardens Trust – Strong objection.

8.18 The development would result in substantial and irreversible harm to the setting of the Grade I Hampton Court Palace Registered park and garden and the numerous listed buildings associated with Hampton Court Palace, as well as a scheduled ancient monument and the Conservation Area. The river setting and Tudor approach of the Palace has until now survived remarkably unchanged but if this development were to go ahead, this would be irreversibly altered and lost to future generations. The permanent and irreversible proposal would totally destroy the integral views between the approach from the station to Hampton Court Palace. No amount of planting or design mitigation can mitigate this. A further comment requested additional visualisations be taken from various points within Hampton Court Palace and updated arboricultural information relating to the health of the horse chestnut trees be provided. A further point of objection was made relating to the South Western Railway Act of 1913.

- 8.19 A further objection was received in March 2021 was accompanied by a detailed Historic Impact Assessment and a further request to add Cigarette Island Park to the Elmbridge Local List. The Historic Impact Assessment concludes that the development would result in a large harmful impact to 12 heritage assets of highest significance including the River Thames. There would be a medium to large harmful impact on a further 10 identified heritage assets. The building would be taller than the 50ft limit imposed by the South Western Railways Act. Specific harm was identified by way of the height of the development and its visibility through the trees, the competing scale and height in the context of Hampton Court Palace, major damage to designated structures, conservation areas and locally listed structures, and greatly increased light emission as seen from the heritage structures and conservation areas. The development would result in substantial harm to the setting of the heritage assets, including Hampton Court, its landscape frame and the Thames landscape. It is stated that no adequate rigorous historic impact assessment has been submitted as part of the submission. No night-time visualisations were provided. A request for the applicant to respond to the objection was also made.
- 8.20 Surrey Gardens Trust – Objection. Advised of endorsement for The Gardens Trust comments and their accompanying Historic Impact Assessment. There would be substantial harm to a number of heritage assets and the application should be refused.
- 8.21 SCC Conservation and Archaeology– No objections subject to pre-commencement condition relating to further archaeology work, with regard to the preservation of potential unknown archaeological Heritage Assets which may be present on the site. A written scheme of investigation should be secured by condition. The work will need to be undertaken by a specialist geo-archaeologist. The details of the foundations should be informed by the geotechnical investigation. It is recommended that a trial trench evaluation is carried out across the site. The comments are on the basis of the updated drawings.
- 8.22 East Molesey Conservation Area Advisory Committee - objection raising the following summarised concerns:
- Objection to the increased height generally but particularly the hotel
  - Objection to the proposed vehicular access which fragments the public space facing the river
  - The elevation facing the Palace should be realigned to face the river
  - Station forecourt should be laid out to ensure that passenger drop off is catered for in lieu of the proposed arrangement in the basement which is likely to generate safety issues
  - Roadside reserve strip should be softened with tree planting

- The station should be listed, and the decision delayed until it has been considered
- The station building should be restored to its former quality
- Adequate provision for coach parking is required
- Care should be taken to ensure that urbanisation of this sensitive area is minimised by use of soft finishes and materials, abundant public planting, and strict control and a sympathetic approach to signage and street furniture generally.
- Require assurance that the road works are to be simultaneous with development
- Required block modelling showing massing
- They raised a number of concerns regarding the Hampton Court Way building and its impact on the surrounding area
- There is a shortfall in parking that will increase parking stress in the surrounding area
- The development has little sympathy with the surrounding area, it does not sit comfortably amongst neighbours and in particular the Palace.

8.23 East Molesey CAAC submitted a further objection in May 2021, reiterating the above objections. Concern was raised with regarding the following points:

- How would local parking be managed in the event of the car park closure due to flooding?
- Change to brick colour not appropriate
- The viability information is of concern
- A Listed Building Consent application is required for the erection of traffic signals at Hampton Court Bridge
- The Air Quality report is not robust
- Poor quality public space
- Lack of improvement to passenger drop off space
- Lack of detail relating to street furniture.
- Works to roads and implications on the Conservation Area
- No site model submitted
- No heritage benefits to the scheme.
- Harm to undesignated heritage asset (air raid shelter). The design of the temporary car park should be amended.

Hampton and Molesey Riverside Trust – Object.

- The main objection is on the basis of the height and density of the development. Views from Hampton Court Palace are important. The modern design is out of character with the area and the Victorian train station.

- Concern over lack of car parking and impact on parking stress.
- 8.24 EBC Green Spaces Officer – Advised of no concern as long as the access road layby would not be obstructed. Support given to funding for public open space (As opposed to tree planting specifically).
- Previously advised of concern regarding layby which is part of the Cigarette Island Park access road. This may lead to informal dropping off which could impede access.
  - Any trees removed during the construction phase should be replaced.
- 8.25 Thames Landscape Strategy (TLS) – The Members of the Community Advisory Group have concerns regarding the scheme which would contravene planning policy (local and national). The proposal would detrimentally affect the riverside landscape and character of the area and the vistas to and from the palace. The night-time lighting may have an impact on protected species. The proposal would not be of a higher standard when compared with the 2008 permission. Concern over level of affordable housing. The development would contravene the Southern Railways Act. The development would result in an increase in the number of cars Thames Landscape Strategy ask that the council take into account TLS guidance set out in the Thames Landscape Strategy Review 2012 which relates to the importance of the setting of Hampton Court Palace from the river and enhancement/protection of the river and surrounding areas.
- 8.26 The Victorian Society – Objection. The development would dominate the setting of Hampton Court Railway Station, locally listed buildings and have a harmful impact on the conservation area. Advised of no objection to the principle of redeveloping the site.

The Victorian Society responded in May 2021 to reiterate their above objection.

### Flooding

- 8.27 Environment Agency – No objection subject to conditions to secure appropriate mitigation measures relating to finished floor levels and appropriate design of the underground void. The design of the eastern façade will also be subject to detailed design drawings.
- 8.28 A condition relating to the development proximity to the 8 metre river buffer zone is required, in order to protect the Thames and Ember during construction and for lifetime of development.

A condition to secure an ecological and landscape management plan would be required.

A condition to ensure the discovery of contamination on site is managed effectively is required.

- 8.29 Initial response stated an objection to the scheme on the basis of lack of compliance to site specific flood risk requirements as set out in the PPG. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:
- 8.30 Address the loss of flood plain storage within the 1 % annual probability (1 in 100) flood extent with an appropriate allowance for climate change caused by the proposed development can be mitigated for. Assess whether the proposed floodable void is an appropriate means of mitigating for the loss of floodplain / impact on flood plain flow paths within the 1 % annual probability (1 in 100) flood extent with an appropriate allowance for climate change caused by the proposed development.
- 8.31 Further information was submitted by the applicant, but the EA maintained its objection. The development had not demonstrated that the proposed development does not increase flood risk up to the 1% annual exceedance probability (AEP) flood event, plus an appropriate allowance for climate change.
- 8.32 The EA also advised that the applicant's flood modelling would need to comply with newly released (Thames Hurley to Teddington Model 2019). It was advised that further detailed and technical drawings would be required to assess the void storage design.
- 8.33 The applicant submitted further information (FRA Addendum dated June 2020), but as of August 2020 the EA objection was maintained on the basis that the changes did not address the concerns with regard to increased flood risk. The submitted model updates are not robust or suitable for the intended purpose of assessing flood risk for the proposed development on this site to the most appropriate scale. Therefore, the outputs should not be considered at this time within an updated flood risk assessment. Consequently, the submitted fluvial flood modelling and FRA does not adequately assess the flood risks posed by the development and in particular, fail to demonstrate at an appropriate scale that the proposed development does not increase flood risk elsewhere as a result of the development.
- 8.34 The applicant then carried out an audit report of the EA modelling. The applicant also advised that detailed design could not be provided at this stage of development. The EA objection was maintained as of December 2020.
- 8.35 An amended flood model and FRA addendum were submitted, but the EA maintained its objection as of April 2021 on the basis that the FRA technical drawings associated did not reflect with the submitted planning application drawings.
- 8.36 The applicant provided further updates and comments to the EA. The EA provided a finalised consultation response on 15<sup>th</sup> of June 2021, which removed the previous objection.

- 8.37 SCC Sustainable Drainage and Consenting Team – no objections subject to pre-commencement conditions and relating to sustainable drainage systems and an informative relating to the construction phase.

### Environmental

- 8.38 Natural England – no objections as it is considered that the proposed development would not have significant adverse impacts on statutorily protected sites. Standing/general advice provided.

### Environmental Health –

- 8.39 Noise – The consultation response considers the submitted Noise Assessment which is discussed in more detail within the remit of the report below. Environmental Health were satisfied with the submitted materials, however they have identified that further noise mitigation may be required to the facades of the buildings that are affected by events at Hampton Court Palace than is currently proposed and this can be addressed by a pre-commencement condition. Further pre-commencement conditions are recommended relating to noise insulation between the retail and residential units; noise from plant, machinery, extraction or filtration, refrigeration equipment and air conditioning units; and vibration from the railway.
- 8.40 Air Quality – The consultation response considered the submitted Air Quality Assessment and recommends a glazing and ventilation scheme on the Hampton Court Way properties that face directly onto Hampton Court Way and those that face the side of the highway. Environmental Health have considered the submitted information relating to the impact of the proposed development on air quality and have confirmed they are satisfied subject to recommended conditions. Further details are provided in Environmental considerations section of the report below. Pre-commencement conditions are recommended relating to fresh air ventilation to habitable rooms, CHP plant emissions, a travel plan to minimise car use and details of electric vehicle charging points. A post completion condition is recommended for further air quality studies of the proposed highway improvement scheme. Environmental Health raise concern about the amount of parking proposed. To ensure betterment over the existing situation rather than maintenance of current levels they state that ideally the development would be car free in this sustainable location to help show significant improvements to air quality and that there is an overprovision of parking in this sustainable location. Following a further consultation on the updated Air Quality Assessment (April 2021), the Environmental Health team responded and state that there was no update of significance since 2018. This states that levels of Nitrogen Dioxide within the AQMA have been decreasing since the AQMA was declared in 2008. A recent significant reduction recorded at the monitoring station is likely to be attributed to the Covid-19 pandemic. The recommendations and planning conditions as above should remain.
- 8.41 In May 2021, the Environmental Health Officer advised that the applicant should address the concerns of objectors with regard to air quality.

- 8.42 In June 2021, the Environmental Health team responded to the updated technical note from the applicants and confirmed that they are satisfied that their original comments and recommended conditions would still apply.
- 8.43 Contamination – The consultation response considers the submitted Environmental Statement – Chapter 12: Ground Conditions and associated figures and documents. Environmental Health confirm that they are satisfied that the site poses a potential significant risk under future use as a result of the current ground conditions and the associated uncertainty. They therefore recommend pre-commencement planning conditions relating to further investigation work to overcome these concerns. Informatives are recommended relating to contamination investigation, hours of works and ancillary operations and disposal of construction waste.
- 8.44 Joint Waste Solutions (refuse) – no objection subject to condition – they initially raised concern about the width of the access road, however the applicant supplied a swept path analysis and Joint Waste have confirmed that this overcomes their concerns. They have raised concern about the collection point and stated that they would expect access to be provided at all times between 06:30 and 15:00 on collection day and for dropped kerbs to be installed for the communal bins to be wheeled across the vehicle. They have also stated that the waste storage does not meet minimum capacity requirements. This is discussed in more detail below and Joint Waste Solutions have confirmed that they would be satisfied with the use of pre-commencement planning conditions to address these issues.
- 8.45 Surrey Wildlife Trust – no objection subject to condition – in their first response they sought further clarification of the impact of the development on protected veteran trees and bats. They also recommend the following pre-commencement conditions:
- The submission of a sensitive lighting management plan
  - Conduct further badger survey immediately prior to the works and submit relevant mitigation scheme if badger activity is found
  - The submission of a Construction Environmental Management Plan
- 8.46 They also set out recommendations for biodiversity enhancement on the site.
- 8.47 The applicants provided an additional statement relating to veteran tree and bats and Surrey Wildlife Trust have subsequently confirm that this sufficient to overcome their concerns about the potential presence of veteran trees and potentially active bat roosts.
- 8.48 Surrey Bat Group – The updated ecology report is deemed acceptable. The only concern relates to light spillage which is endorsed in the comments from Surrey Wildlife Trust.



- 8.49 Elmbridge Borough Council Tree Officer – no objection subject to conditions – the consultation response will be considered in detail within the remit of the report below.

### Highways/Transport

- 8.50 SCC Highways – no objections subject to a legal agreement – The proposed development has been considered by the County Highway Authority who recommends an appropriate agreement should be secured before the grant of planning permission to cover the proposed highway works which principally involve the reconfiguration of Hampton Court Way from Hampton Court Bridge to River Ember Bridge. Provision of these elements is to be subject to detailed design and further safety audits, all details to be agreed with the Highway Authority. They also ask that the agreement includes the submission of a travel plan and payment of monitoring fee, the provision of a car club with 3 electronic vehicles and the provision of a new bus layby in River Bank and the relocation of 2 bus stops in Creek Road. Planning conditions are recommended relating to accesses, parking, Construction Transport Management Plan and cycle storage. Informatives are also recommended relating to highways. The report concludes that the trips generated by the site amount to a minimal increase compared to the existing levels of traffic on the road. The changes to the highway layout would significantly improve the current situation with particular attention paid to vulnerable road users – cyclists and pedestrians. Car parking at the station is an issue for Elmbridge Borough Council to satisfy themselves on the levels provided will not lead to safety or capacity issues. SCC Highways Authority confirmed that any amenity concerns of neighbours could be addressed by means of an extended CPZ with increased enforcement.
- 8.51 Further comments were sought from SCC Highways with regards to the impact of the proposed development at Units 1 and 2, Hampton Court Estate, Summer Road, Thames Ditton on the highway capacity and safety. They responded that their understanding of the planning process is that each application is considered on its own merits. In this instance neither response should be changed as the new application for Hampton Court Estate, is not committed development and is at appeal.
- 8.52 Network Rail – have commented on the proposal, however this was from the perspective of the applicant and therefore is considered to be a supporting document rather than a consultation response.

### Others

- 8.53 Elmbridge Borough Council Housing – request that a Late Stage Review of the affordable housing contribution is included in the S106 agreement
- 8.54 Elmbridge Borough Council Green Spaces Manager – confirmed that they are in support of the proposed public space on the Jolly Boatman site. Other comments in their response relate to the temporary car parking and so will be considered under that application.

- 8.55 Health and Safety Executive (HSE) – the application site is out of consultation distance and therefore the HSE do not need to be consulted at present
- 8.56 Thames Water – Following initial investigations, Thames Water has identified an inability of the existing foul water network and water network infrastructure to accommodate the needs of this development proposal. Thames Water recommend a planning condition relating to water and wastewater network upgrades as well as an associated informative.
- 8.57 Surrey Police – Recommended a pre-commencement condition requiring the development to achieve the full Secured by Design award for the residential and commercial elements of the development and to fully engage with Design Out Crime Officers and Counter Terrorism Security Advisors in relation to all other aspects of the proposal including security for the hotel and car parks. This condition has been added to the list of agreed conditions.
- 8.58 Surrey Fire and Rescue – confirmed that the development should comply with section B5 of Approved document B. This area is under the jurisdiction of the Building Control body appointed and would be consulted on formally, once they have received the application.
- A further response was received in May 2021 which advised that the development appears to be in compliance with the Fire Safety Order (2005). The development will be subject to the relevant Building Regulations standards and a Fire Risk Assessment. Advised that strong consideration be given to Automatic Water Suppression Systems.
- 8.59 Other Local Authorities:
- 8.60 London Borough of Richmond – objects to the proposed development for the following reasons:
- The London Borough of Richmond upon Thames expresses regret that the applicant has failed to engage with them at a preapplication stage regarding transportation, ecological, design and heritage aspects of the proposed development bearing in mind the site's close proximity to the boundary between the two boroughs.
  - Whilst the introduction of a landscaped area between the built development and the River Thames is welcomed, Richmond remains seriously concerned at the detrimental impact on heritage assets, visual amenity and in particular views to and from Hampton Court Palace (Grade 1 Listed), its Registered Park and Gardens (Grade 1 Listed), Hampton Court Bridge (Grade II Listed), the River Thames, its towpath and other areas on the north side of Hampton Court Bridge caused by the excessive scale and height of the development in this key architectural, cultural and historic setting.
  - The amended proposed brickwork for the east elevation is noted and welcomed.

- It is not considered that the submitted transport documentation adequately takes into account the highway and parking impacts on this Council's public highway network and specifically Hampton Court Road. There is a particular concern that the loss of parking for coaches used by visitors to Hampton Court Palace, and events therein, which are currently allowed to park on the railway station forecourt has not been adequately addressed. In the event of an approval this Council would wish to be consulted in relation to any proposed Construction Management Statement in relation to construction traffic.
- Mitigation for the impact on wildlife through a requirement to provide sensitive lighting and the creation of an enhanced habitat for bats and other wildlife is strongly encouraged.

## 9. Representations

- 9.1 1818 letters of representation were received from 1276 properties objecting to the proposed development. The letters of representations in this consideration include those submitted following the original neighbour consultation as well as those submitted following the re-notification letters that were sent out during the course of the application following receipt of amended or additional information.
- 9.2 These representations include comments from residents' groups and advisory boards that do not fall under the consultees category as they were not directly consulted by the Council. This includes comments received from the following:
- Thames Landscape Strategy Community Advisory Group
  - Campaign for the Protection of Rural England (CPRE)
  - Sustrans (custodians of the National Cycle Network)
  - Friends of Bushy and Home Parks
  - Thames Ditton and Weston Green Residents' Association
  - Esher Residents Association
  - Save Britain's Heritage
  - Friends of Hurst Park
  - Surrey Campaign to Protect Rural England
  - Thames Ditton Marina
  - Hampton Court Rescue Campaign
- 9.3 Included within the letters of objection, 111 standardised objection forms were received from 95 different properties. These forms were created and delivered by Hampton Court Rescue Campaign and are filled in by hand using a tick box format stating the reasons for objecting to the proposed development. The reasons for objection raised on the forms are included within the issues detailed below. Of the 111 standardised objection forms received 9 of these were from properties which had previously submitted a letter of representation.

9.4 The location of the properties from which letters of objection and the standardised objection forms were received have been detailed in the pie chart in Figure 4. This shows that over three quarters of the objections received were from Elmbridge residents that are local to the proposed development.

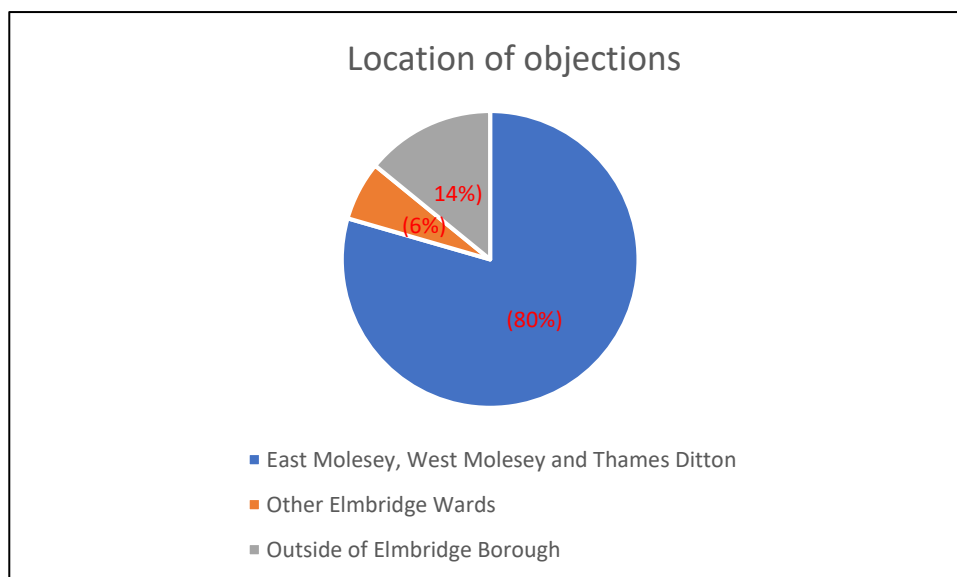


Figure 4: Location of objections

This pie chart displays the location of the addresses from which people sent letters objecting to the proposed development.

9.5 The submitted letters of objection raised the following summarised concerns:

#### Scale, layout, design and appearance

- Massive overdevelopment of the site, density too high
- The height and density of this proposal exceeds the one of the controversial 2018 planning application
- The proposed development would breach the South-Western Railway Act of 1913 prohibits the development of any buildings greater than 50ft within a one and a half mile radius of Hampton Court
- The proposed development would dramatically alter the skyline due to high elevations
- The Hampton Court Way building is situated too close to the kerbside
- Out of keeping with the surrounding area, architectural style ugly and inappropriate
- Design, appearance and materials are inappropriate
- The development is disappointing and of low quality
- Incongruous development
- Unsightly, obtrusive and claustrophobic
- It would cause harm to the street scene
- The development is too modern
- Very little attempt to create a public realm
- The change to the proposed materials on the Hampton Court Way Building and the Villas does nothing to overcome previous concerns

- Design reminiscent of a prison block
- Hampton Court Way frontage needs some breaks and variation of materials to offset the length
- Metal balconies particularly unsightly
- The development would completely destroy the openness and views in and out of the area
- Too much reliance in the CGI's and submitted documents on unrealistic tree screening
- Frontage onto Hampton Court Way too close to the road with no greenery, there should be a green verge adjacent to the Highway.
- Too much hardstanding
- Balconies would end up as storage areas
- Poor use of space for the one-bed flats
- No need for additional retail or cafe
- No need for another hotel in the area; concerns that it will turn into residential apartments
- Not enough affordable housing; lack of social housing, sheltered/emergency accommodation
- The amendments made during the course of the application to the design do not overcome previous objections to the scheme

#### Heritage Assets

- Concerns regarding the excessive height of the proposal in relation to the Hampton Court Station and the surrounding buildings in the area; overpowering and dwarfing the station, Palace and existing properties in the area
- Lack of consideration to local heritage
- Concerns over a detrimental impact and substantial and irreversible harm to Heritage Assets including:
  - World Heritage assets
  - Historic location and setting
  - Hampton Court Palace and its setting including key views of the Palace and views from the Palace and its grounds
  - Two Conservation Areas
  - Several Listed Bridges including Hampton Court Bridge and its associated features
  - Hampton Court train station and its canopies and other associated features and setting
  - Several listed buildings and their setting
- The application is historic vandalism
- Substantial and irreversible harm to the key setting of the Palace, grounds and views
- Hampton Court Station should be statutory listed
- Not enough details have been provided on the planned improvements to Hampton Court Station
- Damage to the listed Hampton Court Bridge from stationary traffic
- The widening of the access road will cause greater harm to Hampton Court Palace
- Elmbridge should urgently assess Cigarette Island Park for Local Listing

- No Listed Building Consent regarding Hampton Court Bridge

#### Highway layout, safety and capacity including parking

- Traffic flow plan difficult to understand and needs further clarification
- Additional traffic lights will result in more traffic delays
- Plans must also include improvements to the roundabout traffic
- All the proposed traffic improvements must be put in place and tested before planning permission is considered
- A roundabout should be considered at the junction of A3050 and Hampton Court Way
- The increase in the number of residential units in the area as well as the hotel and commercial units will result in traffic chaos in an already congested area
- Concerns regarding road safety as a result of the proposal
- It will increase delays for emergency services
- The construction phase will result in gridlock lock of traffic across the bridge
- Lack of road and pavement improvements which will help vehicle movements and pedestrian/cycle safety
- It is unclear from the drawings what type of signalised crossing is proposed at the junction with A3050, this should be a toucan crossing to facilitate cycle movement
- Toucan crossing should also be installed at the new hand turning lane on Creek Road, as well as a reduction in the crossing distance
- Unclear how pedestrians would get to the taxi rank as it appears that station users would be in conflict with moving vehicles in the carriageway
- Unclear if the entry treatment fronting the station forecourt on Hampton Court Way is proposed to be a continuous crossing
- Request for the August 2018 petition highlighting the risk to pedestrians crossing Cigarette Island Lane from a proposed Alexpo development of the Hampton Court Station/Jolly Boatman site to be made a public document; the petition requests SCC to reject the use of Cigarette Island Lane as the major vehicle entrance and exits for Alexpo's proposed scheme due to the risk to pedestrians
- Proposed road entrance and exit to the development too close to Hampton Court Bridge
- Pathway parallel to Hampton Court Way too narrow and unsafe in a 40 mile per hour road
- Concerns regarding car/cycle parking provision:
  - Insufficient number of parking spaces leading to further parking congestion in an area already suffering from severe parking problems
  - Not enough information regarding parking for visitor coaches
  - Developer has seriously underestimated the number of parking spaces required
  - More consideration should be given to disabled parking spaces

- SCC and EBC policy to reduce reliance on cars is unrealistic, the consequences will be borne by the local residents
- No provision for cyclists
- Car club details are vague, more details needed
- Need for residents parking scheme
- Lack of consideration for events at Hampton Court Palace
- Multi-storey car park design may lead to driver confusion and safety issues
- Concerns regarding safety of parking underground, especially at night
- If a Controlled Parking Zone is introduced in this area, then parking on the site would need to be increased
- Concerns relating to the separate planning application for the proposed temporary car parking (2018/3803)
- Concern about public transport:
  - The development will conflict with the current bus stops at the station
  - No improvements to public transport which is already inadequate for the existing population
  - All bus stands should be retained
  - Local residents, commuters and students from Esher College rely heavily on buses – Council should ensure that the bus stand and stop for R68 bus would remain as this is not clear from the plans
  - No provisions made for future railway expansion or consideration of HS2
  - The future of the development will depend on the provision of a successful railway service which is currently not reliable
- Development relies on single lay-by on Hampton Court Way as sole delivery point

#### Amenities of the future occupants, neighbouring properties and surrounding area

- Overbearing impact
- Loss of light and sunlight for the properties across Hampton Court Way
- Poor outlook for the occupants of flats and hotel
- General loss of light and overshadowing to the surrounding area
- The tranquillity of the area will be destroyed
- Access to the site for those with disabilities is poor
- Concerns regarding the increase in the number of residents and the impact on the already stretched infrastructure and community services
- Huge disturbance to local residents during the construction phase; no compensation to those affected
- Negative impact on resident's health, lives and well-being
- The proposed development poses a fire risk as it would not be accessible to Fire Engines
- Commercial units will adversely impact the local shops/businesses
- The local infrastructure cannot support the increased uses on the site

- Existing foul water and water network infrastructure would not be able to cope with the proposed development resulting in potential sewage flooding and low water pressure
- Compensation should be paid to local residents
- Loss of light to the train station making it a dark and dingy place which will require artificial lighting
- Loss of views from the trains
- No need for new cinema
- No GP surgery included in scheme
- There should be a bridge to Albany Park

#### Ecology including Green Space/Trees/Wildlife

- Loss of green space and important views, especially to and from Hampton Court Palace
- Proposal would adversely impact the natural beauty of the area
- Loss of trees – including mature/veteran trees
- Amount of green space is unacceptably small
- Concerns regarding losing green space for 2 years in order to provide parking for the development phase; loss of trees will ruin the island forever
- Concerns regarding the effect on the trees, vegetation and animal life on Cigarette Island
- No provision for any ecological measures
- Full survey on all the protected species required
- Site should be bought by the Council and turned into a park
- The Horse Chestnut Trees have a disease which causes their leaves to fall early therefore the leaf cover on Cigarette Island will be for only 6 months of the year
- No sustainable environmental features
- Development should be built to the highest ecological standards
- Strain on the local environment
- Concern about impact of pollution of flora, fauna and the river habitats

#### Flooding

- Encroachment on riverbank
- Concerns regarding the large volume of excavation and the construction of a basement in close proximity to 2 rivers which would increase the risk of flooding; this would result in properties in the area being in danger of being flooded
- Flood management approach is risky and dangerous
- FRA uses outdated Flood Risk Map
- Lower Mole Flood Alleviation Scheme is reaching the end of its design and needs refurbishment. Any changes e.g. sluice gate removal, will impact the site since the Thames flows on one side and the combined Mole and Ember flow on the other side
- The development would seriously increase the risk of flooding, the site is in Flood Zone 3 – the highest risk
- The development will increase surface water flooding



- The local sewerage system and drainage infrastructure is already at capacity and may result in sewage systems flooding
- Inadequate plans for new sewage systems
- No plan for relocation of 205 cars from basement carpark in event of flooding

#### Pollution

- Detrimental impact on public health
- Concerns regarding the noise and pollution generated by the development
- Concern that there is insufficient noise insulation in the proposal to mitigate occupants against existing uses and events in the locality
- Concerns regarding light pollution; no lighting strategy
- The Environmental Impact Report states that currently Air Quality Targets for Nitrogen Dioxide are not being met.
- Concern is raised about how the Local Authority monitor air pollution currently and that inaccuracies in monitoring would not allow for proper assessment of the proposal
- Concerns regarding the impact on air quality and pollution both to the existing residents in the area and to the River Thames
- Significant detrimental impact air pollution can have on health and specifically asthma sufferers
- The continuous running of a Combined Heat and Power Plant unit and other internal systems will result in exhaust fumes and hot air being blown over existing trees and hedges
- Vehicle emissions will increase
- The Energy Statement submitted by Watermans is inaccurate, factually incorrect and misleading with regards to CHP, Hot water storage and district heating, energy consumption/calculation errors and its exclusions and recommendations.
- Lack of renewable energy, water collection or recycling, green roofs to help filter CO2/increased vehicle emission
- Detrimental environmental impact – damage to flora and fauna due to increase vehicle exhaust fumes; possibility of chemicals polluting the Thames
- Carbon footprint of the site will increase
- Air quality report built on assumptions
- Air quality report does not account for PM10 and PM2.5 monitoring

#### Other matters

- The proposed development is against local and national policies
- There is already crowding in the South East and adding more housing is just making transport and services more stretched
- Lack of consultation with the residents of the area
- The underground car park will be unpleasant particularly for women
- Concern over terrorism
- Underground car parks pose a fire risk
- Concerns regarding the proposed access road to the carpark not being wide and long enough for a Council refuse lorry
- Concern over use of private waste collection

- Station platform level incorrectly referred to as ground level when it is actually the present car park level
- Some of the letters of representation make reference to examples of other development which they feel provide good example of development
- Applications in the nearby vicinity have been refused for much lesser development
- Total disregard to the views of the current residents
- Council refused previous application, so this should be refused as well
- The proposal will not help the local housing situation as there will be luxury and expensive apartments unaffordable to most
- No value added to the local community
- Potential stress on the utilities as a result of a multi storey development
- Letters of support done via a standard pre-populated form accessed from the Developers website, Facebook and surveymoney.com should be disregarded
- End of local democracy – buildings should not be approved despite local objection
- Land should be turned into community space, public square or park
- Developer only concerned by profit, not taking into account the residents wishes
- Concerns regarding the financial stability of the developer and the catastrophic effect if the scheme were to be started and abandoned
- More information and greater transparency required about the status, track record and accountability of Alexpo
- The Council would be making a lot of money out of Council Tax and only interested in the money it will make from the developers
- Viability study by Red Loft is questionable, Council should investigate
- Concerns over the possible supermarket, not Tesco or similar
- Concern the site may be sold on again
- The development will set a precedent
- Will EBC undertake due-diligence if this project is to go ahead?
- Standard support responses are biased and not fairly representative
- Other areas are better suited to development
- Concerns raised regarding timing of amendments and re-notification
- Use of term 'Riverside Building' could cause confusion with nearby development 'The Riverside'
- A small estate of single occupancy properties would suit the area better
- This would not happen in other countries
- A new pub or restaurant should be built on the site
- Application is illegal
- Viability assessment is out of date

9.6 Four petitions were submitted from the same address objecting to the proposal.

9.7 The first petition submitted on both 4<sup>th</sup> March 2019 and 20<sup>th</sup> March 2019 was a public petition that was submitted to Surrey County Council's Principal Transport Development Officer in August 2018. The petition has 100

signatures together with names and addresses. This petition was highlighting the risk to pedestrians crossing Cigarette Island Lane from a proposed Alexpo development of the Hampton Court Station/Jolly Boatman site. At the time of submission there was no planning application registered with Elmbridge Borough Council, only a preapplication proposal. The petition states the follows:

“I as a local resident call upon the Highway Division of Surrey County Council to reject the use of Cigarette Island Land as the major vehicle entrance and exit for Alexpo’s proposed scheme for the site. The risks to pedestrians are known, obvious and unacceptable.”

- 9.8 On 20<sup>th</sup> March 2019 a petition signed by 119 residents (all Elmbridge residents) was submitted expressing public concern for the safety of pedestrians on roads within the proposed development. The petition states the following:

“I wish the Council to reject this application, which fails to describe safe crossings for pedestrians, cyclists and disable people at risk of harm from moving vehicles.”

- 9.9 On the 27<sup>th</sup> March 2019 a petition signed by 215 residents (168 Elmbridge residents and 47 others) raising concern about the increase in air pollution from the proposed development. The petition states the following:

“I wish the Council to reject this application because additional traffic generated by the development will result in increased toxic air pollution (incl. diesel fumes & Nox), a known risk to human health.”

- 9.10 A further letter was submitted on 1<sup>st</sup> October 2019 to support this petition and contained the Petitioner’s Rationale for previously submitting the petition. This sets out evidence relating to the impact of air pollution on health and Government set standards which are currently being breached with regards to NO<sub>2</sub> levels in the area.

- 9.11 On the 21<sup>st</sup> May 2021 a petition signed by 70 residents was received raising concerns that the sole delivery point to service the entire development point would rely on a single lay-by on Hampton Court Way. The majority of the signatories were Elmbridge residents.

“As third parties in planning applications we ask Elmbridge Borough Council’s Planning Officers to reject planning application 2018/3810 because it relies upon a lay-by on Hampton Court Way as its sole delivery point to service the development’s shops, offices, café and 84 bed hotel. We believe this is not safe.”

- 9.12 Molesey Residents Association confirmed that they have never been opposed to development on the site if it is of an appropriate scale and design which reflects its location and the heritage of an area. Whilst they are pleased to see the Jolly Boatman area landscaped it should not detract from the fact that the development is too dense, lacks necessary parking capacity, lacks

environmental credentials and does not provide sufficient real affordable housing.

They object to the proposal for the following reasons:

- The height and massing exceeding the previous scheme. The development is one level too high at least. The increase in density has resulted in much larger footprint. The overall design is poor and has no empathy with surrounding buildings, the palace nor the station.
- Insufficient parking
- Low affordable housing provision – The Council should challenge and conduct an independent review of viability
- There is little detail regarding the station refurbishment
- Lack of regard to potential environmental features
- No proposal to tackle increased air pollution resulting from extra traffic which would be generated around the site.
- The 1999 Development Brief took account of the Act of Parliament which restricts the heights of buildings around Hampton Court Palace.

They sent in a further objection in May 2021 reiterating the above. Attention was also drawn to the following points:

- The development would be contrary to the 1913 Railways Act.
- No detail of refurbishment of the train station

9.13 The Hampton Court Rescue Campaign (HCRC) are a group founded in July 2006 with the aim of opposing previous developments on the application site. HCRC aim to safeguard, in perpetuity, the unique setting of the Palace and its heritage for the Nation. In objection they have raised the following points:

Parking and Transport – HCRC produced a report responding to the submitted Parking and Transport Assessment and raised the following summarised concerns:

- Coach parking will be removed from the site
- The sustainability of the site is tempered by the underperforming transport infrastructure
- The site has unique characteristics which cannot be ignored such as the seasonal parking demand from Hampton Court Palace, the underperforming public transport, high levels of congestion and pollution, removal of coach parking and increased commuter parking in surrounding roads
- The parking assessment is inaccurate/misleading and there is an under provision of parking proposed on the site. It does not take into account the use of the car park by visitors to Hampton Court Palace. They have provided estimates for likely car park demand for the proposed car park

and made allowances if a Controlled Parking Zone (CPZ) is implemented in the surrounding streets.

- The proposed parking provision does not comply with Surrey County Council or Elmbridge Borough Council policies (DM7) and 1 space per residential unit should be provided. (The transport assessment makes no reference to Surrey County Council Highways Policies) Additional parking is required for the hotel and commercial users as well on top of the existing train station car parking. They recommend that the proposed development would lead to an under provision of 123 car parking spaces and 163 if a CPZ is introduced. The reference to no minimum parking levels is misleading and Elmbridge Policy is actually 'silent' on minimum parking standards.
- The parking surveys methodology was flawed and some (2013 and 2015) were out of date. The results are inaccurate. The survey company are not correctly registered. The survey company are associated with the developer and this will create bias in the parking survey results. The proposal will lead to increased parking stress on local roads.
- Questioning the public status of the car park
- The 58 parking permits will not be allocated and therefore breach the Council policy DM7. The claim that national policy supports no parking is spurious in relation to this development. Parking provision for the hotel is inadequate.
- With regards to the footway adjacent to the Hampton Court Way building, it would be the same width as the existing which is far too narrow to be used as a shared pedestrian and cycle path, plus cycle parking is proposed on the footway which will cause pedestrian conflict at this point.
- HCRC submitted a report to Surrey County Council's consultation response disputing the response and its conclusions.
- HCRC have submitted a series of emails in correspondence with Network rail regarding the control of parking in the proposed car park and how this could be managed. This discussion is focused on the legality/ability of those managing the car park to restrict its use to the general public.
- Concern over new road layout and traffic signalling.
- HCRC have submitted further queries to Officers and Network Rail regarding the numbers of parking spaces and permits available for rail only users. Will Network Rail re apply to the Office of Rail and Road for permission to sell their car park and how many spaces will be included in place of the current permission that requires 194 spaces?

- How would Network rail control who uses the car park?
- Concern over the use of the layby
- Concern with regards to the constrained footpath area between the Hampton Court Way site and the highway. There would be insufficient space for pedestrian traffic and other users of the building. The layby should be made into pavement.

Urban Design/ Heritage/Visual impact – HCRC produced a report addressing specific issues on Urban Design and Heritage to be read alongside other objection submissions on their overall concerns, the parking study report and other issues. They raised the following summarised concerns in relation to urban design, heritage and visual impact:

- The heritage study does not give sufficient regard to the station – the development will cause significant adverse harm to the setting of the station. There are no restoration works proposed to the station which is unacceptable. The development would cause harm to the historic and architectural interest of the station.
- HCRC submitted an application to Historic England for the statutory listing of Hampton Court Station. HCRC submitted to the Local Planning Authority all of the documents submitted for the spot listing request as part of their consultation response. They asked that the Council postponed the determination of the planning application until the Listing decision had been received. The station building was previously considered for listing by Historic England. However, the request for listing was denied and therefore it remains locally listed.
- Concern is raised about the scale, bulk and massing of the proposed building being excessive which will dwarf the Bridge Road and Creek Road tight knit forms. They are out of scale with the buildings on Hampton Court Parade. This is an overdevelopment of the site. The Design and Access statement is inadequate.
- The computer generated images (CGIs) and the few architectural perspectives in the Design Statement, all have narrow angles and give a limited unrepresentative impression of the scale of the complete development. 3D aerial images and modelling are needed to understand the proposal in the surrounding context and should be submitted before the application is presented to Committee
- The Villas are not 4 storeys in height. They are 4.5 storey when viewed from the station platform and 5 stories looking on to the park.
- The development will be in breach of the planning brief for this site which is outdated and the inherent challenges for the site should lead to a revised planning brief and ultimately a much smaller development and no overbearing scheme.

- The height of the proposed development breaches the 1913 South Western Railways Act, an act of parliament which established that no buildings can be built within 1.5 miles of Hampton Court Palace which exceed 50 feet in height. The Council has no jurisdiction to approve this scheme and HCRC have stated that they will seriously consider taking judicial review proceedings if the development is approved over 50 feet high. The development would also cause to the setting of the Royal Park which is protected in this legislation. The Council should seek legal advice on this matter.
- The development would breach the 1999 planning brief for the site.
- The development relies on tree screening which is misrepresented in the CGIs.
- The building will look monstrous and destroy the setting and tranquillity of the park
- HCRC express strong concerns regarding the Hampton Court Way building in terms of its scale and appearance. From the south the building would appear excessive in scale, and completely obliterate the view of the station and will reduce the long view of the Lutyens listed bridge. The building line is set on the back of the footway, so the building appears to have landed in the wrong place. The amendments to the materials do not help overcome the concerns. It would cause harm to the Kent Town Conservation Area and Hampton Court Station. Recommendations are made for improvements to the proposed Hampton Court Way Building.
- The proximity of the development to the historic station canopy will make maintenance difficult.
- The commercial development is being facilitated by public land
- Details of the Riverside open space and its relationship with the bank and mooring platform should not be subject to a condition. Further details of how the public space by the riverbank is to be incorporated into the open space, with the railing relocated to the mooring platform retaining wall should be submitted prior to determination.
- Concern that the highway layout will result in the open space being visually fragmented and cluttered once all of the traffic lights, a raised table and drop off layby are in place. This open space would not be user-friendly or high quality.
- The access road due to its positioning and levels will require a new retaining wall with balustrading which is not shown in the submitted CGIs or perspectives as the road is set at least 1m above existing levels. This will visually block the park from the station, and this is something that has been expressed to the developers by HCRC and Historic Royal Places that the objective is to open up views of the park

and the visual and functional improvements. The 1950s derelict graffiti covered wall on the boundary of the park should be removed to help visually connect the spaces.

- The new open space is enclosed by a large building that has a very geometric solid feeling, which is partly a result of its positioning that relates solely to the villa block behind.
- The Riverside building does not address the river, it overpowers the station in height and design, it is too heavy with the balconies and overlarge windows, the CGI's are misleading.
- The development sits uncomfortably with the river frontage and the Surrey end of the listed Lutyens bridge, which includes the attached listed embankment and mooring walls, and the obelisks at the park entrance. This is to the detriment of the setting of the Grade 2 listed building, which the Council has the duty to preserve. Concern is raised about other viewpoints and how the development relates to the setting of the heritage assets and locality. Specific reference is made to the development dwarfing the train station building and causing harm to the Conservation Area and the heritage assets including the Listed Lutyens Bridge and Hampton Court Station.
- The proposed development does not sufficiently address the wall to Cigarette Island Park which appears to form part of the former Jolly Boatman site. HCRC has been campaigning with Historic Royal Palaces for many years to connect an open space at the landing stage to Cigarette Island park. They consider the opportunity is being missed to enhance this connection. HCRC agree there is no need to touch the obelisks that do not belong to applicant, but there could be a creative scheme by specialist landscape architects to redesign and relocate the focal entrance to the park. The 1950's photos show that the original intentions of the park opened in 1935 was to create an open space for the community to enjoy views of the river and Palace. Whilst the positioning of the projecting wing to the riverside block undermines the desire to fully open up the riverside from the bridge through to the park, removing the wall would at least give greater opportunity for more creative landscaping. The retention of the wall will simply reinforce the private nature of the new open space. The public should not be misled into believing this proposal includes a public space if the intention is to create a private open space.
- The levels within the open space should be fully understood if this new public space is to contribute to an enhancement of the arcadian riverside. The submitted documents are insufficient to enable a full understanding. Further cross sections are needed.
- The raised lawn is at +9.5m and the adjacent park level is shown as +8.05m. Further along the hedge the level at the existing pedestrian gate is +7.8m and moving into the park the average level is around 7.5m. The raised private open space is to be set at 2m above the



average level of the park. Further sections are required to see how the raised lawn will relate to the landing stage and enclosed bank.

- The problem of an unacceptable juxtaposition continues along the access road along the riverside building as seen in the elevations and sections in drawing ...203 P3 where the road sits at +9.1m and shows the park and hedge at 1-1.5m below with what appears to be a retaining wall holding back the raised road. There is a railing or balustrade shown on top of the wall that rises above the hedge which is 2-2.5m high from within the park. This will result in a substantial engineering structure.
- The proximity of a substantial engineered structure up against the hedge will result in its loss. The retention of this hedge is important to give privacy and comfort to users of the park. It is 2-2.5m in height and its replacement will not be possible up against a 1-1.5m retaining wall.
- 4 trees within the hedge line have fallen in recent winds and 6 further trees in the hedge are equally vulnerable as they are choked with ivy growth. The tree survey should be updated, and the proposed replacement planting reviewed.
- Was the landscaping scheme design led or engineering led?
- Object to the proposal for a set of traffic signals at the southern end of the Sir Edwin Luytens Hampton Court Bridge (Grade II Listed), due to the harm to the heritage asset. Request for clarification on the definition of 'surroundings' and 'setting' of the heritage asset (Hampton Court Bridge). Advised that Historic England should have been consulted on the application. If LBC were refused, the highway scheme would become unimplementable. (Visual Impact Assessment submitted)
- An application should be made for any works pertaining to Hampton Court Bridge. More information is needed with regard to the dimensions of any underground or associated signalling paraphernalia. HCRC and HRP have advised that these elements require consent and would cause harm. The signalling equipment dimensions are required to be known due to their size and routes in relation to the bridge. An architectural historian has advised that it would be 'impossible to lay any pipes or cables of any kind under the carriageway' due to the thickness of the paving. Any proposal to change to signals on the bridge should be using the design of the heritage asset and Surrey CC Highways should assist this process.
- Where does an objection from the EA outweigh an objection from another statutory consultee with regard to impact on heritage?
- What is the implication for the High Court Judgment involving LB Lewisham with regard to the heritage assessment?
- Conservation Area comments should be in the public domain.

- What is the requirement for applicants to use a Design Review Panel?
- The Hampton Court Way building will make the pavement feel narrow and cramped – the layby should be made into footpath

## Flooding

- The robust EA objection needs to be set in the context of Elmbridge Council's recent Climate Emergency Declaration and its acknowledgement that "a significant proportion of its population and a large number of its settlements are located on low or flood plain areas which would be severely affected by more frequent and extreme storms and rainfall"
- The EA's recent proposals for works to the Lower Mole Flood Protection Scheme are inter-related to the consideration of flooding on this site
- Use of the underground car park for the storage of flood water:
  - The existing Network Rail carpark sits at an average AOD level of 8.2m which is 4 meters higher than the average summer river levels (4.3m AOD) of the Ember and Thames.
  - To provide storage compensation for the loss of footprint taken up by the proposed scheme, the undercroft (upper level) park will sit at 7.25m AOD and will be floodable.
  - The basement carpark will sit at a lower level (4.3m AOD) and is not designed to flood – this is facilitated by the entrance ramp which is raised and sits much higher than CIP.
  - The winter 2014 flood levels peaked at 6.7m AOD and were sustained at close to this level for a number of weeks, so 0.55m below the level of the floodable undercroft.
  - The applicant has argued that flooding is predictable and if the carpark was about to flood, they would have 4-5 days (page 1 FRA) warning when they could empty the carpark. They have also incorrectly stated that there is no tidal flooding (spring tides come over Teddington lock). If cars are not removed in time, they create pollution and loss of storage compensation.
  - Why does this matter:
    - We have an existing carpark (8.2m AOD) which all parties will agree is unlikely to flood.
    - This current carpark has a public amenity and has a variety of users.
    - The proposed scheme lowers the level of the carpark by an average of 1m which inevitably makes it much more likely to flood – only 0.5m above 2014 flood levels.
  - The applicant should agree with the EA the trigger levels to close the car park prior to the determination of the application as the impact on public amenity from the closure for long periods of time will need to be considered
  - Questioned use of flood mapping in the FRA
  - The use of storage tanks for flood attenuation is not adequate (HCRC state that a senior engineer with the EA advised of this).

- The applicant has not referenced the 2019 SFRA. This sets out that sole reliance on void storage is not acceptable.
  - Use of void for flooding is an engineering operation and therefore revised drawings are needed and this should be a material consideration in the context of the wider scheme.
  - The trigger point for closing the car park to use as flood storage should not be left to condition.
- Request for information which had been initially requested from the EA: as to whether the fluvial modelling file is in the public domain
  - Have EBC Officers run the fluvial modelling?
  - Will the Council seek advice from any other experts or just rely on the EA? (Officer Response: AECOM have been advising the Council with regard to flood risk).
  - Did the EA advise on the wording of Policy CS26 of the Core Strategy (2011)?
  - Has more recent flood risk policy superseded CS26?

In April 2021, HCRC commented that the FRA addendums were not clear, and the status of the FRA was confusing for members of the public, due to the disparity in dates. The changes to the FRA are material and not all covered by the addendum.

A further response was received in April 2021 which asked for the EA to consider the following:

- The latest FRA addendum details the 100 year flood level has risen to 9.10 AOD which has implications throughout the site. Request for EA response to associated flood risk throughout the development
- With regard the different flood levels on the site, how does this affect off site impact on flooding?
- In the event of a flood, what would the appropriate level of the closure of the car park be? We assume the flood level would be in the region of 6.5m AOD. This information should not be left as a planning condition.

Other matters raised by HCRC:

#### Viability

- Affordable housing provision is insufficient
- Why is the affordable housing offer without prejudice? (as of October 2020). This caveat should be removed.
- The viability assessment provided by Alexpo points to a loss. Therefore, there would not be a surplus of money to go towards an upgrade of the train station. Members are being asked to review viability without knowing the details of the viability approach. There is no detail about management fees charged by Premcor Estates Ltd, and little transparency regarding the overall development management fees. It is

unclear what the 'first building' refers to with regard the implementation of the scheme, this needs to be clarified. Concern that there would not be a surplus for refurbishment of the train station. Previous scheme not viable and this should be referred to in officer report.

#### Biodiversity

- The proximity of the buildings to the Ember River and the lack of an 8m buffer zone being retained
- Impact on wildlife and trees and the wildlife corridor along the riverbank

#### Air Quality

- Object on the basis that the development would worsen the air quality surrounding the site. The mitigation measures are not attainable or enforceable. There is discrepancy in the data put forward and it has not been demonstrated that there would not be a significant adverse impact on the health of residents. A monitoring programme should be installed.
- Environmental Health comments should be published publicly.
- Impact on AQMA

#### Other matters

- Land ownership (drawings should be amended to reflect this)
- Levels within the open space need to be fully transparent
- The identity and finances of the applicants
- Issues relating to temporary car parking which will be considered separately under application 2018/3803
- The use of Cigarette Island Park would breach a covenant on the site. Has the Council sought advice from the relevant Ministry to assure this would be allowed? (Copy of covenant submitted)
- How will the public open space be managed?
- The site should be developed as part of a wider comprehensive redevelopment with the Hampton Court Trading Estate
- Concern regarding time taken to determine the application
- Request for The Gardens Trust and LB Richmond upon Thames to be re consulted. These consultees should be contacted to explain any material consideration outweigh their objections.
- Why have Rail Network Operators and Rail Infrastructure Managers not been consulted on the application at a station terminal? Request for information as to whether the PPA has been amended
- Request for updated drawings with regard sections and the level differences
- Sunken garden details should not be left to reserved matters condition
- Concern over CIL liability
- Concern over list of statutory consultees
- With regard to the accidental release of the draft officer report through an FOI, HCRC support the QC comments supplied to EBC.
- An executive summary and visual aids should be included in the Committee report to aid Members in their decision.
- HCRC inserted details comments into the Officer Draft Report all of which cover previous comments on the scheme.

- Details of the contentiousness of the 1999 Design Brief should be released
- Reference should be made to the Judicial Review on the previous planning permission for the site.
- Details of GPDO and permitted development rights for railways should be given
- More details needed with regard consultation responses

9.14 A total of 93 letters of representation were submitted as observations rather than objection or support. However, 34 of these were raising concern about the development and therefore have been included in the numbers of letters of objection above. The rest of the letters of observation were seeking points of clarification or making neutral comments about the proposal.

9.15 151 letters of representation were received from 129 different properties raising support for the proposed development. The support letters included one from Surrey Chambers of Commerce.

9.16 Included within these letters of support were 107 standardised support forms received from 100 different properties. 6 of these had also written a separate letter, included in the total above. These forms were created by Your Shout on behalf of the applicant and are filled in using an online survey or tick box format stating the reasons for supporting the development.

9.17 The location of the properties from which letters of support and the standardised support forms were received have been detailed in the pie chart in Figure 5. This shows that the majority of the support letters received were from Elmbridge residents that are local to the proposed development.

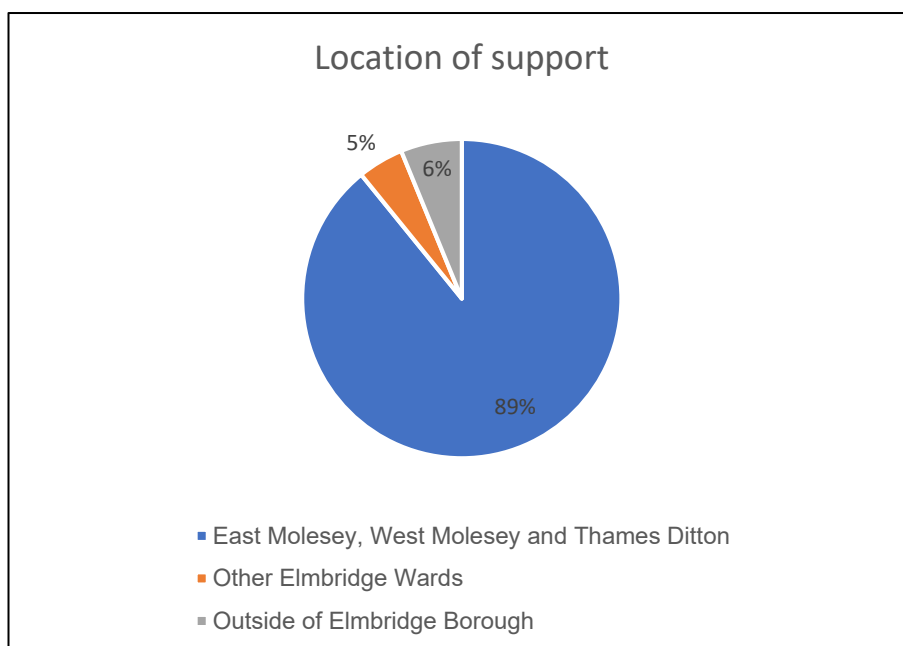


Figure 5: Location of supporters

This pie chart displays the location of the addresses from which people sent letters supporting the proposed development.

9.18 These letters and forms raised the following summarised comments:

- Support for the design and layout
  - It is an improvement on the previously permitted scheme
  - Positive change for the area including the Palace
  - It will not affect views to the palace as you cannot see the palace from the station now
  - Need for modernisation and refurbishment of the station
  - Density of the scheme is comparable with the approved scheme
  - It will improve the character of the area and the conservation area
  - With almost no development on the Jolly Boatman site there is a reduction in density when compared to the improved scheme
  - It is understood why the developer needed to raise the height of the buildings by 5ft 10 inches to ensure maximum public space and visual links with Cigarette Park
  - Removal of the current hoardings is positive
  - Creation of public square
  - Support of the planting of new trees and the protection of the mature hedge at the rear
- Support for highway and parking improvements
  - Improved traffic
  - Proposed traffic lights would be useful
  - Short free parking
  - Unseen parking spaces
  - More cycle parking and the extension of the cycleway
  - Transport experts have said there will be unused parking places in the car park at all times on a normal day even if local parking controls are brought in
  - The homes will have more parking permits available to them than the previous scheme
  - The CIL money from the development could be used to deliver highway improvements for vehicles accessing Hampton Court Way from surrounding roads the increase in traffic from a development of this size will be insignificant
- Support for the proposed food store
- Creation of full-time jobs
- New homes in this area would result in less need to build in green belt and help the lack of housing supply
- The addition accessible toilets at all hours would be welcomed
- Benefits to local people outweigh the negatives
- A chemist shop would be welcomed in one of the retail units
- The development would offer an opportunity to improve drainage in the area
- The development would provide employment and help the local economy
- Boost the economy
- The development may help increase the frequency of the rail services

- The developer will pay over £2 million to improve infrastructure in the wider area
- It will be great for tourists and may bring more to the area
- This site has been waiting to be developed for too long, it needs to happen now
- Reduction in the time for construction with use of temporary car park on Cigarette Island that utilises recycled plastic matting to reduce damage to the park
- Support for the reduced construction phase
- Improvement on the current derelict area

9.19 Some of the submitted letters of support also contained comments regarding concerns they may have about the development however were still overall supportive of the development. All of the concerns raised are included in the detailed list of objections included above, however for completeness they are briefly summarised below:

- Ensure sufficient parking
- Station dwarfed
- Reduce the size of the buildings
- The design should respond more to the local character, include green roofs and walls. Local architects could get together to redesign the site.
- Need to ensure quality materials
- Need to ensure adjacent green space has access for public to retain views to the Palace
- Flooding
- Use of a shared footway for cycles and pedestrians should be a last resort
- Highway layout concerns and concern for pedestrian routes

## **10. Positive and Proactive Engagement**

10.1 The NPPF requires local planning authorities to work with the applicant in a positive and proactive manner to resolve problems before the application is submitted and to foster the delivery of sustainable development. Policy DM1 of the Development Management Plan (2015) confirms that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

10.2 The applicants entered into extensive preapplication discussions with the Council prior to the submission of the planning application. The principle of the development, the design and appearance, landscaping, flood mitigation, parking and highways improvements were all discussed during the preapplication process.

- 10.3 Despite its relatively small size this site is probably one of the most significant in the Borough because of its location and history. Inevitably there are high expectations for its future development and stakeholders and interested parties have expressed their different objectives and concerns. This applicant has engaged with both the Council and others from the outset, considered a wide range of options and has amended and refined the scheme as necessary.
- 10.4 During the course of the application, with the agreement of the Local Planning Authority the applicant responded to comments relating to a number of issues that were raised with the planning application proposal when it was submitted. The application was also delayed in its determination for a significant period of time with the agreement of the applicant as an objection to the scheme was raised by the Environment Agency (EA). The applicants have worked with the EA to address the concerns raised and submitted revisions to the Flood Risk Assessment during the course of the application.

### **Consultation with stakeholders by the Council**

- 10.5 The current application was publicised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Council sent letters inviting comments to a total of 2255 households/premises in the vicinity of the application site. 6 site notices were displayed on and adjacent to the site and a notice was published in the local newspaper (Surrey Advertiser).
- 10.6 There were 5 re-consultations on the application when amended or additional information was received. These re-consultations included statutory and non-statutory consultees together with the 2255 households/premises in the vicinity as well as any address which had submitted a letter of representation on the file. In total at least 14050 consultation letters were sent during the course of the application.
- 10.7 All representations received to-date have been considered in this report. Any late submissions, up to noon on the Friday prior to the date of the Planning Committee would be considered as late letters and a summary provided to the Committee. On this basis, it is considered that the consultation period allowing residents to express their views on the proposed development has been extensive.

### **Statement of Community Involvement**

- 10.8 The application is accompanied by a Statement of Community Involvement (SCI) that confirms that the Applicant engaged with the Hampton Court Palace, local community groups and individuals about the proposed development prior to the submission of the current application. Three public consultation events in the form of an exhibition took place in two venues in June 2018. To publicise the event, approximately 3391 invitation leaflets were distributed via Royal Mail inviting local homes and businesses to the public exhibitions. Summary of received responses and the Applicant's response to the matters raised are included in the SCI.



## 11. Planning Considerations

### 11.1 The main considerations

The main planning considerations in the determination of this proposal are:

- The principle of the development
  - The Core Strategy
  - Development Management Plan
  - The National Planning Policy Framework
  - The Planning Brief
  - The Extant Permission
- Housing
  - Housing Mix and Need
  - Affordable Housing
- Design considerations
  - Character of the surrounding area
  - Density
  - Layout of the development
  - Public Realm
  - Height and Massing
  - Materials
  - Landscape and Trees
- Townscape and Heritage Analysis
  - Heritage Assessment and Methodology
  - Townscape Assessment
  - Heritage
- Internal Layout and Quality of Accommodation
- Waste Storage and collection
- Highways and Parking issues
  - Highways network
  - Pedestrian/cyclist improvements
  - Road improvements for drivers
  - Public Transport
  - Safety Audit
  - Trip Generation
  - Car parking
  - Travel Plan
  - Conclusions
- Impact on the amenities of the neighboring properties
- Impact on ecology
  - Veteran Trees
  - Protected Species – bats, badgers and nesting birds
  - The adjacent Rivers and 8m River Buffer Zone
- Flooding and Sustainable Drainage
  - Flood Risk
  - Sequential Test
  - Exception Test
  - Sustainable Drainage

- Environmental considerations:
  - Noise and Vibration
  - Air Quality Management
  - Contaminated Land
- Financial considerations
- Community Infrastructure Levy (CIL)
- Equality Act 2010

## **11.2 Principle of development**

11.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

11.2.2 In accordance with Policy DM1 of the Elmbridge Development Management Plan, when considering development proposals, the LPA will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and set out in paragraph 11 (where that presumption is applicable).

11.2.3 Paragraph 11 of the NPPF requires that decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

- d) where there are no relevant development plan policies, or the policies where are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

11.2.4 Footnote 6 states that 'the policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest); and areas at risk of flooding or coastal change.'

## **11.3 The Core Strategy**

11.3.1 Policy CS1 of the Core Strategy seeks to direct new development to previously developed land within existing built up areas taking account of access to existing services and infrastructure.

11.3.2 The Council's Spatial Strategy is set out in policy CS1 of the Elmbridge Core Strategy. New development in Elmbridge will be delivered in accordance with the clear spatial strategy set out in the policy which provides the most

sustainable way to accommodate growth supported by high quality infrastructure, whilst respecting the unique character of the Borough and the local distinctiveness of individual settlements. The proposed development would be situated on previously developed land within the built up area of East Molesey. East Molesey has been identified in policy CS1 as a suburban settlement area which is not as sustainable as the main settlement areas of Walton and Weybridge but nevertheless has the capacity to accommodate new development in a sustainable manner. The application site is considered to be situated in a sustainable location due to its proximity to Hampton Court Station and the bus depot which serves a number of bus routes, as well as its proximity to local services and facilities. CS1 states that economic growth will be focused within the Borough's town centres, strategic employment sites and in close proximity to the variety of visitor attractions the Borough has to offer. This application site is in close proximity to Hampton Court Palace. Policy CS1 therefore supports the development of this site which is in a sustainable location, close to services and facilities. Subject to the material considerations set out below this site should be suitable for a mixed-use development.

11.3.3 Policy CS7 states that new development will be focused on previously developed land within the built-up area, taking into account relative flood risk. Attention should be given to supporting the tourism role of Bridge Road which offers a variety of cafes and restaurants to visitors to Hampton Court Palace. The proposed redevelopment of land surrounding Hampton Court Station would improve the facilities for visitors through the inclusion of a café/restaurant, retail and hotel uses.

11.3.4 Policy CS17 of the Core Strategy states that new development will be required to deliver high quality and inclusive sustainable design, which maximises the efficient use of urban land whilst responding to the positive features of individual locations, integrating sensitively with the locally distinctive townscape, landscape, and heritage assets, and protecting the amenities of those within the area. Innovative contemporary design that embraces sustainability and improves local character will be supported. New development should enhance the public realm and street scene, providing a clear distinction between public and private spaces. Particular attention should be given to the design of development which could have an effect on heritage assets which include conservation areas, historic buildings, scheduled monuments, and the Borough's three historic parks and gardens. Policy CS17 goes on to detail desired building density to promote the best use of urban land with an overall housing density target of 40 dwellings per hectare. It also details requirements for inclusive and sustainable developments. The requirements of policy CS17 will be examined in further detail later in this report.

11.3.5 Policy CS24 of the Core Strategy states that in order to support sustainable growth of tourism in the area and to ensure that it remains a strong element of the Borough's economy, the Council will promote new hotel development on previously developed land within or adjacent to town and district centres or visitor attractions and requires new hotels to be accessible by public transport. The proposed development would be situated in close proximity to the visitor

attraction of Hampton Court Palace and the site has good links to public transport.

11.3.6 Policy CS26 sets out that development must be located, designed and laid out to ensure it is safe; the risk of flooding is minimised whilst not increasing the risk of flooding elsewhere; and that residual risks are safely managed. This will be examined in more detail later in the report. However, it is important to note that the flood risk on the site has increased since the creation of the Brief. Policy CS26 allows for the development of site at risk of flooding provided a sequential test and exception test have been conducted and the design and layout responds to up to date flood modelling on the site.

## **11.4 Development Management Plan**

11.4.1 Policy DM1 of the Development Management Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (as discussed above). It will always work proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

11.4.2 Policy DM3 states that mixed use development should be appropriate to the character of the area and ensure that the proposed uses are compatible with one another and existing uses nearby. The proposed development would not introduce any new uses which are not already present in the locality which comprises a mix of commercial and residential uses.

11.4.3 Policy DM4 of the Development Management Plan states that comprehensive development that achieves a co-ordinated approach with adjoining sites will be encouraged, especially when it may result in additional benefits to the Borough. The joint working is encouraged to avoid piecemeal development. The application site comprises land in two ownerships to bring together the comprehensive redevelopment of the site as a whole. The refurbishment plans for Hampton Court station itself have not been included in the current proposal, however, the submitted documents confirm that Network Rail do intend to refurbish the train station, and this will be done using permitted development rights. The site is separated from adjoining developer land by the adjacent rivers and therefore the extent of the development site is considered reasonable in this regard.

11.4.4 Policy DM12 details that planning permission will be granted for developments that protect, conserve or enhance the Borough's historic environment and heritage assets. Development which would cause substantial harm to or loss of a listed building (including curtilage listed) will only be permitted in exceptional circumstances. For example, where it can be demonstrated that there are substantial public benefits which outweigh any harm or loss. There has been no significant change to the status of the heritage assets on or in close proximity to the application site since the adoption of the Brief or the time of the consideration of the previous application on the site. A detailed

consideration of the impact of the development on heritage assets is contained later in this report.

11.4.5 The proposed development would provide a comprehensive mixed use development in a sustainable location which is supported by the policies set out above. The history of the application site shows that there is scope for the development of the site provided that it is appropriately and sensitively designed and laid out to satisfy the current flood risk policy and to respect the heritage assets in the locality (unless outweighed by public benefit). It is also considered that there are potential significant benefits for the Borough which could be derived from the appropriate development of this site.

11.4.6 Having regard to the policies of the development plan which govern the appropriateness of the principle of the proposed development, it is considered that taking the development plan as a whole, there is no policy objection to the principle of what is proposed.

## **11.5 The National Planning Policy Framework**

11.5.1 There is a drive to deliver more homes faster, as well as achieving the effective use of development land. The revised National Planning Policy Framework (NPPF) 2019 supports this approach. Specifically, NPPF paragraph 123, says that where there is a shortage of land for meeting identified housing need, it is especially important that planning decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. It states that “Local Planning Authorities should refuse applications that fail to make efficient use of land, taking into account the policies within this framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).”

11.5.2 Paragraph 127 of the NPPF further supports the optimisation of land and states that planning decisions should ensure that developments “optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks”

11.5.3 Also, of relevance to the principle of the development paragraph 80 of the NPPF states that planning policies and decision should help create conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development. The proposed development would provide support for the economic growth of East Molesey through the provision of additional commercial uses, additional residential units and the proposed highway and public realm improvements on and around the site.

11.5.4 Paragraph 91 of the NPPF states that planning policies and decisions should aim to achieve healthy, inclusive and safe places which promote social

interaction, are safe and accessible, and enable and support healthy lifestyles. The proposed development would provide a mixed use development which would provide additional public realm space. The design and layout of the development will be considered in more detail later in the report with regards to legibility and public safety.

11.5.5 Paragraph 98 of the NPPF states that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users. The proposed development would retain existing public access to the train station and the adjacent Cigarette Island Park in the long term. Of further benefit to the public is the creation of additional public realm space adjacent to the river.

11.5.6 Chapter 9 of the NPPF promotes sustainable transport and paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe. This will be assessed in more detail later in the report.

11.5.7 Paragraph 155 relates to flooding and states that inappropriate development in area at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. The sequential test and exception test are addressed later in this report.

11.5.8 Section 16 of the NPPF set out the requirements for development with regards to conserving and enhancing the historic environment. This is of particular relevance to this site due to its sensitive location in close proximity to a number of heritage assets which are discussed in more detail later in this report. The impact of the proposed development on heritage assets is considered in more detail later in the report.

11.5.9 When considering the approach to decision making set out in the NPPF together with the “principle” policies of the Elmbridge Core Strategy and Development Management Plan this site is considered to be previously developed land located in a sustainable location. Subject to sensitive design and layout, compliance with flood risk policy and mitigation secured by condition, there is no objection in principle of the mix of uses on this site.

## **11.6 The Planning Brief**

11.6.1 The demonstrated need for housing in Elmbridge, coupled with the need for affordable housing, carry significant weight as a material consideration in the determination of this application and could justify an increase in the number of residential units on the site over that detailed in the Brief. The increase in the number of residential units would be subject to other material considerations as set out in the report below.



- 11.6.2 The aims of the Brief are set out in paragraph 3.3 above. Both National and Local Planning policy have been updated and revised since the adoption of the Brief, however they still support the aims of the Brief.
- 11.6.3 The Brief seeks a comprehensive redevelopment of the application site (which is made up of separate parcels of land in different ownership) together with its access arrangements. The proposed development would provide this comprehensive redevelopment through the inclusion of a mixed use development which encompasses all of the land identified in the Brief.
- 11.6.4 Subject to design, the Brief identifies that the site is considered appropriate for a mixture of high quality leisure uses. Elements that are encouraged are a public house, restaurant or café taking advantage of the riverside frontage. The proposed development responds to this requirement and provides café and retail fronting the river together with the creation of the riverside public space. The Brief goes on to state that a small hotel (probably no greater than 40 bedrooms) of high quality of design would also be appropriate, although because of design constraints this should be no greater than 3 storeys. The proposal includes a hotel in the mix of uses, however this would be larger than that stated in the Brief. Since the adoption of the Brief the Council have adopted the Core Strategy. Policy CS24 (Hotels and Tourism) states that the Council will support sustainable growth of tourism in the area to ensure that it remains a strong element of the Borough's economy. The Council will promote all new hotel development on previously developed land within or adjacent to town and district centres or visitor attractions and require new hotels or visitor attractions to be accessible by public transport. The adoption of policy CS24 adds weight to the inclusion of hotel accommodation in this sustainable location and would support a larger number of bedrooms on the site subject to the consideration of the design and other material considerations.
- 11.6.5 The principle of residential development on this site is also considered acceptable in the Brief with the southern and eastern parts of the site identified as being the most appropriate locations. The Brief sets out the aims for the development on the site in terms of design issues and states that a high standard of design in architecture, landscape and layout will be sought over the whole site. The Brief makes reference to the South Western Railway Act of 1913 which is discussed in more detail later in the report. The Brief states that it is the Council's view that no building anywhere on the site should exceed three storeys plus a pitched roof which is likely to be substantially less than the 50 ft limit. This is to ensure that it does not dominate the existing station building, is below the tree canopy of the park and masses appropriately with the East Molesey Conservation Area buildings. Whilst the Brief is prescriptive on the height of buildings on the site, it is still necessary to consider whether the objectives of the height restriction can be acceptably satisfied with built form of a greater height. It is therefore considered that a lack of compliance with the height requirements set out in the Brief should not make the development objectionable in principle provided that the effect of the increased height on the heritage assets and greenspace can be acceptably accommodated.

11.6.6 Overall, the Brief is considered to carry moderate weight as a material consideration in the determination of this application. Its aims are still broadly compliant with current planning policy. The principle of the development of this site for the mixed-use development proposed is considered to generally comply with the aims of the Brief. In terms of the more prescriptive design guidance, the weight to be accorded to that should be judged by reference to the details of the application before the Council and the extent to which the objectives of the Brief, which remain relevant and important, can be achieved by a more effective use of the site given the increased emphasis in policy at all levels of making more effective use of underused land.

## **11.7 Extant planning permission**

11.7.1 The planning history of the site includes the extant permission (2008/1600) which is discussed in more detail in paragraphs 3.9-3.14 above. Since the grant of the previous permission there have been changes in planning policy which are detailed above. With regards to changes on and around the application site these mainly pertain to changes to the flooding on and around the application site. There have been no significant or major developments on or around the application site since the grant of the previous planning application.

11.7.2 As stated above, it is acknowledged that the extant permission set the parameters for previously considered acceptable development on the site. The extant permission must be considered in light of its undemonstrated viability position together with the changes to planning policy since the grant of planning application and importance of protecting heritage assets. The extant permission is considered to carry some limited weight as indicating the Council's earlier view of what was an acceptable development of the site at the time permission was granted.

## **11.8 Housing**

### **11.8.1 Housing Need and Mix**

11.8.1.1 The policy of the Core Strategy which relates to housing need is policy CS2 Housing provision, location and distribution. This policy however is now considered to be out of date. Paragraph 60 of the NPPF sets out 'To determine the minimum number of homes needed, strategic policies should be informed by a local housing needs assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and further demographic trends and market signals.'

11.8.1.2 Paragraph 61 of the NPPF goes on to states 'Within this context, the size, type and tenure of housing need for different groups in the community should be assessed and reflected in planning policies'.

11.8.1.3 The latest measure of housing need for Elmbridge is set through the Government's Standard Methodology which at the base line date of 2021



identifies the requirement to provide 641 dwellings per annum across the borough.

11.8.1.4 In accordance with the Authority Monitoring Report 2019/20, the Council's housing land supply is currently 3.96 years (including the 20% buffer). The Housing Delivery Test Result 2020 for Elmbridge is 58%. The Council cannot demonstrate a 5-year housing land supply (5YHLS) at present.

11.8.1.5 Policy DM10 of the Development Management Plan 2015 states with regards to housing mix that housing development on sites of 0.3 hectares or more should promote house types and sizes that make the most efficient use of land and meet the most up to date measure of local housing need, whilst reflecting the character of the area.

11.8.1.6 Policy CS19 of the Core Strategy states that the Council will seek to secure a range of housing types and sizes on developments across the Borough in order to create inclusive and sustainable communities reflecting the most up to date SHMA in terms of the size and type of dwellings.

11.8.1.7 Breaking down the annual requirement to identify the type, size and tenure of new homes that should be provided to meet local housing needs, is the Local Housing Needs Assessment (LHNA, 2020). The LHNA identifies the overall need within Elmbridge is for affordable, smaller units within one to three bedrooms. In regard to breakdown para. 13 of the LHNA states that for Market Housing the need is: 1 bed (20%), 2 bed (50%), 3 bed (20%), 4 bed (10%)

11.8.1.8 The proposal under consideration here provides 39 x 1 bed units, 54 x 2 bed units and 4 x 3 bed units of which the AMR acknowledges that there is an identified need for this type of housing. This is displayed in the table in Figure 6 below. As such the proposed mix of housing sizes is acceptable.

|              | Market    | Social Rented | Intermediate | Total     |
|--------------|-----------|---------------|--------------|-----------|
| 1 -bed       | 33        | 0             | 6            | 39 (40%)  |
| 2- bed       | 48        | 0             | 6            | 54 (56%)  |
| 3- bed       | 4         | 0             | 0            | 4 (4%)    |
| <b>Total</b> | <b>85</b> | <b>0</b>      | <b>12</b>    | <b>97</b> |

Figure 6: Proposed housing mix

## 11.8.2 Affordable housing

11.8.2.1 Policy CS21: Affordable Housing of the Council's Core Strategy (2011) requires that this development resulting in a net gain of 15 dwellings or more to provide 40% of the gross number of dwellings on site to be provided as affordable housing.

11.8.2.2 The supporting text of this policy confirms that in the exceptional circumstances where it is considered that the delivery of affordable housing in accordance with the policy is unviable, this must be demonstrated through the submission of a financial appraisal alongside a planning application. Evidence provided would be scrutinised through an independent review. If the Council is

satisfied that affordable housing cannot be provided in accordance with the policy, it will seek to negotiate alternative provision.

11.8.2.3 The supporting text to Policy CS23 states that over 33,000 people work outside of the Borough, with most of them commuting into London. Such significant movements of people in and out of the Borough have an impact on the long-term sustainability of the Borough's environment and communities. These movements place demand on local transport infrastructure, but also suggest that the housing market, and in particular affordable housing, is not providing sufficient units to support the local labour market. Increasing the provision of affordable housing is, therefore, a key element in the reduction of in-commuting by allowing more people to live and work in the Borough.

11.8.2.4 The Council's latest assessment of housing need is set out in the Assessment of Local Housing Needs (March 2020). It details that an estimated 399 households per annum could not afford to pay the market entry threshold cost and therefore needed affordable housing. After taking account of the supply of affordable housing from relets (130 dwellings per annum), the net level of affordable need is 269 units per annum.

11.8.2.5 5% of need is from households which cannot afford even a social rent without increasing the share of their income which is devoted to housing costs above 25%. A further 12% can only afford a rent up to 49% of the private sector lower quartile rent. 54% of households could afford a rent between 50% and 75% of the lower quartile private sector rent. The remaining 29% of affordable need is from people who could afford higher costs and would probably therefore be able to access intermediate tenure housing of various types. Hence 71% of affordable housing need is for rented affordable tenures and 29% is for intermediate tenures which could include elements of home ownership. In total 15% of need is for one-bedroomed units, 34% for two-bedrooms; 11% for three bedrooms; and 40% for four or more bedrooms.

11.8.2.6 The necessary affordable housing provision for the proposed development equates to a requirement for 39 residential units on-site to comply with the requirements set out in policy CS21.

11.8.2.7 Policy CS21 states that the tenure mix of affordable housing and housing types and sizes should be in accordance with those identified in the most up to date SHMA or SPD. As detailed above the latest housing needs assessment refers to a target tenure mix of 71% rented affordable tenures and 29% intermediate tenures.

11.8.2.8 The applicant has submitted a Financial Viability Assessment (FVA). This sets out that the applicant could only provide 12 units for intermediate shared ownership which represents an affordable housing contribution of 11.6% which is a significant shortfall on the policy requirement of 40%. The submitted viability assessment concludes that higher provision on site or any additional financial contribution would make the development unviable.

11.8.2.9 The profit benchmark within the submitted Viability Assessment is a blended profit of 18.21% based on a breakdown of 20% of GDV for private

residential profit, 6% of GDV for affordable residential profit and 15% of GDV for commercial and hotel profit.

11.8.2.10 The FVA concludes that a scheme delivering 12 units (all shared ownership tenure), taking into account all costs and factoring in a CIL payment of £2,033,400, provides a profit of £1,147,842 which at 1.56% of GDV is well below the benchmark profit level of 18.21%. The FVA concludes that it is therefore not viable to provide any further contribution towards affordable housing.

11.8.2.11 The Council's independent viability consultants have reviewed the submitted viability assessment for the scheme and have carried out an appraisal including testing using revised assumptions which included higher sales values due to the prestige location of the proposed flats. The independent consultants acknowledge that profit assumed viability is often a matter of debate and certainly with no fixed rules. In their experience through numerous site-specific cases and strategic viability review, typically a profit on GDV of between 15-20% for market housing and 6% for affordable housing serves as a reasonable guide. The upper end of this range was seen more commonly through and immediately following the recessionary period, where the risk of development was potentially higher than under current circumstances.

11.8.2.12 Whilst the Council's consultants acknowledge this site has a number of planning constraints which may impact the implementation of the development scheme such as flooding, contaminated land and sensitive heritage assets, they consider a profit level of 20% on market housing is too cautionary an approach to the development. They consider a profit assumption of 17.5% on GDV on the open market residential element of the scheme to be appropriate. Profit levels on commercial development tend to be lower, and typically in the region of 15% on value as maximum. These profit assumptions served as the benchmark for the consultant's trial appraisal, alongside the FVA assumption of 6% profit on the affordable housing element. Therefore, the target blended rate of profit was tested at 16% of GDV as opposed to the applicants submitted FVA's 18.21%.

11.8.2.13 The consultant's adjustments made to the assumptions in the submitted viability review report and appraisal, together with the adjustments to the profit levels demonstrate an improvement in the applicant's viability position of £5,378,745. However, this still represents a blended profit of only 8.6% of GDV, which does not reach the suggested benchmark of 16%. Further testing was carried out to assess the impact of changes in sales values and build costs. The trial appraisal with the adjustments to the assumptions together with a reduction in build costs of approximately 10% resulted in a profit of 17.1%, which is just above the suggested 16%. This demonstrates that to achieve a higher proportion of affordable housing provision it would require significant changes to both build costs and sales values. Whilst the overall profit position was found to be more positive, by the independent consultants, than shown in the submitted FVA, they conclude that it is unlikely that the scheme will support a higher provision of affordable housing, based on the testing conducted.

- 11.8.2.14 The proposed development would not comply with the targets set out in policy CS21 but the policy states that these are requirements are “where viable”. The Developer Contribution SPD does states however that to significantly boost the delivery of housing, including affordable housing, the Council will use viability review mechanism. The early and late stage viability reviews are re-appraisal mechanisms that allow the Council to secure the maximum public benefit over the period of the development. These mechanisms assist in addressing the economic uncertainties which could arise over the lifetime of the development scheme.
- 11.8.2.15 The affordable housing requirements are applied where these are necessary to make the development proposal acceptable in planning terms. Therefore, review mechanisms are not to be used to reduce the base level of affordable housing contribution agreed as part of the planning permission.
- 11.8.2.16 An Early Stage Viability Review has been agreed with the applicant and would be secured through a S106 agreement. The aim of the review is to pick up on changes in the costs and values that are more likely to occur if the permission is not implemented until the end of the 3 year time period given to commence the development. It is usual that the time period for the trigger on the Early Stage Viability Review is usually post decision. However, in this case it has been strongly expressed by Hampton Court Rescue Campaign that they will challenge the planning decision once the decision is made. Due to the history of challenges to the previous decision of this application site 2008/1600 Officers acknowledge that there is a high chance of this occurring again. The Judicial Review process can take a long time whatever the outcome and therefore in this case an exception to the usual trigger point has been agreed. It is therefore agreed that if the development is not commenced within 2 years of the conclusion of any judicial review action.
- 11.8.2.17 The trigger for the early review mechanism has been objected to in submitted letter of representation as it has been argued that the first building could be a bike store or other small building. The legal agreement would set out specifically that the first building would relate to the Riverside buildings, the Villas or the Hampton Court Way building rather than a smaller ancillary building.
- 11.8.2.18 With regards to the definition of commencement the Council would expect to see a committed and meaningful start to the development. It has therefore been agreed with the applicants that the definition of commencement in this case to remove the need to carry out the Early Review Mechanism will be the completion of the foundations for the first building.
- 11.8.2.19 The period between planning approval (if granted) and completion of the flats is predicted to be over three years long and given that a small percentage increase in sales values could make a significant difference to the viability of the scheme, it would be appropriate, given the scale of the development that a Late Stage Viability Review mechanism in the S106 agreement. This would allow further contributions to affordable housing to be

secured in the event the profit margin proves higher. The applicant has agreed to the late stage review mechanism for the development.

11.8.2.20 The late stage review mechanism would be carried out when 75% of the residential units have been sold. A late stage review mechanism is recommended as this will take into consideration the actual sales values achieved and actual costs incurred. It would take into account the sales values that are realised for the apartments and the value of all the non-residential elements, together with the actual costs required for the development (including construction costs, site costs relating to Network Rail, station refurbishment and upgrade works and other associated costs). It allows for increased accuracy of any outstanding estimates for the remaining revenue and costs not yet realised rather than forming estimates based on the projections made at this stage. The process allows for a higher degree of accuracy and would determine if additional profit is generated over and above the amount required to make the scheme viable.

11.8.2.21 The late stage review would be considered by the Council's independent viability consultants and, if the viability is found to be better than that previously stated, then a financial contribution towards off-site provision of affordable housing would be calculated based on the amount of profit made. If the development were found to result in a lesser profit margin, then there would be no reduction in the number of affordable housing units currently proposed.

11.8.2.22 Please note that due to the delays with the application the applicant was asked to review their position with regards to the financial viability of the scheme and they submitted an update to the financial viability assessment which is dated 10<sup>th</sup> September 2020. The applicant did not re-run the financial viability appraisal. However their consultants have considered changes to the market and the industry since the registration of the application, together with additional costs due to delays in the planning process, and conclude that market conditions have become more challenging since the viability of the scheme was originally considered and that the financial viability of the scheme would be negatively impacted, if the development was reappraised at the current time.

11.8.2.23 The update letter states that it is conclusive that the level of affordable housing proposed on-site, alongside the associated infrastructure works (discussed later in the report), reflect planning gain provision in excess of what could be considered the maximum viable amount. The affordable housing proposed by the applicant is offered on a without prejudice basis, and certainly any additional affordable housing or planning gain would further erode the scheme's financial viability.

11.8.2.24 The Council's independent consultants were asked for their opinion on the update to the viability assessment and they have stated that values and costs will have changed between the original full review process, the submission of the update in September 2020 and the time of the report writing. However, given the size of the deficit identified last time round, if the scheme details are unchanged then they think it is unlikely that the circumstances have

changed sufficiently to result in increased scope in support of the Affordable Housing provision. On the basis of these comments it was decided that it would not be reasonable for the applicants to resubmit a full updated financial viability assessment or carry up and updated costs review of the application.

11.8.2.25 Concern has been raised in submitted letters of representation that the cost plan does not include any works to the station buildings or platforms. That the profit margin on the development is unrealistic and that they would not build such an unviable development and that the offer is stated as being without prejudice.

11.8.2.26 It is acknowledged that the profit margin accepted by the developer provides a challenging viability scenario, however, this is primarily a matter for the applicant. Further, in the event that the scheme proves to be more profitable than assumed in the viability appraisals, which must be the applicant's hope, they have agreed to the early and late review mechanism which would provide a means for the development to further contribute towards the provision of affordable housing if further profit were to arise.

11.8.2.27 The applicant responded to the points raised by objectors in an email dated 03 November 2020 and stated:

"The appraisal does not include any works to the station building or platforms. These are no part of the planning application and remain under the ownership of Network Rail subject to their arrangements with the TOC. The appraisal does include costs for the S.278 works and external work which include the station access and forecourt. The amount of expenditure that Network Rail estimates as being required for works to improve the station and the station facilities is a matter for their commercial judgement. They have agreed to improve the station as part of the agreement with Alexpo. This agreement is under negotiation and is commercial sensitive. However, it is recognised that these costs can be financed from profit share and overage."

11.8.2.28 With regards to concerns raised about the challenging viability position and the level of affordable housing proposed the applicants state:

"Therefore, whilst benefits such as the extensive highway works (which not only mitigate the impact of the proposed development, but will result in an overall reduction in delays for local highway users), the CIL payment and the substantial new area of public realm fronting the river (instead of the permitted hotel), are all costly, the applicant also wants to offer more affordable homes (12 compared to 7 in the extant scheme) as part of its efforts to work with your Council to achieve a comprehensive scheme that it will want to support."

11.8.2.29 The applicant has stated that the offer of 12 units is to provide a scheme that the Council would support, however, in the event that the Council does not support the development the applicant has indicated that it may be necessary to reconsider the package offered with the application which would include the number of affordable homes. However, the applicant has stated

that they will commit to the stated offer of 12 units in a binding S106 agreement, should the Council decide to support the application.

11.8.2.30 Currently Officers are not in receipt of a signed legal agreement and therefore it is recommended that the application is refused due to a lack of a legal agreement to secure the affordable housing provision on site. In the absence of the legal agreement the proposed development would be contrary to policy CS21 of the Core Strategy and the Development Contributions SPD.

## **11.9 Design Considerations**

The applicant has provided comprehensive information with regards to heritage, townscape and landscape impact within the Planning, Design and Access Statements and other drawings and documents plus specific studies for the heritage, townscape and visual impact of the proposed development. Inevitably there is overlap between these and the subject headings below are therefore not mutually exclusive.

### **11.9.1 Character of the surrounding area**

11.9.1.1 Policy CS17 requires new development to deliver high quality and inclusive sustainable design, which maximises the efficient use of urban land whilst responding to the positive features of the landscape, and heritage assets, and protecting the amenities of those within the area. New development should enhance the public realm and street scene, providing a clear distinction between public and private spaces. New development should be appropriately landscaped, and where appropriate should incorporate biodiversity habitat, and enhance the Borough's green infrastructure network.

11.9.1.2 Policy DM2 requires all new development to achieve high quality design, which demonstrates environmental awareness and contributes to climate change mitigation and adaptation. All development proposals must be based on an understanding of local character including any specific local designations, such as Green Belt, and take account of the natural, built and historic environment. Proposals should preserve or enhance the character of the area, taking into account attributes such as the appearance, scale, mass, height, levels or topography.

11.9.1.3 Paragraph 124 of the NPPF state that "Good design is a key aspect of sustainable development" and paragraph 127 of the NPPF confirms that planning policies and decisions should ensure that developments are visually attractive as a result of good architecture layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place, using arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit. Paragraph 130 advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area

and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

11.9.1.4 The National Design Guide (2019) sets out the characteristics of well-designed places and demonstrates what good design means in practice. It forms part of the government's collection of planning practice guidance and should be read alongside the separate planning practice guidance. The design guide sets out 10 characteristics (context, identity, built form, movement, nature, public spaces, uses, homes and buildings, resources, lifespan) which all contribute to cross cutting themes for good design set out in the NPPF. This document was not published at the time the application was submitted and therefore has understandably not been taken into consideration in the design and access statement for the proposed development. However, it has been used by Officers in the assessment of the development to identify whether the proposal is considered to be of an acceptable design standard.

11.9.1.5 The first of the 10 characteristics identified in the National Design Guide is 'Context'. As set out in paragraph 38-40 of the National Design Guide, context is the location of the development and the attributes of its immediate, local and regional surroundings. An understanding of the context, history and the cultural characteristics of a site, neighbourhood and region influences the location, siting and design of new developments. Well-designed places are: based on a sound understanding of the features of the site and the surrounding context, using baseline studies as a starting point for design; integrated into their surroundings so they relate well to them; included by and influence their context positively; and responsive to local history, culture and heritage.

11.9.1.6 The second characteristic identified in the National Design Guide is 'Identity'. As set out in paragraphs 50-51 of the National Design Guide, the identity or character of a place comes from the way that buildings, streets and spaces, landscape and infrastructure combine together and how people experience them. It is not just about the buildings or how a place looks, but how it engages with all of the senses. Local character makes places distinctive and memorable and helps people find their way around. Well-designed, sustainable places with strong identity give their users, occupiers and owners a sense of pride, helping to create and sustain communities. Well-designed places, buildings and spaces: have a positive and coherent identity that everyone can identify with, including residents and local communities, so contributing towards health and well-being, including and cohesion; have a character that suits the context, its history, how we live today and how we are likely to live in the future; and are visually attractive, to delight their occupants and other users.

11.9.1.7 The application site is situated in the sub-character area MOL03: East Molesey Village and Hampton Court Station as defined in the Elmbridge Design and Character Supplementary Planning Document 2012. A description of the application site and its characteristics are detailed in paragraphs 1.1-1.11 above. The Design and Character SPD set outs that the sub-area in which the application site sits is comprised of the attractive historic village of East Molesey immediately adjacent to the Hampton Court Railway Station.



The Grade II listed bridge and the views across the River Thames towards Hampton Court Palace provide some indication of the importance and sensitivities of this sub-area.

11.9.1.8 Bridge Road and Creek Road is a mixed use area of considerable charm and character, with a fine grain complimented by a strong palette of traditional materials and the survival of traditional shopfronts and other architectural features. There is variation in the scale of the buildings in the surrounding area, with modest two storey buildings often adjacent to three, and occasionally to a four-storey building. This gives a far more organic feel to this settlement area. Much of the townscape comprises shopfronts or active frontages to the ground floor with residential or office accommodation above. A particular feature of the units adjacent to the river and bridge is tables and chairs to the front of cafes providing interest, movement and activity to this part of the commercial core.

11.9.1.9 The proposed development site is located in close proximity to existing built development and would be outward facing with active frontages towards the Bridge Road/Creek Road area to fit with the context of the area. The height, massing and appearance of the building with regards to the character of the area will be further considered in the report below in the assessment of how the development integrates into the surroundings and relates to local heritage.

## 11.9.2 Density

11.9.2.1 Policy CS17 indicates that there is scope for residential development through the redevelopment of existing sites with well-designed schemes that integrate with and enhance the local character. The new development is required to deliver high quality design, which maximises the efficient use of land and which responds to the positive features of individual locations; integrating sensitively with locally distinct townscape while protecting the amenities of those living in the area. Innovative contemporary design that embraces sustainability and improves local character will be supported. The Council promotes development that contributes to an overall housing target of 40 dwellings per hectare and achieves a minimum of 30 dwellings per hectare (dph).

11.9.2.2 The revised NPPF in regard to the making effective use of land, states at para. 117:

‘Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, whilst safeguarding and improving the environment and ensuring safe and healthy living conditions’

11.9.2.3 In regard to achieving appropriate densities, Para. 123 states

‘Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies

and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site’,

11.9.2.4 This is supported by sub-paragraph (c) of Para. 123 which states:

‘local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).’

11.9.2.5 Para 122 in regard to achieving appropriate densities further states that:

‘Planning policies and decisions should support development that makes efficient use of land, taking into account:

a) The identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it.’

.....

d) the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change; and

e) the importance of securing well-designed, attractive and healthy places.’

11.9.2.6 The proposal would represent a development density of approx. 66.8dph on this site (1.45Ha). Objections have been received regarding the density and number of units on the site. The proposed density would not be out of keeping with the site’s location adjacent to a transport interchange and opposite the mixed uses of the Centre. Elmbridge Borough Council does not have a maximum housing density standard and therefore the proposed density complies with Policy CS17 in this regard. Given the site’s sustainable location then subject to matters of layout, design and acceptability having regard to the constraints affecting the site, the proposed density is acceptable.

### 11.9.3 Layout of the development

11.9.3.1 The third characteristic set out in the National Design Guide is ‘Built-form’. As set out in paragraphs 61-63 of the National Design Guide, built-form is the three-dimensional pattern or arrangement of development blocks, streets, buildings and open spaces. It is the interrelationship between all these elements that creates an attractive place to live, work and visit, rather than their individual characteristics. Together they create the built environment and contribute to its character and sense of place. It is relevant to city and town centres, suburbs, villages and rural settlements. It creates a coherent

framework that forms a basis for the design of individual developments within a place.

11.9.3.2 Well-designed places have: compact forms of development that are walkable, contributing positively to well-being and placemaking; accessible local public transport, services and facilities, to ensure sustainable development; recognisable streets and other spaces with their edges defined by buildings, making it easy for anyone to find their way around, and promoting safety and accessibility; and memorable features or groupings of buildings, spaces, users or activities that create a sense of place, promoting inclusion and cohesion.

11.9.3.3 The seventh characteristic identified in the National Design Guide is 'Uses'. As set out in paragraph 108-111 of the National Design Guide, sustainable places include a mix of uses that support everyday activities, including to live, work and play. Well-designed neighbourhoods need to include an integrated mix of tenures and housing types that reflect local housing need and market demand. They are designed to be inclusive and to meet the changing needs of people of different ages and abilities. New development reinforces existing places by enhancing local transport, facilities and community services, and maximising their potential use. Well-designed places have: a mix of uses including local services and facilities to support daily life; an integrated mix of housing tenures and types to suit people in all stages of life; and well-integrated housing and other facilities that are designed to be tenure neutral and socially inclusive.

11.9.3.4 The eighth characteristic identified in the National Design Guide is 'Homes and Buildings'. As set out in paragraphs 120-123 of the National Design Guide, well-designed homes and buildings are functional, accessible, and sustainable. They provide internal environments and associated external spaces that support the health and well-being of their users and all who experience them. They meet the needs of a diverse range of users, taking into account factors such as the ageing population and cultural differences. They are adequate in size, fit for purpose and are adaptable to the changing needs of their occupants over time. Successful buildings also provide attractive, stimulating and positive places for all, whether for activity, interaction, retreat or simply passing by. Well-design homes and buildings provide good quality internal and external environments for their users, promoting health and well-being; relate positively to the private, shared and public spaces around them, contributing to social interaction and inclusion; and resolve the details of operation and servicing so that they are unobtrusive and well-integrated into their neighbourhoods.

11.9.3.5 The proposed development comprises 3 main blocks of development. These comprise residential, retail and hotel use to the west of the railway line (Hampton Court Way Building), residential and retail uses to the north of the trainline adjacent to the river frontage (Riverside Building) and a residential block east of the railway line overlooking Cigarette Island (Villas).

11.9.3.6 Figure 3 on page 20 of this report shows the proposed layout of the site. The Riverside Building to the north of the site would front onto the public realm

space adjacent to the River Thames. The Villas located to east of the site would front onto Cigarette Island and The Hampton Court Way Building would front onto Hampton Court Way.

11.9.3.7 To provide a comparison with the extant permission on the site Figure 7 shows the layout of the existing buildings with the dotted line showing the layout of the extant scheme. Whilst the layout of buildings on the site has been reconfigured in terms of footprint the development would cover a broadly similar portion of the site.

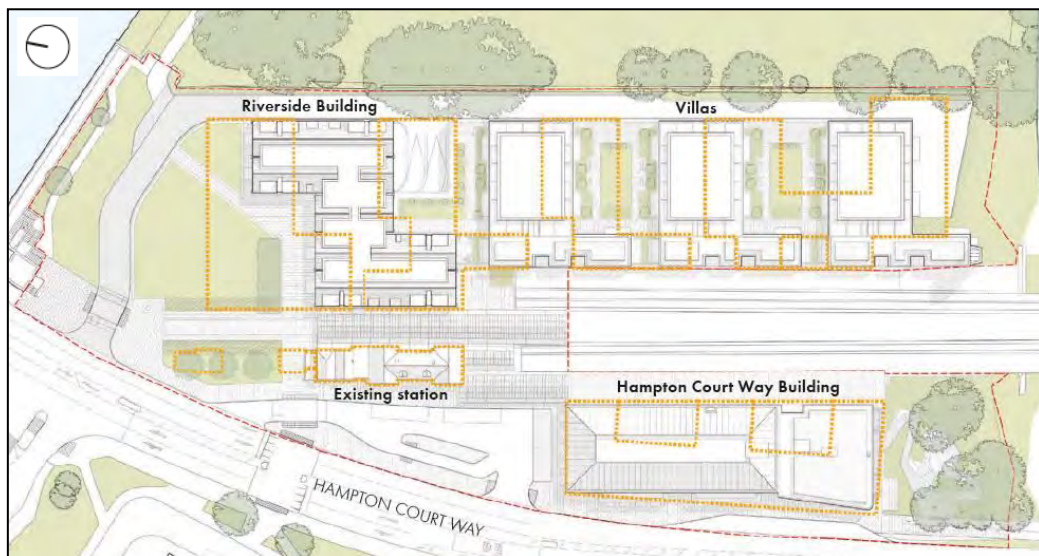


Figure 7: Masterplan of the site

This plan details the proposed development together with the outline of the extant permission on the site (2008/1600).

11.9.3.8 This section will consider the layout of the development on the application site and how it accords with the Brief for the site and the relevant planning policies. A consideration of how this layout relates to the wider character of the area surrounding the site is considered in more detail in the townscape assessment following paragraph 11.10.2.

#### 11.9.4 Riverside Building

11.9.4.1 The Riverside building is connected to the Villas; however, it is viewed as a separate element due to the difference in elevational treatment on the river frontage. The building would be located on the northern end of the site fronting onto the River Thames and Hampton Court Palace beyond.

11.9.4.2 The Riverside building would be situated approximately 32.7m from the River Thames when measured at the nearest point and this tapers away to a distance of approximately 65.4m. The proposed development has been set back on the site compared to the permitted hotel in this location. The permitted hotel was 7.9m closer to the River Thames at the eastern end of the building and 18.6m closer at the western end.

11.9.4.3 The proposed Riverside Building (shown in Figure 8 below) would contain a mix of residential and commercial development with a retail unit and

a café (shown in pink/orange in Figure 8) on the ground floor together with the residential entrance lobby to the apartments (shown in grey) in the Riverside buildings and the Villas. There would be one residential unit (shown in blue) on the ground floor and the rest of the ground floor comprises storage and servicing areas. The remaining floors would contain 24 apartments in a mix of 2 and 3 bedroom units.



Figure 8: The layout of proposed uses on the ground floor of the Riverside building

11.9.4.4 The Riverside building would front on to the River Thames with the land to the front landscaped as public realm. The building would be S-shaped which differs from the permitted L-shaped building in this location. It would have a maximum width of 38.9m and a depth of 42.8m. This compares with the permitted building in this location which had a maximum width of 30m and a maximum length of 39.8m. Whilst the footprint of this building is larger in its floor area it is set back further into the site on both the River frontage and Hampton Court Way.

11.9.4.5 The proposed Riverside building would have a mix of commercial and residential uses with an active frontage onto the Riverside which is an approach to development supported by the National Design Guide. The layout of the building creates a clear distinction between accesses for the different uses with the entrances to the residential apartments in the Riverside building and Villas being clearly defined and well-proportioned in relation to the station access and the commercial elements. The uses in the Riverside Building include a café with glass frontage which will further enhance the public use of the river frontage. The proposed Riverside building is considered to comply

with the requirements of policy DM3 of the Development Management Plan and Policy CS17 of the Core Strategy in this regard.

- 11.9.4.6 The adopted Brief states in paragraph 9.5 that the most important building frontage is along the Thames, where the site is particularly visually prominent when viewed from Hampton Court Bridge and Palace. The entire waterfront site should be designated as a landmark which addresses the river and its landing stage and also encloses the incomplete square opposite the 'Streets of London' (now Zizzi restaurant). Particular care should be given to the design of the skyline.
- 11.9.4.7 Policy DM13 of the Development Management Plan states that development proposals and uses will be considered acceptable provided they: sympathetically reflect their riverside location and respect the riverside outlook and orientation, protecting and enhancing the individuality and character of the river and its landscape in accordance with the Thames Landscape Strategy, including views and vistas. The policy sets out that development should retain a strip of land to be free from development. Development should improve on the area and protect and promote the heritage and history of the river. Development should protect, conserve and enhance landscape and biodiversity as well as water quality. It should also support opportunities to improve provisions for public access to the riverside and take account of flood risk and related matters.
- 11.9.4.8 The Riverside building would change the setting of the riverside in this locality and would reduce the openness of this riverside setting due to its scale and massing (this is discussed in more detail later in this report). However not all change is negative change. When compared to the existing underutilised site, the proposed riverside building is considered to bring positive elements to the site through the introduction of a mix of uses and is considered to enhance the location for both residents of the area as well as those visiting the area through the introduction of local services with the café and retail elements. The proposed development is considered to respect the Brief through the layout and positioning of the Riverside Building which would front onto the river.
- 11.9.4.9 The development has been set well back from the River Thames and is considered to sympathetically reflect the riverside location with regards to its relationship to the north of the site. In terms of its layout in relation to the River Thames the development is considered to accord with the requirements of policy DM13 of the Development Management Plan. An assessment of the impact of the height and massing is considered later in this report.
- 11.9.4.10 The Brief also encouraged a small hotel (probably no greater than 40 bedrooms) of a high quality of design and no greater than 3 storeys which it considered would also be appropriate for this portion of the application site (the former Jolly Boatman site). However, the applicant has responded to concerns raised in the previous application from Historic Royal Palaces as well as public objection and set the development off the river frontage. The absence of significant built form to the river frontage on the site with it being inset a minimum of 32.7m has created a positive opportunity for the introduction of public realm space supported by policy CS17 of the Core



Strategy. Due to the creation of the public realm space the hotel accommodation has been positioned further south on the application site and therefore still respects the intentions of the Brief with regards to the preferred land use on the Jolly Boatman part of the site.

#### 11.9.5 Villas

11.9.5.1 The proposed Villas would be located on the eastern side of the proposed development site. They would contain a total of 60 apartments with a mix of 1 and 2 bed units. These would consist of 18 apartments per floor with the exception of the 3<sup>rd</sup> floor which would contain 6 apartments. The layout of the ground to 2<sup>nd</sup> floor is shown in Figure 9.



Figure 9: Proposed layout plan for the Villas first and second floor

11.9.5.2 The Villas would be split into three L-shaped buildings each measuring 30.6m in length with a width of 17.5m across the frontage with Cigarette Island Park and 29.7m along the frontage with the train station.

11.9.5.3 The access road for the development runs along the eastern boundary of the site adjacent to the Villas, however the proposed levels on the site and the layout of the buildings means that the access road is on a lower ground level than the ground floor residential units. The layout of the Villas also includes the creation of communal podium gardens between the blocks which are considered to further enhance the setting of the development and sense of place for the occupants of the residential units.

11.9.5.4 The Brief sets out the suggested parameters for development on the site in Plan 7 (Development Option 1 – Retention of station in situ). This includes the suggested building line for development on the train station part of the application site and includes a building line which is inset from the eastern boundary of the site with Cigarette Island Park.

11.9.5.5 It is acknowledged that the introduction of new development on the eastern side of the railway line will lead to substantial change to the present situation when viewed from Cigarette Island Park and this is discussed in more detail later in this report. However, the proposed Villas have been inset from the boundary of the application site with Cigarette Island Park with the creation of the access road which would act as a buffer between the green space of the park and the built form of the development. Whilst the access road does present a form of physical development, the proposed development is considered to still respect the suggested building line detailed in Plan 7 of the Brief as the actual Villas themselves would visually form the building line when

viewed from a distance and this has been inset from the boundary of the site. Spacing has also been provided between the buildings to create a sense of space between the blocks of development. The division of this residential element into smaller blocks or fingers of development serves to break up the massing of the building and minimise the building frontage to the park so that it reads as separate elements rather than one large expanse of built form. The impact of the height and massing of the Villas is considered later in this report.

11.9.5.6 Policy DM2 states that development proposals should create safe and secure environments and reduce the opportunities for crime. The layout of the Villas with balconies and communal gardens adjacent to the boundary with Cigarette Island Park would improve the vitality of this part of the site and its surroundings. It would also provide for increased surveillance over Cigarette Island Park which is supported by policy DM2 of the Development Management Plan. Concern has been raised that the creation of the access road to the east of the Villas together with the underground car park would create an unsafe environment for its users. It is not uncommon for commercial premises to have underground car parks and careful management and surveillance of this facility would ensure the safety of its users. With regards to the access road this would be in close proximity to the proposed residential units and Cigarette Island Park and therefore would have a degree of surveillance over it. Safe pedestrian routes are provided through the Villas to the train station and car park as well as out towards the north of the site. Surrey Police were consulted on the application and have recommended a pre-commencement condition requiring the development to achieve the full Secured by Design award for the residential and commercial elements of the development and to fully engage with Design Out Crime Officer and Counter Terrorism Security Advisors in relation to all other aspects of the proposal including security for the hotel and car parks. The applicants have agreed to the pre-commencement condition.

11.9.5.7 The proposed Villas would adjoin the railway line and would enclose the train station platforms and the railway line on the entrance to Hampton Court Station. The Villas would be situated 8.9m from the train station platform. Objection has been raised to the enclosure of the railway line in submitted letters of representation. However it is not uncommon for train stations to have built development on both sides of a railway station platform and train line at the arrival point and therefore there is no objection to this in principle, subject to the consideration of the height and massing and the impact on views to and from Hampton Court Palace which are discussed later in this report.

11.9.5.8 The proposed development would be situated adjacent to the River Ember which adjoins the eastern boundary of the site. Objection has also been raised with regards to the proximity of the development which runs along the eastern boundary of the site. Policy DM13 states "In all riverside locations, it will be appropriate for a strip of land to be retained free of development to maintain the open character of the riverside as well as providing important maintenance space and public access, where present, in the interests of biodiversity and flood risk. The undeveloped buffer strip is considered later in this report with regards to the implications on biodiversity and flooding.



However, for the purpose of this section it is considered in terms of the impact of the layout on the character of the area and the setting adjacent to the river.

11.9.5.9 The submitted Hard Landscaping Plan (drawing number LN00532\_L-200) details the River Buffer Zone line adjacent to the River Ember. It demonstrates that the proposed Villas would be situated approximately 17.5m from the buffer zone on the south-east corner of the building. On the south-west corner of the building the proposal includes a small element which projects further to the south. The proposed building would be situated only 7.5m from the railway bridge abutments which are on the riverbank in this location. However, this is only for a very small section of the bank and for the majority of the development boundary with the river, a buffer in excess of 8m is retained.

11.9.5.10 Officers have carried out a site visit and have viewed the site from the south along the riverbank and adjacent to the railway bridge and its abutments. In terms of the setting and impact on the character of the riverbank it is evident that this section of the bank has already experienced intrusion from the built form of the railway bridge and the large concrete abutments. There is no public access from the application site to the riverbank in this section and this is unchanged by the proposal. In terms of setting and character, due to the proximity to the built form of the railway bridge, the layout of the Villas in relation to the river is considered to be acceptable and would not cause significant harm to the riverside location. The proposal is therefore considered to comply with policy DM13 in this regard.

11.9.5.11 When considering the layout of the Villa's against the currently undeveloped site they are considered make good use of the currently underutilised site and would present an efficient use of land in the built-up area in accordance with Policy CS17. In terms of layout the proposal is considered to retain sufficient spacing around and between the Villas to prevent it appearing overdeveloped or cramped within the context of the application site when considering the footprint of the buildings alone. This is however subject to the careful consideration of the height and massing of the proposed buildings and their impact on the setting of the wider area are considered later in this report.

11.9.5.12 As an indication of what the Council has considered to be an appropriate design solution for the development of this challenging site, it is relevant briefly to compare the current scheme with what was previously found to be acceptable. The extant permission on site (2008/1600) gave permission for two Villa buildings (including mew houses) containing 33 No. residential units and a 61 bed care home was contained in a U-shaped building at the southern end of the site.

11.9.5.13 The extant permission on the site differs in that the Villas are split into two buildings each measuring a length of 20.7m, a width of 16m. The mews houses which formed part of the extant permission were also split into two separate buildings, but of differing sizes. The permitted care home then sat to the south of the two villas in the extant scheme and was a "U" shape in design with a width of 29m at the south side of the building and 24.6m at the north

side of the building and a total length of 50.6m with 18.7m for the central court yard. There would also be two projections towards the railway line to the west of the building measuring a length of 6.8m and a width of 9.4m.

11.9.5.14 Overall, the proposed Villas are a similar width and depth to those in the extant permission, however when viewed from Cigarette Island Park, the previous 5 fingers of development would now be viewed as 4 fingers of development. The Villa at the southern end of the site has been set in the from the eastern boundary of the site when compared to the extant permission to allow the access road to the east. Whilst the boiler room element of the proposal would be closer to the southern boundary of the site than the extant permission, the main bulk of the building has been set further into the site to increase the separation distance to the River Ember. The spacing around the buildings is considered to be improved when compared to the extant permission.

### 11.9.6 Hampton Court Way Building

11.9.6.1 The Hampton Court Way building would be located on the western edge of the site facing onto Hampton Court Way with the rear of the building facing onto the railway tracks.

11.9.6.2 The proposed building would contain a mix of residential and commercial uses. The ground floor of the building proposes an approximately 300 sqm retail unit which would front the River Thames together with the hotel fronting Hampton Court Way. At the southern end of the building the proposed affordable housing units with the residential entrance again onto Hampton Court Way. The layout of the ground floor of the proposed building is shown in Figure 10. The remaining floors of the building contain hotel and residential accommodation providing a total of 12 affordable housing units in a mix of 1 and 2 bed units and an 84 room hotel covering approximately 3171 sqm.

11.9.6.3 The proposed mix of uses in the Hampton Court Way building is considered to be supported by policies CS7 and CS24 of the Core Strategy, policy DM3 of the Development Management Plan.

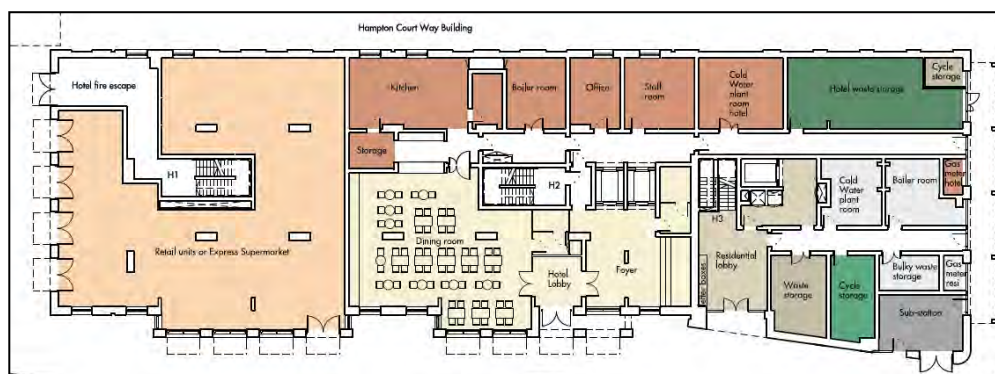


Figure 10: Proposed ground floor layout for the Hampton Court Way Building

11.9.6.4 The proposed building on the site would have a width of 18.6m to the north side of the building and 22m at the south side of the building with a total length of 64.3m. The northern end of the proposed building would be situated

4.6m from the application site boundary which adjoins Hampton Court Way and it would be set 6.5 from the site boundary that faces Hampton Court Way.

11.9.6.5 The Brief in Plan 7 details the suggested building line for development adjacent to Hampton Court Way. It suggests built form along the boundary of the site with the highway on Hampton Court Way to enclose the station site. The southern extent of the building line is suggested as a potential landmark.

11.9.6.6 Despite the suggested building line in the Brief, Officers consider that an opportunity has been missed to set the proposed Hampton Court Way building back from highway to provide landscaping to soften this boundary of the site and aid the transition between the finer grain of development to the west of the application site. However, it is also acknowledged that the Hampton Court Way does act as a physical divide between this site and the adjacent built form and therefore the site could create a character area in its own right subject to it harmonising with the surrounding area. The layout of the proposed building gives priority to an active frontage as opposed to a landscaped frontage. The Hampton Court Way building has been designed to create an active and vibrant frontage to the main route through the Borough. The proposed retail unit and hotel building would be accessed via Hampton Court Way as would the adjoining residential apartments. The design includes a number of large windows to serve the proposed retail unit, and care needs to be taken with the installation of any commercial units to ensure that these windows are not blocked over, and that active frontage are retained to both Hampton Court Way and the riverside. It is considered important that the Hampton Court Way building promotes the vitality of the location rather than acting as a dividing element between the existing commercial businesses on Hampton Court Way and the proposed development and the creation of an active frontage would support this.

11.9.6.7 The existing commercial properties opposite this site on Hampton Court Way are set back from the edge of the main highway due to their location on Hampton Court Parade. Hampton Court Way remains free from development hard up against the highway in the location. However, a number of properties on Bridge Road and Creek Road are built against the pavement with little in the way of soft landscaping to the front. This therefore demonstrates that the positioning of the Hampton Court Way building could be acceptable and integrate with the character of the wider area in accordance with policy CS17 of the Core Strategy subject to the consideration of the design, bulk and massing which is detailed later in this report.

11.9.6.8 A criticism of the scheme in relation to the requirement of the Brief is that the proposed development is lacking the suggested potential landmark to the south of the site adjacent to Hampton Court Way as the proposed building would span the length of the site (with the exception of the proposed amenity space to the south of the Hampton Court Way building). The appearance and design of the Hampton Court Way when approached from the south is discussed later in the report.

11.9.6.9 In relation to the layout of the Hampton Court Way building it is considered that it would introduce some positive elements to the area with the

inclusion of the hotel and retail elements which are supported by policies CS7, CS24 of the Core Strategy and DM3 of the Development Management Plan. The impact of the development and its impact on the street scene in this location is very much dependant on the consideration of the design and height which are detailed later in the report.

11.9.6.10 To allow comparison to that previously considered acceptable on the site in the extant permission. The proposed Hampton Court Way building is in the same location as the building permitted in the extant permission on the site, although it is of greater size and of different design. Figure 7 details the footprint of the building in the current application and the extant permission. The Hampton Court Way building in the extant permission includes the access road to the underground car park which would be situated on the southern side of the building, this has been relocated in the current scheme to the north of the site. The ground floor comprised of 5 No. commercial units with frontage directly onto Hampton Court Way. The 5 No. commercial units were given a mixed class so could be used as retail (A1), financial and professional services (A2), restaurants and cafes (A3), drinking establishments (A4), hot food takeaways (A4) or business (A1). The upper levels of the building would provide residential accommodation consisting of 33 units in a mix of 1, 2 and 3 bedrooms including 7 affordable housing units.

11.9.6.11 The building permitted would have a width of 19.3m to the north side of the building and 23.9m at the south side of the building and a total length of between 65.1m and 66.6m. The building permitted would be a minimum of 4.7m from the boundary that faces onto Hampton Court Way. The permitted building contained three projections to the northern side of the building, the current proposal infills the space between these projections so whilst the buildings external dimensions are slightly smaller, the floor area of the building now proposed is greater.

11.9.6.12 The extant permission provided a total of 603 sqm of commercial floor space across the whole development (excluding the hotel) and this proposal would provide approximately 703 sqm of commercial floor space across the whole development as well as additional hotel rooms and residential units. The current proposal is considered to make better use of the site than the extant permission when considered in terms of its mix of uses and layout of the site.

#### 11.9.7 Public Realm

11.9.7.1 The sixth characteristic identified in the National Design Guide is 'Public Spaces'. As set out in paragraphs 99-100 of the National Design Guide, the quality of spaces between buildings is as important as the buildings themselves. Public spaces are streets, squares, and other spaces that are open to all. They are the setting for most movement. The design of a public space encompasses its siting and integration into the wider network of routes as well as its various elements. These include areas allocated to different users – cars, cyclists and pedestrians – for different purposes such as movement or parking, hard and soft surfaces, street furniture, lighting, signage and public art. Well-designed places: include well-located public spaces that support a wide range of activities and encourage social interaction, to promote

health, well-being, social and civic inclusion; have a hierarchy of spaces that range from large and strategic to small and local spaces, including parks, squares, green and pocket parks; have public spaces that feel safe, secure and attractive for all to use; and have trees and other planting within public spaces for people to enjoy, whilst also providing shading, and air quality and climate change mitigation.

11.9.7.2 The separation distance between the built form and the river frontage has allowed for the creation of additional public realm space at the entrance to the train station as well as the alteration of the vehicle access to the north of the site. The green space to the front of the site is divided in four sections by the access road and pedestrian footpath, however it predominantly creates one public space on the riverfront and a second area at the entrance to the train station.

11.9.7.3 The Brief details that servicing access should be discretely provided to the rear of the site away from the Thames frontage and must be designed to minimise pedestrian and service vehicle conflict. The access to Cigarette Island Park is maintained to the north of the site, however the access to the car park will be combined with this access. The road layout would be reconfigured to allow for the creation of a greenspace on the riverfront. The setting will be further enhanced with hard and soft landscaping including tree planting.

11.9.7.4 The Riverside green space would be divided by the access road to the underground car park and services and is in close proximity to a busy highway. It is acknowledged that this green space may suffer disturbance from road users however it would still provide an acceptable level of amenity space for users of the proposed development and visitors to the area. The seating associated with the café is set back from the road frontage where noise and disturbance would be lessened. Public realm spaces to the front of train stations are characteristically busy places with a mix of users and it is considered that the proposed development provides a useable space which is clearly legible to the different users of this space. It is acknowledged that the image of the Riverside space shown in the submitted CGI's does not include additional paraphernalia such as signage and highway features and therefore does not reflect the final appearance of the green space but these can be located and designed in such a way as not to impair its function.

11.9.7.5 A further concern raised by objectors is with regards to the access road visually blocking the park from the station. They have also sought that the 1950s derelict wall on the boundary of the park should be removed to help visually connect the spaces. The ownership of this boundary wall has been questioned. However, the applicants have confirmed that the wall is not within their ownership and is owned by Elmbridge Borough Council. They feel that the wall would provide a sense of enclosure to the park and appropriately defines the edge of the urban/built up area. Furthermore, they state that in the future both the wall and hedge will help to screen the lower level of the development, in the way it currently screens views of the car park. As this wall is outside of the ownership and control of the applicant it would not be reasonable to impose the future treatment or maintenance of the wall on the

applicants. Concerns raised regarding the condition of the wall were passed on to the Council's Green Spaces Team for their attention.

11.9.7.6 Whilst Officers acknowledge that the removal of this wall would have been an enhancement to the area, the proposal is still considered to represent a significant improvement to the existing site and the retention of the wall is not considered to hinder these benefits. Overall, it is considered a significant benefit that the proposed development would increase the amount of public realm space around the train station as well as improve the legibility of the station access for passengers. The proposed development clearly divides private and public space and would form clear and defined entrances to the separate uses within the development. The proposed layout would create a sense of arrival for users of both the station and the occupants of the residential apartments. The proposed development is considered to create a feature at the entrance of the borough and is considered to represent an improvement over the existing underutilised site.

11.9.7.7 A further off-site benefit towards the enhancement of public realm space is the applicant's agreement to provide a financial contribution of £25,000 to the Council towards the future improvement and maintenance of Cigarette Island Park. This contribution is in recognition of the fact that the users of the proposed development are highly likely to also utilise the public space in Cigarette Island Park. The sum of money was decided in consultation with the Council's Green Spaces Team.

11.9.7.8 The proposed development is considered to enhance the public realm and would provide a clear distinction between public and private spaces in accordance with Policy CS17 of the Core Strategy. It is also considered to respond to the aims of Policy CS7 with regards to improving facilities for visitors of Hampton Court Palace and Hampton Court Station.

#### 11.9.8 Height and Massing

11.9.8.1 The Brief for this site contains restrictions on the height of buildings and states that they should not exceed three storeys plus a pitched roof, in order to ensure that the development does not dominate the existing station building, is below the tree canopy of the park and masses appropriately with the East Molesey Conservation Area buildings. The Brief also makes reference to The South Western Railway Act of 1913 which prohibits the development of any buildings taller than 50 feet (15.24m) within a one and a half mile radius of Hampton Court Palace. The extant permission did not have any buildings proposed which exceeded this height.

11.9.8.2 The submitted letters of representation raise concern about the proposed development breaching the height of building set out in the Southern Railway Act 1913. The submitted letters included a legal opinion from barrister Andrew Parkinson of Landmark Chambers which provides a detailed analysis of this matter.

11.9.8.3 Officers have sought a legal opinion on this matter and consider that the 1913 Act does not in substance prohibit the erection of all buildings which

exceed fifty feet in height. Rather, its effect is to require that before any such building is erected, a supplementary consenting regime must be complied with. The 1913 Act provides for a separate and discrete supplementary consenting regime to the land use planning regime under the Town and Country Planning Act 1990. It establishes a further statutory requirement which the holder of a planning permission for a building exceeding 50 feet in height has to satisfy once planning permission has been granted. The obligation on the Council as planning authority is to determine the planning application on its merits in accordance with the statutory duties outlined earlier in this report and, in doing so, to make its own assessments of amenity and heritage considerations. A material consideration in that assessment is the fact that Parliament clearly concluded that developments greater than 50 feet in height on this proximity had the potential to impact on the setting and significance of Hampton Court Palace such that it was important that, before they were allowed to proceed, the consent of the Secretary of State for Digital, Culture, Media and Sport should be obtained. Following consideration of section 49 of the 1913 Act and its relationship with the 1990 Act it is concluded that it does not contain anything which excludes the jurisdiction of the Council to determine the present application or which dictates its outcome but that its threshold of 50 feet is a materials consideration in the decision.

11.9.8.4 Furthermore, the Act does not specify exactly where the measurement of height should be taken from. As previously mentioned, a submitted topographic survey indicates that the existing ground levels within the main site fall from west to east from approximately 9.0m above Ordnance Datum (AOD) to 8.4m AOD in the north and 9.0 AOD to 7.6m AOD in the south. The levels within the area for the proposed temporary car park are generally flat, varying between 7.5m AOD and 7.6m AOD. The applicant states that when measured from the undeveloped land immediately in front of the main station entrance, all elements of the proposal fall below the requirement of 50 feet as stated in the Act.

11.9.8.5 However, objectors to the development contest that the measurements should be taken from different points on the site and that they would exceed 50 ft. They consider that the applicant has chosen this 9.1m AOD height as the datum for these buildings as it is the most elevated ground of the site, which is made-up ground. A Historic Impact Assessment submitted by The Gardens Trust considered this matter further and applied a methodology of assessing height based on the General Permitted Development Order (2015). The GPDO states that each building in question should be compared with the nearest adjacent existing levels. This details that while the platform datum is 9.1m AOD (taken from the applicants documents) the author of the HIA confirmed that the ground level adjacent to this at the bottom of the steps to the east car park is 0.9m lower, i.e. 8.2m AOD. To assess the development in accordance with the GPDO the ground level should relate to each building. The HIA includes an assessment of the levels on the site comparing those showing in the submitted plans and those shown on the topographical survey from the Flood Risk Assessment and demonstrates the variation in land levels around the site. This table has been replicated below in Figure 11.

| Individual building in question                               | Height of building in metres AOD on Drawing 451-01-07-011(H) | Existing height, metres AOD as showing on topographical survey: p.31 of Flood Risk Assessment, ES Appendix 11.1(Ex) | Height of proposed building in metres (H minus Ex) | Height of building in question converted in feet |
|---|--|---|--|--|
| Riverside building: NE corner closest to Hampton Court Palace | 24.340   | 8.100   | 16.240   | 53.28  |
| Villa 1   | 24.340   | 8.100   | 16.240   | 53.28  |
| Villa 2   | 24.340   | 7.900   | 16.440   | 53.29  |
| Villa 3   | 24.340   | 7.700   | 16.640   | 54.59  |
| Hampton Court Way building: NW corner                         | 23.735   | 8.410   | 15.325   | 50.28  |
| Hampton Court Way building: SW corner                         | 23.735   | 8.900   | 14.835   | 48.67  |

Figure 11: Proposed building height.

This is an assessment of the levels on the site comparing those showing in the submitted plans and those shown on the topographical survey from the Flood Risk Assessment.

11.9.8.6 The submitted plans are considered to provide sufficient information with regards to land levels and heights of buildings to allow for the determination of the planning application. Reference is made in submitted letters of representation to a telecoms application which was previously considered on the site and the submitted plans for that containing different land levels. This application is being considered on the basis of the levels details in the plans submitted for the current application. Officers have visited the site on numerous occasions and the surrounding area to be able to accurately assess the height of the proposed development in relation to the adjacent land. To allow for consistency with the submitted plan, in this report all building heights have been quoted from the 9.1m AOD datum of the station plinth.

11.9.8.7 It is not for the Local Planning Authority to determine the point at which this measurement should be taken in relation to the 1913 Act or whether the development is in breach of that Act. A decision to grant planning permission would not override any separate and actionable rights of the deemed consenting body, under the 1913 Act. An informative is recommended to



remind the applicant of their requirements to comply with the criteria set out in the South Western Railway Act of 1913. The impact of the proposed development on the significant heritage asset of Hampton Court Palace is considered later in this report.

11.9.8.8 Whilst the Act itself would not prevent the granting of permission for building exceeding 15.24m the relevant purpose of the Act is an important material consideration. The Act relates to protecting the setting of Hampton Court Palace and it is implicit from the Act that development of more than 50ft high within half a mile of Hampton Court Palace has at least the potential to have a greater impact on the setting. It therefore considered that the intention of the Act to protect the setting of the Palace is a material consideration in the determination of the planning application. The impact of the height of the development on the Palace is considered in detail in the remit of this report.

11.9.8.9 In relation to height, the Brief does state that buildings should not exceed three storeys plus a pitched roof. The main aim of the height restriction in the Brief is stated as being to ensure that the development does not dominate the existing station building, is below the tree canopy of the park and masses appropriately with the East Molesey Conservation Area buildings as well as respecting the setting of the Palace. If the proposed development respects the rationale of these aims, then, given the increased need to ensure effective use is made of underused land within the Borough, the Brief should be applied prescriptively. The height and massing of the buildings in relation to the character and appearance of the surrounding area and heritage assets are considered in detail in this report.

11.9.8.10 Whilst the extant permission complied with the requirements of the 1913 Act it has demonstrated that it is possible to design a building which was considered acceptable and granted planning permission even though it did not comply with the requirements of the Brief. The permitted scheme included 4 storey development. This demonstrates that it is not appropriate to apply the Brief in a prescriptive way.

11.9.8.11 The proposed riverside building would have a pitched roof with 5 gable ends featuring on the north elevation facing the River Thames as show in Figure 12 below. The proposed building would have a height of approximately 15.24m when measured from the level of the station platform. This compares to the previously permitted building in this location which had a height of 14.34m to the top of the roof. The building would have maximum external dimensions of 38.9m x 29.7m.

11.9.8.12 The Riverside building has been inset from the River Thames and it is acknowledged that the location and design of this building is an improvement over the previously approved scheme. However, the scale and massing of the buildings, in close proximity to the river, would create an imposing and prominent feature on the waterfront which is considered to have an adverse impact on the openness of the river's setting and the character of the area. The architecture and design of the building fronting the river is not considered to be of such outstanding quality to overcome the excessive and dominant bulk and massing. Furthermore, the height and mass of this building is not

considered to relate to the massing of the train station building and would appear dominant and overbearing on the existing structures. This would be contrary to policies DM2 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy.



Figure 12: The North elevation of the Riverside building

11.9.8.13 The proposed Villas have been detailed in the application documents as 4 storey buildings because from the riverside and train station side of the development, they have 4 above ground floors. However due to the need for access to the basements and the level differences across the site, the top floor of the basement level is visible on the eastern side of the development giving the appearance of a 5<sup>th</sup> floor to the development as shown in Figure 13. The buildings would have a flat roof with the upper level set back as ‘pavilions’. The buildings would have a height of approximately 15.24m when measured from the station platform. The extant permission on site included a pair of Villa buildings which were four storeys in height with a set back of the top floor similar to the currently proposed scheme. The buildings in the extant permission would have a height of 12.29m to the flat roof. The permitted building was designed as a four storey flat roofed building with a roof terrace in a “U” shape with a central courtyard facing across Cigarette Island Park.



Figure 13: Partial proposed east elevation of the Villas

11.9.8.14 The proposed buildings would provide a development which is predominantly uniform in height on the eastern side of the trainline. It would have an increased height and mass when compared to the previously granted permission on this site. The amendments to the layout and bulk of the buildings on the eastern side of Cigarette Island Park when compared to the extant permission has resulted in a visual change and redistribution in the massing of buildings when viewed from the east of the site. The proposed development would now appear as 4 predominant fingers of development as opposed to the 5 in the previous scheme, however the Riverside Building presents as a greater mass when viewed from the east than the permitted hotel in that location. The overall mass of the buildings is broken up when viewed from the east with the top floor of the villas being inset and designed as terraces to reduce the visual mass.

11.9.8.15 In terms of height and massing, the buildings on the eastern side of the development must be sensitive to the height and mass of the buildings on the opposite side of the river at Hampton Court Palace which are predominately 2-3 storey adjacent to the River. The location and design of the proposed buildings is considered to represent an improvement over the extant permission. However, the proposed development represents a substantial increase in the built form and mass of buildings on the site when compared to the existing undeveloped site. There is some benefit from the addition of the balconies and raised terrace gardens to improving the vitality of this side of the development site. However, the massing and design of the buildings would result in a dominant and imposing development which would form a hard edge against the existing green space of the park. In combination with the Riverside building discussed above, the proposed Villas are considered to be excessive in height and would cause harm to the character of the area contrary to policies DM2 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy.

11.9.8.16 A full consideration of the impact of the development on the sensitive views and heritage assets from Hampton Court Palace is given in the Townscape analysis and the Heritage analysis below.

11.9.8.17 The height of the proposed buildings steps down towards the site's frontage with Hampton Court Way on the western side. The Hampton Court Way building is a four storey partially flat roof building with a shallow crown roof over the hotel element as showing in Figure 14. It would have a height of 14.64m when measured from the train station platform, 13.9m when measured from the pavement adjacent to the southern end of the building and 15.1m adjacent to the train station entrance. The proposed Hampton Court Way building would face the parade of shops on the western side of Hampton Court Way which are three storeys with rooms in the roof.



Figure 14: Proposed west elevation of the Hampton Court Way building

11.9.8.18 For comparative purposes, the extant permission on the site is for a building with a height of 12.21m to the flat roof when measured from the platform level. The permitted building contained three projections to the northern side of the building. The current proposal infills the space between these projections as shown in Figure 7, so whilst the buildings external dimensions are slightly smaller, the overall bulk of the building is greater.

11.9.8.19 The proposed Hampton Court Way building would be lower in height than the Villa buildings proposed to the east of the site. Figure 14 shows the west elevation of the Hampton Court Way building and its height in relation to the proposed Villas to the east. The proposed building would have two protruding bays on the west elevation to mark the entrances for the retail and hotel uses on the ground floor. The proposed Hampton Court Way building would be located hard up against the pavement edge and the sheer massing of the development and its unrelenting position against the pavement is uncharacteristic of this view and would be visually detrimental to the character of the area. The design and materials for the proposed building which are detailed below are not considered to significantly break up the visual bulk of this building. The proposed building by reason of its height, design and proximity to the highway are considered to cause harm to the character of area contrary to policies DM2 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy.

11.9.8.20 The Locally Listed train station building sits at the heart of the proposed development. The extant permission on the site was for four storey development adjacent to the two storey station building. It is acknowledged that the proposed development would represent a significant increase in the mass of buildings surrounding the station. A detailed consideration of the impact of the development on the setting of the locally listed train station is included in more detail below in the Heritage analysis.

11.9.8.21 The applicant has submitted a wind report which assesses the impact of the additional bulk and mass of building on the waterfront. This confirms that wind levels in general will be acceptable throughout the development and the one area that falls slightly short, which is at the entrance of the Hampton Court Way building which can be addressed with mitigation. This is considered to be a negative aspect of the design and layout of the scheme which needs to be weighed in the planning balance. As the proposal only slightly falls short in this regard, and mitigation could be included, it is not considered to justify the refusal of the application on its own.

## 11.9.9 Materials

11.9.9.1 The proposed three main elements of the proposed development would have varying architectural details; however, the palette of materials would tie the buildings together. The materials proposed respond to those found in the locality and are as follows:

- Red brick
- Buff brick
- Creamy white stone
- Terracotta rendering for the central gable of the Riverside Building
- Mortar colour for both the brickwork and stonework to match the colour of the stone
- Grey anodised aluminium window frames with clear glass
- Grey metal cladding to match the window frames
- Zinc roof
- Slate roof

11.9.9.2 The Riverside building would have 5 gable end features facing the Riverfront. It would be constructed from red brickwork together with reconstituted stone window surround and expressed lintels. There would be Juliet balconies for the first and second floor apartments with projecting balconies on the top floor. The central gable would be faced in terracotta to distinguish the residential entrance from the commercial elements. The proposed material treatment for the Riverside building is considered to create a good distinction between the different users of the building with the residential entrance treated differently to the commercial entrances. The development also has good proportioned fenestration on the ground floor to further enhance the distinction between the ground floor commercial uses and the residential apartments above. This helps enhance the legibility of the site and improve the sense of place for users. A consideration of the proposed design and materials for the building is considered in the context of the wider area in the Townscape Analysis below.

11.9.9.3 The proposed Villas would have a more contemporary design with the inclusion of the set back terraces on the top floor and the raised platform gardens and green roofs. Officers have worked proactively with the applicant to try to address concerns raised about the dominance of these blocks and uniform use of red brick across the eastern elevation of the development. The applicant has amended the scheme to change the brickwork for the Villas from a red brick to a buff brick to create variation in the palette of materials and to reduce their prominence. This was one of the amendments sought by Historic Royal Palaces that the applicant responded to. The Townscape Analysis section below will consider the impact of the Villas on wider view in the area and whether the bulk and mass together with material treatment causes harm to the wider area.

11.9.9.4 The proposed Hampton Court Way building would have a strong design presence due to its location and form. The proposed design is for a simpler form than the other buildings in the proposal as it steps back from views from Hampton Court Palace and the river. The proposal has been changed from a more contemporary design in the extant permission to what is now a more traditional design with the removal of the terrace from the top floor of the development. During the course of preapplication discussions with the

applicant, Officers negotiated the softening of the corner of the building together with the addition of some detailing on the front elevation. The design of the building was amended during the course of the application following further consideration by Officers. Further detailing was added to the Hampton Court Way elevation including the introduction of a buff brick to the residential element at the southern end of the proposed building to distinguish between the hotel and residential uses. As detailed above and considered in the Townscape Analysis below, the bulk and mass of the building is still considered harmful to the character of the area and the design and material treatment is not considered to overcome this harm contrary to policy DM2 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy.

11.9.9.5 The Design and Character SPD Companion Guide: East and West Molesey makes reference to Bridge Road and Creek Road being a mixed use area with considerable charm and character, with a fine grain complimented by a strong palette of traditional materials and the survival of traditional shopfronts and other architectural features. The proposed materials are considered to reflect the palette of materials in the locality in Molesey. The proposed detailing on the buildings including the use of the gable ends and stone courses is also considered to reflect some of the more traditional design features found in the locality. However, concern is raised about the bulk and mass of these buildings and the impact on the character of the area. The quality of the architectural design and materials is not considered sufficient to overcome the concerns raised about the bulk and massing of the proposed buildings as detailed later in this report.

11.9.10 Landscape and trees

11.9.10.1 Policy DM6 states that development proposal should be designed to include an integral scheme of landscape, tree retention protection and planting.

11.9.10.2 The applicants have adopted an appropriate low key approach which is not considered to compete with the size, scale and grandeur of Hampton Court Palace and its grounds to the north of the river nor detract from the river, bridges and footpaths. The proposed design of new public realm Riverside Gardens is considered to be appropriate and understated with its limited palette of hard and soft landscape elements. Views to the Palace are kept open and proposed decorative planting kept at a low level. The proposed access road to the underground car park has been narrowed and brought back from the river to create open space on either side and this is a positive improvement, however, there is opportunity for some additional tree planting to reflect the opposite side of the bank. The proposed landscape layout helps to orientate visitors from the station and integrates access to Cigarette Island Park.

11.9.10.3 Space elsewhere on the site for landscaping is limited but the opportunity has been used to create a proposed woodland garden and river buffer zone to the south which was not included in the extant permission. As noted above, there is a strong reliance on existing tree cover within Cigarette

Island Park which is outside the site ownership, for screening and privacy and its “occluding effect” (paragraph 4.2 of the ES Volume 3).

- 11.9.10.4 The proposal site is predominantly covered with structures and hard surfacing with very few arboricultural features present. The majority of the trees on the site are relatively young, poor quality trees that provide a limited overall amenity to the landscape. All the significant mature trees are located on the Cigarette Island open space to the East of the site which is currently owned and managed by Elmbridge Borough Council.
- 11.9.10.5 The entire area including the station and open space is covered by the East Molesey Kent Town Conservation Area which accords all the trees above a certain size legal protection. In combination with the Conservation Area there is an area Tree Preservation Order EL:01/04 which covers a square of scrubland towards the southern end of the site between the used car sales forecourt and the river Ember.
- 11.9.10.6 The application has been supported by an arboricultural information in the form an Arboricultural Survey and Impact Assessment produced by Waterman which includes the necessary tree protection details in line with BS:5837 2012.
- 11.9.10.7 The number of trees proposed to be removed is relatively low and those trees that are proposed for removal are of a low quality/grade. The loss of the trees proposed is not considered to have any significant detrimental impact on the character of the Conservation Area or the local landscape.
- 11.9.10.8 The only significant area of conflict between the main proposal and retained trees is the incursion into the root protection area (RPA) of the Horse Chestnut T21 from the basement, building foundations, and new hard surfacing access road. The area is currently soft landscaped scrubland and the overall incursion into the calculated RPA is fairly significant with a 20% coverage. This percentage is on the maximum limit of the recommendations made in section 7.4 of BS:5837 2012 for areas of new hard surfacing in RPA's. Officers are in agreement with the observations made in section 3.7 of the arboricultural report which mentions the existing wall and associated wall foundations located in the RPA of T21. The wall travels across the length of the RPA approximately 4-5m from the base of the Chestnut. No exploratory investigations have been undertaken but there is a high probability the foundations of the wall have formed a substantial root barrier preventing the development of any significant root system on the Western side of the boundary wall. Officers would recommend trial pits be dug to determine the depth of the walls foundations and whether any significant roots are present on the Western side. If significant roots are identified in the area for the construction of the access road, piled foundations will be required to limit the impact to T21s root system.
- 11.9.10.9 The tree protection plan produced highlights that an existing wall and fencing located between the station site and Cigarette Island is to be utilised as suitable tree protection barrier. Considering the level and intensity of development anticipated, this in the Officers opinion, would need to be backed

up with an additional, suitably robust barrier that would withstand the potential impacts from heavy plant machinery. This can be secured by condition.

11.9.10.10 The proposal includes a soft landscape design produced by Outerspace which makes provision for 31 new trees to be planted as part of the final design. Officers have no objection to the species selection and recognise there is a need to maintain open vistas and views of Hampton Court Palace. Having looked at the site, Officers would not object to (and recommend) the further removal and replacement of trees T25 (Elder) and T26 (Chestnut). Both are of a poor quality and have a limited useful life expectancy with a high probability of their removal through physiological and/or structural decline in the short term. The available areas of Lawn and Riverside Green towards the northern end of the site provide an opportunity to plant two or three semi mature specimen trees that would provide a long term amenity to the development compare to that of T25 and T26. From a purely arboricultural perspective, the planting in these areas of large specimen trees could enhance the long term visual appearance of local site with seasonal interest while offering shade and shelter as the trees mature. But if this area has purposefully been left free and open to maintain the views of Hampton Court even trees with narrow habits could produce undesirable restrictions to the vista. Officers consider that the additional planting adjacent to Hampton Court Way together with retaining the open vista across the proposed green space to the north of the site present an appropriate balance between maintaining views and enhancing the existing green infrastructure in accordance with policy DM6 of the Development Management Plan and CS7 of the Core Strategy.

11.9.10.11 Similarly, with trees T49 and T50, Officers would recommend their removal and replacement due to the proposed future usage of the site, and the known issues with Lime and Oaks. Limes produce prolific suckering and epicormic growth which is likely to interfere with the use of the raised decking and would require regular maintenance to manage. Further problems are with the regular aphid infestations on Limes which itself does not significantly impact on the tree, but aphid secretions cause a sticky residue to build up on any surfaces within the canopy dripline. With the ever growing presence of Oak Processionary Moth in Elmbridge and the health problems caused by the toxic hairs of the caterpillars, placing a high usage amenity area under the canopy would foreseeably lead to future problems. The area could be planted with good sized replacements with species more suitable for the proposed future usage of the amenity space.

11.9.10.12 The Gardens Trust and Historic Royal Places have raised concern with regards to the reliance of trees to screen the development. The Arboricultural Report was written in December 2018, now over two years ago. They are concerned that a number of the Horse Chestnuts were affected by Horse Chestnut Leaf miner and one by bleeding canker and that this may have spread over time. Loss of any mature trees will increase visibility of the application site from the Registered Park and Garden and have an impact on setting and significance. They have requested further tree information on the state of the trees and their longevity in view of the crucial role in partial screening.



11.9.10.13 A planning condition is recommended that would require the applicant to re-survey the trees to address the 3 year gap between the original survey. This would be to update the dimensions of the trees, those removed since the submission and any that may have declined. For the purpose of the determination of the current application the submitted information is considered to be sufficient and Officers have visited the application site on numerous occasions over this period of time to view the trees in the context of the development site.

11.9.10.14 The management of the trees on Cigarette Island Park is outside of the control of the applicant and reliance should never be solely placed on third party trees for screening. However Officers can provide assurances that they will continue to inspect the trees on Cigarette Island in line with our adopted Tree Risk Management Strategy and in the process monitor the vitality of the Horse Chestnuts in relation to the infection and impacts of Chestnut canker, leaf miner and leaf blotch.

11.9.10.15 A consideration of the visual impact of the development is given in the heritage and townscape analysis below. Planning conditions are recommended to further ensure the protection of trees and additional planting on and around the application site. Furthermore, the applicants have offered to secure a financial contribution of £25,000 through the S106 agreement to provide for future improvement and maintenance of Cigarette Island Park which includes a number of mature trees.

11.9.10.16 Officers have no objection on arboricultural grounds subject to the submission of some additional information to address the following points:

- Increase the robustness of the tree protection barriers on the boundary with Cigarette Island.
- Trial pit investigations to determine presence of roots beyond the boundary wall adjacent to T21. If substantial roots are discovered any construction design would need to accommodate the successful retention of the trees root system.
- Updated landscaping details in relation to tree planting and aftercare.
- Detailed methodologies for specialist construction in RPA.
- Removal of temporary parking or revised location.

11.9.10.17 Officers are satisfied that the above details could be secured by a planning condition and the planning obligation. In conclusion, the proposal complies with Policy DM6.

## **11.10 Townscape and Heritage Analysis**

The Council's Senior Conservation and Design Officer was consulted on this application and provided a consultation response which included the Townscape and Heritage Analysis. Officers agreed with the comments agreed with the assessment provided and therefore the consultation response has been incorporated into this section of the report in full.

11.10.1 Heritage Assessment Methodology

11.10.1.1 The following outlines the methodology that has been used to assess the impact of the proposed development on the heritage assets that surround the site. Firstly all 'Receptor's' (Heritage Assets) have been awarded a 'Value' that provides an indication of their significance. The table in Figure 15 below sets out the criteria for each of the Receptor Values. In making an assessment on the proposed impact the Council has followed the same methodology as the application, although there are some alterations.

### Receptor Value

| Receptor Value | Heritage Receptor Value (HR)  | Townscape Receptor Value (TR)   | Visual Amenity Value (VA)   | Examples   |
|----------------|-------------------------------|---|---|--|
|                | Criteria                      | Criteria  | Criteria  |  |
| Exceptional    | Of international significance | Outstanding townscape, dominance of quality materials, very strong urban structure/ grain, unique sense of place, no detracting features          | Identified strategic views and/ or views of national or international importance  | HR – Includes Grade I and II * listed buildings<br>TR - Internationally or Nationally recognised<br>VA – Views of national or international importance       |
| High           | Of national significance      | Very attractive townscape, evident use of quality materials, strong urban structure/ grain, strong sense of place, occasional detracting features | Identified views and/ or views of national or international importance  | HR – Includes Grade I and II* listed buildings. TR- Nationally, Regionally or District recognised<br>VA - Views of national or international importance      |
| Medium         | Of national significance      | Attractive townscape, recognisable urban structure/ grain, some features worthy of conservation, a sense of place, some detracting features       | Supplementary planning document identified views including conservation area appraisals and/ or views of regional or local importance | HR – Includes grade II listed buildings and conservation areas.<br>TR - Regional, District or Local recognised<br>VA – Views of local or regional importance |

|          |   |  |   |   |
|----------|---|--|---|---|
| Low      | Of national and/ or regional significance, or local asset of particular significance        | Commonplace townscape, noticeable urban structure/ grain, limited features worthy of conservation, some dominant detracting features | Views within ordinary townscape value   | HR – Includes grade II listed buildings, conservation area and buildings of local interest<br>TR - District or Locally recognised<br>VA – Views of local interest |
| Very Low | Some evidence of significance, of local interest and generally with no statutory protection | Run down townscape, weak urban structure/ grain, no features worthy of conservation, frequent dominant detracting features           | Views within very low townscape quality | HR – Includes predominantly buildings of locally interest and elements of townscape merit<br>TR - No formally recognition<br>VA – Views of no interest            |

Figure 15: Receptor Values criteria for the heritage assessment

11.10.1.2 Following the award of a ‘Receptor Value’ each receptor is then scored according to its susceptibility to change as shown in Figure 16. The criteria for that assessment is below.

Susceptibility (to Change)

|        |   |
|--------|---|
| Low    | The receptor has a high ability to accommodate the proposed development and/ or the receptors setting may make a negative contribution and/ or intervening development, distance or topography may block any relationship with the proposed development.                |
| Medium | The receptor has a medium ability to accommodate the proposed development and/ or the receptors setting may make a neutral contribution and/ or intervening development, distance or topography may block or allow a visual relationship with the proposed development. |
| High   | The receptor has a low ability to accommodate the proposed development and/ or the receptors setting may make a positive contribution and/ or intervening development, distance or topography may allow a visual relationship with the proposed development.            |

Figure 16: The Receptor Value assigned in the heritage assessment.

11.10.1.3 Finally, the ‘Magnitude’ of the impact of the proposed development is then considered for each receptor as shown in Figure 17 below. The criteria for that assessment is below.

### Magnitude (effect of change on Receptor)

|            |  |
|------------|--|
| High       | Considerable change to the value of the receptor. The proposed development would range from a notable change in receptor characteristics over an extensive area to an intensive change over a limited area. The proposed development would be very noticeable. There would be a loss of or major alteration to key elements/ features or characteristics, the duration of which may be permanent and non-reversible. |
| Medium     | A clearly discernible change to the value of the receptor. The proposed development would be dissimilar to a main component of the receptor, but similar to other components. The proposed development would be readily noticeable. There would be a partial loss of or alteration to key elements/ features or characteristics, the duration of which may be semi-permanent and partially reversible.               |
| Low        | Slight change to the value of the receptor. The proposed development would be similar to the main component of the receptor, but dissimilar to the other components. The proposed development would not be readily noticeable. There would be minor loss of or alteration to one or more key elements/ features and characteristics, the duration of which may be temporary and reversible.                          |
| Negligible | Barely discernible change to the value of the receptor. There would be minor loss of or alteration to one or more key elements, features and characteristics.  |
| Nil        | No change to the value of the receptor   |

Figure 17: The Magnitude of Impact assigned in the heritage assessment.

11.10.1.4 Lastly, the two tables below provide a likely effect of the development on each receptor. The receptor value and susceptibility are first entered to provide a sensitivity reading as show in Figure 18 below. This is then entered into the second table along with the magnitude value to provide a 'Likely Effect' as shown in Figure 19.

### Sensitivity table

| Receptor Value | Susceptibility |                |                |
|----------------|----------------|----------------|----------------|
|                | Low            | Medium         | High           |
| Very Low       | Low            | Low            | Low/ Moderate  |
| Low            | Low            | Low/ Moderate  | Moderate       |
| Medium         | Low/ Moderate  | Moderate       | Moderate/ High |
| High           | Moderate       | Moderate/ High | High           |
| Exceptional    | Moderate/ High | High           | High           |

Figure 18: The Sensitivity table used in the heritage assessment

### Likely Effect (of Proposed Development)

| Magnitude  | Sensitivity         |                     |                     |
|------------|---------------------|---------------------|---------------------|
|            | Low                 | Moderate            | High                |
| Nil        | None                | None                | None                |
| Negligible | Neutral/ Negligible | Neutral/ Negligible | Neutral/ Negligible |
| Low        | Minor               | Minor/ Moderate     | Moderate            |
| Medium     | Minor/ Moderate     | Moderate            | Moderate/ Major     |

|      |          |                 |       |
|------|----------|-----------------|-------|
| High | Moderate | Moderate/ Major | Major |
|------|----------|-----------------|-------|

Figure 19: The Likely Effect assessment used in the heritage assessment

11.10.1.5 Following the above assessment, a 'likely effect' has been determined for each asset, however this is neither beneficial nor adverse. A further assessment is then provided to translate the 'likely effect' into one of the categories in the table in Figure 20 below. Where necessary justification is also provided to outline each conclusion and the potential benefits associated with the development are also considered.

|                     |  |
|---------------------|--|
| Major Beneficial    | The scheme would be in keeping with and would provide a major improvement to or reinforce the value of the receptor.                                       |
| Moderate Beneficial | The scheme would be in keeping with and would provide a noticeable improvement to or reinforce the value of the receptor.                                  |
| Minor Beneficial    | The scheme would be in keeping with and would provide a slight improvement to or reinforce the value of the receptor.                                      |
| Neutral/ Negligible | The scheme would have no effect on the value of the receptor or would be barely perceptible/ in keeping with and would maintain the value of the receptor. |
| Minor Adverse       | The scheme would have a minor negative effect to the value of the receptor   |
| Moderate Adverse    | The scheme would cause a noticeable deterioration in the value of the receptor.  |
| Major Adverse       | The scheme would cause a major deterioration in the value of the receptor.   |

Figure 20: The categories of impact used in the Heritage Assessment

## 11.10.2 Townscape Assessment

11.10.2.1 The Environmental Statement: Volume 3 provides the Townscape and Visual Impact Assessment. The Townscape receptor impact is shown in Table 7.3 of that document and is divided into 8 Character Areas. The results of this assessment are reproduced in the table in Figure 21 below.

| Character Area Number | Character Areas                  | Likely Effect (Operation)           |
|-----------------------|----------------------------------|-------------------------------------|
| 1                     | Historic Palace and Garden       | Long Term Minor Beneficial          |
| 2                     | Thames and Riverbank             | Long Term Minor Beneficial          |
| 3                     | Hampton Court Green              | Long Term Neutral/ Minor Beneficial |
| 4                     | Movement Corridor                | Long Term Minor Beneficial          |
| 5                     | Public Park                      | Long Term Moderate Beneficial       |
| 6                     | Town Centre/ Commercial          | Long Term Minor Beneficial          |
| 7                     | Low Density Planning Residential | Negligible/ Neutral                 |
| 8 (A + B)             | Low Density Mixed Residential    | Negligible/ Neutral                 |

Figure 21: The applicants assessment of the impact of the development

11.10.2.2 This was provided in the Environmental Statement: Volume 3 Townscape and Visual Impact Assessment.

11.10.2.3 Character Area 1 covers Hampton Court Palace and its gardens. Parkland surrounds the Palace to the north and east and make a positive contribution to its setting. To the south and west the setting has a greater amount of urban landscape, including the townscape of East Molesey and Hampton Court Bridge. This gently transitions into open space and vegetation as you move to the east along the Thames where views of the Palace gardens are evident. Within this area lies Cigarette Island and Ditton Field both of which add positively to the setting of the Palace. The relationship of the Palace, the river crossing and East Molesey are described by the applicant with their 'Heritage, Townscape and Visual Impact Assessment' on page 34 as 'contributing positively to an understanding of the Palace's heritage value, contextualising its historic development'.



Figure 22: Historic Map of Hampton Court (later 19<sup>th</sup> Century)

11.10.2.4 The map shown in Figure 22 above shows the setting of Hampton Court Palace in the later part of the 19<sup>th</sup> century. Clearly the application site, Cigarette Island and their relationship have not altered in some 130 to 150 years. The green buffer that is created on the opposite side of the river allows visitors of the Palace to consider and experience the site in a semi-rural setting similar to how it would have appeared when originally constructed.

11.10.2.5 The application assessment indicates that this character area will benefit from the development as the approach to the Palace will be improved and the new buildings will provide an enhancement. Officers agree that the route to the Palace will be improved, which is considered a benefit in accordance with policy CS17 of the Core Strategy in that it would enhance the public realm. However, the views out from the Palace and its grounds will be altered and therefore its setting affected. The existing green setting which the

application site currently provides as the backdrop to the Palace, will be interrupted with built form. The views and appreciation of the Palace and its grounds will be for ever altered to its detriment which is considered to be contrary Policy CS 7 and to the other aims of policy CS17 of the Core Strategy and DM2 and DM12 of the Development Management Plan with regards to protecting the character of the area and heritage assets.

11.10.2.6 This effect on the setting of the Palace and its grounds would result in a moderate adverse impact on this Character Area. The size of the character area is noted and that the setting of the Palace is also formed by parts of this character area that are not affected by the development.

| Character Area No. | Receptor Value (TR) | Susceptibility to Change | Magnitude | Likely Effect      | Beneficial or Harmful |
|--------------------|---------------------|--------------------------|-----------|--------------------|-----------------------|
| 1                  | Exceptional         | Medium                   | Medium    | Moderate/<br>Major | Moderate<br>Adverse   |

11.10.2.7 Character Area 2 covers the River Thames and its riverbank. The Townscape Assessment discusses the removal of an unattractive element from the riverbank (Officers assume this is a reference to the hoardings) and that the area will be animated by high quality architecture with active uses on the ground floor. These advantages are not within this character area and lie within Character Area 4, which includes the application site. The scale and massing of the development is considered to have an adverse impact on the openness of the rivers setting and the architecture is not of such an outstanding quality that it overcomes these problems. This would be contrary to policies DM2 and DM13 of the Development Management Plan and policies CS7, CS12 and CS17 of the Core Strategy as it would cause harm to the character of the area and the setting of the riverside. With that said, the location and design of the buildings is an improvement over the previously approved scheme, but they are still close to the river, they will be clearly visible when moving along it and from the other side of the Hampton Court Palace side.

| Character Area No. | Receptor Value (TR) | Susceptibility to Change | Magnitude | Likely Effect                  | Beneficial or Harmful |
|--------------------|---------------------|--------------------------|-----------|--------------------------------|-----------------------|
| 2                  | High                | Medium                   | Medium    | Moderate/<br>Major to<br>Major | Moderate<br>Adverse   |

11.10.2.8 Character Area 3 covers the area on the northern side of the river Thames and to the west of Hampton Court Palace. This area is unlikely to be affected by the development. Whilst the application assessment suggests that wayfinding will be improved, Officers are unclear how this relates to this character area, given that the Palace is easily recognisable. This area is part of the Hampton Green conservation area and from its southern and eastern boundaries would have some views of the development, although these would be broken by Hampton Court Bridge, existing townscape/ trees and that there is a change in level.

| Character Area No. | Receptor Value (TR) | Susceptibility to Change | Magnitude  | Likely Effect          | Beneficial or Harmful |
|--------------------|---------------------|--------------------------|------------|------------------------|-----------------------|
| 3                  | Medium              | Low                      | Negligible | Neutral/<br>Negligible | Neutral<br>Negligible |

11.10.2.9 Character Area 4 covers the application site, Hampton Court Bridge and Hampton Court Way stretching to the south. The applicant's assessment considers this area would see a major benefit. The East Molesey Kent Town Conservation Area appraisal identifies a number of negative features about the general area of the Jolly Boatman site and Cigarette Island Park, which are as follows:

- The neglected and unkempt site of the Jolly Boatman
- Large incongruous advertising hoardings to the station car park
- Poor condition of the main railway terminus building (paint peeling from windows, modern wire trunking, poorly designed lighting and modern shop windows and poorly designed shop awning)
- Large unrelieved tarmac frontage to Hampton Court Way
- Conflict between vehicles and pedestrians on Hampton Court Way (a very busy thoroughfare)
- Poor quality environment for the visitors arriving at Hampton Court Station

11.10.2.10 The proposed development addresses all of the above, except the poor condition of the Railway Station building. Officers consider that there are further benefits to the scheme in the form of the new public realm (further assessed under Viewpoint 8) which is supported by policies CS7 and CS17 of the Core Strategy. However, within this character area the works also create harm, notably due to the massing and design of the proposed development and the impact on the setting of the Railway Station building contrary to policies CS7 and CS17 of the Core Strategy and policies DM2 and DM12 of the Development Management Plan. In total the harm caused is not considered to be outweighed by the benefits of the development.

| Character Area No. | Receptor Value (TR) | Susceptibility to Change | Magnitude | Likely Effect               | Beneficial or Harmful |
|--------------------|---------------------|--------------------------|-----------|-----------------------------|-----------------------|
| 4                  | Medium to Low       | Medium                   | Low       | Minor to Minor/<br>Moderate | Minor<br>Adverse      |

11.10.2.11 Character Area 5 covers Cigarette Island and the green space to the south east of the application site. The Townscape Assessment notes that the accessibility of Cigarette Island will be improved through the layout of the development and that surveillance will enhance the way the space functions. Officers agree that the usability of this area will be enhanced through the development, in accordance with the aims of the Development Brief and policy CS17 of the Core Strategy. However, there is also a level of harm created through the scale and massing of the development which forms a hard edge to the northern part of the character area which would be contrary to policies CS7 and CS17 of the Core Strategy and policy DM2 of the Development Management Plan. A large section of this character area would be less affected by the development. Overall, on balance, the harm identified to part of



this character area is considered to be offset by the vitality and improved accessibility that the development creates.

| Character Area No. | Receptor Value (TR) | Susceptibility to Change | Magnitude | Likely Effect                     | Beneficial or Harmful  |
|--------------------|---------------------|--------------------------|-----------|-----------------------------------|------------------------|
| 5                  | Low                 | Medium                   | Medium    | Minor/<br>Moderate to<br>Moderate | Neutral/<br>Negligible |

11.10.2.12 Character Area 6 includes Bridge Road and part of Creek Road and a large part of this character area is within the Kent Town conservation area. The majority of this area is separated from the development by existing townscape. The eastern boundary faces the development which will impact on the existing character of this area (the impact of the development on views out of this character area are assessed in viewpoints 9 and 10). The scale and massing of the development does not reflect the character of this character area contrary to policies CS7 and CS17 of the Core Strategy, but it is separated by the large and busy Hampton Court Way and therefore Officers feel it could support a development with a differing character if the design, scale and massing were appropriate. The proposed public realm will enhance the north east corner of this character area which already, in the summer months has a vibrant retail presence. This is supported by policies CS7 and CS17 of the Core Strategy. The benefits to the development are considered to lessen the overall level of harm

| Character Area No. | Receptor Value (TR) | Susceptibility to Change | Magnitude | Likely Effect | Beneficial or Harmful |
|--------------------|---------------------|--------------------------|-----------|---------------|-----------------------|
| 6                  | Medium              | Medium                   | Medium    | Moderate      | Minor<br>Adverse      |

11.10.2.13 Character Area 7 covers Hurst Road, Palace Road, Wolsey Road and a number of others, most of which are within the East Molesey Kent Town Conservation Area. These are residential streets that have little connection to Hampton Court Way and the application site and therefore their character would be unaffected.

| Character Area No. | Receptor Value (TR) | Susceptibility to Change | Magnitude  | Likely Effect          | Beneficial or Harmful |
|--------------------|---------------------|--------------------------|------------|------------------------|-----------------------|
| 7                  | Medium              | Low                      | Negligible | Neutral/<br>Negligible | Neutral               |

11.10.2.14 Character Area 8 (A + B) include Bridge Road, Molemer Road, Summer Road, Aragon Avenue and a number of others. The proposed development is unlikely to be seen, except from the eastern edge of 8A. Much like Character Area 7, these streets have little connection to the application site and their character will remain unaffected.

| Character Area No. | Receptor Value (TR) | Susceptibility to Change | Magnitude  | Likely Effect          | Beneficial or Harmful |
|--------------------|---------------------|--------------------------|------------|------------------------|-----------------------|
| 8                  | Low                 | Low                      | Negligible | Neutral/<br>Negligible | Neutral               |

11.10.2.15 The Environmental Statement: Volume 3 provides further townscape impact assessment in the form of the 'The Visual receptor' impact shown in Table 8.1. This assessment uses 10 different views (plus one additional view added at the request of Officers) taken around the site. The results of the applicant's assessment are reproduced below in Figure 23.

| Viewpoint Number | Viewpoint Location   | Likely Effect (Operation)     |
|------------------|--|-------------------------------|
| 1                | From the Thames path national trail, on the north side of the Thames   | Moderate Beneficial           |
| 2                | From the Thames path national trail, on the north side of the Thames, near to the Banqueting House           | Negligible – Minor Beneficial |
| 3                | From the Thames path national trail, on the north side of the Thames, near to the exit to the Palace grounds | Moderate Beneficial           |
| 4                | From within the Palace grounds, near to the entrance to the west frontage of the Palace                      | Minor Beneficial              |
| 5                | From within the Palace grounds, south east of the Privy Garden   | Negligible                    |
| 6                | Within the Palace grounds, near to the exit to the Palace public ticket office                               | Negligible – Minor Beneficial |
| 7                | Looking south east from midway along Hampton Court Bridge  | Moderate – Major Beneficial   |
| 8                | From the service road adjoining the western edge of Hampton Court station, within the Conservation Area      | Major Beneficial              |
| 9                | Western side of Hampton Court Way from within the Conservation Area  | Major Beneficial              |
| 10               | Corner of Wolsey Road at its junction with Bridge Road and Creek Road from within the Conservation Area      | Negligible – Minor Adverse    |
| 11 (Addendum)    | From outside the Petrol Station on Hampton Court Way looking north   | Major Beneficial              |

Figure 23: The Visual receptor impact table for the Townscape and Visual Impact. This was taken from the applicants Environmental Statement Volume 3.

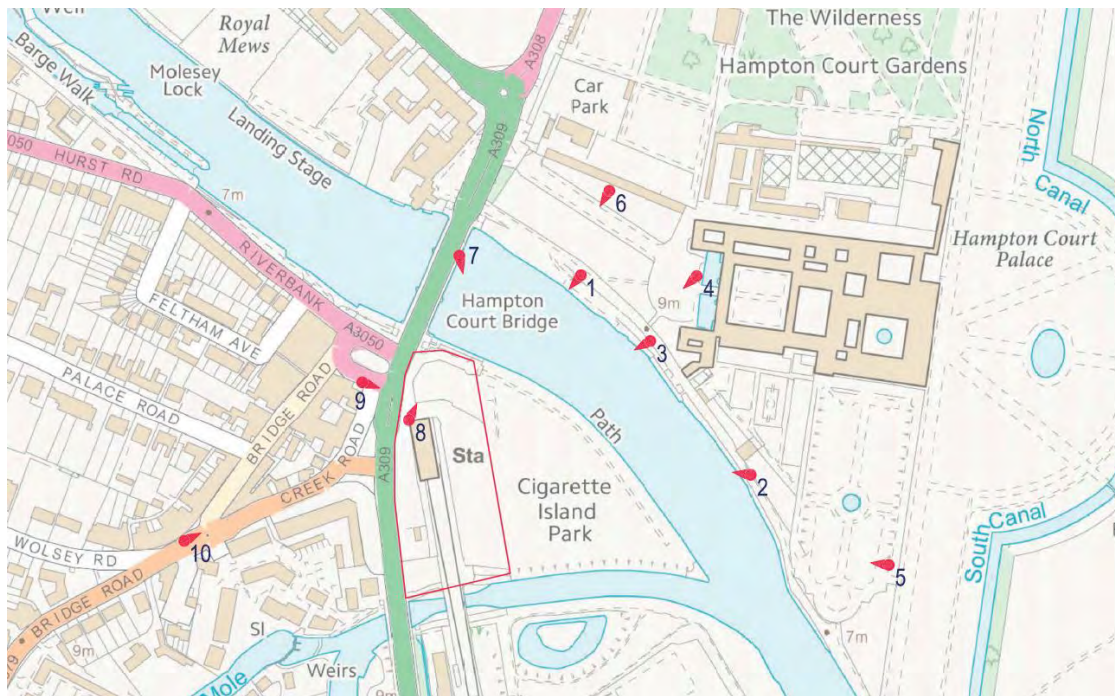


Figure 24: Viewpoint locations

11.10.2.16 As with the previous study, it is considered that the applicant's conclusions on these views are overly positive. Views from within the Palace interior have not been included as separate viewpoints; however, it is considered that the general arrangement of views provided offers an understanding of those potential impacts. Furthermore, Officer site visits were carried out to view the development site from all viewpoints requested by Hampton Court Palace at a time when the trees were in leaf and a second visit to see the views in the winter months when the trees were bare. A visit was also carried out after sunset from outside the Palace and surrounding the development site to consider night-time views.

11.10.2.17 The viewpoints have all been photographed within the summer months when the leaves remain on the trees and also during the daytime when the impact of the additional lighting is not considered. Officers have considered the impact of the development both in the winter months when leaves no longer form a perceived visual barrier and also at night when the development will emit a greater level of light. Commentary on these further assessments is provided under each viewpoint.

11.10.2.18 Viewpoint 1 is taken from directly across the river where the trees on Cigarette Island would partially obscure the development in the summer months. However, in the winter months the development would be clearly visible. This view is integral to the setting of Hampton Court Palace as are many on this side of the river. Given the view is with the Palace behind the relationship of Palace to development is lessened, hence the Minor adverse conclusion.

| Viewpoint No. | Receptor Value (VA) | Susceptibility to Change | Magnitude | Likely Effect | Beneficial or Harmful |
|---------------|---------------------|--------------------------|-----------|---------------|-----------------------|
|---------------|---------------------|--------------------------|-----------|---------------|-----------------------|

|                  |  |        |        |          |               |
|------------------|--|--------|--------|----------|---------------|
| 1                | Medium   | Medium | Medium | Moderate | Minor Adverse |
| Night and Winter | In the winter months the lack of leaves on the trees will increase the prominence of the proposed development and it is likely that light emanating from the development at night will also increase its prominence. |        |        |          |               |

11.10.2.19 Viewpoint 2 is taken from the Thames path national trail towards the development site and Hampton Court Bridge. The applicant's assessment relies heavily on the existing tree screening. The applicant has also agreed to plant additional trees in Cigarette Island Park to further soften the appearance of the development. However, it is considered poor practice to base the acceptability of developments heavily on tree screening. As with other views from this side of the river the massing is considered harmful to the setting of Hampton Court Palace and also to Hampton Court Bridge contrary to policies CS7 and CS17 of the Core Strategy and DM12 of the Development Management Plan. However, given the view is with the Palace behind the relationship of Palace to development is lessened, hence the Minor adverse conclusion.

| Viewpoint No.    | Receptor Value (VA)  | Susceptibility to Change | Magnitude | Likely Effect | Beneficial or Harmful |
|------------------|--|--------------------------|-----------|---------------|-----------------------|
| 2                | Medium   | Medium                   | Medium    | Moderate      | Minor Adverse         |
| Night and Winter | In the winter months the lack of leaves on the trees will increase the prominence of the proposed development and it is likely that light emanating from the development at night will also increase its prominence. |                          |           |               |                       |

11.10.2.20 Viewpoint 3 is taken from outside the Privy Gardens where trees are again considered to obscure the development. The public realm improvements adjacent to the bridge will be evident. As with Viewpoints 1 and 2 the trees in the summer months would provide a greater level of screening than in the winter. The visibility of the development in this view interrupts what is otherwise an undeveloped vista (except to the far right) and this urbanisation if the Palaces setting is considered harmful contrary to policy DM12 of the Development Management Plan. However, as with Viewpoints 1 and 2, given the view is with the Palace behind the relationship of Palace to development is lessened, hence the Minor adverse conclusion.

| Viewpoint No.    | Receptor Value (VA)  | Susceptibility to Change | Magnitude | Likely Effect | Beneficial or Harmful |
|------------------|--|--------------------------|-----------|---------------|-----------------------|
| 3                | Medium   | Medium                   | Medium    | Moderate      | Minor Adverse         |
| Night and Winter | In the winter months the lack of leaves on the trees will increase the prominence of the proposed development and it is likely that light emanating from the development at night will also increase its prominence. |                          |           |               |                       |

11.10.2.21 Viewpoint 4 is taken from within the Palace grounds, near to the west entrance at the front of the Palace. As with other viewpoints the tree screening is considered important. The development would be visible and as with some of the other viewpoints the benefits created from the removal of the existing hoarding has been overstated. This view is key to the setting of the Hampton Court Palace and the effect of the scale and massing of the development would impact on the appreciation of the Palace and its grounds contrary to policy DM12 of the Development Management Plan. The development would be seen in conjunction with the front elevation of the Palace. Whilst the trees on both the application site and within the grounds of Hampton Court Palace provide some screening, plus there is additional distance over Viewpoints 1, 2 and 3, the visually connection (and the impact of light emanating at night) between the development and the Palace has led to a Moderate adverse conclusion.

| Viewpoint No.    | Receptor Value (VA)   | Susceptibility to Change | Magnitude | Likely Effect                  | Beneficial or Harmful |
|------------------|---|--------------------------|-----------|--------------------------------|-----------------------|
| 4                | High  | Medium                   | Medium    | Moderate to Moderate/<br>Major | Moderate Adverse      |
| Night and Winter | In the winter months the lack of leaves on the trees will increase the prominence of the proposed development although the additional distance helps to lessen the impact. Light emanating from the development at night will also increase its prominence. |                          |           |                                |                       |

11.10.2.22 Viewpoint 5 is taken from within the Palace grounds to the south east of the Privy Garden where the tree screening is greater than in some of the other viewpoints, which restricts views of the development. Further as with Viewpoint 2, this angle allows for views of the full extent of the development to be apparent. This view is currently void of built form; the distant trees provide a rural feel to the view that would be interrupted by the proposals which would harm the setting of the Palace contrary to policy DM12 of the Development Management Plan.

| Viewpoint No.    | Receptor Value (VA)  | Susceptibility to Change | Magnitude | Likely Effect                  | Beneficial or Harmful |
|------------------|--|--------------------------|-----------|--------------------------------|-----------------------|
| 5                | High   | Medium                   | Medium    | Moderate to Moderate/<br>Major | Moderate Adverse      |
| Night and Winter | In the winter months the lack of leaves on the trees will increase the prominence of the proposed development although the additional distance helps to lessen the impact. Light emanating from the development at night is less likely to be visible in this view due to the thickness of the tree screen and distance. |                          |           |                                |                       |

11.10.2.23 Viewpoint 6 is taken within the Palace grounds, near to the exit to the Palace public ticket office. The tree screen in this view provides a lesser screen than the applicant indicates and again, the impact of the removal of the hoardings is over exaggerated as they are a small element in what is a large

tree lined view, with the bridge to the righthand side and the buildings of Creek Street behind. The trees that provide the greatest level of screening are located on the Hampton Court Palace side of the Thames. The scale and massing of the development would be clear in this view, which like Viewpoint 4 is of greater importance than some of the other viewpoints. This view provides a feel for the approach to the Palace and the experience visitors have on arrival. Whilst the viewpoint is to the south of the Palace frontage the overall the development is considered to adversely impact the approach and the setting of the Palace contrary to policy DM12 of the Development Management Plan.

| Viewpoint No.    | Receptor Value (VA)   | Susceptibility to Change | Magnitude | Likely Effect                  | Beneficial or Harmful |
|------------------|---|--------------------------|-----------|--------------------------------|-----------------------|
| 6                | High  | Medium                   | Medium    | Moderate to Moderate/<br>Major | Moderate Adverse      |
| Night and Winter | In the winter months the lack of leaves on the trees will increase the prominence of the proposed development although the additional distance helps to lessen the impact. Light emanating from the development at night will also increase its prominence. |                          |           |                                |                       |

11.10.2.24 Viewpoint 7 is taken from Hampton Court Bridge and shows the proposed Riverside Building and Hampton Court Way Building behind the existing Railway Station building. The application assessment considers the existing site to be an incoherent and unattractive element in the townscape, with the hoardings to the north of the site creating a dead frontage. The 'negative' elements of this view are vastly overstated, whilst the hoardings are visible so are the traditional single storey buildings behind and the station building, which are entirely appropriate in this setting. The proposals seek to erect a 4-storey building that engulfs the station building. The scale, massing and design of the proposals is out of keeping with the area and not considered to be of the exceptional quality that would be required on this site. The increase in scale and massing has a negative impact on the openness of this view which describes the connection of the bridge to East Molesey. Furthermore, additional harm would be caused at night from the light emanating from the development, drawing attention to the development. The proposed development is therefore considered to be contrary to policies DM2 and DM12 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy.

| Viewpoint No.    | Receptor Value (VA)   | Susceptibility to Change | Magnitude | Likely Effect      | Beneficial or Harmful |
|------------------|---|--------------------------|-----------|--------------------|-----------------------|
| 7                | Medium  | Medium                   | High      | Moderate/<br>Major | Major Adverse         |
| Night and Winter | In the winter months the visibility of the development will remain is in the summer as there is no tree screen in this view. Light emanating from the development at night will also increase its prominence and will cause an obvious difference to the view. Currently light from the |                          |           |                    |                       |

|  |  |
|--|--|
|  | development site is minimal, this increase will adversely alter the setting of the bridge thereby increasing the harm. |
|--|--|

11.10.2.25 Viewpoint 8 is taken from the site entrance looking across the development site. The viewpoint does not include the proposed development, only the public realm that is to be created. The application assessment suggests the development would result in a Major Beneficial effect. Officers have some reservations about the applicant's consideration that the existing hoardings are a permanent feature in the street scene. And, the extent to which the tree belt along the river is depicted in the proposed view. However, whilst the development has been considered to harm the setting of Hampton Court Bridge (in views from the bridge to the development) it does not in this view. In this view the Bridge becomes more visible, which is considered to better reveal its significance. Also, Hampton Court Palace may be visible through the trees, which enhances the approach for visitors in accordance with the aims of the Brief. Despite the points of dispute Officers acknowledge the proposed development would provide improvement over the existing situation, due to the creation of a useable area of public realm and the new views of the Bridge and Palace that would be created in accordance with policies CS7 and CS17 of the Core Strategy.

| Viewpoint No.    | Receptor Value (VA)  | Susceptibility to Change | Magnitude | Likely Effect | Beneficial or Harmful |
|------------------|--|--------------------------|-----------|---------------|-----------------------|
| 8                | Very Low   | Low                      | High      | Moderate      | Moderate Beneficial   |
| Night and Winter | In the winter months the lack of leaves would therefore allow views across to Hampton Court enhancing its setting. The lighting of the public realm is unlikely to have any additional impact. |                          |           |               |                       |

11.10.2.26 Viewpoint 9 is taken from the western side of Hampton Court Way from within the East Molesey Kent Town Conservation Area. This view is of the existing hoardings to the front of the site and the train station building to the right-hand side. The proposed Riverside building would be a prominent feature in this view and reduces the existing dominance of the Railway Station building contrary to policy DM12 of the Development Management Plan. From this angle the impact of the development on the Railway Station building is lessened as it is not seen directly behind. The development is not seen in connection with the Palace and the scale, massing and design is seen out of context with the existing townscape located behind the viewer. The improvements to the public realm also would be clear from this position and are an enhancement in accordance with policies CS7 and CS17 of the Core Strategy. Out of context the impact of the development is considered lessened, hence a Minor conclusion.

| Viewpoint No. | Receptor Value (VA) | Susceptibility to Change | Magnitude | Likely Effect | Beneficial or Harmful |
|---------------|---------------------|--------------------------|-----------|---------------|-----------------------|
| 9             | Very Low            | Medium                   | High      | Moderate      | Minor Adverse         |

|                  |  |
|------------------|--|
| Night and Winter | In the winter months this view is unlikely to change given the lack of trees present. The lighting at night would be a change to the existing, but out of context and with limited surrounding existing built form it is unlikely to form any additional harm. |
|------------------|--|

11.10.2.27 Viewpoint 10 is taken from the corner of Wolsey Road and the junction with Bridge Road looking along Creek Road towards the Railway Station building (the description of this position is questionable, the junction with Wolsey Road is located further back). This view is identified as an important view within the East Molesey Kent Town Conservation Area appraisal. The proposed development would be highly visible in this view and would be taller than the station building, finishing approximately 1 storey above (this storey is the roof of the development). The palette of materials in the proposed development has been designed to complement the station building and other buildings in the locality in accordance with Policy DM2 and the Design and Character SPD Companion Guide: East and West Molesey. However, the materials blend into one which further lessens the importance of the Railway Station building in this view. The proposed dormer windows are also unfortunate as their scale is at odds with the station building below contrary to policy DM2 of the Development Management Plan. This view can only be seen in a limited number of places due to the tunnelling effect of Creek Road, but nonetheless the scale, massing and design of the development dominates the Railway station building to its detriment contrary to policies CS7 and CS17 of the Core Strategy and policy DM12 of the Development Management Plan.

| Viewpoint No.    | Receptor Value (VA)  | Susceptibility to Change | Magnitude | Likely Effect | Beneficial or Harmful |
|------------------|--|--------------------------|-----------|---------------|-----------------------|
| 10               | Medium   | Medium                   | Medium    | Moderate      | Moderate Adverse      |
| Night and Winter | In the winter months this view will be unaltered due to the lack of trees. The additional lighting from the development whilst a clear increase is likely to get lost in the other lights that are already present within this view. |                          |           |               |                       |

11.10.2.28 Viewpoint 11 (included within an Addendum) is taken from outside of the Petrol Station on Hampton Court Way looking north with the existing Railway Station building clearly visible. The existing view highlights the open nature of the Railway Stations setting, but the vehicular parking that surrounds it has a negative impact. The proposed development will be very prominent in this view and will hide the existing train station. Whilst the negative parking will be removed, it is replaced with a four storey building, located hard up against the pavement edge. The sheer massing of the development and its unrelenting position against the pavement which is uncharacteristic of the area would be visually detrimental. The proposed development is considered to be contrary to policies DM2 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy in this regard.

| Viewpoint No. | Receptor Value (VA) | Susceptibility to Change | Magnitude | Likely Effect | Beneficial or Harmful |
|---------------|---------------------|--------------------------|-----------|---------------|-----------------------|
|---------------|---------------------|--------------------------|-----------|---------------|-----------------------|



|                  |   |      |      |                    |                     |
|------------------|---|------|------|--------------------|---------------------|
| 11               | Low   | High | High | Moderate/<br>Major | Moderate<br>Adverse |
| Night and Winter | In the winter months this view will be unaltered due to the lack of trees. The additional lighting from the development will clearly impact this view, the lighting would further indicate the massing of the building and its proximity to the street. |      |      |                    |                     |

11.10.2.29 Overall, the development has a harmful impact on all but one (Viewpoint 8) of the identified views. This impact is worse in views where the development is seen against the existing townscape. As you move away from the development and the wider setting of the existing townscape is revealed, the proposed scale, massing and design become contextually evident and it is then that they appear most at odds with the existing and established character. The proposed development is considered to be contrary to policies DM2, DM12 and DM13 of the Development Management Plan 2015 and policies CS7, CS12 and CS17 of the Core Strategy 2011 the Design and Character Supplementary Planning Document 2012 and the National Planning Policy Framework 2019 in this regard. As highlighted in Viewpoint 8 there are benefits associated with the development, notably the improved public realm, removal of the existing hoardings and the additional vitality that would be created. These benefits must be weighed into the planning balance.

### 11.10.3 Heritage

11.10.3.1 Policy DM12 of the Development Management Plan relates to heritage and reiterates the above requirements to ensure that planning permission should only be granted for developments that protect, conserve and enhance the Borough's heritage assets. Harm to heritage assets would need outweighed by substantial public benefits if an application were to be looked upon favourably.

11.10.3.2 Policy CS7 of the Core Strategy states that all new development will be expected to enhance the character of the area, and specific attention will need to be given to areas of high heritage value including, Old Village, Kent Town and Bridge Town Conservation Areas, the River Thames, and Hampton Court Palace.

11.10.3.3 Policy CS17 of the Core Strategy states that new development will be required to integrate sensitively with the local distinctive townscape, landscape and heritage assets, and protecting the amenities of those within the area.

11.10.3.4 The statutory duties with regards to heritage and listed buildings in particular are set out in The Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66(1) states 'in considering whether to grant planning permission (or permission in principle) for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State 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'.

- 11.10.3.5 The Act goes on to state under section 72(1) with regards to conservation areas 'In the exercise, with respect to any buildings or other land in a conservation area, of any (functions under or by virtue of) 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'.
- 11.10.3.6 The Act sets out the presumption in favour of the preservation of listed buildings, their settings and conservation areas. Any harm to the significance of a designated heritage asset must be given considerable importance and weight. This is further reflected in the NPPF under paragraph 193 which states 'When considering the potential impacts of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'.
- 11.10.3.7 The NPPF also sets out how harm to designated heritage asset should be assessed. With regards to substantial harm it states under paragraph 194 'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:
- (b) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
  - (c) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.
- 11.10.3.8 The NPPF goes on to state under paragraph 195 'Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- (a) the nature of the heritage asset prevents all reasonable uses of the site; and
  - (b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
  - (c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
  - (d) the harm or loss is outweighed by the benefit of bringing the site back into use.
- 11.10.3.9 With regards to harm that is deemed less than substantial, the NPPF states under paragraph 196, 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

11.10.3.10 In relation to non-designated heritage assets, paragraph 197 of the NPPF provides that the effect of an application on such an asset should be taken into account in determining the application and that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

11.10.3.11 Paragraphs 200 and 201 of the NPPF provide that “Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably” and “Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole”.

11.10.3.12 The application site lies within the East Molesey Kent Town Conservation Area, contains a very small section of the Grade II Listed Hampton Court Bridge (both designated heritage assets) and the Locally Listed Hampton Court Station (a non-designated heritage asset). The site is adjacent to a number of other designated and non-designated heritage assets both within the Elmbridge Borough Council boundary and that of the Richmond Council. These include the internationally important Grade I listed Hampton Court Palace and Park. There are a number of heritage assets potentially affected by the application and these are outlined below. The table includes the assets that are highlighted within the Environmental Statement: Volume 3, table 4.1, as requiring assessment, plus those the significance of which the Council considers the development has the potential to affect, especially those within the gardens of Hampton Court. These assets have been mentioned in consultation responses. The table also includes assets that are outside of the Elmbridge Borough Council boundary. The expanded table of heritage assets within the Environmental Statement includes those assets that are not considered to be affected and have not been assessed. The map reference relates to figure 4.9 of the same document. It is noted that map references 71, 72, 73 and 74 are incorrectly labelled.

11.10.4 Listed Buildings

| Map Ref              | Heritage Asset          | Receptor Value (HR)  | Susceptibility to Change | Magnitude  | Likely Affect       | Beneficial or Harmful |
|----------------------|-------------------------|--|--------------------------|------------|---------------------|-----------------------|
| 1                    | Fountain Garden - Gates | Exceptional  | High                     | Negligible | Neutral/ Negligible | Negligible            |
| Impact and Reasoning |                         | The gates are located to the east of the Palace and separated from the development by the existing tree screen and changes in level. |                          |            |                     |                       |

|                      |                                  |  |        |            |                        |                  |
|----------------------|----------------------------------|--|--------|------------|------------------------|------------------|
|                      |                                  | Their setting within the Palace gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to their significance.  |        |            |                        |                  |
| 2                    | Hampton Court Tilt Yard Tower    | Exceptional  | Low    | Negligible | Neutral/<br>Negligible | Neutral          |
| Impact and Reasoning |                                  | The Tower's setting is formed by the buildings immediately around it and these add to its significance. The development is approx. 400m to the south and separated by other buildings. The development would not be visible and as such it is not considered to impact on the significance of this asset.  |        |            |                        |                  |
| 3                    | Privy Garden – Screens and Walls | Exceptional  | High   | Negligible | Neutral/<br>Negligible | Negligible       |
| Impact and Reasoning |                                  | The screens and walls are located to the south of the Palace and separated from the development by the existing tree screen and changes in level. Their setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to their significance. |        |            |                        |                  |
| 5                    | Trophy Gates                     | Exceptional  | Low    | Nil        | None                   | Neutral          |
| Impact and Reasoning |                                  | The gates mark the entrance to Hampton Court Palace and are of national importance in their own right as well as being associated with the Palace. Their significance is partially derived from the immediate setting, being part of the Palace boundary. Due to the changes in level, when at the gates there are no views of the development. Their setting is maintained and therefore the development is not considered harmful.         |        |            |                        |                  |
| 6                    | Privy Garden - Sundial           | Exceptional  | High   | Negligible | Neutral/<br>Negligible | Negligible       |
| Impact and Reasoning |                                  | The sundial is located to the south of the Palace and separated from the development by the existing tree screen and changes in level. Its setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to its significance.                |        |            |                        |                  |
| 7                    | Fountain Garden - Gates          | Exceptional  | Low    | Nil        | None                   | Neutral          |
| Impact and Reasoning |                                  | The gates are located to the north east of the Palace and separated from the development by the existing tree screen, changes in level and the Palace itself. Their setting within the gardens adds to its significance. The wider setting, that is outside of the gardens is of less importance. The affect the development has on the wider green setting is not considered detrimental to their significance.                             |        |            |                        |                  |
| 8                    | Barracks                         | Exceptional  | Medium | Medium     | Moderate / Major       | Moderate Adverse |

|                      |  |   |        |            |                     |                  |
|----------------------|--|---|--------|------------|---------------------|------------------|
| Impact and Reasoning |  | The Barracks line the northern side of the entrance towards the Palace and face directly towards the development. The Barracks and the development cannot be seen in the same view, however, views out of the Barracks themselves would be similar to Viewpoint 6. The setting of the Barracks adds to its significance through its relationship with the Palace and the surrounding grounds.   |        |            |                     |                  |
| 9                    | Royal Mews and Great Barn                                | Exceptional   | Low    | Nil        | None                | Neutral          |
| Impact and Reasoning |  | These buildings are separated from the development by intervening buildings, vegetation and the River Thames. The development would have no bearing on their significance or setting.   |        |            |                     |                  |
| 10                   | Hampton Court Palace - also a Scheduled Ancient Monument | Exceptional   | Medium | Medium     | Moderate / Major    | Moderate Adverse |
| Impact and Reasoning |  | The Palace considered here in its entirety is set along the banks of the River Thames which plays an important visual and historical role in the significance of the Palace itself. The edge of the application site provides a green buffer to the Palace, which helps to enhance and provide a semi-rural setting. The visual relationship has remained unaffected for a vast about if time. It is the Council's view that the setting of the Palace is harmed due to the scale, massing, design and proximity of the development, which will be visible from numerous locations within the Palace and its grounds. There are benefits to the Palace in the form of the views created across the Thames when approaching from the south / railway station and the improvements to the public realm around the development, however these are insufficient to outweigh the harm identified to the setting of the Palace. |        |            |                     |                  |
| 11                   | Lower Orangery   | Exceptional   | High   | Medium     | Moderate / Major    | Moderate Adverse |
| Impact and Reasoning |  | The Lower Orangery due to its orientation does not directly face the development, limiting views. However, the tree screen is insufficient to hide the development and the massing would impinge on the setting of the asset and the otherwise green landscape that it is currently experienced within.   |        |            |                     |                  |
| 12                   | Tennis Court   | Exceptional   | Low    | Nil        | None                | Neutral          |
| Impact and Reasoning |  | This building housed real tennis which was played inside. It is a significant building within the Hampton Court Palace complex but is separated from the development and would remain unaffected.   |        |            |                     |                  |
| 13                   | Banqueting House   | Exceptional   | High   | Medium     | Moderate / Major    | Moderate Adverse |
| Impact and Reasoning |  | This building is generally experienced within the setting of the other buildings that make up the Palace. Nonetheless the tree screen is insufficient to hide the development and the massing would impinge on the setting of the asset and the otherwise green landscape that it is currently experienced within.  |        |            |                     |                  |
| 14                   | Walls and Railings to                                    | Exceptional   | High   | Negligible | Neutral/ Negligible | Neutral          |

|                      |   |  |        |            |                          |                         |
|----------------------|---|--|--------|------------|--------------------------|-------------------------|
|                      | Hampton Court Palace                        |  |        |            |                          |                         |
| Impact and Reasoning |   | The walls and railings are associated with the Palace, forming part of and adding to its setting. Their significance is derived from this relationship. Whilst the development would be visible in relation to the walls and railings it is not considered to affect their significance.   |        |            |                          |                         |
| 16                   | Fountain Garden – Statute in Front of Canal | Exceptional  | Medium | Negligible | Neutral/<br>Negligible   | Negligible              |
| Impact and Reasoning |   | The statue is located to the east of the Palace and separated from the development by the existing tree screen and changes in level. Its setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to its significance.  |        |            |                          |                         |
| 17                   | The Old Court House                         | High   | Low    | Nil        | None                     | Neutral                 |
| Impact and Reasoning |   | This building is situated within a terrace of other listed buildings. Its location and history are related to the terrace. The separation, intervening townscape and level changes mean that there are no views of the development and it would therefore have no impact.  |        |            |                          |                         |
| 20                   | Hampton Court Bridge                        | Medium   | High   | High       | Moderate /Major to Major | Moderate Adverse        |
| Impact and Reasoning |   | The Bridge draws significance from its setting and the connection that is formed between East Molesey and the Palace. The Palace and listed buildings that are opposite form the approach from the north and the development site and the buildings of Creek Road the approach from the south. The development site is currently neutral in its impact on the Bridges setting, it does not detract from the Bridge due to the scale and massing of the buildings that are currently on the site. The development harms the distant approach (adjacent to the petrol station, Viewpoint 11) from the south where your focus would be drawn to the development and away from the Bridge. However, the development improves the approach when closer (adjacent to the station building, similar to Viewpoint 8), where the significance of the Bridge is better revealed due to the new public realm improvements. Once on the Bridge, views back towards the development would harm the historical relationship of the Bridge to East Molesey which are worsened by the light that would be emitted at night. The proposed traffic management would also be visible in this view. The development would draw attention away from the Bridge, lessening its significance and harming its setting. The scale, massing and design of the development urbanises the approach from the south and would draw undue attention when approaching and crossing the bridge from the North. The benefits described above are considered to reduce the harm level to the Moderate conclusion. |        |            |                          |                         |
| 22                   | Mitre Hotel                                 | Medium   | Medium | Low        | Minor/<br>Moderate       | Neutral /<br>Negligible |

|                      |  |   |        |            |                        |                         |
|----------------------|--|---|--------|------------|------------------------|-------------------------|
| Impact and Reasoning |  | Set on the banks of the Thames the Hotel's significance is in part derived from its setting. This is generally formed by the Thames, Hampton Court Bridge and the Palace. Views of the development would be limited to the upper storeys due to the level changes or broken by Hampton Court Bridge and whilst an alteration to its setting, it is not deemed harmful.  |        |            |                        |                         |
| 23                   | Palace Gate  | Medium  | Medium | Low        | Minor/<br>Moderate     | Neutral /<br>Negligible |
| Impact and Reasoning |  | This building is situated within a terrace of other listed buildings. Its significance is partially in its relationship with the other buildings within the terrace and its immediate setting. It is positioned opposite the Palace where views of the development may be possible but are likely to be limited due to the level changes, resulting in only views of the upper storeys. The separation and nature of the available views, plus that its immediate setting is maintained means the development would have no impact. |        |            |                        |                         |
| 24                   | Sunken Garden - Statue                                   | Medium  | High   | Negligible | Neutral/<br>Negligible | Negligible              |
| Impact and Reasoning |  | The statue is located to the south of the Palace and separated from the development by the existing tree screen and changes in level. Its setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to its significance.  |        |            |                        |                         |
| 25                   | Statue in Fountain Garden on Lawn Opposite Tennis Courts | Medium  | Low    | Nil        | None                   | Neutral                 |
| Impact and Reasoning |  | The statue is located to the east of the Palace and separated from the development by the existing tree screen, changes in level and the Palace itself. Its setting within the gardens adds to its significance. The wider setting, that is outside of the gardens is of less importance. The affect the development has on the wider green setting is not considered detrimental to its significance.  |        |            |                        |                         |
| 26                   | Privy Garden - Statue                                    | Medium  | High   | Negligible | Neutral/<br>Negligible | Negligible              |
| Impact and Reasoning |  | The statue is located to the south of the Palace and separated from the development by the existing tree screen and changes in level. Its setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to its significance.  |        |            |                        |                         |
| 27                   | Privy Garden - Statue                                    | Medium  | High   | Negligible | Neutral/<br>Negligible | Negligible              |
| Impact and Reasoning |  | The statue is located to the south of the Palace and separated from the development by the existing tree screen and changes in level. Its setting within the gardens adds to their significance. The wider  |        |            |                        |                         |

|                      |                                |  |      |            |                        |            |
|----------------------|--------------------------------|--|------|------------|------------------------|------------|
|                      |                                | setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to its significance.  |      |            |                        |            |
| 28                   | Privy Garden - Statute         | Medium   | High | Negligible | Neutral/<br>Negligible | Negligible |
| Impact and Reasoning |                                | The statue is located to the south of the Palace and separated from the development by the existing tree screen and changes in level. Its setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to its significance.     |      |            |                        |            |
| 29                   | Privy Garden – 10 Lead Vases   | Medium   | High | Negligible | Neutral/<br>Negligible | Negligible |
| Impact and Reasoning |                                | The vases are located to the south of the Palace and separated from the development by the existing tree screen and changes in level. Their setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to their significance. |      |            |                        |            |
| 30                   | Fountain Garden - Urn          | Medium   | Low  | Nil        | None                   | Neutral    |
| Impact and Reasoning |                                | The urn is located to the east of the Palace and separated from the development by the existing tree screen, changes in level and the Palace itself. Its setting within the gardens adds to its significance. The wider setting, that is outside of the gardens is of less importance. The affect the development has on the wider green setting is not considered detrimental to its significance.                              |      |            |                        |            |
| 31                   | Fountain Garden – Pair of Urns | Medium   | Low  | Nil        | None                   | Neutral    |
| Impact and Reasoning |                                | The urns are located to the east of the Palace and separated from the development by the existing tree screen, changes in level and the Palace itself. Their setting within the gardens adds to its significance. The wider setting, that is outside of the gardens is of less importance. The affect the development has on the wider green setting is not considered detrimental to their significance.                        |      |            |                        |            |
| 32                   | Palace Gate House              | Medium   | Low  | Negligible | Neutral/<br>Negligible | Negligible |
| Impact and Reasoning |                                | The Gate House is located on the corner of the terrace opposite the Palace. Its significance is partially drawn from its immediate surroundings. The separation, intervening townscape and level changes mean that there would at best be limited views of the upper storeys of the development. The impact is therefore considered to be negligible.  |      |            |                        |            |
| 33                   | The Green                      | Medium   | Low  | Nil        | None                   | Neutral    |
| Impact and Reasoning |                                | This building is situated within a terrace of other listed buildings. Its location and history are related to the terrace. The separation,   |      |            |                        |            |



|                      |  |  |     |            |                        |         |
|----------------------|--|--|-----|------------|------------------------|---------|
|                      |  | intervening townscape and level changes mean that there are no views of the development and therefore there would be no impact.  |     |            |                        |         |
| 34                   | Court Cottage  | Medium   | Low | Nil        | None                   | Neutral |
| Impact and Reasoning |  | This building is situated within a terrace of other listed buildings. Its location and history are related to the terrace. The separation, intervening townscape and level changes mean that there are no views of the development and therefore there would be no impact.   |     |            |                        |         |
| 35                   | Faraday House and Cardinal House with Wall and Gate piers to Street                          | Medium   | Low | Nil        | None                   | Neutral |
| Impact and Reasoning |  | This building is situated within a terrace of other listed buildings. Its location and history are related to the terrace. The separation, intervening townscape and level changes mean that there are no views of the development and therefore there would be no impact.   |     |            |                        |         |
| 39                   | Kingfisher Court   | Medium   | Low | Negligible | Neutral/<br>Negligible | Neutral |
| Impact and Reasoning |  | This building and its associated buildings are located over 300m from the development. It is inward looking and therefore takes little significance from its setting. Views of the development will be long distance east along Bridge Road. It is very unlikely that Kingfisher Court and the development will be seen together due to the intervening townscape. |     |            |                        |         |
| 40                   | Kingfisher Court   | Medium   | Low | Negligible | Neutral/<br>Negligible | Neutral |
| Impact and Reasoning |  | This building and its associated buildings are located over 300m from the development. It is inward looking and therefore takes little significance from its setting. Views of the development will be long distance east along Bridge Road. It is very unlikely that Kingfisher Court and the development will be seen together due to the intervening townscape. |     |            |                        |         |
| 41                   | Swimming Pool and associated Pump House at Kingfisher Court and Fountain at Kingfisher Court | Medium   | Low | Nil        | None                   | Neutral |
| Impact and Reasoning |  | This building/ pool is associated with Kingfisher Court and located over 300m from the development. The site is inward looking and draws significance from its setting in the form of the relationship with the main block.  |     |            |                        |         |
| 42                   | Pond, Retaining Walls enclosing Sunken Garden,   | Medium   | Low | Nil        | None                   | Neutral |

|                      |   |  |        |            |                         |                        |
|----------------------|---|--|--------|------------|-------------------------|------------------------|
|                      | Piers around former Pergola at Kingfisher Court |  |        |            |                         |                        |
| Impact and Reasoning |   | This structure is associated with Kingfisher Court and located over 300m from the development. The site is inward looking and draws significance from its setting in the form of the relationship with the main block.   |        |            |                         |                        |
| 46                   | Privy Garden - Statue                           | Medium   | High   | Negligible | Neutral/<br>Negligible  | Negligible             |
| Impact and Reasoning |   | The statue is located to the south of the Palace and separated from the development by the tree screen and changes in level. Its setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to its significance.        |        |            |                         |                        |
| 47                   | Fountain Garden - Vase                          | Medium   | Medium | Negligible | Neutral/<br>Negligible  | Negligible             |
| Impact and Reasoning |   | The vase is located to the east of the Palace and separated from the development by the tree screen and changes in level. Its setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to its significance.           |        |            |                         |                        |
| 48                   | Fountain Garden – Pair of Pedestals             | Medium   | Medium | Negligible | Neutral/<br>Negligible  | Negligible             |
| Impact and Reasoning |   | The pedestals are located to the east of the Palace and separated from the development by the tree screen and changes in level. Their setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to their significance. |        |            |                         |                        |
| 49                   | Statue in Fountain Garden                       | Medium   | High   | Negligible | Neutral /<br>Negligible | Negligible             |
| Impact and Reasoning |   | The urns are located to the east of the Palace and separated from the development by the tree screen and changes in level. The urns setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to their significance.   |        |            |                         |                        |
| 50                   | Palace Gate                                     | Medium   | Medium | Low        | Minor/<br>Moderate      | Neutral/<br>Negligible |
| Impact and Reasoning |   | This building is situated within a terrace of other listed buildings opposite the Palace. Its significance is partially in its relationship with the other buildings within the terrace and its immediate setting. Views of the development may be possible but are likely to be   |        |            |                         |                        |

|                      |   |  |        |            |                      |            |
|----------------------|---|--|--------|------------|----------------------|------------|
|                      |   | limited due to the level changes, resulting in only views of the upper storeys. The separation and nature of the available views, plus that its immediate setting is maintained means the development would have no impact.  |        |            |                      |            |
| 55                   | Faraday Cottage, King's Store Cottage, attached garage between King's Store Cottage and Old Court House | Medium   | Medium | Negligible | Neutral / Negligible | Negligible |
| Impact and Reasoning |   | Set back from the banks of the Thames these buildings derive significance from their immediate setting formed of the small cluster of buildings around them, which are unaffected by the development. Views of the development would be limited at best to the upper storeys due to the level changes or broken by Hampton Court Bridge and other intervening townscape and/ or trees. Whilst the development would be an alteration to their setting and most visible from where the plot meets the Thames, it is not deemed harmful. |        |            |                      |            |
| 56                   | Old Office House  | Medium   | Medium | Negligible | Neutral / Negligible | Negligible |
| Impact and Reasoning |   | Set back from the banks of the Thames these buildings derive significance from their immediate setting formed of the small cluster of buildings around them, which are unaffected by the development. Views of the development would be limited at best to the upper storeys due to the level changes or broken by Hampton Court Bridge and other intervening townscape and/ or trees. Whilst the development would be an alteration to their setting and most visible from where the plot meets the Thames, it is not deemed harmful. |        |            |                      |            |
| 59                   | Fountain Garden – Pair of Pedestals   | Medium   | High   | Negligible | Neutral/ Negligible  | Negligible |
| Impact and Reasoning |   | The pedestals are located to the south east of the Palace and separated from the development by the existing tree screen and changes in level. Their setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to their significance.  |        |            |                      |            |
| 60                   | Paper House   | Medium   | Low    | Nil        | None                 | Neutral    |
| Impact and Reasoning |   | This building is situated within a terrace of other listed buildings. Its location and history are related to the terrace. The separation, intervening townscape and level changes mean that there are no views of the development and therefore there would be no impact.   |        |            |                      |            |
| 61                   | Fountain Garden – Pair of Urns  | Medium   | Medium | Negligible | Neutral/ Negligible  | Negligible |

|                      |  |  |        |            |                        |            |
|----------------------|--|--|--------|------------|------------------------|------------|
| Impact and Reasoning |  | The urns are located to the east of the Palace and separated from the development by the existing tree screen and changes in level. Their setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to their significance. |        |            |                        |            |
| 62                   | Fountain Garden – Pair of Urns             | Medium   | Medium | Negligible | Neutral/<br>Negligible | Negligible |
| Impact and Reasoning |  | The urns are located to the east of the Palace and separated from the development by the existing tree screen and changes in level. Their setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to their significance. |        |            |                        |            |
| 63                   | Sunken Garden - Statue                     | Medium   | High   | Negligible | Neutral/<br>Negligible | Negligible |
| Impact and Reasoning |  | The statue is located to the south of the Palace and separated from the development by the existing tree screen and changes in level. Its setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to its significance.   |        |            |                        |            |
| 64                   | Privy Garden - Statute                     | Medium   | High   | Negligible | Neutral/<br>Negligible | Negligible |
| Impact and Reasoning |  | The statue is located to the south of the Palace and separated from the development by the existing tree screen and changes in level. Its setting within the gardens adds to their significance. The wider setting, that is outside of the gardens is of less importance. Therefore, whilst the development would be visible, the effect of it on the wider green setting is not considered detrimental to its significance.   |        |            |                        |            |
| 65 - 64 in table     | Super-intendents House, The Georgian House | Medium   | Low    | Nil        | None                   | Neutral    |
| Impact and Reasoning |  | Located in the heart of the Palace complex its significance is partially drawn from its setting within the Palace. The development will not be visible from this location and as such it considered to be unaffected.  |        |            |                        |            |
| 66                   | Hampton Court Bridge                       | n/a  | n/a    | n/a        | n/a                    | n/a        |
| Impact and Reasoning |  | This is a duplicate record and was removed from the list by Historic England on 7 <sup>th</sup> February 2019.   |        |            |                        |            |
| 68                   | Bridge over the River Ember                | Medium   | Medium | Low        | Minor/<br>Moderate     | Neutral    |

|                      |  |  |        |            |                    |         |
|----------------------|--|--|--------|------------|--------------------|---------|
| Impact and Reasoning |  | This Bridge draws significance from its setting but to a much lesser extent than Hampton Court Bridge. When crossing over the Bridge it is not entirely evident that you are on a bridge. The Bridge has been urbanised and includes a footpath and grass verge that match the highway treatments before and after it. The massing of the development would be evident to the north, however the significance drawn from its setting has a very limited boundary, ultimately only consisting of the immediate road surface to the north and south and the water over which it bridges. Whilst the development would be visible from the bridge, its setting is considered to be unaffected and as such there is no impact. |        |            |                    |         |
| 69                   | K6 Telephone Kiosk at Hampton Court Trophy Gates | Medium   | Low    | Nil        | None               | Neutral |
| Impact and Reasoning |  | The Telephone kiosk is one of a limited number of K6 designs that remain. Whilst the kiosk is important in our developmental history, these kiosks can be found in many locations, their setting does not add to their significance.   |        |            |                    |         |
| 70                   | War Memorial to the Men of East and West Molesey | Medium   | Medium | Negligible | Neutral Negligible | Neutral |
| Impact and Reasoning |  | The memorial is an important feature within the Conservation Area, however it does not draw any significance from its setting.   |        |            |                    |         |

Figure 25: Assessment of impact on Listed Buildings

#### 11.10.5 Conservation Areas

| Map Ref              | Heritage Asset      | Receptor Value (HR)   | Susceptibility to Change | Magnitude  | Likely Affect       | Beneficial or Harmful |
|----------------------|---------------------|---|--------------------------|------------|---------------------|-----------------------|
| B                    | Hampton Court Park  | High  | High                     | Medium     | Moderate/ Major     | Moderate Adverse      |
| Reasoning and Impact |                     | The setting of the Conservation Area will be affected to the south west where the development is located. The scale of this impact is dependent on your location with the Palace, its grounds or the towpath. The development impinges on the openness of the Conservation Area's setting and in accordance with other assessments of the setting of Hampton Court Palace the development would have an adverse impact. |                          |            |                     |                       |
| D                    | Hampton Court Green | Medium  | Low                      | Negligible | Neutral/ Negligible | Neutral/ Negligible   |
| Reasoning and Impact |                     | This area includes the buildings on the north side of the Thames to the west of Hampton Court Palace, plus the green space to its north. Views out over Hampton Court Bridge are limited from within the Conservation Area due to the increase in levels over the Bridge. Given that views are limited and that the conservation areas setting  |                          |            |                     |                       |

|                      |                          |   |      |        |                            |               |
|----------------------|--------------------------|---|------|--------|----------------------------|---------------|
|                      |                          | on the south side of the river is on of largely built townscape, the character and appearance of the conservation area is considered unaffected.  |      |        |                            |               |
| E                    | East Molesey – Kent Town | Medium  | High | Medium | Moderate to Moderate Major | Minor Adverse |
| Reasoning and Impact |                          | The works are located in a part of the Conservation Area which has a different character to the remaining residential streets. The scale, massing, siting and design of the development are considered harmful due to the impact on views north and south along Hampton Court Way, the view east along Bridge Road, the impact on the Railway Station building, the impact on Cigarette Island and the Air Raid shelter. There are benefits to the development in heritage terms in the form of the removal of the existing hoarding and the increase in vitality, plus the improvements to the views across the water of Hampton Court and Hampton Court Bridge. All together these benefits are considered to lessen the impact of the development, but that it is still harmful. |      |        |                            |               |

Figure 26: Assessment of Impact on Conservation Areas

#### 11.10.6 Registered Parks and Gardens

| Map Ref              | Heritage Asset | Receptor Value (HR)  | Susceptibility to Change | Magnitude | Likely Affect   | Beneficial or Harmful |
|----------------------|----------------|--|--------------------------|-----------|-----------------|-----------------------|
| 95                   | Hampton Court  | Exceptional  | Medium                   | Medium    | Moderate/ Major | Moderate Adverse      |
| Reasoning and Impact |                | The setting of the Park will be affected to the south west where the development is located. The magnitude of this impact is dependent on your location and will alter from various positions within the Park. The setting of the park is important to its significance and to the west where the development is located Cigarette Island and the existing trees provide a green buffer that enhances views out of the park. |                          |           |                 |                       |

Figure 27: Assessment of Impact on Registered Parks and Gardens

#### 11.10.7 Locally Listed Buildings/Areas (this list does not include buildings within Richmond)

| Map Ref              | Heritage Asset              | Receptor Value (HR)  | Susceptibility to Change | Magnitude | Likely Affect               | Beneficial or Harmful |
|----------------------|-----------------------------|--|--------------------------|-----------|-----------------------------|-----------------------|
| n/a                  | Hampton Court Train Station | Very Low   | High                     | High      | Moderate to Moderate/ Major | Moderate Adverse      |
| Reasoning and Impact |                             | The train station lies at the centre of the application site. Its setting is one of an open railway complex and this contributes to its significance. The development would engulf the building in both plan and elevation. Its setting would be harmed which would in turn affect its significance. |                          |           |                             |                       |
| n/a                  | 5-7 Creek Road              | Very Low   | High                     | Medium    | Minor Moderate to Moderate  | Neutral/ Negligible   |

|                      |  |   |        |            |                        |                        |
|----------------------|--|---|--------|------------|------------------------|------------------------|
| Reasoning and Impact |  | The significance of this building lies within the terrace of buildings within which it is located. The development would be clearly visible however due to the separation and that fact that the building's immediate setting is retained, the buildings significance is considered to be maintained.   |        |            |                        |                        |
| n/a                  | Albion Public House, 34-36 Bridge Road                 | Very Low  | Low    | Negligible | Neutral/<br>Negligible | Neutral                |
| Reasoning and Impact |  | Located on Bridge Road and within a tight collection of buildings the development lies 120m to its east. The setting of this building is important with regards to the relationship with Bridge Road. The rear part of it setting has adds no significance. Given the development lies to the rear of the site its significance is considered to be maintained.   |        |            |                        |                        |
| n/a                  | The Old Mill, Queen's Reach                            | Very Low  | Low    | Nil        | None                   | Neutral                |
| Reasoning and Impact |  | Located within the Queen's Reach development the significance of this building relies little on its setting which has been vastly altered following the construction of the residential development around it. It is also separated from the development by buildings and Hampton Court Way. Its significance is maintained.  |        |            |                        |                        |
| n/a                  | The Limes, 5 Palace Road                               | Very Low  | Low    | Nil        | None                   | Neutral                |
| Reasoning and Impact |  | Located on Palace Road this building is separated from the development by the buildings along Bridge Road and Creek Road its setting and significance are maintained.   |        |            |                        |                        |
| n/a                  | 70 (The Post Office) and 72 (Bridge House) Bridge Road | Very Low  | Low    | Nil        | None                   | Neutral                |
| Reasoning and Impact |  | Located on Bridge Road views of this building from the junction with Wolsey Road would include the development framed at the end of Creek Road (viewpoint 10). Whilst visible, given the distances involved and the fact that the significance of these buildings is limited to their immediate surroundings means that their significance is considered to be maintained.  |        |            |                        |                        |
| n/a                  | Cigarette Island                                       | Very Low  | Medium | High       | Moderate               | Neutral/<br>Negligible |
| Reasoning and Impact |  | Located to the north east of the application site, this green space, whilst not officially recognised on the Council's local list register is considered to be of importance. The development would alter its setting, however the primary relationship with the Thames and trees would be maintained. Plus the development would improve the usability of the green space and therefore whilst the development will affect this area it is not considered to be harmful. |        |            |                        |                        |

| n/a                  | Air Raid Shelter  | Very Low | Medium | High | Minor/<br>Moderate | Minor<br>Adverse |
|----------------------|---|----------|--------|------|--------------------|------------------|
| Reasoning and Impact | The existing air raid shelter, whilst not officially recognised on the Council's local list register would be affected through the proposed access road and temporary carpark covered under a separate application. SCC Archaeology has confirmed that they are content with the proposals and that a suitable condition would preserve the asset. As such the significance and setting of the shelter are considered to be maintained. |          |        |      |                    |                  |

Figure 28: Assessment of Impact on Locally Listed Buildings/Areas

11.10.7.1 The submitted Environmental Statement states that the application site does not contain any heritage assets, although there are heritage assets in the wider area. As highlighted above there are heritage assets within the application site under the definition provided within the glossary of the NPPF which for clarity states 'A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing)'.

11.10.7.2 In the Executive Summary the document also states that the impact on 'setting' itself is not a consideration. Whilst this is true, an adverse impact on the setting of an asset could harm its significance, which is under consideration. Where the setting of an asset does not add to its significance, an adverse impact on its setting would not be harmful.

#### 11.10.8 Summary of impact on Hampton Court Palace

11.10.8.1 Hampton Court Palace is considered to be of national and international significance. The analysis/ assessments above set out the impact of the proposals on the various elements that make up the Palace and its grounds. The setting of the Palace as described earlier is mostly made up of landscape to the north, east and large parts of the south. To the west the River Thames plays an important part in its history with the townscape of East Molesey acting as a backdrop beyond. These elements add to the significance of the Palace. Officers do not consider that the existing application site has a negative effect on the setting of the Palace (the hoardings are of limited scale and visibility and at worst have a neutral impact). The development will impact on the setting of the Palace through the increased scale and massing which is considered to be excessive and contrary to policies DM2, DM12 and DM13 of the Development Management Plan and policies CS7, CS12 and CS17 of the Core Strategy. This scale and massing has been confirmed in the viewpoints and that it would be visible from the Palace and its grounds. The increase in massing has the effect of bringing the townscape on the south of the river closer to the Palace. It is the increased prominence of the massing that draws attention and lessens the positive impact the trees and existing green setting that is created by Cigarette Island and Ditton Field have on the Palace's setting. Furthermore, the additional light created from the development at night will impact the ambiance within the Palace grounds and continue to highlight the scale and massing of the development at night. The location of the development opposite the Barracks and the open space of the Palace



approach/ entrance further harms the Palace’s setting, which is only partially shielded by the existing tree line.

11.10.8.2 Officers considers the impact to Hampton Court Palace and its Gardens to be classed under the NPPF as ‘less than substantial’ harm. However, the international importance of the Palace and its gardens means that the overall impact has considerable weight in the planning balance. The proposal is considered to be contrary to policy DM12 of the Development Management Plan and CS7 and CS17 of the Core Strategy.

#### 11.10.9 Summary of impact on Character Areas

11.10.9.1 The assessment above considers the impact of the development on a number of Character Areas. These assessments are summarised in the table in Figure 29 below.

|                  |                  |
|------------------|------------------|
| Character Area 1 | Moderate Adverse |
| Character Area 2 | Moderate Adverse |
| Character Area 4 | Minor Adverse    |
| Character Area 6 | Minor Adverse    |

Figure 29: Summary of impact on Character Areas

11.10.9.2 The analysis of the impact on the Character Areas has concluded that all of the areas that are closest to the development would be adversely affected, barring Character Area 5, where the benefits have outweighed the harm. These assessments have concluded that the Townscape of the locality would be harmed if the proposed development were erected. The proposal is considered to be contrary to policy DM12 of the Development Management Plan CS7 and CS17 of the Core Strategy.

#### 11.10.10 Summary of impact on Viewpoints

11.10.10.1 The assessment above considers the impact of the development on a number of viewpoints. These assessments are summarised in the table in Figure 30 below.

|              |                  |
|--------------|------------------|
| Viewpoint 1  | Minor Adverse    |
| Viewpoint 2  | Minor Adverse    |
| Viewpoint 3  | Minor Adverse    |
| Viewpoint 4  | Moderate Adverse |
| Viewpoint 5  | Moderate Adverse |
| Viewpoint 6  | Moderate Adverse |
| Viewpoint 7  | Major Adverse    |
| Viewpoint 9  | Minor Adverse    |
| Viewpoint 10 | Moderate Adverse |
| Viewpoint 11 | Moderate Adverse |

Figure 30: Summary of the impact on Viewpoints

11.10.10.2 The analysis of the impact on the identified viewpoints has concluded that harm would be created in all but one (Viewpoint 8). Overall, it is the siting, scale, massing and design of the proposals that have been found to be

incompatible with the existing townscape and the heritage assets that it possesses. The proposed development is therefore considered to cause harm to the character and appearance of the area contrary to policies DM2, DM12 and DM13 of the Development Management Plan and policies CS7 and CS12, CS17 of the Core Strategy.

#### 11.10.11 Summary of impact on listed buildings

11.10.11.1 The assessment above considers the impact of the development on the significance of surrounding listed buildings, which are a mixture of buildings, statues, bridges and other structures. These assessments are summarised in the table in Figure 31 below.

|    |                      |  |                  |
|----|----------------------|--|------------------|
| 8  | Barracks             | Grade I                                | Moderate Adverse |
| 10 | Hampton Court Palace | Grade I and Scheduled Ancient Monument | Moderate Adverse |
| 11 | Lower Orangery       | Grade I                                | Moderate Adverse |
| 13 | Banqueting House     | Grade I                                | Moderate Adverse |
| 20 | Hampton Court Bridge | Grade II                               | Moderate Adverse |

Figure 31: Summary of impact on Listed Buildings

11.10.11.2 The harm identified predominately is caused to Grade I listed buildings. These buildings such as Hampton Court Palace are of international importance. Harm was also found to Hampton Court Bridge which is a Grade II listed building. The harm identified when afforded 'great weight' weighs heavily against the development in the planning balance. The heritage benefits created by the development have also been considered and weighed when coming to the degree of harm identified. It is clear following this assessment that there are insufficient benefits to outweigh the harm.

11.10.11.3 The Council considers the impact to all listed buildings to be classed under paragraph 196 of the NPPF as 'less than substantial'. The proposed development is considered to be contrary to the requirements of policy DM12 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy.

#### 11.10.12 Summary of impact on Conservation areas

11.10.12.1 The site is situated within the designated East Molesey Kent Town Conservation Area and forms part of the north-eastern corner of the Conservation Area. The character and appearance of the Conservation Area would be harmed through the massing and siting of the proposed development contrary to policies DM12 of the Development Management Plan and CS7 and CS17 of the Core Strategy. The development in effect forms a new character to the eastern section of the Kent Town Conservation Area. The setting of the station building, especially when viewed in viewpoint 10 is also harmed contrary to policy DM12 of the Development Management Plan. However, it is acknowledged that the development would enhance the sense of place around the locality, including the provision of new public realm and the resolution of a number of the negative features identified within the Conservation Area

appraisal which is supported by the Brief and by policy DM12 of the Development Management Plan

11.10.12.2 The Hampton Court Conservation Area includes Hampton Court Palace. The development site lies on the far western boundary of the area, but outside of its boundary. Whilst, in the context of the overall Conservation Area the development represents a small area of the conservation areas setting, it would adversely impact on the setting and significance of Hampton Court Palace contrary to policy DM12 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy.

11.10.12.3 The setting of the Hampton Court Green Conservation Area is the least affected, given that the development can only be seen from the brow of Hampton Court Bridge. The significance of the area is in part derived from its setting and its association with Hampton Court Palace. There are few views out over Hampton Court Bridge from within the Conservation Area due to the increase in levels over the Bridge.

Below is a table in Figure 32 summarising the impact on each of the conservation areas.

|                        |                     |
|------------------------|---------------------|
| Hampton Court Palace   | Moderate Adverse    |
| Hampton Court Green    | Neutral/ Negligible |
| East Molesey Kent Town | Minor Adverse       |

Figure 32: Summary of impact on Conservation Areas

11.10.12.4 The affect is worse on the Hampton Court Palace Conservation Area, due to the impact of the massing would have on the setting of the palace contrary to policy DM12 of the Development Management Plan and policy CS7 and CS17 of the Core Strategy. Hampton Court Green is unaffected due to the separation and lack of visibility between its boundaries and the development. And finally, Kent Town would see on balance some benefits to its character and appearance.

#### 11.10.13 Summary of impact on Registered Parks and Gardens

11.10.13.1 There is only one Registered Park and Garden within the context of the development. The assessment above has found that there would be harm to its setting contrary to policy DM12 of the Development Management Plan.

|                                  |                  |
|----------------------------------|------------------|
| Hampton Court – Park and Gardens | Moderate Adverse |
|----------------------------------|------------------|

Figure 33: Summary of impact on Registered Parks and Gardens

#### 11.10.14 Summary of impact on Locally listed buildings

11.10.14.1 The assessment above considers the impact of the development on a number of Locally Listed Buildings. These assessments are summarised in the table below.

|                          |                  |
|--------------------------|------------------|
| Railway Station Building | Moderate Adverse |
|--------------------------|------------------|

|   |               |
|---|---------------|
| Air Raid Shelter (not formally added to the local list) | Minor Adverse |
|---|---------------|

Figure 34: Summary of impact on Locally listed Buildings

- 11.10.14.2 The Railway Station Building, a locally listed building and sits at the heart of the development, it is also an important focal point within the conservation area. Of the locally listed buildings identified this is the one that is the most affected. At 1.5 storeys in height the building has greater presence than its scale would suggest.
- 11.10.14.3 An application was considered by Historic England to list Hampton Court Railway Station. This application was rejected on 1<sup>st</sup> April 2019 for the following principal reasons, which are taken from Historic England’s decision:
- 11.10.14.4 Architectural Interest - compared to other surviving stations in a similar idiom by Sir William Tite, such as, Barnes, Windsor and Eton Riverside and Carlisle, Hampton Court Station compares poorly. Architecturally it is a somewhat uninspired exercise in the Jacobethan historicist style and lacks the sense of movement and quality of detailing that would evoke a complimentary visual relationship with Hampton Court Palace; It has been significantly altered. The loss of the chimneys and finials means that the dynamic between the vertical and horizontal has been radically altered. The insertion of shop fronts has degraded the character of the main frontage and there have been significant later additions.
- 11.10.14.5 Historic Interest - although of some historical interest for its relationship to Hampton Court Palace, as, probably, the first railway station dedicated to facilitating sightseeing to a specific historical and cultural building and for its association with important early figures in the railway industry, this is not of sufficient interest to outweigh the lack of architectural interest.
- 11.10.14.6 Group Value - sited on the opposite bank of the Thames from Hampton Court Palace and with a visual relationship impaired by intervening planting, group value, despite a degree of historical functionality with the Palace, is not sufficiently evident.
- 11.10.14.7 The station building is in poor condition and officers have raised their concerns with Network Rail on previous occasions. The Environmental Statement: volume 3, states under paragraph 6.36 that “Network Rail proposes to refurbish the station, and whilst these works do not form part of the planning application and are not weighed in the overall planning balance, they have the potential to further improve the character and appearance of this non-designated heritage asset.” Officers agree that if works to renovate and improve the building were included within the application, they would have been considered a benefit, but they are not.
- 11.10.14.8 The proposed development would represent a significant increase in the mass of the buildings surrounding the Railway Station building. This increase is considered to harm the setting of the building and the understanding of its origins as a building set within a railway complex contrary to policy DM12 of the Development Management Plan and policies CS7 and

CS17 of the Core Strategy. Whilst the buildings around it that are to be lost are of little interest, they form its setting, allowing it to stand out and they are appropriate to the railway use of the site.

11.10.14.9 The Air Raid Shelter was identified during the application process and had otherwise been known. The shelter is not on the Council's local list, but an assessment by Surrey Archaeology has determined that it is of interest and hence why it has been added.

#### 11.10.15 Archaeology

11.10.15.1 With regards to below ground Heritage Assets, a pre-commencement condition relating to archaeological investigation work has been recommended Surrey County Council. At this stage the development has not be found to cause harm to existing archaeology. Subject to planning conditions the proposal is considered to comply with policy DM12 of the Development Management Plan in this regard.

#### 11.10.16 Heritage Benefits

11.10.16.1 Following the assessments above, heritage benefits have been noted in the table below. The benefits have been considered in the assessments of each of the assets affected and therefore do not add further to the planning balance, they are recorded here for clarity in Figure 35.

|                                 |   |
|---------------------------------|---|
| Hampton Court Palace – Grade I  | Approach from the train station improved through the removal of the existing hoarding and the opening up of view over the Thames, (benefits form part of Viewpoint 8) |
| Hampton Court Bridge – Grade II | Improved views when approaching from Hampton Court Way  |
| Kent Town conservation area     | Improved vitality and public realm, plus the views identified above.  |

Figure 35: Heritage benefits

#### 11.10.17 Need for Listed Building Consent

11.10.17.1 Specific objection has been raised to the inclusion of traffic lights at the southern end of Hampton Court Bridge. It has also been raised that these traffic signals require Listed Building Consent. The impact of the traffic signals on the setting of the bridge has been considered in the assessments above. Whilst it is for the LPA to make the final decision as to whether Listed Building Consent is required for the traffic signals, discussions have taken place with Historic England who have confirmed previously that consent is not required. Regardless of this point even if LBC were required for any of the works on the site this would not prevent the determination of this planning application. A further assessment of the need for LBC will be made as and when new information is available.

11.10.17.2 It is acknowledged and confirmed by the applicants that the proposed development would not result in works directly to the structure of Hampton Court Bridge. However, there is concern regarding the proposed construction

works, particularly the sheet piling operations. The vibration assessment in the Environmental Statement: chapter 10 is noted, paragraph 10.53 recommends monitoring of vibration levels. Should permission be granted this would be secured by a condition(s) to address these concerns.

#### 11.10.18 Heritage Conclusion

11.10.18.1 The above assessments have identified harm to a number of heritage assets of varying value. The table below in Figure 36 sets out the heritage assets, viewpoints and character areas (as defined by the application) that are adversely affected.

| Asset, Character Area or Viewpoint | Receptor                         | Impact              |
|------------------------------------|----------------------------------|---------------------|
| Character Areas                    | 1                                | Minor Adverse       |
|                                    | 2                                | Moderate Adverse    |
|                                    | 4                                | Minor Adverse       |
|                                    | 6                                | Minor Adverse       |
| Viewpoints                         | Viewpoint 1                      | Minor Adverse       |
|                                    | Viewpoint 2                      | Minor Adverse       |
|                                    | Viewpoint 3                      | Minor Adverse       |
|                                    | Viewpoint 4                      | Moderate Adverse    |
|                                    | Viewpoint 5                      | Moderate Adverse    |
|                                    | Viewpoint 6                      | Moderate Adverse    |
|                                    | Viewpoint 7                      | Major Adverse       |
|                                    | Viewpoint 9                      | Minor Adverse       |
|                                    | Viewpoint 10                     | Moderate Adverse    |
|                                    | Viewpoint 11                     | Moderate Adverse    |
| Listed Buildings                   | Barracks                         | Moderate Adverse    |
|                                    | Hampton Court Palace             | Moderate Adverse    |
|                                    | Lower Orangery                   | Moderate Adverse    |
|                                    | Banqueting House                 | Moderate Adverse    |
|                                    | Hampton Court Bridge             | Moderate Adverse    |
| Conservation Areas                 | Hampton Court Palace             | Moderate Adverse    |
|                                    | Hampton Court Green              | Neutral/ Negligible |
|                                    | East Molesey Kent Town           | Minor Adverse       |
| Registered Parks and Gardens       | Hampton Court – Park and Gardens | Moderate Adverse    |
| Locally Listed Building            | Railway Station Building         | Moderate Adverse    |
|                                    | Air Raid Shelter                 | Minor Adverse       |

Figure 36: The heritage assets, character areas and viewpoints affected by the proposed development.

11.10.18.2 The harm has all been categorised as ‘less than substantial’ (NPPF, paragraph 196), except in the case of the Locally Listed buildings as harm in their case is considered as a balanced judgement (NPPF, paragraph 197). ‘Great weight’ (Paragraph 193, NPPF) must be attributed to the conservation of heritage assets and therefore the balance weighs heavily in their favour.

11.10.18.3 In order for the works to be considered favourably substantial public and/ or heritage benefits must be provided that outweigh the harm and the requirement to preserve. The above summary table must also be carefully analysed as there are a number of overlaps between, character areas,

viewpoints, conservations and buildings (both statutorily listed and locally listed).

11.10.18.4 The applicant has submitted a supporting document following the objection from consultees on heritage matters. The applicants state that for the reasons outline in their submission they have concluded the proposed development would preserve and in some respects enhance an appreciation of the special interest of Hampton Court Palace, the Hampton Court Palace, the Hampton Court Palace Registered Park and Garden and its associated listed buildings, including the Banqueting House.

11.10.18.5 They also state that “the proposals as presented have been formulated with reference to an implemented consent, and in the exercise of planning judgement this must be material. Whilst the 2018 ES Chapter acknowledges the planning history relevant to the authority, its assessment was freestanding. Clearly, however, that planning history is a material consideration, and the proposals are substantially similar, in terms of bulk and scale, to the permitted, implemented scheme that was determined on the basis of the same statutory provisions and a very similar policy background. The creation of open space, in the more sensitive part of the site fronting the river, instead of the permitted hotel, is a further enhancement beyond the consented/implemented scheme.”

11.10.18.6 Officers agree that the proposed development represents an improvement over the extant permission in terms of the mix of uses and the layout of the development with regards to its impact on adjacent heritage assets. However as previously stated, the extant permission is considered to carry only some limited weight and therefore would not add significant weight to justifying a development which would cause harm to the heritage assets.

11.10.18.7 The applicant has stated however, should the local planning authority reach the view that some harm arises from any aspect of the proposals, then the applicants view is that the harm must be less than substantial. As stated above, Officers agree that the level of harm identified is less than substantial.

The applicants in their submission state that:

11.10.18.8 “It is often argued that the great weight provision would, when applied to a highly important asset such as the palace, would tip the planning balance decisively against proposals as a matter of planning judgment. However, to suggest that any harmful impact would or should lead to that outcome would be unreasonable. It is important to look at the nature and extent of any harmful impact relative to the whole of an asset’s significance. This is the approach adopted recently in the Citroen Case at Brentford, LB Hounslow, on a call in decision by the Secretary of State and in respect of harm to the Royal Botanic Gardens Kew World Heritage Site.....Should harm to an appreciation of special interest be found, then both statute and policy allow that a development may be consented for some other reason, on the balance of benefits, and public benefits can include benefits to heritage assets. In this case, we understand those benefits to comprise:

- The release of previously developed brownfield land (site of the former Jolly Boatman and permitted hotel) as an attractive new landscaped public square as one exits the station and on the approach route to Hampton Court Palace;
- The creation of new views linking the locally listed station, the Thames Hampton Court Bridge and Hampton Court Palace;
- The creation of a new, landscaped route linking Cigarette Island Park with Hampton Court Way;
- Delivery of a site that currently detracts from the way the area appears and functions and that is subject to a long-adopted Development Brief and identified by Elmbridge Council for redevelopment;
- Contribution to the delivery of the new homes against the requirement for 225 new homes every year across the Borough, thereby reducing the amount of development on green field and Green Belt land in less sustainable locations. Planning policy, at all levels, seeks to prioritise the redevelopment of such brownfield development sites;
- Optimisation of the use of previously developed brownfield land in the centre of East Molesey, a highly accessible location by public transport, in line with the local authority's policy;
- The provision of a car club and 155 cycle spaces for residents, thereby reducing the need to travel by private car, with the site adjoining the station and existing bus services, as well within a short walking distance to the facilities within the centre;
- Delivery of a sustainable development; not just in terms of location due to its proximity to shops, services and public transport, but also architecturally;
- Provision of increased opportunities for planting, ecological enhancement and habitat creation;
- Reduction in congestion and improved highway safety as a result of the highway works that form part of the proposal and which are entirely funded by it. The proposed works include removing the gyratory, controlling the key junctions and re-landscaping the verges. The offsite highway improvements are approved by Surrey County Council;
- The creation of job opportunities - through the provision of retail, hotel and café uses - for local residents to work locally (see economic benefits below for the quantitative analysis).
- The strengthening of the economic base of East Molesey and delivery of qualitative improvements to the retail offer through the small supermarket and café, together with the hotel;
- The provision of 12 affordable homes (more than both the viable level and that permitted on this site previously);
- The delivery of a mix of unit sizes, which in accordance with policy, have an emphasis on one and two bed homes, to help counter balance the large number of four bed and larger homes that have come forward elsewhere in



the Borough (the mix comprises 31 x one bed homes, 54 x two bed homes and 4 x three bed homes). All meet or exceed the national space standards;

- The provision of secure, well-lit car parking spaces that will be subject by CCTV, and the introduction of both dedicated disabled bays and electric charging facilities;
- The generation through construction of an estimated 297 years of temporary construction employment, which equates to 29 full time equivalent construction jobs;
- The provision, at operational stage of some 47 – 127 net additional jobs, depending upon the end occupiers of the retail, café and hotel space;
- The generation of additional expenditure both from those working within the commercial space and from those living in the new homes, with a net additional expenditure spend within the Borough of around £1.7 million;
- The generation of additional Business Rates and Council Tax revenue on an annual basis; and
- The contribution of over £2.1m to the Borough CIL, to fund a wide range of infrastructure improvements, with additional funds, tree planting and other matters also secured through a S106.”

11.10.18.9 Officers appreciate that public benefits would arise from the proposed development, however the proposal would provide limited heritage benefits. Whilst the identified harm is restricted to a small area within which the application sits this area has historically been green space and since that time has always remained predominately free from any substantial buildings. This accords with the origins of Hampton Court Palace. The development would urbanise this area which in turn would have a detrimental impact on the setting of the Palace. Furthermore, the development would form the backdrop of all of the views from the Palace across the river, which in Officers view would be harmful and would remain so forever.

11.10.18.10 Whilst there are some advantages which have been considered in the above tables, these benefits are not considered to outweigh the large number of heritage assets that would be harmed and the magnitude of that harm. The proposed development is therefore considered to contrary to policy DM12 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy and the NPPF.

### **11.11 Internal Layout and Quality of Accommodation**

11.11.1 The proposed layout and levels of the site allow for level access to the Hampton Court Way building for both retail, hotel users and residents. There is also level access to the café, retail and residential lobby in the Riverside Building. However, the residential units in the Riverside building and the Villas can only be accessed through use of a lift either from the basement car park or from the residential lobby (which includes stairs) facing the riverside. From the

residential lobby, the Villa apartments are accessed from a central walkway running parallel to the railway line. The lack of an entirely level access to the residential cores of the Villas building is not an ideal arrangement as those with restricted mobility will have to rely on the use of lifts. The Core Strategy does not have any policy requirements for level access to all units. Furthermore, it is acknowledged that the layout of the proposed buildings has been designed to give priority to providing commercial uses on the ground floor as well as facilitating the access to the underground car parking. It is not unusual in mixed use developments for residential units to be positioned at first floor level and above with access only via lifts.

11.11.2 The proposed Riverside Building and Villas comprise 4 above ground floors (when taken from the level of the platform). Each floor has 4 or 6 units per core. For the 85 apartments in these buildings 67 units or 79% would be dual aspect, 18 units (21%) would be single aspect with 9 of those (10.5%) north facing windows. Whilst single aspect properties which face north are not usually desirable, the development has been orientated to minimise the number of north aspect units. Whilst this is a negative aspect of the design it would not justify the refusal of the application. Para 123 of the NPPF states that authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards). The proposed north facing units are still considered to provide an acceptable living standard, these units would be of an acceptable size and have access to balconies and communal gardens. The light levels to the units are assessed in the report below.

11.11.3 The Hampton Court Way building comprises a mixed use block with a retail unit on the ground floor and a hotel over two thirds of the building. The residential block is situated to the south of the Hampton Court Way building and has its own clearly defined and reasonable sized entrance lobby. The block comprises 4 units per core with 50% single aspect units, none of which are north facing.

11.11.4 To provide a good standard of accommodation best practice recommends that residential units should have an internal floor to ceiling height which is a minimum of 2.3m for at least 75% of the gross internal floor area. The proposed residential units in the Hampton Court Way building would have a ceiling height of 2.57m which is considered to provide an acceptable standard of living accommodation. The proposed Riverside building would have a ceiling height of 4m on the ground floor, 2.55m on the third floor, and the apartments on the first and second floor would have a ceiling height of 2.375m. The proposed Villas would have a ceiling height of 2.5m on the third floor and the ground, first and second floor apartments would have a ceiling height of 2.375m. The proposed apartments are considered to provide acceptable ceiling heights throughout the development. Furthermore, the apartments in the Riverside building and Villas exceed the national space standards and have a good level of glazing and therefore the proposed apartments are considered to provide a good level of accommodation in accordance with policy DM2 and DM10 of the Development Management Plan.

- 11.11.5 The proposed development would provide a minimum internal corridor width of between 1.5m and 1.8m in the residential blocks. This is considered to provide an acceptable width to allow adequate circulation space within the residential cores.
- 11.11.6 To comply with the requirement of policy CS19, wheelchair accessible units total 12 in the proposed development with 6 of these provided in the Hampton Court Way building. All of the proposed dwellings would comply with AD M category 2 'Accessible and adaptable dwellings'. They are located on first, second and third floors and are accessed via AD M compliant stairs and lifts.
- 11.11.7 The proposed residential units would meet the Nationally Described Space Standards with 1 bed units ranging from 52 sqm to 69 sqm (an average size of 59 sqm), 2 bed units ranging from 77 sqm to 102 sqm (average size of 86 sqm) and the 3 bed units 118 sqm.
- 11.11.8 The proposed affordable housing units would be located in a separate block of accommodation in the Hampton Court Way building with the open market housing on the other side of the railway line in the Villas. Whilst the Government are keen to prevent the segregation of social housing within developments there is justification in this instance for their inclusion in a separate block of accommodation. The market Villas have a two storey basement, raised terrace gardens, multiple lifts and lobby entrance which would attract a much greater service charge than would be affordable to tenants of affordable/social housing units to pay which would prevent a Registered Social Landlord from taking on the properties.
- 11.11.9 The Hampton Court Way building includes the affordable housing units and is a significant building with a presence on Hampton Court Way. It would offer a good level of accommodation as discussed above. The units would also benefit from their own private amenity space shared amongst the residents of that block. Whilst the quality of this amenity space appears less favourable than the market housing amenity space due to its placement adjacent to the railway line and its sunken nature, the trees do act as buffer to the surrounding area and the submitted day light assessment demonstrates that it would not be overshadowed by the proposed building. It is considered that the space would still provide valuable amenity to the occupants of those units. It is also recognised that there is no local plan policy requirement for amenity space to be provided in relation to flats. The position of all of the social housing units within one block makes the management of these units easier and more desirable for registered social landlords. It is therefore considered in this instance that the proposed layout would not result in sub-standard affordable housing, or the feeling of social segregation or back door entrance for its users. Whilst the applicant has not marketed the affordable housing units at this stage, and there is no Registered Social Landlord on board at this time, they have confirmed that they took specialist advice when the design was progressed and are therefore entirely confident that the units will be of interest to a Registered Provider.

The proposed development is overall considered to provide a suitable level of residential accommodation with regards to the layout and size of the units in accordance with policies DM2 and DM10 of the Development Management Plan.

#### Daylight and Sunlight

11.11.10 The applicant has submitted an Internal Daylight Sunlight and Overshadowing Assessment with the application. It assesses the internal daylight of each habitable room within the proposed development against 3 methods as recommended in the Building Research Establishment (BRE) methodology for assessing daylight within a proposed building which are the following:

- Average Daylight Factor (ADF) – this is a method of assessment that takes into various factors including account total glazed area of the room, the transmittance of the glazing proposed, the total area of the room's surfaces including ceilings and floors, and the internal average reflectance of the room being assessed. To achieve a daylight appearance the ADF of a room should exceed 5% or 2% or more if supplementary electrical lighting is provided. The recommended standards are 2% for a kitchen, 1.5% for living rooms and 1% for bedrooms.
- Room Depth Criterion (RDC) – when a room is single aspect the depth of the room can be a factor in determining the level of light within it. This provides a measure of the impact of the depth of the room.
- No Sky Line (NSL) – this test establishes where within the proposed room the sky will be visible through the windows, taking into account external obstructions.

11.11.11 The proposed day light assessment concludes that 95% (242 out of 256) of the proposed rooms meet or exceed the levels of ADF recommended by BRE. In addition, proposed rooms have been designed in accordance with BRE's RDC and have good levels of sky visibility allowing 92% (235 out of 256) of all habitable rooms to meet or exceed the BRE recommendation of NSL.

11.11.12 The report states that owing to daylight being prioritised in the proposed living area 72% out of the 85 open-plan living/kitchen/dining spaces meet or exceed BRE recommendation of 2% ADF. Of the 13 open-plan living/kitchen/dining rooms that fall short of the recommended level, 10 meet or exceed the 1.5% ADF level recommended for living areas. In addition, the front portion of those rooms where the living room space is proposed would receive acceptable levels of light. As such, these 10 proposed open-plan spaces overall would receive an acceptable level of light. The remaining 3 open plan living/kitchen/dining areas would achieve between 1.2% and 1.4% ADF. The kitchens within these rooms would be located at the rear of the room in order to give the best light to the living spaces. As such the living space at the front of the room would receive an acceptable level of light and all other rooms within those units have ADF levels which would exceed BRE recommended levels.

- 11.11.13 The proposed development would deliver a good standard of daylight to the proposed bedrooms, only 1 bedroom in the proposed development would have a light level which falls marginally below the recommended ADF at 0.9% ADF. However, this bedroom would be situated within a unit that has a proposed living space that would exceed the recommended ADF levels. It is therefore considered that the proposed development would provide a good standard of living accommodation with regards to internal daylight levels.
- 11.11.14 The submitted internal light assessment also considered the hours of sunlight to each of the habitable rooms within the proposed development. This assessment considered the Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH). The results demonstrate that all of the proposed living areas meet the recommended APSH. One of the 68 living/kitchen/dining rooms would fall short of the recommended WPSH, however this room has an acceptable APSH overall. It is considered that the proposed development would provide an acceptable level of sunlight for the future occupants and in general this would be maintained throughout the year.
- 11.11.15 The proposed development is considered to provide a good level of amenity space for the development with the provision of communal terrace gardens to serve the Riverside building and Villas and the proposed sunken garden to the south of the site to serve the residential units in the Hampton Court Way Building. As well as the proposed communal space, 69% of the apartments in the Riverside buildings and Villas would have a balcony or private terrace, and 75% of the apartments in the Hampton Court Way building. Although not every unit would be served by its own private amenity space, the level provided is considered to be acceptable with the private communal space considered to be sufficient to serve those properties without a balcony or private terrace.
- 11.11.16 The proposed communal open spaces within the development have been assessed for Sun Hours on Ground (SHOG) in the submitted daylight and sunlight assessment. BRE recommends that at least 50% of the open space should receive two hours of direct sunlight on the 21<sup>st</sup> March. The submitted report demonstrates that the public realm space to the north of the site would have 88% of the total area experiencing more than two hours of direct sunlight on the 21<sup>st</sup> of March and the communal space to the south of the Hampton Court Way would have 100% of the total area. The proposed communal terrace gardens situated between the Villas would comply with BRE recommended standard receiving two or more hours of sunlight within 50% and 51% of their areas respectively. However, the communal garden area situated between the proposed Riverside Building and first of the Villas would only receive two or more hours of sunlight within 41% of its area on the 21<sup>st</sup> March, however it must be noted the BRE recommendation would be met by the 25<sup>th</sup> March and therefore is not considered to provide an unacceptable quality of amenity space. In general, the proposed development is considered to provide an acceptable level of good quality amenity space in terms of the daylight and sunlight it would receive and therefore complies with criterion e) of Policy DM2 and criterion c) of Policy DM10.

## **11.12 Waste storage and collection**

- 11.12.1 The application is supported by an Operational Waste Management Strategy which sets out the waste storage and collection facilities for both the residential and commercial waste for the proposed development.
- 11.12.2 Joint Waste Solutions were consulted on the application and originally raised concern about the vehicle access to the Villas and the capacity of storage areas provided within these buildings. They also raised concern about the collection point for the residential bins in the Hampton Court Way Building as it would utilise the layby on the public highway. Joint Waste Solutions sought reassurance that this would remain clear on bin collection days.
- 11.12.3 The applicant responded to these points and provided vehicle tracking which demonstrated the suitability of the access for refuse vehicles to the underground car park and its services. The applicant has stated that it is intended for the Villas to be serviced by a private waste collection facility on a weekly basis. This could be secured by a condition requiring the submission of a Waste Management Plan if the application is looked upon favourably. However Joint Waste Solutions have asked that the storage capacity is still increased in the Villas in the event that private bin collections ceased at any time. If this were to occur, then the Council has a statutory obligation to collect residential waste which would be collected fortnightly. Officers consider that this could be secured by a planning condition prior to the commencement of any above ground works.
- 11.12.4 Concern has also been raised by objectors to the development that the layby to the front of the proposed Hampton Court Way building would have conflicting users which may result in it being blocked on bin collection days. A Service Management Plan could be secured by a condition which would set out how the use of the layby would be managed to prevent a conflict occurring.
- 11.12.5 It is therefore considered that subject planning conditions the proposed development would comply with policy DM8 of the Development Management.

## **11.13 Highway and parking issues**

- 11.13.1 Policy CS25 or the Elmbridge Core Strategy states that The Council will promote improvements to sustainable travel, and accessibility to services, through a variety of measures by:
- Directing new development that generate a high number of trips to previously developed land in sustainable locations within the urban area. These include town centres and areas with good public transport accessibility as outlined in national policy
  - Applying maximum parking standards to all uses, including the consideration of zero parking for certain town centre developments
  - Requiring a transport assessment and travel plan for all major development proposals
  - Protecting existing footpaths, cycleways and bridleways; delivering new cycling and walking schemes; and supporting development that

increases permeability and connectivity within and outside the urban area.

- Improving transport infrastructure
- Improving environmental impact of transport

11.13.2 Policy DM7 of the Development Management Plan states that proposed parking provision should be appropriate to the development and not result in an increase in on-street parking stress that would be detrimental to the amenities of local residents. In such instances, a minimum provision of one per residential unit will be required. With regards to train station car parking it states that the Council will encourage the improvement and retention of station car parking unless the existing provision exceeds the need, or the redevelopment would re-provide sufficient lost spaces. The cumulative impact of changes to station car park provision will be considered in terms of the possible knock on effect with regard to the impact on number and length of car journeys, increased demand on another train station or impact on traffic safety, congestion or residential amenity in surrounding streets.

11.13.3 Hampton Court Bridge provides one of only two river crossings in Elmbridge. It is subjected to high levels of traffic all trying to gain access to major routes, in particular, those north of the river wishing to gain access to the A3 and M25 and those to the south wishing to gain access to the M3 and West London. Local traffic adds to the congestion. The highway network on Hampton Court Way around Hampton Court Station is currently confused and chaotic with no clear direction for those driving to the station or beyond. There are uncontrolled right turn movements from Hampton Court Way into Creek Road and River Bank, three lanes of traffic leaving River Bank turning left and right, a wide gyratory connecting Hampton Court Way to Bridge Road and a high volume of pedestrians and cyclists all competing for road space. Public Transport is well provided but also competes for this road space.

11.13.4 The proposal includes changes to the highway infrastructure at various points around the site. A plan of the highway improvements is included in the bundle of plans at the end of this report. The highway alterations include:

- Removal of the Hampton Court Way / Riverbank gyratory.
- Traffic signals at Hampton Court Way / Riverbank junction, incorporating the station car park access into the same junction under signal control.
- Advanced cycle stop line on Riverbank arm of the junction.
- Pedestrian / cycle refuge on Riverbank arm by Hampton Court Way to assist pedestrian and cycle movements crossing Riverbank.
- Upgrade of pedestrian crossing on Hampton Court Way to a wider toucan crossing and linking its operation with the signal controlled junction at Hampton Court Way / Riverbank.
- Kerb lines on north side of Riverbank remain generally as existing.
- Shared pedestrian/cycle route on west side of Hampton Court Way from Creek Road to Riverbank connecting with the new toucan crossing.
- Extend shared pedestrian cycle route on east side of Hampton Court Way northwards to Hampton Court Station and the proposed Toucan Crossing.

- Widen Creek Road at junction with Hampton Court Way to accommodate a left turn lane from Creek Road and to provide a wider refuge for pedestrians and cyclists.
- Relocate northbound bus stop from gyratory to a layby on Riverbank. Provide pedestrian route from bus stop to Hampton Court Station and Bridge Road.
- Build out footway on Bridge Road by Riverbank and provide raised entry treatment on Bridge Road at junction with Riverbank.
- Provide narrowed roadway for vehicles travelling from Creek Road to Bridge Road
- Much of former gyratory area becomes available for landscape / public realm.
- Create station forecourt on west side of station building for use by bus, taxi, service vehicles and pedestrians.
- Provide loading vehicle area for station service vehicles at the southern end of the forecourt.
- Station car park access to be used for:
  - Access to proposed development parking include Station car park
  - Station user pickup / drop-off
  - Access for refuse vehicles and deliveries servicing the residential units, café and adjacent retail unit
- Cycle access to residential cycle parking.
- Provide layby adjacent to Hampton Court Way for servicing of the hotel, the adjacent retail unit and the adjacent residential accommodation.

11.13.5 For comparative purposes the extant permission on the site also included highways alterations which were as follows:

- Re-alignment of vehicle access to Cigarette Island Park, also providing service access to parts of the development,
- Altered vehicle access to the station to provide entrance and exit to the transport interchange only,
- Alterations to existing access to Hampton Court Motors to provide the main access to the proposed underground car park.
- Provision of a new station forecourt with transport interchange along Hampton Court Way.
- Re-alignment of Riverbank/Hampton Court Way junction, Bridge Road and the spur off Creek Road including changes to the traffic islands,
- Reversed direction of one-way traffic on northern section of Bridge Road
- Alterations to Creek Road/Hampton Court Road junction,
- Addition of pedestrian crossing to Hampton Court Way from Creek Road spur,
- Central additional islands and changes to central reservation in Hampton Court Way and widening of Hampton Court Way towards the River Ember.

11.13.6 As with the extant permission, the off-site changes do not require planning permission as they are within the Highway boundary and can be carried out by or on behalf of the Highway Authority as 'permitted



development'. In that sense they are not part of the application development site. They are, however, works that Surrey County Council as the Highway Authority would require to be implemented and funded by the development if the scheme goes ahead and therefore are a materials consideration.

- 11.13.7 A high level of objection has been received regarding highway safety and capacity issues relating to this site. Surrey County Council Highways Authority are the Council's statutory consultee when it comes to matters of highway safety and capacity. SCC have made the following comments with regards to highway safety and capacity:

### **Highway network**

The previous redevelopment scheme (2008/1600) provided a road layout that addressed some of the existing problems focusing on the traffic movements and adding clarity to the design of the road. The new layout differs from this design by focusing more on pedestrian and cyclist movements to encourage modal shifts and improve the current accident problems relating to cyclists in this area. The construction works required on the public highway would be carried out under Section 278 of the Highways Act 1980. The developer would enter into an agreement to carry out all the necessary works to deliver the highway improvements.

### **Pedestrian/cyclist improvements**

- i. The pedestrian crossing will be a raised Toucan Crossing directly outside the station. This will accommodate both cyclists and pedestrians. Currently commuters leaving the station cannot all cross the road at the existing crossing at the same time because it is too narrow. This leads to pedestrians jay walking between stationary vehicles on Hampton Court Way at peak periods in the morning and evening. By providing a much wider crossing it is hoped that most commuters will be able to cross together and thereby reduce the potential for pedestrian accidents on Hampton Court Way.
- ii. Removing the gyratory will improve pedestrian and cycle movements on the western side of Hampton Court Way. The shared footway/cycleway will be continuous from the Toucan crossing to join the existing shared footway on Hampton Court Bridge and will provide crossing facilities at River Bank where vehicles will be held with signals. Currently pedestrians wishing to walk over the bridge on the western side from Creek Road have to run across several lanes of uncontrolled traffic to reach the footway on the bridge or deviate to the uncontrolled crossing in Bridge Road. There is no facility for cyclists and the rise in the numbers of cyclists has led to an increase in cycling accidents at the River Bank /Hampton Court Way junction.
- iii. Advance stop lines for cyclists have been provided at the River Bank junction with Hampton Court Way. These help cyclists join the main carriageway more safely.

- iv. Relocation of the access into the development has increased the visibility at the access. It removes the current roadway to the station and provides a coherent and direct route for pedestrians from the station to the eastern side of the Bridge and thus direct access to Hampton Court Palace. Separating the buses from the access to the car park improves safety for pedestrians, where they will have a controlled crossing from the station to the Bridge. Cigarette Island Lane will be retained but access for vehicular traffic (other than for maintenance vehicles) will be removed. It will remain as Public Highway serving as a pedestrian route to Cigarette Island and the landing stage on the river. Vehicular access to Cigarette Island will be via the new road, which will be adopted as far as the boundary with Cigarette Island.
- v. The station forecourt will be simplified. There will be an in and out access for buses, taxis and deliveries to the retail unit only. There will be a direct route from the Station forecourt to the toucan crossing on Hampton Court Way. At the moment this access is wide and busy with uncontrolled vehicles with no clear direction into the station car park. This makes it harder for pedestrians to walk safely to the crossing with no facility for cyclists at all.
- vi. The footway on the Eastern side of Hampton Court Way adjoining the site will be widened to at least 3.0m to extend the existing shared footway/cycleway that currently ends at the boundary of the car dealer. Currently cyclists have no shared facility directly to or from the station.

It is important that pedestrians using the station can see their way safely and clearly to their destination. Many tourists arrive at the station to visit Hampton Court Palace and have little or no knowledge of this area.

### **Road improvements for drivers**

- i. The provision of traffic signals at River Bank junction with Hampton Court Way will enable right turn manoeuvres both to and from Hampton Court Way as well as from the new access to and from the station car park. Currently vehicles from this junction edge out into Hampton Court Way to turn right causing conflict with right turners into the gyratory and leading to accidents with cyclists because of the number of confusing manoeuvres taking place. Controlling these movements with signals will reduce the conflict and enable the manoeuvres to take place more easily, reducing accidents and moving vehicles through the junction more efficiently.
- ii. The removal of the gyratory reduces conflicting movements at the River Bank junction and incorporates a right turn lane on Hampton Court Way enabling easier right turning movements and allowing those drivers travelling North to South at this point to continue unimpeded. Currently

vehicles back up from this point over the bridge whilst right turners wait for gaps in the south to north queuing traffic.

- iii. Dedicated access to the station car park with improved sight lines and clarity of movement.
- iv. Widened Creek Road junction with Hampton Court Way allowing a dedicated lane to right turners out of the junction.
- v. Right turn lane on Hampton Court way at the Creek Road junction.

### **Public Transport**

- i. New bus stop with shelter and real time information in River Bank.
- ii. Relocation of bus stops in Creek Road to improve accessibility and the provision of bus shelters and real time passenger information.
- iii. Bus stop/stand on forecourt of station right outside the exit/entrance.

### **Safety Audit**

The stage 1 road safety audit has raised a number of minor issues. These can all be resolved and will be dealt with at detailed design stage as part of the Section 278 process.

### **Trip Generation**

The trip generation for the site has been calculated using the TRICs data base. This allows transport engineers to access data from existing sites to apply to their developments and calculate a profile of trips generated throughout the day for different use types. The developer has chosen appropriate sites from the database to ascertain the trips generated.

The flats chosen are privately owned in areas approximating in terms of public transport to the Jolly Boatman site. This gives a two way trip generation for the am peak of 11.4 vehicles and for the pm peak two way generation of 13.5 vehicles.

For the café no trips are indicated in the am peak and only 7.6 two way movements in the pm peak.

The hotel is more problematic in that the database does not give many examples in the South East that replicate the situation at the Jolly Boatman site and therefore the trip generation from the hotel is very robust. It shows 12.8 two way trips in the am peak and 7.5 two way trips in the pm peak.

Looking at the total number of movements on Hampton Court Way between 8.00 am and 9.00 am there are currently 2477 two way

movements and thus the additional trips on the road represent 0.97% increase on the network during the morning peak. Similarly, in the evening peak there are 2745 two way movements in Hampton Court Way and the additional movements represent an increase of 1.04%.

The previous application which has an extant permission stated that the additional traffic generated by the development would be equivalent to less than 3% of the existing traffic on Hampton Court Way and this is considerably less than the extant permission.

This is not considered to be a severe impact on the traffic in the area and is an overestimation of the trips generated by the development because of its location with respect to public transport links, both the regular half hourly train service to Waterloo and the frequent bus services available to the Kingston, Walton and Richmond areas.

Traffic Flow through the new junctions is shown in the Transport Assessment to be improved by the proposed highway layout. For example, without the development or the improvement, Total Vehicle Delay in the pm peak in 2026 is predicted to be 174.6 hours whereas it is predicted to be 69 hours with the development and the proposed highway layout.

### **Car Parking**

The current station has 204 parking spaces with 2 disabled bays. Commuter parking accounts for approximately 93 spaces which peaks at 1.00 p.m. At weekends higher levels of parking occur only when Hampton Court Palace has an event. This is clearly seen on the google maps view shown in the statement made by the Palace objecting to the loss of parking spaces. The view is taken on a bank holiday weekend and shows that the Hampton Court Green Car Park has the overflow facility in operation and there are stalls in Bushey Park. Other station/school /office car parks in the area are empty (Esher Station for example).

The Station does not have a statutory duty to provide parking for anyone but does provide parking for commuters in the area using the station. There are many stations which do not have this facility (Thames Ditton for example) and there is no duty to provide parking for Hampton Court Palace. The Palace website clearly points visitors to the palace forecourt parking and the Hampton Court Green Car Park and the public transport links on TFL and South West Trains. There is no mention of parking being available at Hampton Court Station for the use of Palace visitors. The level of parking for residents/ hotel clients and commuters is a matter for Elmbridge Borough Council to decide. There is no safety implication for the reduced standard for the flats – in fact in this location zero parking would be acceptable with parking for the disabled and the car club only. This would be beneficial on several levels – a reduction in traffic movements, a reduction in noxious pollutants and an increase in walking and cycling to work for those

using the station. The amenity of residents in local roads may be affected due to increased commuter parking, but the implementation of a more widely reaching CPZ area would stop day long parking.

### **Travel Plan**

The framework travel plan included in the transport assessment for the site is acceptable and will be updated as the site progresses. The car club for the site would need to be implemented before the flats are occupied and so this item has been separately conditioned to allow this to happen.

### **Conclusion**

The trips generated by the site amount to a minimal increase compared to the existing levels of traffic on the road. The changes to the highway layout would significantly improve the current situation with particular attention paid to vulnerable road users - cyclists and pedestrians. Car parking at the station is an issue for Elmbridge Borough Council to satisfy themselves as the levels provided will not lead to safety or capacity issues. Any amenity problems can be dealt with by means of an extended CPZ with increased enforcement.

11.13.8 The County Highway Authority recommends that an appropriate agreement should be secured before the grant of any permission to cover the proposed highway works. These include the reconfiguration of Hampton Court Way from Hampton Court Bridge near the River Ember Bridge as generally shown on the illustrative plan no CIV16694CSA950047. They also recommend that provision of the above is subject to detailed design and further safety audits, all details to be agreed by the Highway Authority. The legal agreement shall also include an obligation to submit a Travel Plan together with the necessary monitoring fee, the provision of a car club with 3 electric vehicles and the provision of a new bus layby in River Bank and the relocation of the two bus stops on Creek Road.

11.13.9 Subject to the provision of the above highway alterations and improvements through a signed S106 agreement the proposal would accord with policy DM7 of the Development Management Plan and CS25 of the Core Strategy in terms of highway safety and capacity. However, currently Officers are not in receipt of a signed legal agreement and therefore it is recommended that the application is refused due to a lack of a legal agreement to secure the highway alterations and improvements. In the absence of the legal agreement the proposed development would be contrary to policy DM7 of the Development Management Plan and CS25 of the Core Strategy.

11.13.10 As detailed above, SCC Highways have stated that the level of parking is a matter for Elmbridge Borough Council to decide.

11.13.11 The existing train station car park contains 204 car parking spaces which are for train station users and it also provides a car park for the general public which is utilised by visitors to the local shops, restaurants and those

visiting Hampton Court Palace. The applicants have submitted a parking survey for the site which demonstrates that the car park is currently under-utilised by station users.

11.13.12 The applicant conducted parking surveys of the existing station car park usage in March 2013, February 2015 and July 2018. The survey in July 2018 was conducted on 10<sup>th</sup> July 2018 and noted that the 204 spaces were only occupied at a peak capacity of 46% or 85 vehicles. It is recognised that evidence has been submitted of occasions when usage exceeded this amount, however these have coincided with events at Hampton Court Palace. It is not considered reasonable to require additional public car parking on the application site to account for occasional events as the Palace has overflow parking that it can utilise on the other side of the river. The Elmbridge Parking SPD sets out the methodology for parking surveys. However, this is not applicable for this site as the applicant is arguing that the proposed development would not result in increased pressure on on-street parking and therefore has not considered parking stress in the locality in terms of adjacent streets but solely in relation to the car park on site. In light of the size of the car park on site and the applicant demonstrating that it does not result in any requirement for off-site parking then it is considered that the lack of a parking stress survey for the surrounding streets is acceptable in this case.

11.13.13 All car parking on the site would be provided via a two storey underground car park with vehicular access to the eastern side of the Villas (as shown in Figure 11). The extant permission on the site also includes a two storey underground car park however the access was proposed via the Hampton Court Way building.

11.13.14 A total of 207 car parking space would be provided (compared to 287 in the extant permission) together with 155 cycle spaces for residential and a further 18 for retail and 7 for hotel staff and visitors. The car park would have direct access to the concourse from the undercroft level which would also contain an area for picking up and dropping off passengers. The car park also includes provisions for disabled parking and electric car charging points. There would be no onsite coach parking. The table in Figure 37 below details the parking standards for the site together with the existing and proposed parking provision.

| <b>Use</b>    | <b>Parking standard</b>                                | <b>Existing site</b>   | <b>Proposed Development</b> | <b>Difference</b> |
|---------------|--|--|-----------------------------|-------------------|
| Train station | Retain as existing unless demonstrated it exceeds need | 204 available for both public and station users – survey shows a maximum use of 93 | 93                          | no difference     |

|                  |  |  |   |   |
|------------------|--|--|---|---|
| Residential      | <p>1-bed = 1<br/>2-bed = 1.5<br/>3-bed = 2</p> <p>In areas of high parking stress a minimum of 1 space per unit is required.</p> <p>Totals 97-128 spaces</p> | N/A  | 58 (0.6 residential permit parking spaces per unit) | 70 less than parking standard   |
| Commercial units | Varies for difference commercial uses see Parking SPD for details – totals 7 spaces  | N/A  | 0 – would be considered as part of public parking   | 7 less than parking standard  |
| Hotel            | 1.5 car spaces per bedroom (totals 122 spaces) plus one coach space OR individual assessment   | N/A  | 28 spaces   | 101 less than the parking standard but does allow for individual assessment           |
| Public use       | N/A  | 111 of the total 204 (this is calculated by taking the figure for maximum usage of 93 from total number of spaces) | Not specifically detailed as a set figure.          | N/A   |
| TOTAL            | 461 spaces maximum   | 204 spaces   | 207 spaces  | 178 less spaces than the maximum parking standards not considering the sustainability |

|  |  |  |  |                 |
|--|--|--|--|-----------------|
|  |  |  |  | of the location |
|--|--|--|--|-----------------|

Figure 37: The parking standards and proposed parking numbers

- 11.13.15 When considering the parking provision on site against local planning policies a residential development is typically assessed against the Elmbridge Parking Standards which are set out in Appendix 1 of the Elmbridge Development Management Plan and the Elmbridge Parking Supplementary Planning Document (July 2020). However, it must be noted that these are maximum parking standards and in sustainable locations a lower provision would be acceptable. Policy DM7 requires that where a proposal may result in an increase in on-street parking stress a minimum of 1 space per unit must be provided. In this circumstance that would require onsite provision of 97 parking spaces. When combined with the requirement to replace the existing car parking for the train station users on-site, this would result in a maximum number of required spaces on site being 301 spaces for the residential units and train station parking. Due to the highly sustainable location of the development it is considered that the proposed hotel and commercial units could be served by public transport and therefore would not be required to meet the maximum parking standard.
- 11.13.16 The parking survey demonstrates that commuter parking accounts for approximately 93 spaces which peaks at 1pm. At weekends high levels of parking occur only when Hampton Court Palace has an event. This would retain 144 spaces for other users. The application site is situated in a highly sustainable location with good links to public transport, cycle links and local services (some of which would be provided within the application site). It is considered that the reliance on the private car would not be essential for residents and employees occupying the development. Both Environmental Health and the Highways Authority have confirmed that they consider there to be an overprovision of parking on the site and have sought a reduction in spaces to improve the sustainability and environmental impact of the proposed development.
- 11.13.17 Network Rail as joint applicants to this site responded to comments about the lack of parking for visitors to Hampton Court Palace and stated that they do not have an obligation to provide parking for visitors to the palace and that the car park could be restricted to residents and station users only to reduce pressure on available spaces. It has however been confirmed by the planning agent that both public and residential parking would be provided on site and parking would not need to be restricted. The applicant has stated that users of the site would vary throughout the day which would allow for dual use of some spaces within the development. They carried out an assessment based on the trip profiles from the TRICs database that are presented in the submitted Transport Assessment. The analysis assumes that all 58 residential parking permits would be used for overnight parking and allows for a residual daytime parking demand associated with the hotel. The table in Figure 38 below has been copied from car parking report submitted with the application.



| Time (hrs) | Parking Demand of proposed new land uses at the Site |       |      |          |       | Net Parking Capacity for Rail and Other Users |
|------------|--|-------|------|----------|-------|---|
|            | Residential  | Hotel | Cafe | Car Club | Total |   |
| 0-1        | 58   | 28    | 0    | 3        | 89    | 118   |
| 1-2        | 58   | 28    | 0    | 3        | 89    | 118   |
| 2-3        | 58   | 28    | 0    | 3        | 89    | 118   |
| 3-4        | 58   | 28    | 0    | 3        | 89    | 118   |
| 4-5        | 58   | 28    | 0    | 3        | 89    | 118   |
| 5-6        | 58   | 28    | 0    | 3        | 89    | 118   |
| 6-7        | 58   | 18    | 0    | 3        | 79    | 128   |
| 7-8        | 55   | 12    | 0    | 3        | 70    | 137   |
| 8-9        | 51   | 9     | 0    | 3        | 62    | 145   |
| 9-10       | 51   | 10    | 0    | 3        | 63    | 144   |
| 10-11      | 50   | 10    | 0    | 3        | 63    | 144   |
| 11-12      | 49   | 11    | 3    | 3        | 66    | 141   |
| 12-13      | 49   | 11    | 8    | 3        | 71    | 136   |
| 13-14      | 49   | 10    | 4    | 3        | 65    | 142   |
| 14-15      | 48   | 6     | 2    | 3        | 60    | 147   |
| 15-16      | 49   | 9     | 2    | 3        | 63    | 144   |
| 16-17      | 51   | 9     | 3    | 3        | 66    | 141   |
| 17-18      | 54   | 9     | 7    | 3        | 72    | 135   |
| 18-19      | 57   | 10    | 6    | 3        | 76    | 131   |
| 19-20      | 58   | 15    | 9    | 3        | 85    | 122   |
| 20-21      | 58   | 18    | 6    | 3        | 85    | 122   |
| 21-22      | 58   | 23    | 3    | 3        | 87    | 120   |
| 22-23      | 58   | 28    | 1    | 3        | 90    | 117   |
| 23-00      | 58   | 28    | 0    | 3        | 90    | 117   |

Figure 38: Combined parking demand and capacity assessment  
This has been copied from the submitted parking survey.

11.13.18 The above table from the car parking report demonstrates that at the predicted parking demand and capacity throughout the day would leave between 117 and 147 available parking spaces for users of the train station and public car parking. The survey data has shown that 93 spaces would be required for commuter car parking which would leave a remaining capacity of between 24 and 50 public car parking spaces free at peak times of usage in the car park. In light of this data, Officers agree that it would not be necessary

to restrict parking to the public subject to careful management of the parking spaces by the users Network Rail.

11.13.19 There would also be a requirement for one on site coach parking space to serve the proposed hotel. However, this is a maximum standard and the other criteria of the policy must also be taken into consideration. The policy sets out that the level of need for station parking should be considered as well as the sustainability of the location and aims to improve the environmental impact of the highway. These are considerations that may contribute to the justification of a lower on-site parking provision.

11.13.20 The proposed development does not provide for the one coach parking space recommended in the parking standards to support the hotel use. The main visitor attraction in the area is Hampton Court Palace and their website advertises free coach parking on Hampton Court Green. Whilst the lack of a coach parking space weighs negatively against the development in the planning balance, in its own right it is not considered to justify the refusal of the application due to the sustainability of the application site with its inclusion of the train station. There are also alternative facilities for coach parking in the locality. The applicant has confirmed that if need arises for a coach to drop off directly outside the hotel then they could use the lay-by to the front of that building. This would need to be subject to a Service Management Plan and parking management plan to ensure that there is not conflict with the different user groups of the parking and the lay-by on Hampton Court Way.

11.13.21 The Elmbridge Parking SPD states that the minimum dimension of a car parking space should be 2.5m x 5m. However, this document had not been adopted at the time the application was submitted. The applicant therefore designed the car parking spaces to meet the previous standards which are in line with national standards for car parking spaces. The proposed parking spaces would measure approximately 5m x 2.4m with 6m wide between rows. Whilst the spaces would be 10mm smaller than the Elmbridge standard they are still considered to provide suitable space for parking and manoeuvring within the car park and therefore are considered to be acceptable.

11.13.22 Concern was raised by objectors to the development that sufficient cycle parking would not be provided on the site. The applicant supplied further confirmation of the cycle storage in an email dated 29<sup>th</sup> June 2021 to provide further reassurance that the site can accommodate the required number of cycle storage spaces. Planning conditions are recommended to secure the provision of the cycle storage prior to the occupation of the development to ensure they are provided.

11.13.23 It is considered that due to the sustainable location of the proposed development and the proposed car club provision, the proposed on-site parking provision is considered to be acceptable and would not result in an increase in parking stress in the locality. In light of Surrey County Council comments, Officers raise no concerns relating to highways or parking. The proposed development is therefore considered to accord with policy DM7 of the Development Management Plan with regards to parking subject to relevant planning conditions to secure further details of parking management.

## **11.14 Impact on the amenities of the neighbouring properties**

11.14.1 The neighbouring properties which are most likely to be directly affected by the proposed development are those in Hampton Court Way. Neighbouring properties in adjacent roads and those on the other side of the River Thames and Ember would be situated further than these properties and a sufficient distance from the application site that the proposed development would not have a significantly detrimental impact on the reasonable privacy or amenities of those properties.

11.14.2 The properties situated on the opposite side of Hampton Court Way would be situated approximately 25.8m from the proposed Hampton Court Way building. The extant permission is for a building of similar length and depth on Hampton Court Way; however, it is approximately 2.43m lower than that currently proposed. The addition in the height of the building means that the proposed development would marginally impinge on a 25 degree rising plane from the ground floor windows of the units on the western side of Hampton Court Way (when taken 1m above ground level), however it would not impinge on a 25 degree rising plane taken from nearer the top of the windows or from the windows on the first floor windows. Overall, the proposed development would not result in a significant loss of light to the properties in Hampton Court Way. The proposed separation distance is large enough that the proposed development would not have a significantly dominant or overbearing impact, nor would it result in any significant loss of privacy to those properties. The proposed development is considered to accord with the requirement of policy DM2 of the Development Management Plan in this regard.

## **11.15 Impact on ecology**

11.15.1 Policy CS15 seeks to ensure that new development does not result in a net loss of biodiversity and where feasible contributes to a net gain through the incorporation of biodiversity features. Policy DM21 states that all new development will be expected to preserve, manage and where possible enhance existing habitats, protected species and biodiversity features.

11.15.2 The proposed development site is located adjacent to the River Thames and the River Ember, both of which represent important ecological features in their own right and important wildlife corridors in the local area. The River Thames is also identified as a Site of Nature Conservation Importance.

11.15.3 The applicants submitted an Ecological Appraisal, Bat Survey Report (Buildings and Activity Surveys), Bat Survey Report (Trees) and lighting proposals as part of the application documents. Natural England and Surrey Wildlife Trust (SWT) were consulted on the planning application and the comments from SWT have been incorporated into this assessment. Natural England did not raise any objection to the proposal and provided standing advice relating to a number of ecological matters.

11.15.4 The applicants provided an update Ecological Walkover report on 7 October 2020 which was carried out on 1 September 2020. They found no significant changes to the ecological value within any of the potential habitats. As such, the previously proposed measured detailed within the ecology Chapter of the Ecological Statement remain valid. Surrey Wildlife Trust, Surrey Bat Group and Natural England were all reconsulted on the updated Ecological Walkover. Surrey Bat Group commented on this and stated that they accept that baseline conditions reported earlier remain unchanged. They re-iterate their only concern with the application is to ensure there is no light-spill onto the neighbouring watercourses. This is discussed below.

#### Veteran Trees

11.15.5 Paragraph 175 of the NPPF states “development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists”. The NPPF defines Veteran and Ancient trees as “A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value”. This definition is taken from “Veteran Trees: A guide to good management (IN13)” which is published by Natural England.

11.15.6 SWT raised concern about the removal of veteran trees from the site and that planning permission should be refused for the loss of aged or Veteran trees. The applicant provided a response in their email dated 12/03/2019 and confirmed that the site does not include any tree which would be considered as Veteran or Ancient trees. SWT raised specific concern regarding two over-mature trees to be removed (T23 and T24). The applicant has confirmed that these are an apple and a cherry and are not Veteran trees. SWT have responded to the applicant’s comments and confirmed that they are satisfied with that the additional information overcomes their previous concerns. Furthermore, the Council’s Tree Officer raised no objections to the proposal subject to recommended planning conditions.

#### Protected species – bats, badgers and nesting birds

11.15.7 All species of bat and their roost sites are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017. All bats are therefore European Protected species. Offences under this legislation include any activities that may kill, injure or disturb an individual or damages or destroys a breeding site or resting place of that individual. Destruction of a bat roost is therefore an offence, even if the bat is not present at the time of roost removal. Regulation 9(3) of The Conservation of Habitats and Species Regulations 2017 states that “a competent authority must, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.

11.15.8 SWT initially raised concern about the impact of the proposed development on potential bat roost in trees adjacent to the site. The applicant submitted an email dated 12/03/2019 which clarified the survey work which

was undertaken on potential bat roosts in trees. This confirmed that the submitted documents considered all trees/ tree groups within this application as well as the site for the temporary car parking. They assessed trees T2 and T4 which are on the boundary of Cigarette Island Park and found them to have moderate potential to support roosting bats. The report recommended that trees T2 and T4 be subject to aerial inspection and if required further evening emergence and/or pre-dawn re-entry surveys to determine the presence / likely absence of roosting bats. All other trees assessed were recorded to either have a negligible or low potential to support roosting bats and so in line with best practice survey guidance do not require additional survey effort to determine the presence / likely absence of roosting bats.

11.15.9 The submitted documents also assessed the trees in the vicinity of the proposed temporary car park (subject to a ground based and if required aerial inspection) on Cigarette Island Park. Whilst this is subject to a separate planning application these trees are in close proximity to the proposed development and therefore the assessment is still relevant to the determination of this application. The submitted report determined all the trees in this locality to have either a negligible or low value to support roosting bats apart from two trees adjacent to the River Ember (recorded as having high bat roost potential). The trees with high bat roost potential are to be retained and were assessed be far enough away from the development works not be impacted upon. The applicant states that they were 'approximately' far enough away from the development not to be impacted, however the submitted information has been considered by SWT and they are in agreement that further survey work is not required and they are satisfied that the information submitted overcomes previous concerns they had raised with regards to the impact of the proposed development on potentially active tree bat roosts.

11.15.10 The proposed development is in close proximity to adjacent watercourses which are important commuting and foraging corridors for natural species, in particular bats. SWT highlight the importance of sensitive lighting to limit the impact of the proposed development on these bat commuting and foraging area. SWT recommend a pre-commencement planning condition which requires the submission of a sensitive lighting management plan. The use of this condition was also recommended by Surrey Bat Group.

11.15.11 SWT also provide guidance with regards to legislation relating to the protection of nesting birds and state that the development should take action to ensure that development activities such as vegetation or site clearance are timed to avoid the bird nest season of early March to August inclusive. SWT set out an alternative approach if this is not possible and only small areas of dense vegetation are affected.

11.15.12 The submitted ecological report does not identify the presence of active badger sets within the footprint of the proposed development. However, the report sets out in its constraints and limitations that given the density of the scrub on the site, signs of badger may not have been visible during the site survey. Therefore, additional precautionary mitigation measures have been detailed within the report. The other area of the site which had limitations on

the survey was the Jolly Boatman section of the site which is surrounded by hoarding. The hoarding however would have limited the passage of badgers and therefore it is very unlikely badger activity would occur within that part of the site. Surrey Wildlife Trust have considered this approach and have not raised objection to the level of information that has been provided by the applicant and the precautionary approach set out within the proposed mitigation. The mitigation measures also recommend further survey work on the whole of the site prior to the commencement of works due to the passage of time. Surrey Wildlife Trust agree with this approach and have recommended that immediately prior to the start of the proposed works, further survey work is conducted and if any badger activity is detected a mitigation plan shall be submitted to the Local Planning Authority for approval. Surrey Wildlife Trust also asked that deep excavations left overnight are provided with a ramped means of escape and stockpiles of soft materials are covered overnight to prevent badgers excavating new setts.

#### The adjacent Rivers and 8m River Buffer Zone

11.15.13 The proposed development site is located adjacent to the River Thames and the River Ember, both of which represent important ecological features in their own right and important wildlife corridors in the local area. The River Thames is also identified as a Site of Nature Conservation Importance.

11.15.14 The retention of development free buffer strips is a requirement of policy DM13 of the Development Management Plan. The Flood Risk SPD 2016 also states that all developments must retain an 8 metre undeveloped buffer strip alongside Main Rivers and a 5 metre wide buffer strip alongside Ordinary Watercourses. The SPD details that the 8m buffer strip alongside Main Rivers should be retained for maintenance purposes and to support the landscape and biodiversity of river corridors.

11.15.15 The retention of an 8m river buffer is also a requirement of The Environment Agency who state that it should not include any built development including hardstanding, fences, or formal/ornamental garden. Buffer Zones are required for the following purposes:

- (i) to allow the watercourse to undergo natural processes or erosion and deposition, and associated changes in alignment and bank profile without the need for artificial bank protection works and the associated destruction of natural bank habitat;
- (ii) to provide for the terrestrial life stages of aquatic insects, for nesting of water-related bird species, and for bank dwelling small mammals;
- (iii) to provide a 'wildlife corridor' bringing more general benefits by linking a number of habitats and affording species a wider and therefore more robust and sustainable range of linked habitats;
- (iv) to allow for the maintenance of a zone of natural character with vegetation that gives rise to a range of conditions of light and shade in the watercourse itself. This mix of conditions encourages proliferation of a wide range of aquatic species, including fish;

- (v) to allow, where appropriate, for the regrading of banks to a lower and safer profile, in areas where there is public access;
- (vi) to prevent overshadowing of watercourses by buildings; and
- (vii) to reduce the risk of accidental pollution from run-off. Domestic gardens should not be incorporated into the buffer zone to the watercourse, in order to avoid problems such as fragmentation of the buffer by fencing; the placing of garden rubbish near the bank; the introduction of non-native species into the buffer; and pressure for inappropriate bank retention works.

11.15.16 Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws 1981, the prior written consent of the Environment Agency is required for any proposed works or structures in, under, over or within 8 metres of the brink of the River Mole main river.

11.15.17 The Environment Agency were consulted on the application and commented to state that the applicants should submit a plan to detail the 8m river buffer. This was supplied by the applicant. This shows that for the majority of the development boundary with the river a buffer in excess of 8m is retained. However objection has been raised in submitted letter of representation to the proximity of the development to the river with specific comment made with regards to one particular section as the southernmost building contains an element where the corner of the building would be within 7.5m of the bridge abutments. This has raised concern with regards to the implications for flooding and for the impact it may have on the wildlife corridor and habitat of the river as well as the impact on protected species. Due to the existing built form on this section of the river, it is not clear to Officers where the top of the riverbank would be measured at this point.

11.15.18 The Local Planning Authority have considered the submitted plan detailed in the Flood Risk Assessment and carried out a site visit. The Local Planning Authority consider that it is for the Environment Agency (EA) as the leading statutory body on this matter to assess where the 8m buffer should be measured from. The Environment Agency have provided comments on this matter and stated that the submitted plan number 1471-01 appears to show encroachment into the 8 metre buffer zone. However, there is not sufficient detail to determine the accuracy of this drawing and where the measurement of the 8m buffer has been applied. The building must be set back a minimum of 8m from the top of the bank. In addition, there does not appear to be any provision for the protection of the buffer zone during the construction phase. The EA have confirmed that the proposed development would be acceptable if a planning condition is included requiring a scheme to be agreed to ensure that the landscape within this site is managed in such a way as to protect and enhance the ecological value. The recommended conditions include the submission of further details relating to the 8m buffer, Officers consider this would address the concerns raised by objectors. The applicants have provided a further plan on 29<sup>th</sup> June 2021 to demonstrate that the proposed building is outside the 8m buffer zone which was established as part of the discharge of condition 26 relating to the 2008/1600 permission for the site. Officers would ask that this is again submitted as part of the discharge of conditions if permission were granted so the EA could be consulted on the buffer.

11.15.19 The Environment Agency have also recommended a further condition relating to biodiversity protection and enhancement requiring the submission of a landscape and ecological management plan prior to the commencement of the works. The reason for this condition is to mitigate for the impact of the proposed development and to secure opportunities for the enhancement of the nature conservation value of the site.

11.15.20 Natural England stated in their response that consideration should be given to the potential impact on the adjacent/nearby Thames Path National Trail. Appropriate mitigation measures should be incorporated for any adverse impacts. The National Trail runs along the southern side of the river to the north-west of Hampton Court bridge and then crosses over the bridge to the north side of the river heading south-east.

11.15.21 Whilst the proposed development is not considered to cause harm to the river or surrounding banks and national trail, there is a risk of ecological harm resulting from construction activities due to the proximity to the river. SWT have recommended a pre-commencement condition requiring the submission of a Construction Environmental Management Plan. This should include details of the following:

- Risk assessment and potentially damaging construction activities
- Practical measures to avoid and result impacts during construction
- Location and timing of works to avoid harm to biodiversity features
- Responsible persons and line of communication
- Use of protected fences, exclusion barriers and warning signs.

11.15.22 The proposed development would offer some opportunities for biodiversity enhancement as set out in the submitted documents. SWT make recommendations for biodiversity enhancement on the site regarding bat and bird boxes and the use of native species and nectar rich flowers and/or berries in the landscaping scheme. The recommendations for biodiversity enhancement can be secured by a planning condition together with the above ecological requirements.

11.15.23 Officers are satisfied that, subject to the recommended planning conditions set out above the proposed development would meet the requirements of policy CS14, CS15 and DM21.

## **11.16 Flooding and Sustainable Drainage**

### Flood Risk

11.16.1 Since the creation of the Brief for the site there been a change in the extent of the Flood Zones on the site with the introduction of Flood Zone 3a on the site.

11.16.2 The site is situated within Flood Zone 2 and 3a which are areas with medium and high probability of flooding. Flood Zone 3a covers part of the station car park and the land to the south of Hampton Court Motors. Cigarette



Island Park to the east of the site is within Flood Zone 3b which is the functional floodplain and the highest risk category.

11.16.3 It is acknowledged that this proposal includes a mix of business and residential uses. The NPPG identifies a flood risk vulnerability classification table, within this table a list of uses are detailed in order of their relevance, these include:

- Essential infrastructure – Essential transport infrastructure
- Highly vulnerable – Police, ambulance and fire stations
- More vulnerable – Hospitals, dwellings, student halls and health/educational services, hotels
- Less vulnerable – Shops, financial, professional, restaurants and cafes
- Water-compatible development – Docks, marinas, open spaces and navigations

11.16.4 The Flood Risk SPD 2016 sets out that development is restricted depending on which flood zone it is located within and if it is affected by other sources of flooding. Wherever possible development will be directed away from medium and high flood risk areas. However, where development does take place the Council need to ensure that it is safe, does not increase the risk of flooding elsewhere and where possible reduces risk overall. This must be demonstrated within a Flood Risk Assessment (FRA).

11.16.5 If new development is outside of Flood Zone 1, the applicant is required to submit documentation to demonstrate that sequentially preferable sites have been considered. The Sequential Test is in effect a sieving process designed to ensure that development is steered away from areas at high risk of flooding, where possible. However, when development cannot be located in a lower flood risk area an Exceptions Test may need to be applied and the necessary criteria met.

11.16.6 The NPPG and Elmbridge Flood Risk SPD (2016) identify that residential development is classified as more vulnerable to flooding. More vulnerable uses and essential infrastructure should only be permitted in this zone if the Exceptions Test is passed. Essential infrastructure permitted in this zone should be designed and constructed to remain operational and safe for users in times of flood. Self-contained residential basements and bedrooms at basement level are not permitted. All other basements, basement extensions and basement conversions may be considered. Regard will be had to whether the site is also affected by groundwater flooding.

11.16.7 Core Policy CS26 seeks to reduce the overall and local risk of flooding in the Borough. Development must be located, designed and laid out to ensure that it is safe; the risk from flooding is minimised whilst not increasing the risk of flooding elsewhere; and that residual risks are safely managed. Planning permission therefore will only be granted, or land allocated for development

where it can be demonstrated that: Through a sequential test it is located in the lowest possible flood risk zone in accordance with PPS25 and the Elmbridge Strategic Flood Risk Assessment; It would not constrain the natural function of the floodplain, either by impeding flow or reducing storage capacity. Where sequential and exceptions tests have been undertaken, any development that takes place where there is a risk of flooding will need to ensure that mitigation measures are integrated into the design to minimise the risk to property and life should flooding occur.

#### Sequential Test

- 11.16.8 In terms of meeting the criteria of the Sequential Test, the Local Planning Authority would normally undertake the Sequential Test as part of the Local Plan process. However, due to Elmbridge not having an allocations plan, it does not have one in place.
- 11.16.9 When considering the Sequential Test at a Borough wide level. It must be noted that a large proportion of Elmbridge is covered by the Green Belt and the Council are currently not able to demonstrate a 5 year housing land supply. It is therefore important to make the most efficient use of land within the settlement area. Development within the Borough on land within Flood Zone 1 is the most desirable, however it may still be necessary to consider development on land within Flood Zone 2 and previously developed land within Flood Zone 3a to provide sufficient land to meet the Borough's identified housing need.
- 11.16.10 As part of the Sequential Test, the developer must demonstrate whether there are any other reasonably available alternative sites within the Borough which have a lower probability of flooding that would be appropriate for this type of development proposed. However, in this case the proposal is to deliver much needed regeneration of a specific site which, by definition, can only be achieved on the site itself. The site has been identified as in need of development in the sites Brief. Whilst the Brief did not address flooding it is still identified as a key site in need of regeneration. Whether that should be sanctioned having regard to the risk of flooding falls to be determined by application of the exception test. It would therefore not be reasonable to ask the applicant to consider alternative sites available to accommodate this development within a lower risk site.
- 11.16.11 Taking the matter of the sequential test at a site specific level it is important to consider whether the development could be accommodated on a different part of the site that is at lower risk of flooding. The proposed development would be situated on land which is previously development and incorporates the train station car parking and forecourt and surrounds the station. The Brief recommends parameters for development on the site which are discussed previously in the report and have steered the location of the development on the site. The site includes a mix of uses with the retail and café elements falling within a less vulnerable use and the residential and hotel in a more vulnerable use. Flood zones 2 and 3 covers the majority of the application site with the majority of the site in Flood Zone 2. The extent of the flood zones on the site would not allow for the positioning of any of the

development outside of an area at risk of flooding. It is therefore considered that there are not lower risk parts of the site which could have accommodated the more vulnerable uses within the site as the whole of the site is at risk of flooding. As stated above whether developed should be sanctioned having regard to the risk of flooding falls to be determined by application of the exception test.

#### Exception Test

11.16.12 Having completed the Sequential Test, the Exception Test aims to ensure that new development is only permitted in areas at risk of flooding where flood risk is clearly outweighed by other sustainability factors and where the development will be safe during its lifetime, considering climate change and without increasing risk elsewhere.

For the Exception Test to be passed:

Part 1 - It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by the SFRA where one has been prepared;

and

Part 2 - A site-specific Flood Risk Assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

11.16.13 In assessing the proposal in relation to Part 1 of the Exception Test the applicant set out the following points to demonstrate a case to achieving the above criteria:

- Provision of water efficient/low flow sanitary fitting and fixtures to reduce water consumption
- Specification of materials with a low environmental impact
- Responsibly sourced building materials wherever possible
- Provision of 155 cycle spaces to promote sustainable travel methods; and
- Incorporation of high seasonal efficiency VRF air source heat pump systems in the commercial units.

11.16.14 The following points must also be taken into consideration when assessing whether the proposed development provides wider sustainability benefits to the community that outweigh flood risk:

- the proposed development would make more efficient use of a site in a highly sustainable location to provide much needed additional housing.

The site would provide 97 units, 12 of which would be affordable housing units, to provide towards the identified housing need in the Borough.

- The site would play an important role in contributing to the local economy, local employment and economic growth.
- The proposal would increase public realm space within the locality with the creation of the Riverside green space.

11.16.15 In relation to the details required to address Part 2 of the Exception Test, the applicant provided a Flood Risk Assessment dated November 2018 was submitted with the planning application at first submission. A further addendum was submitted in June 2020 which provided further information as requested by the Environment Agency (EA), including hydraulic modelling. A further addendum was submitted in April 2021 which superseded the June 2020 Addendum with further hydraulic modelling updates.

11.16.16 The applicant's latest addendum to the FRA submitted April 2021 provides the history of the planning application in relation to the delays relating to the FRA for the site which has been included below.

11.16.17 A new application was submitted in December 2018 (planning reference: 2018/3810) which included a Flood Risk Assessment (FRA) (Ref. WIE13473-100-R-1-6-3-FRA). The Environment Agency (EA) objected to this application in July 2019 on the basis of an offsite increase in flooding to the west of the proposed development. A response to this objection was provided by Waterman in May 2019 (Ref. WIE13473-100-R-4-2-3-Flood Risk EA Response). Following further liaison with the EA Waterman submitted a Hydraulic Modelling Report Addendum (Ref. WIE13473-100-R-5-2-3-HMR) in November 2019, which included exploring the effect if a 'void' feature were to be introduced beneath the proposed Hampton Court Way Building that was proposed to reinstate the existing flood flow path and so mitigate the offsite impact.

11.16.18 The EA objected once again on the 10<sup>th</sup> January and a further objection was received on the 25<sup>th</sup> February 2020. The objection letters stated the following two reasons for objecting to Waterman's Flood Risk Technical Note (Ref. WIE13473-100-TN-7-2-3- Flood) that was submitted on 28th January 2020: The Thames (Hurley to Teddington) 2019 flood model is now the best available and up-to-date flood model for this area and should be considered for the entire application site; Further information such as plans and drawings would need to be provided detailing how the proposed 'void' mitigation system would be delivered in relation to the proposed development.

11.16.19 A videoconference was held on 8th April 2020 to discuss overcoming the EA objection. Waterman then issued a Flood Risk Update Note (Ref. WIE13473-100-TN-8-1-2-BN) to the EA and Elmbridge Borough Council (EBC) on 2nd June 2020 setting out the results of the hydraulic modelling undertaken using the new model. A further objection was received from the EA on 23rd September 2020, stating that the hydraulic modelling used to support the

planning application was not fit for purpose due to the grid size being too large to accurately represent the development proposals. The EA also recommended that a truncated version of the River Thames (Hurley to Teddington) 2019 model was used in lieu of the full hydraulic model. Waterman advised that they considered it unreasonable for the applicant to have to carry out further updates to the EA's model in their response dated 27th November 2020. However, the EA issued a further letter dated 23rd December 2020, advising that the 'objection would remain in place until a model is provided that is refined to a scale where accurate assessment of impacts of lost floodplain volume and new flow paths as a result of the development can be captured. Waterman were therefore instructed by the applicant to undertake a full reworking of the model at the smaller grid as requested and using the truncated version, in line with the recommendation by the EA. An addendum to the FRA was then submitted March 2021 which re-assessed the risk of fluvial flooding upon the development following updates to the Hammersmith domain and the River Thames (Hurley to Teddington) 2019 hydraulic model carried out by Waterman at the request of the EA and in line with national and local planning policy. All other sections of the FRA remain as per the original submission.

- 11.16.20 The FRA acknowledges that the site is located within Flood Zones 2 and 3, indicating a medium and high probability of fluvial flooding from the River Thames and River Ember that pass adjacent to the site. Data provided by the EA indicates that the maximum modelled flood level for the 1 in 100 year plus 35% climate change level would be 9.10m AOD.
- 11.16.21 The applicant's detail that all 'more vulnerable' residential uses have been set 1.78m above the design flood level. Finished floor levels if the retail and hotel reception elements of the scheme adjacent to Hampton Court Way are required to be flush to existing ground level to facilitate level access and it has not been proved feasible to raise these above the climate change flood level. This is a negative attribute of the scheme, and this needs to be weighed in the overall balance and considered against the EA's consultation response.
- 11.16.22 It is proposed that the lower ground floor of the development, which comprises undercroft parking, is set at 7.25m AOD to provide flood storage from the eastern flow path identified in the flood modelling.
- 11.16.23 The submitted FRA and modelling demonstrated that the updated hydraulic modelling using the truncated River Thames (Hurley to Teddington) 2019 flood model, as required by the EA, confirms that post development there would be no increase in flood risk to third parties off site from either the eastern or western flood flow routes. As such there is no longer a requirement to provide any flood mitigation on the west side of the development, such as the previously discussed void under the Hampton Court Way building.
- 11.16.24 The FRA details that due to the location of the site close to the downstream limit of the fluvial River Thames catchment, there would be a lead in time of around 4 to 5 days prior to flooding occurring at the Site according to the Environment Agency. The site management team, who would be present on site at all times, would sign up to the EA flood warning service and

proactively manage flooding in accordance with a detailed Flood Management Plan, which would be produced post planning following further consultation with the EA and Elmbridge Borough Council's emergency planning advisors.

- 11.16.25 Concern has been raised about the use of the basement car parking as a flood zone and the trigger levels for their flooding have been questioned. Residents are concerned that if the car park were to flood it could result in excessive parking in neighbouring residential roads when the car park is evacuated. Alternatively, if the car park were not empty of vehicles it may result in pollution of flood waters. It must however be noted that the car park in the proposed development would only flood in an extreme flood event when a lot of the surrounding area would also be experiencing flooding. The safe evacuation of the car park without causing excessive impact on neighbouring residential streets would be considered as part of the Flood Management Plan.
- 11.16.26 The FRA details safe access and egress routes to the north of the site in the 1 in 100 year plus climate change event.
- 11.16.27 The most recent addendum updates the previous FRA with modelling carried out using the EA's new up to date flood data and in greater resolution with 10m and 5m grid sizes, as required by the EA. It demonstrates that the proposed design is acceptable in Flood risk terms and that the risk of fluvial flooding can be appropriately managed through the design of the proposed development.
- 11.16.28 The EA were consulted on the Addendum to the FRA on 1<sup>st</sup> April 2021.
- 11.16.29 The EA responded to this on 17<sup>th</sup> May 2021 and confirmed that the submitted documents do satisfactorily address some of the earlier concerns there were still inconsistencies with the flood modelling and they therefore maintained their objection. The reason for this was in relation to how the proposed building cores in the car park and undercroft wall on the eastern side of the development had been represented.
- 11.16.30 On 24<sup>th</sup> May 2021 the applicants submitted a response to the EA objections in the form of an email to the case officer together with the detailed clarifications relating to the EA's comments on the representation of the site in the hydraulic modelling. They detailed why the east façade of the building was accurately represented as it comprises full openings for car access as well as ventilation grills and bin stores which do not form an impermeable barrier to flow. The model represents the impact this has on flow using a composite of the porosity across the façade.
- 11.16.31 The EA were consulted on this on this submission and responded in their final consultation response on 15<sup>th</sup> June 2021. The responses stated that they had reviewed the following documents:
- Flood Risk Assessment addendum by Waterman, reference WIE13473-100-R-1-6-3-FRA, dated March 2021.
  - Model review comments, email dated 24 May 2021
  - NGM drawing number 1471-01

- The Former Jolly Boatman and Hampton Court Station – Environmental Statement Dated December 2018 by Waterman: Groundwater and Contaminated Land Section 12

11.16.32 The EA confirmed that they have found the model to be acceptable in terms of overall approach and the reduction in grid size has improved both site specific details and wider model performance. They previously raised comments in relation to how some of the features were represented in the model. Previous modelling undertaken by the applicant using the 20m grid was showing offsite detriment on western side of the site. In the refined model with 5m grid there is no detriment being shown as a result of the proposed building in this flow path on this side of the site. They are now satisfied the assessment has demonstrated no increased risk from the western side of the site.

11.16.33 The EA's response confirms that the model review (dated 13/05/2021) raised comments about how the proposed building cores in the car park and undercroft wall on the eastern side of the development were represented. The applicant has submitted information to address this in email dated 24 May 2021. The EA are satisfied with the response by the applicant in relation to the eastern façade and building cores. They are satisfied that the opening sizes of the vehicular entrances are sufficient to allow flood waters into the floodable undercroft. The EA confirmed they are now in a position to remove their objection dated 23 September 2020, ref: WA/2019/126157/ 05-L01. The EA therefore raise no objections to the proposed development subject to a number of planning conditions to secure the proposed mitigation measures and further details of the eastern façade and any fencing.

11.16.34 The EA have stated in their consultation response that the proposed development and/or the access route is located within the 1% annual exceedance probability (AEP) (1 in 100 year) plus an appropriate allowance for climate change flood extent. In accordance with paragraph 163 of the National Planning Policy Framework (NPPF), you must ensure that the 'development is appropriately flood resilient and resistant, and safe access and escape routes are included where appropriate...' This is on the understanding that you have concluded that the proposed development has passed the flood risk sequential test.

11.16.35 The applicants have submitted details of safe access/egress routes in line with the above requirements which would see safe routes from the development across Hampton Court Bridge to the north of the site which is outside of Flood Zone 2 or 3. Officers are satisfied that this would provide suitable egress from the site.

11.16.36 Concern has been raised in submitted letters of representation that the use of the car parking in a flooding event as flood storage is not suitable as it would result in off-site parking stress and also result in pollution to the river if the car park were full. The applicants have detailed in their submitted FRA that the car park would be free from cars at a time of a flooding event. They also provide details for the management of flood water to ensure it does not pollute the river. The EA are satisfied with the details provided from a flood management perspective. It is for Officers to consider the impact of the loss of

parking on the wider area in such an event. The applicants have not provided details of where residents would be advised to park their cars in such an event. However, it is considered that such details could be secured prior to the occupation of the development in the event the application were granted.

11.16.37 Following extensive consultation with the EA the above flooding elements of this proposal are considered to meet the requirements of the Sequential and Exception Tests. In reaching this assessment a reasonable and practical approach has been undertaken, which has considered the details submitted in the Flood Risk assessment which include proposed flooding mitigation measures incorporated in the design. Subject to planning conditions detailed above and set out in the consultation response from the EA, the proposed development is considered to accord with Core Strategy policy CS26 and the requirements of the NPPF.

### **11.17 Sustainable Drainage Systems**

11.17.1 The NPPF states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The requirement for Sustainable Drainage Systems is also contained within Policy CS26.

11.17.2 The applicants submitted a Drainage Management Plan as part of the Environmental Statement, and this was considered by Surrey County Council as the Lead Local Flood Authority. SCC have confirmed that they are satisfied that the proposed drainage scheme meets the requirements set out in the NPPF, its accompanying PPG and Technical Standards. They raise no objections to the proposed development subject to a pre-commencement planning condition to ensure the Sustainable Drainage Scheme is properly implemented and maintained throughout the lifetime of the development.

11.17.3 Subject to the above mentioned planning condition the proposed development is considered to accord with the requirement of policy CS26.

### **11.18 Environmental considerations**

#### **Noise and Vibration**

11.18.1 The submitted Noise Assessment conducted by Waterman, Document Reference: WIE13473-105-R-12-2-3 dated 2018 was assessed by the Environmental Health Officers and they have confirmed that the methodology used to assess noise and vibration is in line with what would be expected of this type of application.

11.18.2 The guidelines the noise consultants used were: World Health Organisation (WHO), 1999 'Guidelines for Community Noise'; BS8223:2014 Guidance on sound insulation and noise reduction for buildings; and ProPG 2017.

11.18.3 The Noise Assessment considers façade noise levels, internal noise levels and outdoor noise levels of the proposed properties from the road and



railway. Commercial noise impacts were mentioned but not in great depth. It also considers the vibration impact from the railway lines.

11.18.4 WHO, BS8223 and ProPG 2017 give standards for indoor ambient noise levels. The acceptable internal noise levels are shown in the table below in Figure 39:

|                               |                             | <b>Recommended Noise Level (db)</b>                             |
|-------------------------------|-----------------------------|---|
| Daytime Noise (0700-2300)     | Outdoor Living Area         | <50 LAeq,16h  |
|                               | Indoor Living Area/Bedrooms | <35 LAeq,16h  |
| Night-time Noise (23:00-0700) | Outside Bedroom Windows     | <45 LAeq,16h (façade)<br>< 60 LAm <sub>ax</sub> , Fast (façade) |
|                               | Inside Bedrooms             | <30 LAeq,8h<br><45 LAm <sub>ax</sub> ,Fast                      |

Figure 39: The standards for acceptable internal noise levels.

11.18.5 Façade measurements were taken at Hampton Court Way (HCW) (A309), the railway line and Hampton Court Station and the results are shown in the Noise Assessment.

11.18.6 The submitted noise assessment states that where the daytime façade levels are <50dB LAeq, 16hr, the internal noise level with windows open (based on 50% glazing) would be <35dB LAeq, 16hr. However, they also state that where natural ventilation is adopted (partially open window) a relaxation of 5dB (Note 7, Table 1 of the Noise Assessment and ProPG 2017) is considered 'reasonable'. According to ProPG 'reasonable' internal conditions should only be considered acceptable where the development is necessary or desirable, if external noise levels are above the WHO guidelines.

11.18.7 Based on the above 5dB relaxation, the assessment states that during both day and night the Villas and the western façade of the Riverside Building will achieve the recommended internal noise levels with windows open, (this is not applicable to bedrooms areas during the day time directly facing the railway lines and Hampton Court Station due to LAm<sub>ax</sub> levels from train events). However, the facades of properties facing HCW, railways lines and Hampton Court Station - will not achieve internal noise levels with windows open both during the day and night.

11.18.8 To achieve the 'reasonable' internal noise levels, the applicant has suggested the provision of certain glazing and ventilation (see Assessment 1, Chapter 5). Environmental Health Officer have however stated that they would like to see suitable glazing and ventilation that will achieve a good internal noise level standard based on the above table.

- 11.18.9 There could also be a 3dB increase in noise levels as future train events from Crossrail 2 will increase from 2 to 4 trains per hour.
- 11.18.10 With regard to vibration from the railway and noise from commercial activities, vibration measurements were taken from the railway and measured 4m from the rail head. The resulting vibration value is at a threshold where there could possibly be some adverse impact at night-time. As suggested in the submitted assessment, a further survey needs to be conducted once the concrete footings are placed. Further survey work and a detailed scheme of noise and vibration mitigation, if necessary, can be secured by a planning condition.
- 11.18.11 Noise from commercial activities can potentially have a serious impact on residents, from opening hours of the units to delivery vehicles noise. Delivery times and opening hours can be controlled by a planning condition.
- 11.18.12 Environmental Health Officers highlighted several other potential noise sources that had not been addressed in the submitted documents. These have now been addressed in an additional technical note – Document Reference WIE 13473-107-NIA-TN-1-1-4 (March 2019). The additional areas considered were Hampton Court Palace, the Industrial Area to the south of the development and the nearby petrol station.
- 11.18.13 Hampton Court Palace is a popular tourist venue with a broad range of event. Several events are planned in the palace calendar: including music festivals, garden show, one off music concerts, disco nights and open-air ice skating. This could potentially cause noise issues for residents of the proposed development as they are closer than any other residential accommodation in the area.
- 11.18.14 To the south of the site across the River Ember and opposite the proposed residential units in the Hampton Court Way building, there is an industrial area. There is also a petrol station that is opposite the proposed Hampton Court Way building which is open 24 hours and currently incorporates a small supermarket.
- 11.18.15 The additional assessment report submitted found that whilst the industrial area and petrol station would not have an adverse effect on the future residents, Hampton Court Palace is a concern. The assessment only looked at two major events – Hampton Court Festival and ice skating. However, Environmental Health Officers state that it should be noted that Hampton Court Palace holds many other events that could also generate noise, for example the annual RHS Flower Show
- 11.18.16 The submitted assessment states that Hampton Court has no premises licence and therefore no noise controls or limits imposed via a premises licence. However local residents have stated that the events from Hampton Court Palace currently ‘disturb their peace’ (this relates to both noise and traffic congestion). The two-week long festival in June, which has a 3000 capacity runs from 9am-10.30pm. On the final night the event starts at

8.30pm-10.30pm and a fire work display. Hampton Court Palace has an annual ice-skating event from 1<sup>st</sup> December to 6<sup>th</sup> January from Monday – Friday 11am-9pm, Sat – Sun 10am-9pm

- 11.18.17 The measured noise levels have been modelled to take into account the impact of concert noise and event noise on the future residents. It has been noted that an increase in noise levels that would be 'discernible' at the proposed Villa (east of the Thames) and the proposed Riverside facades. The façade noise levels at the proposed Villas facing the River Thames, would increase from 55-60dBA to 60-65dBA when events take place. The proposed Riverside facades would increase from <50dBA to 55-60dBA.
- 11.18.18 The recommendation set out in the additional assessment submitted by the applicant for the impact from future noise from concerts and events from Hampton Court Palace, is to keep the mitigation originally proposed in the original assessment (thermal double glazing 25db Rw+Ctr) for the facades affected. However Environmental Health Officer disagree that with this and state that the proposed façades mentioned above that are affected by events at Hampton Court Palace would require more mitigation than currently proposed to ensure that noise does not adversely affect living conditions and the quality of life of the residents. Environmental Health have recommended a planning condition to this effect which the applicant has agreed to.
- 11.18.19 Environmental Health have recommended pre-commencement conditions which require the submission of a scheme to demonstrate that the internal noise levels within the residential units meet required standards to address the above concerns. Further pre-commencement conditions are recommended relating to noise insulation between the retail and residential units; noise from plant, machinery, extraction or filtration, refrigeration equipment and air conditioning units; and vibration from the railway. Subject to these planning conditions the proposal is considered to accord with policy DM5 of the Development Management Plan.

#### Air Quality Management

- 11.18.20 On 17 November 2017 the Council declared an Air Quality Management Area (AQMA) No.2008/005 at Hampton Court the designated area includes both an area in Hampton Court Way and the Riverbank. The Riverbank is not an independent AQMA.
- 11.18.21 Concern has been raised in submitted letters of representation about the monitoring of air pollution in this area. Environmental Health Officers have responded, and their comments incorporated into this section of the report.
- 11.18.22 The Hampton Court AQMA has five passive diffusion tubes and one Horiba real time air quality analyser to monitor NO<sub>2</sub> levels.
- 11.18.23 The co – location of passive diffusion tubes with a real time air quality analyser enables a bias adjustment factor to be determined for the passive diffusion tubes. The recommendation is that this is done in triplicate, hence the Hampton Court Station has three co- located passive diffusion tubes.

- 11.18.24 Specific concern was raised about one of the diffusion tubes being incorrectly placed or missing with reference to the location of passive diffusion tube HC5 (located behind a large traffic sign at the Creek/ Bridge Road junction. The sign faces the roundabout at the junction of Riverbank and Hampton Court Way) Environmental Health Officers have stated that diffusion tubes are subject to theft and being moved. The tubes are replaced each month as part of an ongoing monitoring exercise. On 1 May 2019 as part of the monthly replacement the HC5 tube was moved back to its usual location and photographic evidence of this can be provided.
- 11.18.25 The published graphs in the Council's 2017 Annual Status Report (ASR) page 27 are depict the 2016 passive diffusion tube annual mean NO<sub>2</sub> data and show a declining trend just dipping under the 40 (µg / m<sup>3</sup>) objective limit level. The Hampton real time analyser data for 2016, regarded as a more accurate reflection shows an annual mean NO<sub>2</sub> of 44 (µg /m<sup>3</sup>) above the objective level.
- 11.18.26 The Hampton real time analyser data for 2017, soon to be published shows an annual mean NO<sub>2</sub> of 41 (µg/m<sup>3</sup>).
- 11.18.27 It is not uncommon to get a level of difference between passive diffusion tube data and those of a real time analyser regarded as a more accurate reflection of NO<sub>2</sub> levels and a difference between years in this case 2016 and 2017.
- 11.18.28 Environmental Health Officers do not consider there to be conflict in the data. The 2017 ASR contains 2016 monitoring data.
- 11.18.29 The placement of the passive diffusion tubes and a real time analyser within the Hampton Court AQMA are considered sufficient for that area to meet the monitoring requirements required of the authority. This information is therefore sufficient to allow the assessment of the application.
- 11.18.30 A high level of objection has been received to the proposed development with regards to its potential impact on air pollution.
- 11.18.31 The Air Quality assessment conducted by Waterman, document Reference ES Vol 1, Chapter 9 (2018) has been assessed by Environmental Health Officer. They have confirmed that the methodology used to assess air quality by the consultants is in line with this type of application. Both nitrogen dioxide and PM<sub>10</sub> have been assessed as road transport is a key source, particularly in urban areas.
- 11.18.32 Emissions of total nitrogen oxides from motor vehicles exhausts comprise nitric oxide (NO) and nitrogen dioxide (NO<sub>2</sub>). NO oxidises in the atmosphere to form NO<sub>2</sub>. The most significant pollutants associated with road traffic emissions, in relation to human health are NO<sub>2</sub> and PM<sub>10</sub> (Para. 9.8 ES Vol. 1 Chap 9 2018).

- 11.18.33 The report produced took samples from 7 existing receptors (R1-R7) and 4 proposed receptors (P1-P4) within the development and measured nitrogen dioxide levels with and without the development.
- 11.18.34 The results concluded that at that time there was an increase in the annual mean nitrogen dioxide levels at the existing receptors (assuming there is no improvement in nitrogen dioxide levels) with the development in place. It also showed that there is an exceedance at P4 (Hotel) (worst case scenario). Environmental Health concerns relate to the Hampton Court Way residential units. However it is highly unlikely that there would be no improvement in nitrogen dioxide levels in the locality over time with or without the development as the reliance on private car is reducing and the proposed highways improvement would serve to improve highway flows in the locality and therefore would provide betterment to the existing situation.
- 11.18.35 Following the delays in the determination of the application Officers sought update to the assessment of air pollution on the site. The applicants submitted updated Air Quality Technical Note (AQTN) dated April 2021 (Ref: Waterman, WIE18244-100-TN-1-1-2-AQ). An updated Annex A: Air Quality Assessment Detailed Methodology (AQDM) was also included.
- 11.18.36 The updated AQTN provides an update on the air quality assessments within chapter 9 of the 2018 Environmental (ES) Statement prepared by Waterman Infrastructure & Environment. The Environmental Health Pollution Team provided a response to the 2018 ES in a memo dated 12 March 2019, this also recommended a range of conditions in relation to air quality be applied to the application should the application be approved.
- 11.18.37 The model used to conduct the assessment is set out within Annex A, of the AQDM has been updated to the latest Emissions Factor Toolkit, the baseline year has been updated from 2017 to 2019 and takes account of the Elmbridge Borough Council (EBC) 2019 monitoring data, the latest year available at the time the technical note was written. The presence of a real time monitoring station close to the development site in addition to passive diffusion tubes site adds to the reliability of the modelled data for nitrogen dioxide. The methodology used remains the same as the 2018 ES and is in line with the approach required for this application.
- 11.18.38 The AQTN confirms that there have been no updates to the significance criteria since the 2018 ES. The update addresses the three key pollutants namely nitrogen dioxide and particulates, PM10 and PM2.5. These pollutants are associated with road traffic hence the modelling is confined to changes in traffic flows associated with the development including the proposed car parking.
- 11.18.39 The air quality modelling follows the same sensitive receptor locations R1 to R7 and proposed receptors within the development P1 to P4 as detailed in Table 9.2 of Chapter 9: Air Quality of the 2018 ES. Namely: R1-R7 - 1 Creek Road, 8 Creek Road, 1 Riverbank, 1 Bridge Road, 62 Bridge Road, 1-47 Queens Reach and 1-11 Bridge Road respectively; P1-P4 - Villas Residential,

Riverside Residential, Hampton Court Way (HCW) Housing Residential and Hotel respectively.

- 11.18.40 Nitrogen Dioxide: The UK annual mean objective level (40ug/m<sup>3</sup>) and 1 hour mean objective level (200ug/m<sup>3</sup>) for nitrogen dioxide at both R1-7 and P1- P4 are met or predicted to be met at these locations. At P4, the hotel the predicted annual mean is 38.2 ug/m<sup>3</sup> close to the objective level of 40ug/m<sup>3</sup>. It is noted that there is no residential accommodation on the ground floor of the hotel.
- 11.18.41 The site lies within the Hampton Court, Air Quality Management Area (AQMA) due to exceedances of the objective levels for nitrogen dioxide as detailed in the Councils 2020 Annual Status Report (ASR). The 2021 both with and without development annual mean concentrations changes are predicted to be 0.3ug/m<sup>3</sup> at a maximum at the locations R1 and R2. The conclusion is that the impact on existing receptors from the development is “negligible” using the IAQM descriptors as detailed in Table 9.8 of the 2018 ES.
- 11.18.42 Particulates (PM10 and PM2.5): The UK annual mean objective for PM10 (40ug/m<sup>3</sup>) are predicted to be met at both R1-7 and P1-4. All existing receptors are predicted to be below the 24 – hour mean for PM10 objective value of 35 days exceeding 50ug/m<sup>3</sup>. The predictions for the annual mean for 2021 at R1-7 with and without development show an increase of 0.1ug/m<sup>3</sup> at three of the seven locations.
- 11.18.43 The UK annual mean objective level for PM2.5 of 25ug/m<sup>3</sup> is predicted to be met at R1 to R7 and P1 to P4. The with and without development at R1-7 show no change. The World Health Organisation (WHO) guideline value for PM2.5 is 10ug/m<sup>3</sup> and this would be predicted to be exceeded at all locations with levels ranging from 11.2 – 11.7ug/m<sup>3</sup> at existing receptors R1-7 and 11.3 to 12.9 ug/m<sup>3</sup> at the proposed onsite receptors P1-P4. Therefore, while levels are compliant with current UK limits, they are just over the WHO guideline value.
- 11.18.44 The conclusion is that the impact on existing receptors from the development is “negligible” using the IAQM descriptors as detailed in Table 9.8 of the 2018 ES.
- 11.18.45 The updated AQTN reaches the same conclusions as the assessment within Chapter 9 of the 2018 ES that the impact of the development remains insignificant and that the onsite receptors are predicted to be within current UK limit values. The Pollution Teams memo of the 12 March 2019 stands, including the recommended air quality conditions should the application be approved.
- 11.18.46 The assessment concluded that the site is suitable for residential use and as such the effect of air pollutant concentrations on future sensitive uses of the Development are insignificant. However Environmental Health Officers consider that the future residents in the Hampton Court Way building would still be exposed to emissions from Hampton Court Way, due to bedrooms and living rooms with openable windows on the street façades, as well as

balconies near to the street. Due to this Environmental Health Officers would recommend a glazing and ventilation scheme on those Hampton Court Way properties that face directly onto Hampton Court Way and those that face to the side of Hampton Court Way.

- 11.18.47 Each local authority in the UK has been carrying out a review and assessment of air quality in their area. This involves measuring air pollution and trying to predict how it will change in the next few years. The aim of the review is to make sure that the national air quality objectives will be achieved throughout the UK by the relevant deadlines. These objectives have been put in place to protect people's health and the environment. If a local authority finds any places where the objectives are not likely to be achieved, it must declare an Air Quality Management Area (AQMA) there. This area could be just one or two streets, or it could be much bigger. Then the local authority will put together a plan to improve the air quality.
- 11.18.48 The proposed site is within an AQMA and as well as this the development is close to the Borough boundary (Hampton Court Bridge) that joins to London Borough of Richmond (LBRUT). The LBRUT have declared the entire borough an AQMA. The LBRUT have confirmed that any increase in traffic is a concern for them.
- 11.18.49 The applicant is proposing works on the junction of Riverbank and Hampton Court Way to help alleviate traffic, improvements in traffic flow have the potential to facilitate an improvement in air quality rather than merely maintaining current levels.
- 11.18.50 Environmental Health asked the applicant if they could conduct a further assessment to demonstrate to us the impact of the road improvement has on air quality. Unfortunately, the additional Air Quality Technical Note, Document Reference WIE13473-107-AQ-TN-1-1-2 (March 2019) submitted to them, did not attempt to quantify this and said simply that in their 'professional judgment', the air quality will be improved.
- 11.18.51 A Council objective for 2019/20 is to improve air quality within the Councils seven AQMA's. Concern has been raised by objectors to the development that the scheme will result in increases in air pollution level which as detailed above is not agreed with by Officers. However, to provide further reassurances and opportunities for betterment Environmental Health Officers request the inclusion of a condition requiring an assessment of the highway improvements and recommendations on how best to optimise the scheme once constructed. The aim of this assessment and recommendations is to improve air quality within the Hampton Court AQMA which could potentially lead to the Council undeclaring this AQMA.
- 11.18.52 The submitted letters of representation raise a number of points with regards to air pollution and the more recent letters with regards to the most recently submitted update from the applicant. Environmental Health responded to these objections and said in the limited time available to them they would made the comments detailed below.

11.18.53 Environmental Health have sent a memo dated 27 April 2021 responding to the applicants updated air quality technical note (AQTN) dated April 2021.

11.18.54 The levels of Nitrogen Dioxide(NO<sub>2</sub>) within the Hampton Court AQMA has been decreasing since the AQMA was declared in 2008. Figure 40 which shows the Trends in Annual Mean NO<sub>2</sub> Concentrations at Hampton Court taken from the published 2020 Annual Status Report (ASR) demonstrates this.

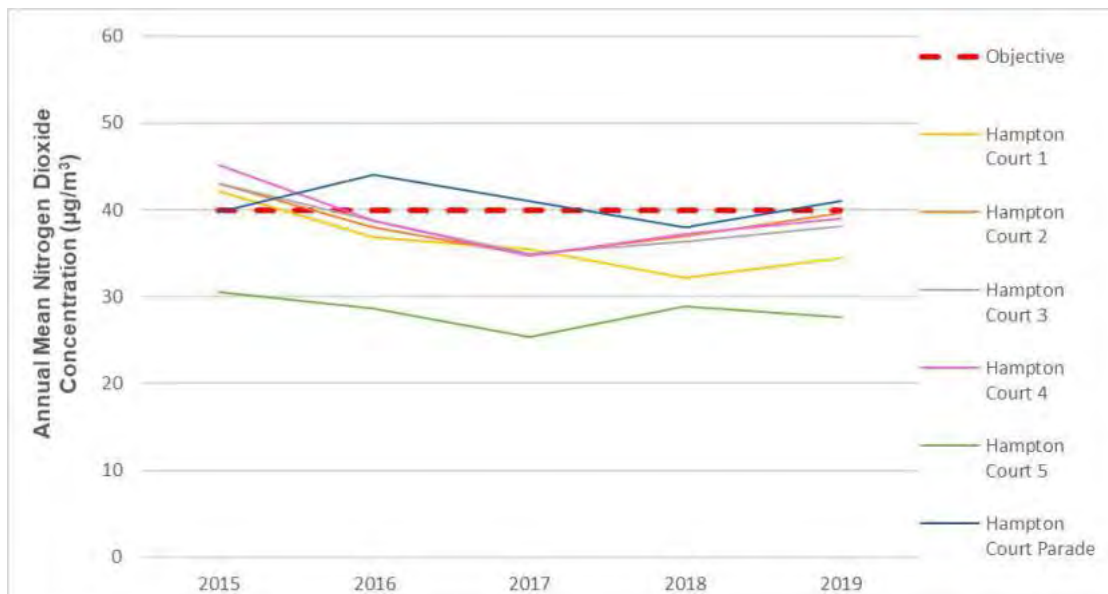


Figure 40: Trends in Annual Mean NO<sub>2</sub> Concentrations at Hampton Court

This has been taken from the published 2020 Annual Status Report.

11.18.55 This trend is seen in other AQMA's within the borough and resulted in Cobham AQMA been revoked last year resulting in the Council now having 6 AQMA. This trend is also reflected nationally.

11.18.56 The real time monitor at Hampton Court recorded an annual mean concentration for NO<sub>2</sub> was 41ug/m<sup>3</sup> just above the objective level of 40ug/m<sup>3</sup> in 2019. The 2021 ASR reporting 2020 monitoring data which will shortly be submitted to DEFRA records the annual mean at the station as 26ug/m<sup>3</sup>. This significant reduction, taking the annual mean below the objective level is in the main due to the Covid-19 pandemic.

11.18.57 In the Councils published draft Air Quality Action Plan (AQAP) the section that estimates future reductions within AQMA found a likely 40% reduction by 2025.

11.18.58 "Figure 3.7 shows that the emission outputs from the EFT demonstrate a predicted decrease in NO<sub>x</sub> emissions between 2019 – 2025 of approximately 40% in Weybridge, Esher and Hampton Court AQMAs. Taking into consideration the emissions reductions required in the AQMAs (Table 3.1), Figure 3.7 therefore suggests that the emissions reductions required



could possibly be achieved by 2025 without the implementation of AQAP measures”

- 11.18.59 Elbridge Council took the lead on a Surrey Air Alliance air quality modelling project that saw Cambridge Environmental Research Consultants establishing a clear baseline for key pollutants (NO<sub>2</sub>, particulates PM<sub>10</sub> and PM<sub>2.5</sub>) across Surrey. The report was completed in 2019 and published in the Councils 2020 ASR. [elmbridge.gov.uk/pollution/local-air-quality](http://elmbridge.gov.uk/pollution/local-air-quality)
- 11.18.60 This found that particulates PM<sub>10</sub> and PM<sub>2.5</sub> levels within Surrey and specifically Elbridge meet objective levels with the exception of some locations close to major roads such as the A3 and M25. The Council has no evidence to support declaring an AQMA's due to exceedances of the UK objective levels for particulates. The CERC report supports this view.
- 11.18.61 While there is no legal requirement for local authorities to monitor particulates, the Council is currently planning to install a roadside particulate monitor within the borough in the next year, subject to the successful outcome from a Community Infrastructure Levy funding application.
- 11.18.62 The Environmental Health memo dated 27 April 2021 states “the updated AQTN reaches the same conclusion as the assessment within Chapter 9 of the 2018 ES that the impact of the development remains insignificant and that the onsite receptors are predicted to be within current UK limit values. The Pollution Teams consultation response of the 12 March 2019 stands, including the recommended air quality conditions should the application be approved.
- 11.18.63 Following this the applicant reviewed the submitted information and confirmed that they had found one typo in respect of the readings in one of the diffusion tubes (37.7µg/m<sup>3</sup> should have read 27.7µg/m<sup>3</sup>). The air quality is therefore actually better than was presented, but the difference is slight. The conclusions in the April 2021 Technical Note (TN) remain unchanged. Nonetheless, the figure has been corrected in Technical Note, now dated June 2021 submitted on 24/06/2021. In Tables A8 and A9 of Annex A (of the Air Quality Assessment Detailed Methodology of the April 2021 Air Quality Technical Note (April 2021 TN)), the 2019 NO<sub>2</sub> monitored concentration at the Hampton Court 5 diffusion tube was presented as 37.7µg/m<sup>3</sup> rather than the correct concentration of 27.7µg/m<sup>3</sup>. This error resulted in the model verification and the results presented in the April 2021 TN to be incorrect – the model verification and results have been updated and as I say, correctly presented in the June 2021 Technical Note (June 2021 TN). The applicant has advised that the use of the correct monitored concentration at the Hampton Court 5 diffusion tube (27.7µg/m<sup>3</sup>) has improved the performance of the model thereby reducing the adjustment factor from 1.7274 to 1.6527. As the model performance has improved, and the adjustment factor reduced, the concentrations shown in Tables 4-6 of the June 2021 TN are slightly lower than the incorrect results presented in the 2021 TN. The changes to the results are slight and do not affect the conclusions set out in the April 2021 TN.

- 11.18.64 Environmental Health have been consulted on the amended technical note and have confirmed that the updated data point when inputted into the modelling software has resulted in a set of updated predictions to levels of NO<sub>2</sub> and particulates PM<sub>10</sub> and PM<sub>2.5</sub>. The differences between these levels when compared to those in the April TN are minimal. Environmental Health agree with the applicant's assessment that the effect of the Development on local air quality remains as that presented in the 2018 Environmental Statement, as insignificant.
- 11.18.65 When a development occurs within the air quality management areas, the Council requires mitigation. Environmental Health Officers state that ideally, the development would be car free as the site has a highly sustainable transport network available to the future residents. Some mitigation such as resident car clubs etc. have already been addressed in other documents such as the Travel Plan. The overprovision of parking on this development would further add to the air quality burden. They would therefore recommend a reduction in car parking.
- 11.18.66 It is recognised that a reduction in car parking on the application site could reduce the reliance on individual car use and therefore potentially reduce air pollution in the locality, however this must be weighed in the balance with the local need for parking and the Elmbridge Parking Standards which are discussed in more detail in paragraphs 11.13.1-11.13.23. A high level of objection has been received against the development due to the level of parking on the site and the public would prefer to see an increase in parking on the site. Due to the level of objection, Officers have not sought a reduction in car parking on the application site in light of the fact that it has been demonstrated that the proposed development would not increase air pollution levels in the area and further conditions are recommended to provide betterment in the long term.
- 11.18.67 Environmental Health Officers recommend pre-commencement conditions relating to fresh air ventilation to habitable rooms, CHP plant emissions, a travel plan to minimise car use and details of electric vehicle charging points. A post completion condition is recommended for further air quality studies of the proposed highway improvement scheme as discussed above. Therefore, it is considered that the proposal complies with Policy DM5 of the Development Management Plan in relation to air quality.

#### Contaminated Land

- 11.18.68 Concern has been raised in submitted letters of representation about contamination issues on the existing site.
- 11.18.69 The Council's Contaminated Land Officer has reviewed the information in Chapter 12 'Ground Conditions and associated figures and documents' of the submitted ES and has confirmed that they consider that the site poses potential significant risks under the proposed future use as a result of current ground conditions and the associated uncertainty. As a result, in relation to Contamination they have recommended a pre-commencement condition

11.18.70 The EA have also reviewed the application with regards to Ground Water and Contaminated land and have confirmed that they are satisfied that the site probably has low risk. They note however in section 12.58 that additional site investigation works will be carried out following demolition. Given the previous use as railway land the proposed development would be acceptable subject to a planning condition relating to securing a remediation strategy if contamination is found during the works.

11.18.71 The pre-commencement condition recommended by the Contaminated Land Officer together with the condition recommended by the EA would ensure that the proposed development would not result in harm to the future occupiers and would also ensure that the proposed development does not contribute to or is not put at unacceptable risk from, or adversely affected by unacceptable levels of water pollution from previously unidentified contaminated sources at the development site. The proposal is considered to comply with the requirement of policy DM5 of the Development Management Plan in relation to land contamination.

### **11.19 Financial Contributions**

11.19.1 Section 70 subsection 2 of the Town and Country Planning Act 1990 (as amended) states that any local financial considerations are a matter to which local planning authorities must have regard to in determining planning applications; as far as they are material for the application. The weight to be attached to these considerations is a matter for the Council.

11.19.2 The New Homes Bonus is a grant paid by central government to local councils for increasing the number of homes and their use. The New Homes Bonus is paid each year for 4 years. It is based on the amount of extra Council Tax revenue raised for new-build homes, conversions and long-term empty homes brought back into use. There is also an extra payment for providing affordable homes. The New Homes Bonus Scheme Grant Determination for 2021/22 is approximately £461,774.

11.19.3 Local financial considerations are defined as grants from Government or sums payable to the authority under the Community Infrastructure Levy (CIL). This means that the New Homes Bonus is capable of being a material consideration where relevant. In the current case, the approval of the application would mean that the New Homes Bonus would be payable for the net increase in dwellings from this development. However, the weight to be accorded to this is not of itself likely to affect the overall planning balance in this case.

### **11.20 Community Infrastructure Levy (CIL)**

11.20.1 The proposed development is liable for CIL. The applicant has provided the relevant forms in accordance with the relevant regulations. The proposed development would require a CIL payment of £1,661,919.64 subject to indexation.

11.20.2 Concern has been raised in submitted letters of representation about the impact of the development and increased number of users on local infrastructure and community services which are already strained. The applicant would be required to pay a Community Infrastructure Levy which would provide money towards the local infrastructure and community facilities where necessary. Improvements to highway infrastructure which are specific to the development are to be secured through the permission.

## **11.21 Equality Act 2010**

11.21.1 Section 149 of the places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or "PSED").

11.21.2 The proposed development provides a level access to all of the doorways and whilst lifts are relied on for access to the Villa apartments all of the apartments would be accessible for those with reduced mobility. The public realm space to the front of the site would also have level routes through it with clear legibility of the space so as to not disadvantage its users.

11.21.3 The development would retain access to public transport with an aim to improve those facilities which support this transport hub. The proposal includes disabled parking and lift access to the platforms as well as level access from the street.

11.21.4 The proposal includes commercial uses in the form of retail, café and hotel uses. Concern has been raised that the competition arising from these uses may disadvantage businesses in the nearby area. Officers support the increase in employment uses in the locality together with the services they would provide to the Borough. Officers consider that business competition of the scale proposed is not considered to contravene the requirements of the Equality Act 2010.

## **12. Matters Raised in Representations**

12.1 The proposed development would not be accessible to Fire Engines – the Fire Service was consulted on the application and they stated that the proposal would be assessed under the Building Regulations. The developer has provided an additional tracking diagram which confirms that the underground car park would be accessible for Fire Engines and the development confirms they would comply with the necessary Building Regulations.

12.2 Disruption and disturbance during the construction phase – whilst some disruption is commonplace during a development there are recommended planning conditions relating to the construction phase in order to minimise this disruption where possible.

- 12.3 The development is lacking in ecological/ green design features and renewable energy – the development should be built to the highest ecological standards. The submitted Energy Statement is misleading – Sustainable construction methods and design features are incorporated into Building Regulations and therefore an assessment of the development sustainability with regards to energy efficiency and the use of CHP will be considered at that stage if planning permission is granted. The proposed development is considered to provide sufficient green spaces and would not cause significant harm to the local environment or ecology and therefore is considered to be acceptable in this regard from a planning perspective.
- 12.4 The Council refused the previous application so should refuse this one. Other applications have been refused in the area for lesser developments. The development will set a precedent for future development in the area – Each planning application is considered on its individual merits taking into account the Development Plan documents and other material considerations. These vary over time and between sites and therefore no planning application should be refused or permitted solely because of a previously determined planning application.
- 12.5 Concern the hotel will be turned into residential units – Further planning permission would be required for a change of use from a hotel to residential units.
- 12.6 The proposed apartments will not meet the identified housing need as they will be too expensive – as detailed in the report above, the proposed development would contribute to meeting the identified housing need which is for housing across the range of values.
- 12.7 Claims about the applicants including their intentions and financial status – The claims made about the applicant and their financial status are not a material planning consideration
- 12.8 Lack of public consultation/ methods used in public consultation and gaining letters of support – the applicant undertook a public consultation. The Local Authority do not have any policies on how developers should undertake public consultations.
- 12.9 Sewerage and the local systems being over capacity – Thames Water have commented on the application. Connections to local sewage infrastructure will be submitted to Building Regulations
- 12.10 Alternative suggestions for the use of the site or the design of the proposal – the Council has a statutory duty to determine registered planning applications on their merits.
- 12.11 Unrealistic CGI's and misleading application documents – it is acknowledged that CGI's do not always depict a development how it will appear in reality once constructed. As assessment of the proposal is made using the scaled drawings and technical documents and site visits. Officers consider the

submitted document to be sufficient to allow the determination of the application.

- 12.12 Comments regarding the Council supporting the application due to financial gain – the Local Planning Authority has a statutory duty to determine registered planning applications in an unbiased manner. The financial implications of the development relating to the New Homes bonus, Affordable Housing Contributions and CIL are set out above.
- 12.13 Financial compensation to locals – there is no mechanism for this within the planning system. The unevidenced claimed impact of the proposed development on property values is not a material consideration
- 12.14 Will Elmbridge Borough Council undertake due diligence if this project is to go ahead – Elmbridge Borough Council will carry out its statutory duties set out in the Government legislation.
- 12.15 Terrorism and safeguarding – the Police Safeguarding Team have commented on the planning application and recommended a planning condition.
- 12.16 Elmbridge Borough Council should ensure that 2008/1600 is extinguished – this is not considered reasonable. The implementation of the current proposal would mean the extant permission could not be implemented anyway and therefore would serve to extinguish that permission in effect.
- 12.17 A restrictive covenant should apply to both the height and any further development on the open space – this would not be reasonable under planning policy as further development of these open spaces would require planning permission and any application would be assessed on its individual merits at the time.
- 12.18 Other planning matters raised in letters of representation have been addressed within the remit of the report above.

### **13. Summary of the report**

- 13.1 The proposed development would facilitate the comprehensive redevelopment of this site to a mixed use and would make an efficient use of this underutilised site in a sustainable location in the settlement area. The proposal under consideration here provides 39 x 1 bed units, 54 x 2 bed units and 4 x 3 bed units of which the AMR acknowledges that there is an identified need for this type of housing. As such the proposed mix of housing sizes is acceptable. The proposed development would therefore accord with the requirements of Policy CS1 and CS19 of the Core Strategy 2011 and Policy DM10 of the Development Management Plan and para. 122a of the revised NPPF 2019. This is considered to carry significant positive weight as a material consideration.
- 13.2 The proposed development would provide 12 affordable housing units of intermediate shared ownership which represents an affordable housing

contribution of 11.6%. The financial viability of the proposed development is discussed within the above report. Whilst this proposal does demonstrate a challenging viability position, following consideration of the submitted Financial Viability Assessment, the proposed development is considered to comply with the requirements of policy CS21 subject to the submission of a S106 agreement to secure the affordable housing provision together with an early and late review mechanism. This would weigh positively in the planning balance, however at the time of writing this report no legal agreement had been received and therefore this would constitute a reason for refusal for this application.

- 13.3 In terms of the layout of the proposed development, it would have a mix of commercial and residential uses with active frontage onto the Riverside and Hampton Court Way. The inclusion of the hotel on the site would support the tourism in this location. The site would have clearly defined accesses and good legibility. The proposed development is considered to enhance the public realm and would provide a clear distinction between public and private spaces. It would enhance the use of the train station site and the public use of the river frontage and improve facilities for visitors of Hampton Court Palace and Hampton Court Station. The Villas are considered to increase the vibrancy and vitality of the boundary of the site with Cigarette Island Park. The layout of the site and mix of uses are considered to comply with the requirements of policy DM3 and DM13 of the Development Management Plan and policies CS7, CS17 and CS24 of the Core Strategy. This would weigh positively in the planning balance.
- 13.4 The height and massing of the buildings has been assessed in light of the character of the surrounding area. The scale and massing of the buildings across the site are considered to be too high and the bulk and massing excessive in relation to the character of the area. The proposed riverside building in combination with the attached Villas would be in close proximity to the river and would create an imposing feature on the waterfront which is considered to have an adverse impact on the openness of the river's setting and the character of the area. The massing and design of the proposal is considered to result in a dominant and imposing development which would form a hard edge against the existing green space of the park.
- 13.5 The proposed Hampton Court Way building would be located hard up against the pavement edge and the sheer massing of the development and its unrelenting position against the pavement is uncharacteristic of this view and would be visually detrimental to the character of the area. The design and materials for the proposed building which are detailed below are not considered to significantly break up the visual bulk of this building.
- 13.6 The architecture and design of the buildings are not considered to be of such outstanding quality to overcome the excessive and dominant bulk and massing. Furthermore, the height and mass of the buildings are not considered to relate to the massing of the train station building and would appear dominant and overbearing on the existing structures. Overall, the development has a harmful impact on all, but one (Viewpoint 8) of the identified views. This impact is worse in views where the development is seen

against the existing townscape. As you move away from the development and the wider setting of the existing townscape is revealed, the proposed scale, massing and design become contextually evident and it is then that they appear most at odds with the existing and established character. The proposal by reason of its height, bulk, massing and design would be contrary to policies DM2 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy. This would carry significant negative weight in the planning balance.

- 13.7 The submitted information relating to tree protection on the application site has been considered together with the proposed landscaping and planting of 31 trees on site. A further public benefit of the proposed development is the applicants offer to secure a contribution of £25,000 through a S106 agreement for future improvement and maintenance of Cigarette Island Park which includes a number of trees. The proposal is considered to accord with policy DM6 of the Development Management Plan with regards to trees and landscaping. The contribution to green space in Cigarette Island Park is considered to weigh positively in the planning balance, however a legal agreement has not been received to secure this contribution at the time this report was written.
- 13.8 The Townscape Analysis concludes that the proposed development would have a harmful impact on all, but one (Viewpoint 8) of the identified views. The impact is worse where the development is seen against the existing townscape. As you move away from the development and the wider setting of the existing townscape is revealed, the proposed scale, massing and design become contextually evident and it is then that they appear most at odds with the existing and established character. The proposed development is considered to be contrary to policies DM2, DM12 and DM13 of the Development Management Plan 2015 and policies CS7, CS12 and CS17 of the Core Strategy 2011 the Design and Character Supplementary Planning Document 2012 and the National Planning Policy Framework 2019 in this regard. As highlighted in Viewpoint 8 there are benefits associated with the development, notably the improved public realm, removal of the existing hoardings and the additional vitality that would be created. These benefits must be weighed into the planning balance.
- 13.9 The heritage analysis concludes that the proposed development would result in less than substantial harm to Hampton Court Palace and its gardens which are Grade I listed and of international importance and to Hampton Court Bridge which is Grade II listed. The development would impact on the setting of the listed buildings through the increased scale and massing which is considered to be excessive and contrary to policies DM2, DM12 and DM13 of the Development Management Plan and policies CS7, CS12 and CS17 of the Core Strategy. Due to the international importance of the Palace and its gardens the overall impact has great weight in the planning balance.
- 13.10 The assessment considers the impact of the development on the Hampton Court Registered Park and Gardens. The assessment found that there would be harm to its setting contrary to policy DM12 of the Development Management Plan.



- 13.11 The proposed development would represent a significant increase in the mass of the buildings surrounding the Railway Station building. This increase is considered to harm the setting of the building and the understanding of its origins as a building set within a railway complex contrary to policy DM12 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy.
- 13.12 With regards to the impact on the Conservation Areas, the proposed development is considered to cause harm to the character and appearance of the East Molesey Kent Town Conservation Area by way of its height, massing and siting. The proposed development would therefore be contrary to policies DM12 of the Development Management Plan and CS7 and CS17 of the Core Strategy.
- 13.13 With regards to the Kent Town Conservation Area the setting of the station building, especially when viewed in viewpoint 10 is harmed contrary to policy DM12 of the Development Management Plan. However, it is acknowledged that the development would enhance the sense of place around the locality, including the provision of new public realm and the resolution of a number of the negative features identified within the Conservation Area appraisal which is supported by the Brief and by policy DM12 of the Development Management Plan.
- 13.14 The Hampton Court Conservation Area includes Hampton Court Palace. The development site lies on the far western boundary of the area, but outside of its boundary. Whilst, in the context of the overall Conservation Area the development represents a small area of the conservation areas setting, it would adversely impact on the setting and significance of Hampton Court Palace contrary to policy DM12 of the Development Management Plan and policies CS7 and CS17 of the Core Strategy
- 13.15 The analysis of the impact on the Character Areas has concluded that all of the areas that are closest to the development would be adversely affected, baring Character Area 5, where the benefits have outweighed the harm. These assessments have concluded that the Townscape of the locality would be harmed if the proposed development were erected. The proposal is considered to be contrary to policy DM12 of the Development Management Plan CS7 and CS17 of the Core Strategy.
- 13.16 With regards to below ground Heritage Assets, a pre-commencement condition relating to archaeological investigation work has been recommended Surrey County Council. At this stage the development has not be found to cause harm to existing archaeology. Subject to planning conditions the proposal is considered to comply with policy DM12 of the Development Management Plan in this regard.
- 13.17 Officers assessment of the internal layout and daylight and sunlight levels conclude that the proposal would provide a good standard of accommodation of its occupants and users in accordance with policies DM2 and DM10 of the Development Management Plan. The proposal subject to planning conditions

could also provide suitable waste storage and collection facilities in accordance with policy DM8 of the Development Management Plan.

- 13.18 Surrey County Council Highways Authority have assessed the application and confirmed that, subject to the imposition of planning conditions and securing details of highway improvements through a S106 agreement, the proposed development would not lead to highway safety or capacity issues. The trips generated by the site amount to a minimal increase compared to the existing levels of traffic on the road. The changes to the highway layout would significantly improve the current situation with particular attention paid to vulnerable road users - cyclists and pedestrians. With regards to car parking on the site, both the Highways Authority and Elmbridge Environmental Health Officers consider there to be an overprovision of parking due to the sustainable location of this site. However, on-site parking provision is a matter for the Local Planning Authority to consider. Officers have considered the submitted parking information together with letters of representation and considers that the proposed development would provide a suitable level of parking in this sustainable location to support the different users as well as provide public car parking. Subject to the highway improvements being secured through a S106 and the recommended planning conditions set out in the report and consultation response from Surrey County Council the proposal would be considered to accord with policy DM7 of the Development Management Plan. However, at the time the report was written the S106 agreement had not been received and therefore this would constitute a reason for refusal for the application.
- 13.19 An assessment of the impact of the proposed development on the amenities of the neighbouring properties is set out within the report. It is concluded that the proposed development would not result in a significant loss of light to the properties in Hampton Court Way. The proposed separation distance is large enough that the proposed development would not have a significantly dominant or overbearing impact, nor would it result in any significant loss of privacy to those properties. The proposal is therefore considered to comply with the requirements of policy DM2 of the Development Management Plan in this regard.
- 13.20 The impact of the development on ecology including protected species, veteran trees and the adjacent rivers has been considered in consultation with Surrey Wildlife Trust and Surrey Bat Group. The proposed development was considered to comply with the requirements of policy CS15 of the Core Strategy and DM21 of the Development Management Plan in this regard
- 13.21 Following extensive consultation with the EA the flooding elements of this proposal are considered to meet the requirements of the Sequential and Exception Tests. The proposal is not considered to result in increased flood risk in line with policy CS26 and would provide suitable flood resistance and reliance measures together with suitable flood escape plan. The proposal would provide suitable sustainable drainage which would meet the requirements of the NPPF, its accompanying PPG and Technical Standards. Subject to planning conditions, the proposed development is considered to accord with Core Strategy policy CS26.

13.22 Environmental Health have considered the matters of noise and vibration, contaminated land and air pollution and have concluded that subject to a number of planning conditions the proposal would be acceptable and comply with the requirements of policy DM5 of the Development Management Plan.

## 14. **Planning Balance**

14.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

14.2 In accordance with Policy DM1 of the Elmbridge Development Management Plan, when considering development proposals, the LPA will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and set out in paragraph 11 (where that presumption is applicable).

14.3 Sections 66 and 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 states there is a “strong presumption” against the grant of planning permission where it would cause harm to a heritage asset. Any harm to the significance of a heritage asset must be given considerable importance and weight.

14.4 The above summary of the report demonstrates that by way of its bulk, massing and design and the impact on heritage assets the proposal does not comply with the development plan and therefore it is for Officers to consider whether there are material considerations which weigh in to the planning balance which would indicate otherwise such as, the heritage benefits, the housing benefits or the economic and public benefits.

14.5 The heritage analysis identified few heritage benefits from the proposal. The main heritage benefit identified were to limited viewpoints around the application site. With regards to Hampton Court Palace there are benefits to the Palace in the form of the views created across the Thames when approaching from the south / railway station and the improvements to the public realm around the development, however these are insufficient to outweigh the harm identified to the setting of the Palace.

14.6 With regards to Hampton Court Bridge the development is considered to improve the approach when closer (adjacent to the station building, similar to Viewpoint 8), where the significance of the Bridge is better revealed due to the new public realm improvements. However, harm is still found to the setting of the bridge from other viewpoints and therefore overall, the benefits only lessen the level of harm to the overall setting of the bridge to moderate and overall harm is still found to occur.

14.7 Heritage benefits were also identified to the East Molesey Kent Town Conservation Area in the form of the removal of the existing hoarding and the increase in vitality, plus the improvements to the views across the water of

Hampton Court and Hampton Court Bridge. These benefits are considered to lessen the impact of the development, but overall, the impact of the development is still considered to be harmful to the character of the Conservation Area.

- 14.8 The final heritage benefit identified is to Cigarette Island Park which is considered of local importance. The development would improve the usability of the green space and therefore whilst the development will affect this area it is not considered to be overly harmful.
- 14.9 Overall the identified heritage benefits are considered to carry little weight in the overall planning balance as the benefits are to very limited view points and overall the proposal is considered to result in harm to the majority of the heritage assets as detailed in the report which is considered to carry great weight in the planning balance.
- 14.10 The proposed development would deliver benefit to housing in the Borough in the form of 12 affordable homes and the delivery of 31 x one bed homes, 54 x two bed homes and 4 x three bed homes which would contribute towards Elmbridge's identified housing need. This would carry significant weight as a planning benefit.
- 14.11 There are a number of economic benefits that would arise from the proposed development. These are:
- The creation of job opportunities - through the provision of retail, hotel and café uses - for local residents to work locally
  - The strengthening of the economic base of East Molesey and delivery of qualitative improvements to the retail offer through the small supermarket and café, together with the hotel;
  - The generation through construction of an estimated 297 years of temporary construction employment, which equates to 29 full time equivalent construction jobs;
  - The provision, at operational stage of some 47 – 127 net additional jobs, depending upon the end occupiers of the retail, café and hotel space;
  - The generation of additional expenditure both from those working within the commercial space and from those living in the new homes, with a net additional expenditure spend within the Borough of around £1.7 million;
  - The generation of additional Business Rates and Council Tax revenue on an annual basis; and
  - The contribution of over £2.1m to the Borough CIL, to fund a wide range of infrastructure improvements, with additional funds for improvements to Cigarette Island Park and other matters also secured through a S106.
- 14.12 Other public benefits that Officers consider would arise from the proposal are as follows:
- The release of the previously developed brownfield land (site of the former Jolly and permitted hotel) as an attractive new landscaped public square as one exits the station and on the approach route to Hampton Court Palace.

- The creation of a new, landscaped route linking Cigarette Island Park with Hampton Court Way
- Reduction in congestion and improved highway safety as a result of the highway works that form part of the proposal and which are entirely funded by it. The proposed works include removing the gyratory, controlling the key junctions and re-landscaping the verges. The offsite highway improvements are agreed by Surrey County Council;
- The contribution of £25,000 towards improvements in Cigarette Island Park.
- The provision of secure, well-lit car parking spaces for station users that will be subject by CCTV, and the introduction of both dedicated disabled bays and electric charging facilities.

14.13 The proposed development does represent an improvement over the extant permission in terms of the mix of uses and the layout of the development with regards to its impact on adjacent heritage assets. However as previously stated, the extant permission is considered to carry only some limited weight and therefore would not add significant weight to justifying a development which would cause harm to the heritage assets.

14.14 The above assessment of heritage assets identifies harm to a number of significant heritage assets. The summary table which sets out the heritage assets, viewpoints and character areas that are adversely affected can be found on page 134. The harm has all been categorised as 'less than substantial' (NPPF, paragraph 196), except in the case of the Locally Listed buildings as harm in their case is considered as a balanced judgement (NPPF, paragraph 197). Paragraph 194 of the NPPF requires "clear and convincing justification" for any harm to a heritage asset. 'Great weight' (Paragraph 193, NPPF) must be attributed to the conservation of heritage assets and therefore the balance weighs heavily in their favour. Sections 66 and 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 means that there is a "strong presumption" against the grant of planning permission where it would cause harm to a heritage asset. In order for the works to be considered favourably substantial public and/ or heritage benefits must be provided that outweigh the harm and the requirement to preserve. However, a tilted balance must be applied, giving the assessed degree of harm to the heritage asset "considerable importance and weight".

14.15 Following the consideration of the above public benefits it is necessary to consider whether the public benefits outweigh the identified heritage harms. As detailed in the above report there is very little heritage benefit arising from the proposal and the benefits that are provided are outweighed by the greater harm that the development would cause by reason of its height, bulk, massing and design. Officers acknowledge that public benefits would arise, however again these would be limited and would not have such a significantly beneficial impact on the wider area to justify overcoming the harm to the heritage assets.

14.16 Whilst the identified harm is restricted to a small area within which the application sits this area has historically been green space and since that time has always remained predominately free from any substantial buildings. This accords with the origins of Hampton Court Palace. The development would

urbanise this area which in turn would have a detrimental impact on the setting of the Palace. Furthermore, the development would form the backdrop of all of the views from the Palace across the river, which in Officers view would be harmful and would remain so forever. Harm is also identified to the setting of Hampton Court Bridge the character of the Conservation Areas and the locally listed train station. Whilst there are some advantages which have been considered in the heritage balance, these benefits are not considered to outweigh the large number of heritage assets that would be harmed and the magnitude of that harm.

- 14.17 Unless the public benefits clearly and convincingly outweigh the less than substantial harm which must be given considerable importance and weight to, then Section 16 of the NPPF and Development Management Plan policy DM12 provide a clear policy reason for refusing the application.
- 14.18 The assessment has identified that the proposed development would result in less than substantial harm to heritage assets which is given great weight in the planning balance. Therefore, the presumption in favour of sustainable development and the tilted balance applied under para 11(d) of the NPPF is disapplied as detailed in Footnote 6 as the application of policies in the Framework that protect designated heritage assets provides a clear reason for refusing the proposed development. Whilst it is acknowledged the Elmbridge cannot demonstrate a 5-year housing land supply, and the provision of housing on the site is still considered to have significant weight as a planning benefit, this does not outweigh the harm caused to the designated heritage assets and the character of the area.
- 14.19 As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004, the decision on a planning application should be made in accordance with the development plan unless material consideration(s) indicate otherwise. In considering Section 38(6) the proposal conflicts with the development plan and the material considerations do not indicate otherwise.

## **15. Recommendation**

### **Refuse planning permission for the following reasons:**

1. The proposed development by reason of its excessive height, bulk, massing and design is considered to create an imposing and dominant development which is considered to be out of keeping with and harmful to the character of the area and the openness of the riverside and the adjacent green space in Cigarette Island Park. Furthermore, the height and mass of the buildings are not considered to relate to the massing of the train station building and would appear dominant and overbearing on the existing structures. The proposal is therefore considered to be contrary to policies DM2, DM12 and DM13 of the Development Management Plan 2015, policies CS7, CS12 and CS17 of the Core Strategy 2011, the Design and Character Supplementary Planning Document 2012 and the NPPF.
2. The proposed development is considered to cause harm to heritage assets on and around the application site including Hampton Court Palace and Registered

Parks and Gardens, Hampton Court Bridge, Hampton Court Station and the Conservation Areas. The large number of heritage assets that would be harmed and the magnitude of that harm is not considered to be outweighed by public benefit. The proposed development is therefore contrary to policy DM12 of the Development Management Plan 2015, policies CS7 and CS17 of the Core Strategy 2015 and the NPPF.

3. The proposed development, by reason of the lack of a completed legal agreement in relation to the required affordable housing contribution, including an early review and late review mechanism, fails to provide the necessary contribution towards affordable housing contrary to the requirements of policy CS21 of the Core Strategy 2011 and the Development Contributions Supplementary Planning Document 2020.
4. The proposed development, by reason of the lack of a completed legal agreement in relation to the highway alterations and improvements, fails to secure the reconfiguration of Hampton Court Way from Hampton Court Bridge near the River Ember Bridge as shown on the illustrative plan no. CIV16694CSA950047 together with the detailed design of these improvements and further safety audits, Travel Plan together with necessary monitoring fee, the provision of a car club with 3 electric vehicles and the provisions of a new bus layby in River Bank and the relocation of the two bus stops on Creek Road. As such, the proposed development would result in adverse highway and transport implications contrary to the aims of policy CS25 of the Core Strategy 2011, policy DM7 of the Development Management Plan 2015 and the NPPF.

**Planning Committee – 13 July 2021 – Updates**

| <b>AGENDA ITEM</b> | <b>APPLICATION REF &amp; SITE ADDRESS</b>  | <b>LATE LETTERS &amp; OFFICER RESPONSE</b>  |
|--------------------|--|---|
| 4(a)               | 2018/3810<br>Jolly Boatman and Hampton Court Station Redevelopment Area, Hampton Court Way, East Molesey | <p>3 additional submissions have been received from Hampton Court Rescue Campaign raising the following summarised concerns:</p> <p>Viability and Affordable Housing</p> <ul style="list-style-type: none"> <li>• Further details of development management fees and cost of works to the station should be requested prior to determination.</li> <li>• Concern over how successful early and late review mechanism would be due to further costs associated with the site.</li> <li>• Concern that the refurbishment of the station would come at a cost of further affordable housing, also concern that if the scheme ran into a loss the station works would not be funded or would be compromised to the detriment of Hampton Court Palace.</li> <li>• The viability assessment should be updated. The Committee do not have an accurate and current view on profitability and should not grant permission for development which is unviable and would not be implemented. Further information should be provided on their forecast profit based on their current forecast financials.</li> <li>• There is nothing stopping Network Rail selling the car park in the future. Would this asset sale add to the affordable housing contribution? The asset value should be reflected in any affordable housing contribution.</li> <li>• The profit figures in the update do not reflect the costs increases stated by the agent.</li> </ul> <p>Officer comment:</p> <p>Officers have considered the submitted Financial Viability Assessment in section 11.8.2 of the Committee report. The submitted information was</p> |



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|  |  | <p>considered sufficient to allow the consideration of the planning application. The weight given to the refurbishments to the train station are considered in paragraph 11.10.14.7 of the Committee report.</p> <p>It is not possible to predict the future of the site and the early and late review mechanism would be applied to this development appropriately to secure any additional financial contribution towards affordable housing that may arise from additional profit.</p> <p>Parking</p> <p>The submission on parking contained a consideration of the Committee report and a number of points of dispute which are as follows:</p> <ul style="list-style-type: none"><li>• Parking in the station car park has always been listed on Hampton Court Palace's website and there is a prominent sign at the station indicating parking for the palace.</li><li>• Thames Ditton has a large council car park in close proximity to the station.</li><li>• Zero parking would not be acceptable due to the location of the development in a small suburban village adjacent to a tourist destination.</li><li>• The surveys were not carried out properly and cannot be given weight</li><li>• There are high levels of parking in the station car park from visitors of the Palace. Overflow parking on the Green is infrequent and heavily regulated.</li><li>• The residential parking permits are no different to a season ticket and will not be manageable with other users. The proposal is contrary to DM7 which seeks spaces to be allocated for permit holders.</li><li>• A parking stress survey should be carried out there is no justification for not doing one.</li><li>• The scheme breaches DM7 with regards to insufficient parking for all users including coach parking and that the standards should not be applied as minimum standards.</li><li>• The site is not a sustainable location and public transport links are poor</li></ul> |
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- Cycle parking is insufficient

Officer comments – Officers acknowledge that users of the Palace may currently be directed to the station for car parking and that the statement regarding this on page 148 of the officer report is incorrect. Officers also acknowledge that there is a car park near Thames Ditton Station.

An assessment of the proposed car parking is provided in paragraph 11.13.11 on page 149 onwards of the Committee report. Officers still consider that the level of parking on the site is appropriate due to the sustainability of this location subject to a parking management plan.

#### Heritage

- A letter was submitted which reiterated previous comments made on heritage matters relating to traffic signals on Hampton Court Bridge. They stress that the traffic signals will require Listed Building Consent and detail the importance of the bridge and why they consider Listed Building Consent is required.
- It is important to assess the impact of the traffic signals and the wider highway scheme applying the legislation correctly and considering the impact on the full set of numerous heritage assets which they form part of.
- The highways scheme should be tested against other highway layout options that may safeguard the historic environment and ensure that congestion is not worsened and preferably eased during peak hours and major events.
- The highways works should not be separated from the main development as they could not be implemented in isolation and therefore should be added to the reason for refusal.

Officer comments:

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|  |  | <p>The heritage analysis within the report does acknowledge that the highway alterations and additions would be visible within the assessment of the impact on Hampton Court Bridge on page 118. However, the highway works would be seen within the context of the existing highway network and therefore are not considered to be harmful to the setting of Hampton Court Bridge, the Conservation Area or the setting of the Locally Listed Buildings. They would be situated a sufficient distance from the Palace that they would not cause harm to its setting. Officers have nothing further to add on the matter of the need for Listed Building consent than that details in paragraph 11.10.17 of the Officer report.</p> <p>Highways</p> <ul style="list-style-type: none"><li>• The highway alterations are of serious concern to objectors</li><li>• If the highway proposals are seen as an “improvement” to the existing failures of the highway network approaching Hampton Court Bridge, and not as a solution to a developers desire to access their site, the public need to be convinced that there will be significant improvements to the traffic flows, travel time delays and accident risks which would amount to a “public benefit”. If these cannot be proven there will be a “public disbenefit” which has not been adequately considered in the planning balance decision.</li><li>• They submit the opinion of a number of transport planners who in summary state that the existing junction is acceptable and that the highway works are only required to facilitate the development not the wider aim of improving traffic flows. Concern is raised that the traffic flows may not be improved. The full opinion of the transport planners can be found in the HCRC submission.</li><li>• Cycle routes are insufficient</li><li>• Pedestrian/cyclist conflict</li><li>• Increased air pollution from idling vehicles</li><li>• Insufficient cycle parking</li></ul> |
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|  |  | <p>Officer comment:</p> <p>The highways scheme was designed following preapplication discussion with SCC Highways to come up with an appropriate solution for the site and this highway junction. It would not be appropriate at this stage in the determination to ask the applicant to consider alternative schemes.</p> <p>The cycle parking detailed in the proposed application could be secured by a planning condition.</p> |
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Mr James Owens  
JLL  
30 Warwick Street  
London  
W1B 5NH

Town and Country Planning Act 1990

**Refusal of Planning Permission**

- Proposal:** Development to provide 97 residential units, a hotel (84 bedrooms) and retail units (within use classes A1, A2 and/or A3) together with access, station interchange, car parking, servicing, new public realm, landscaping and other associated works following demolition of some existing buildings and structures on site including Hampton Court Motors.
- Applicant:** Alexpo Ltd and Network Rail Infrastructure Ltd
- Location:** Jolly Boatman and Hampton Court Station Redevelopment Area Hampton Court Way East Molesey Surrey KT8 9AE

The decision of Elmbridge Borough Council on the application registered as valid by the Council on 04/01/2019 and described above is to **Refuse Permission** for the reasons (if any) set out below:

Reasons

- 1 The proposed development by reason of its layout and footprint together with the excessive height, bulk, massing and design is considered to create an imposing and dominant development which is considered to be out of keeping with and harmful to the character of the area and the openness and amenity value of the riverside and the adjacent green space in Cigarette Island Park. Furthermore, the height and mass of the buildings are not considered to relate to the massing of the train station building and would appear dominant and overbearing on the existing structures. The proposal is therefore considered to be contrary to policies DM2, DM12 and DM13 of the Development Management Plan 2015, policies CS7, CS12, CS14 and CS17 of the Core Strategy 2011 the Design and Character Supplementary Planning Document 2012, East Molesey (Kent Town) Conservation Area Character Appraisal and Management Proposals 2011, and the NPPF.
- 2 The proposed development is considered to cause harm to numerous heritage assets on and around the application site of both local, national and international significance including Hampton Court Palace and its Registered Parks and Gardens, Hampton Court and the Ember Bridges, Hampton Court Station, Cigarette Island Park, the River Thames and the Conservation Areas. The large number of heritage assets that would be harmed and the magnitude of that harm is not considered to be outweighed by public benefit. The proposed development is therefore contrary to policy DM12 of the Development Management Plan 2015, policies CS7, CS12, CS14 and CS17 of the Core Strategy 2011, East Molesey (Kent Town) Conservation Area Character Appraisal and Management

## Refusal

Application No: 2018/3810

Type: Full Application

Proposals 2011, and the NPPF.

- 3 The proposed development, by reason of the lack of a completed legal agreement in relation to the required affordable housing contribution, including an early review and late review mechanism, fails to provide the necessary contribution towards affordable housing contrary to the requirements of Policy CS21 of the Core Strategy 2011 and the Development Contributions Supplementary Planning Document 2020.
- 4 The proposed development, by reason of the lack of a completed legal agreement in relation to the highway alterations and improvements, fails to secure the reconfiguration of Hampton Court Way from Hampton Court Bridge near the River Ember Bridge as shown on the illustrative plan no. CIV16694CSA950047 together with the detailed design of these improvements and further safety audits, Travel Plan together with necessary monitoring fee, the provision of a car club with 3 electric vehicles and the provisions of a new bus layby in River Bank and the relocation of the two bus stops on Creek Road. As such, the proposed development would result in adverse highway and transport implications contrary to the aims of Policy CS25 of the Elmbridge Core Strategy 2011, Policy DM7 of the Development Management Plan 2015 and the NPPF.

Informative(s): (if applicable)

- 1 **Community Infrastructure Levy (Refusal)**  
Notwithstanding the above reason(s) for refusal the applicant is advised that the local planning authority has adopted the Community Infrastructure Levy (CIL) on any planning application determined after 01 April 2013. This is a non-negotiable land charge based on per sqm of development (internal gross floorspace). In the event of an appeal situation this planning application will likely be liable for CIL, further details of which can be found on the council's website at [elmbridge.gov.uk/planning/cil-process](http://elmbridge.gov.uk/planning/cil-process)

Please read the important notes attached.



Kim Tagliarini  
Head of Planning Services

Date: 19 July 2021

### Important notes

#### Approval of details reserved by conditions

Attention is drawn to the conditions that have been attached to the planning permission together with the reason for their imposition. Particular attention is drawn to those conditions that require the submission of further information to the local planning authority and its approval of such further information before building works commence. In the case of a reserved matters approval you must also take account of the conditions imposed on the outline permission.

## Refusal

Application No: 2018/3810

Type: Full Application

### Appeals to the Secretary of State

If you are aggrieved by a decision to refuse permission or to grant it subject to conditions you can appeal to the Planning Inspectorate. Appeals can be made using a form which you can get online at: [gov.uk/planning-inspectorate](http://gov.uk/planning-inspectorate). If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

Appeals must be made on the correct form relating to the type of application you submitted. Information provided as part of the appeal process will be published online. Only the applicant has the right of appeal. In some circumstances the Planning Inspectorate may refuse to consider an appeal.

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If you want to appeal against your local planning authority's decision and it doesn't fall into any of the above categories, then you must do so within 6 months of the date of this notice.
- The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by the Secretary of State.
- If you intend to submit an appeal that you would like examined by inquiry, then you must notify the local planning authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are at: [gov.uk/planning-inspectorate](http://gov.uk/planning-inspectorate)

## **Refusal**

Application No: 2018/3810

Type: Full Application

### **Purchase notices**

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council requiring them to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 (as amended).

### **Positive and proactive engagement**

The National Planning Policy Framework requires local planning authorities to work with the applicant in a positive and proactive manner to resolve problems before the application is submitted and to foster the delivery of sustainable development. This requirement is met within Elmbridge through the availability of pre-application advice.

### **Local plan**

The above decision makes reference to the Core Strategy and the Development Management Plan. Should you wish to read the wording and content of any of these policies, the documents can be viewed online at: [elmbridge.gov.uk/planning/planning-policy](http://elmbridge.gov.uk/planning/planning-policy)

### **Site notice**

In the interests of protecting the character of the environment, please remove any planning notice that may have been displayed on the site of the application.



## PLANNING COMMITTEE

### REPORT OF A MEETING HELD ON 13 JULY 2021

For information: Applications determined by the Planning Committee, subject to any variations set out below. Those decisions marked \*\*\* were made contrary to the officer recommendation for the reasons minuted.

| Application No     | Location  | Decision  |
|--------------------|---|---|
| 4 (a)<br>2018/3810 | Jolly Boatman and Hampton Court Station Redevelopment Area, Hampton Court Way, East Molesey | <p>Refused</p> <p>The Planning Committee, having reviewed the relevant material considerations determined that the proposed development would also be harmful by reason of the footprint and layout. They raised additional concerns with regards to overshadowing and harm to Cigarette Island Park and requested the addition of policy CS14 and the Conservation Area Management Plan. Concern was also raised that the river and Cigarette Island Park were not expressly mentioned in the second reason for refusal. The officers recommendation was accepted subject to the above additions to the reasons for refusal.</p> <p>Accordingly, the Planning Committee resolved to refuse planning permission for the following reasons:</p> <ol style="list-style-type: none"><li>1. The proposed development by reason of its <b>layout and footprint together with the</b> excessive height, bulk, massing and design, is considered to create an imposing and dominant development which is considered to be out of keeping with and harmful to the character of the area, and the openness <b>and amenity value</b> of the riverside and the adjacent green space in Cigarette Island Park. Furthermore, the height and mass of the buildings are not considered to relate to the massing of the train station building and would appear dominant and overbearing on the existing structures. The proposal is therefore considered to be contrary to policies DM2, DM12 and DM13 of the Development Management</li></ol> |

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|  |  | <p>Plan 2015, policies CS7, CS12, <b>CS14</b>, and CS17 of the Core Strategy 2011, the Design and Character Supplementary Planning Document 2012, <b>East Molesey (Kent Town) Conservation Area Character Appraisal and Management Proposals 2011</b>, and the NPPF.</p> <p>2. The proposed development is considered to cause harm to <b>numerous</b> heritage assets on and around the application site of <b>both local, national and international significance</b>, including Hampton Court Palace and <b>its</b> Registered Parks and Gardens, Hampton Court <b>and the Ember Bridges</b>, Hampton Court Station, <b>Cigarette Island Park, the River Thames</b> and the Conservation Areas. The large number of heritage assets that would be harmed and the magnitude of that harm is not considered to be outweighed by the public benefit. The proposed development is therefore contrary to policy DM12 of the Development Management Plan 2015, policies CS7, <b>CS12, CS14</b>, and CS17 of the Core Strategy 2011, <b>East Molesey (Kent Town) Conservation Area Character Appraisal and Management Proposals 2011</b>, and the NPPF.</p> <p>3. The proposed development, by reason of the lack of a completed legal agreement in relation to the required affordable housing contribution, including an early review and late review mechanism, fails to provide the necessary contribution towards affordable housing contrary to the requirements of Policy CS21 of the Core Strategy 2011 and the Development</p> |
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|  |  | <p>Contributions Supplementary Planning Document 2020.</p> <p>4. The proposed development, by reason of the lack of a completed legal agreement in relation to the highway alterations and improvements, fails to secure the reconfiguration of Hampton Court Way from Hampton Court Bridge near the River Ember Bridge as shown on the illustrative plan no. CIV16694CSA950047 together with the detailed design of these improvements and further safety audits, Travel Plan together with necessary monitoring fee, the provision of a car club with 3 electric vehicles and the provisions of a new bus layby in River Bank and the relocation of the two bus stops on Creek Road. As such, the proposed development would result in an adverse highway and transport implications contrary to the aims of policy CS25 of the Elmbridge Core Strategy 2011, policy DM7 of the Development Management Plan 2015 and the NPPF.</p> |
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