APPEAL BY INLAND LTD

THE OLD TELEPHONE EXCHANGE, MASONIC HALL AND ADJOINING LAND, ELMSLEIGH ROAD, STAINES ON THAMES

CLOSING SUBMISSIONS ON BEHALF OF THE APPELLANT

1. In our opening[1] we set out the extensive areas of agreement between the parties before turning to the comparatively narrow issues which remain between the Appellant and the Council – ie the height of the Appeal Scheme and an ill-defined amenity impact on residents from the effects of increased competition for on-street parking to the south of the appeal site. Importantly, the areas of agreement have increased still further as the Inquiry has progressed, so it is worth briefly identifying the key matters where the Council and Appellant agree.

2. The Council accept that they do not have a five-year supply and that therefore the tilted balance of para 11(d) is engaged.[2] Not only is there a significant deficit against the minimum requirement of Government to maintain a 5 year HLS but, the Housing Delivery Test ('HDT') figure shows that the Council have only delivered 50% of the identified housing need. This was rightly accepted by Phillip Hughes ('PH") as a '*serious deficiency*'[3] and there is no action plan in place to address it . The emerging local plan is at a very early stage. This is a local authority which needs housing to come forward urgently – and this is a Site, a Scheme and a developer that can deliver it.

3. The Council also unequivocally accepted that this is not only a Site which was suitable for residential re-development but also one that could include buildings which would be significantly taller than the existing surrounding buildings[4]. While PH contended that the proposed buildings were too high (though without identifying what would comprise an acceptable height) the fact that the Council accept that this Site can, in principle, accommodate residential buildings which are taller than their surroundings is

[1] CD12.1
[2] Statement of Common Ground (CD6.4) paragraph 7.4 and PH XX
[3] PH XX
[4] PH XX

a major concession, since it means that the issue between the party is one of degree and not one of principle.

4. PH also accepted that of the Council's two concerns (design and parking) in the single RfR their primary case was that of design (specifically height). As PH accepted, this means that if the Inspector were to accept the Appellant's case on design, then, even if the Inspector entirely agreed with the Council in relation to parking, then permission should still be granted[5]. The determinative issue in this appeal therefore comes down solely to that of design, and even then, the sole issue relates to height.

5. The other matters of agreement can be dealt with under the respective issues and so we will turn firstly to look at the design/height issue, then at the purported parking issues before finally turning to the overall planning balance.

Design

6. PH clarified that in relation to issues of design the only relevant local policy that is alleged to be breached is Policy EN 1[6], and of the seven criteria only the first, (a), is said to be breached. This means that the Appeal Scheme would also comply with the other six criteria within EN 1. As set out by Simon Slatford ('SS') Policy EN 1 is not conjunctive – it is not required that a proposal meets each of those seven criteria or the entire policy is breached, and it would be possible for a scheme to breach one criterion and yet still be judged to be compliant with EN1(a)[7].

7. However, the Appellant's position is that the Scheme firmly complies with all seven criteria including a). This is a Scheme whose height (which is the only concern of the Councils[8]) is appropriate for the character of the surroundings and will make a positive contribution to the street scene.

8. As was set out in Colin Pullan's ('CP') evidence the critical starting point is that change does not necessarily equal harm – to the contrary change can be positively beneficial in townscape terms. The astonishing position of the LPA is that the effect of the proposals

[5] PH XiC
[6] CD5.2
[7] SS XiC
[8] PH XX and note areas of design agreement at 7.22 of the Statement of Common Ground

is said to be a worsening of the townscape – despite the existing context of the Site and its surroundings.

9. This Site is currently a vacant and disused plot of previously developed land which sits at the heart of Staines Town Centre. The location is, without a doubt, a highly sustainable one and is highly accessible. The only difference between the Council and the Appellant seems to be the word 'highly' – seemingly on the basis that there would be an 11-minute walk to the railway station rather than one which is under 10 minutes.

10. As was admitted by PH this was based on the PTAL scoring which is used for marking the accessibility of sites within London[9], not the outer suburbs. The application of accessibility standards for sites within London is patently not appropriate to sites outside of London – the Appellant cannot be penalised for not being close to a Crossrail station – and the inappropriateness of this is illustrated by the result.

11. It is therefore an odd stance for the LPA to take that a site which sits at the heart of Staines Town Centre, where a resident could practically fall out of bed into shops, cafes and a bus station with a railway station just over 800m away, could not be considered to be "highly" accessible. If this Site is not highly accessible, then it is hard to identify what location in Staines would be. Tellingly, having steadfastly refused to concede the obvious that this this site is "highly" accessible, PH seemed surprised that his position was undermined by the parking standards that he relies upon which described Staines TC has displaying "high" accessibility[10] – little wonder then that he rapidly and rightly then accepted that there are few sites in the Borough which will display higher levels of accessibility[11].

12. The central nature of the Site offers an opportunity not only to prospective residents but to Staines itself. This is a part of the town centre that is going through a period of regeneration and transition. The street scene and the townscape are the process of changing for the better, and as part of that regeneration the use of taller buildings on

[9] PH XX and response to ISP Questions
[10] Parking Standards SPG (CD5.6) paragraph 5.
[11] PH XX

this Site is an obvious opportunity for enhancement rather than a matter of mitigating harm – sandwiched as it is at the back end of the Elmsleigh Shopping Centre, adjacent to the 'shuttered up' Tothill Car Park, and just behind the empty Debenhams building. There could be few more obvious locations for beneficial redevelopment in the Southeast, let alone Spelthorne.

13. A point that has been made by both the Council and by members of the public is that this Appeal Scheme would involve the erection of the tallest building in Staines. The response of CP was '*fine*'[12] and that there was no problem in doing this.

14. In fact, the provision of tall buildings in this location allows for the creation of a landmark for this part of the town centre – marking out and re-defining the centre and highlighting the social and cultural community hub of Staines[13]. Such marking of key elements in the townscape by buildings of stature is a well-recognised architectural device, which this scheme will patently fulfil. It is critical to bear in mind that the Council accept that, apart from their height these are well designed buildings. It has never been the Council's case that these are 'ugly' buildings being imposed into Staines. There is no issue as to the detailed design, the footprint or even the materials[14] – all of which are endorsed. It is even agreed that the proposed works around the buildings will benefit this under-loved part of the town centre. For the Council to run a case of active harm compared to the current baseline betrays a paucity of thinking on the part of the LPA since on any reasonable view the proposals are an obvious and significant improvement.

15. As CP forcefully set out it is at the heart of a town centre that you expect to find tall buildings. This is a point that is illustrated by the current 'gateway' developments that Staines has, and has consented. CP referred to the Bridge Street Scheme (12 storeys) which, although lapsed, was permitted by the Council as a gateway marker to the Town from Staines Bridge, just as the Northern Cluster marks that part of the TC around Charter Square.

[12] CP XiC
[13] CP Re-EXam
[14] Statement of Common Ground – paragraph 7.22

16. This was equally the view of PH in his evidence. Although there was some dispute between the parties (and the Inspector will have his own note) PH did accepted in a question put to him by Mr Grant that Bridge Street had to be viewed '*in the context of its gateway function*[15]*'* and accepted in XX that the Charter Square Cluster (13 storeys) is also a '*gateway'*.

17. The point is that Staines is currently a town where tall buildings are being permitted as part of the centre. If one has tall buildings around the edge of a town centre, whether one terms them as creating gateways or marking entries into the TC, then it would be entirely appropriate (and in fact expected) to have taller buildings at the heart of the TC rather than just at the edges. As set out by CP it would be '*odd to have taller buildings at outside nodes*.'[16]. To return to the castle analogy – one would not expect to have a castle gate marked out but then to have no keep. It would be illogical.

18. This is a highly accessible town centre location which is currently detracting from the town centre and out of keeping with the taller buildings which currently provide a gateway function to the centre. It is entirely appropriate therefore to put the highest building in Staines in this location.

19. The impact of doing this would be an enhancement rather than a detraction. This was illustrated by CP evidence working through the various viewpoints that had been agreed between the parties.

20. The alleged highest level of impact was, according to PH, from VP1 in the Townscape, Heritage and Visual Appraisal ('TVA')[17]. This was the view taken from the Thames path to the south of the river. However as set out by CP the Scheme would enhance this view rather than detract from it. The kinetic experience that one would have walking down the river would be a view of buildings at significant distance from the viewer. The viewer would not be confronting with the Appeal Scheme on the waterfront but instead look across the wide expanse of the Thames to the intervening landscape of Memorial Gardens, then Thames Street, then the car park before finally finding the

[15] PH XiC
[16] CP XiC
[17] CD1.14 – page 27

Scheme sitting within the wider townscape. To allege that the effect would be dominant upon the viewer is risible.

21. A wider townscape that could soon include the Debenhams and Thames Side House developments – which although not determined – do illustrate the direction of travel in terms of the type and scale of development this context is attracting. But the scheme stands on its own merits even if those sites are redeveloped at a lower height. Even so it remains profoundly difficult to understand how it is that views of the Council's undefined 'acceptable taller building' would be an enhancement of these views, but that the appeal proposals harm them.

22. It is also worth mentioning VP8 which was taken from Staines Bridge[18]. This is a Viewpoint that is taken from within the conservation area and so reflects views from within and over the CA. However, as PH accepted there is no suggestion at all that the Scheme would cause any harm to the CA or any heritage asset (designated or not)[19]. The result of this must be that the Council view the Scheme as blending into the conservation area – and yet they continue to maintain that there is an unspecified townscape impact. This was described by CP as a '*peculiar position*'[20] and one that remains unexplained by the Council at the end of this Inquiry. Thus, on the Council's case views from within the CA result in no harm to the special character and appearance of the CA, whilst also giving rise to an unacceptable impact upon the townscape. It is a case that seeks to face in two different directions at the same time.

23. Overall CP's clear and compelling evidence was that the Appeal Scheme would, when viewed in the wider context of Staines, provide an attractive sense of place that will reinforce and enhance the emerging character of Staines and its street scene, and that the height of the scheme would be appropriate resulting in two high quality new buildings in a part of the TC which sorely needs it.

24. This was a position which it will be recalled was unequivocally supported originally by Officers[21].

[18] CD1.18, page 55
[19] PH XX
[20] CP XiC
[21] CD3.1

25. In response to this, PH contended that the Appeal Scheme was too tall but was unable to identify what the appropriate height would be, though it could be higher than its neighbours. All other elements of the design were agreed to be acceptable. Given the narrow scope of difference it is surprising that PH maintained his view that the effect on VP1 as being 'moderate to major' adverse visual effect[22], when a taller building, which was a bit lower would presumably be an enhancement on his thesis.

26. This rating is however only half a step down from the top end of adverse visual effect for what are accepted to be well designed buildings, on derelict previously developed land, which is accepted as being suitable (in theory) for residential buildings which are taller than their surroundings. It will be a matter for the Inspector as to whether this is a justifiable position to take but it should be noted that this position is in stark contrast not only to the TVA and CP but also the Council's own officers.

27. Overall, it is firmly submitted the Appellant's scheme is well considered and is one that will fit into the transforming context of Staines and provide a well-designed landmark in keeping with the gateway development which has been permitted by the Council. It is entirely consistent with EN1 a) and entirely appropriate for this Site, and when it is built it is the Appellant's firm view that PH will take a different view to that which has been expressed at this inquiry.

Car Parking

28. The second issue between the parties is that of car parking. It is not the more common concerns that either there will be unacceptable impact on highway safety or that there would be severe residual impacts on the road network (per NPPF 111). It is also agreed that the Council's case stands or falls on the issue of design, so ultimately this is very much a secondary part of its case. There is little wonder that this is the case since it is, with respect, hopeless.

29. The Council are apparently concerned by the specific 'amenity' impact on nearby residents caused by the purported risk of the Scheme making it more difficult for them

[22] PH 6.28

to park, because they will be competing with additional cars to park on the streets close to their homes. This would only affect those households where they did not have off-street parking which was accepted by PH to be approximately 1/3rd of households on the relevant streets[23].

30. The factual root of the Council's concern is that the Appellant is proposing 48 parking spaces which is noted to be below the number required by the Council's Parking Standards 2011[24].

31. The policy basis for this is Policy CC3 which was part of the 2009 Core Strategy[25]. This requires that '*appropriate provision to be made for off street parking in development proposals in accordance with its* ***maximum*** *parking standards'*. There are a number of issues with this.

32. CC3 pre-dates the NPPF and the requirement of maximum parking standards is patently out of step with the NPPF. The Council do not have "any maximum parking standards" and therefore there is nothing that a prospective developer can be 'in accordance' with. Breach of the policy within the four corners of the wording itself is simply not possible, especially for a scheme which provides less than the only standards that the Council has published.

33. PH attempted to circumvent these issues by arguing that there was only a *'degree of inconsistency'* with national policy but this somehow did not mean the policy was out of date[26]. Nevertheless, he argued that the policy should be applied flexibly according to up-to-date 'practices' – this a reference to the Council's Parking Standards (updated 2011) which incorporate a Position Statement of the Council which says that little weight should be given to the word 'maximum'.

34. With respect to PH this approach is not logical or consistent with how the Courts have set out that policy should be interpreted. Where a policy is inconsistent with the NPPF then it should be considered to be out of date. A Council cannot then amend their policy

[23] PH XX
[24] CD5.6
[25] CD5.2
[26] PH XX

through the publication of position statements without going through the proper process of adopting new policy. It cannot say that it will just ignore the words of a policy which is out of date by reinterpreting the policy in a manner which the words of the policy can't logically bear but which better coincides with national policy. With respect, there can be no doubt that policy must be interpreted objectively in accordance with the language used. As set out by the Supreme Court in **Tesco Stores Ltd v Dundee City Council** [2012] UKSC 13:

> *Nevertheless, planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean.*

35. The Council's approach to CC3 is that of Humpty Dumpty – whereby the word maximum should be ignored. Instead, the only proper conclusion can be that the Council's 12-year-old policy is out of date and should be given limited weight. It is not breached by these proposals other than in Lord Read's world of "Humpty Dumpty"

36. Because of this obvious problem with their policy case the Council have necessarily placed emphasis on their 2011 Parking Standards[27]. This was a document which PH said should carry '*significant weight*'[28]. However, the starting point is that the 2011 Parking Standard is Supplementary Planning Guidance – it is not development plan policy, and it cannot amend policy – and as the title suggests it is (at best) 'supplementary' to policy. Worse, it is not a Local Development Document under the 2004 Act, and it is not even an SPD, which would have had to be consulted upon and being subject to a mandatory SA process.

37. The Parking Standards are of some little antiquity. The original Parking Standards were adopted in 2001. They were then updated following the Position Statement in 2011. The original standards were consulted upon, but it still remains unclear if the 2011 update was also the subject of consultation. The notation on the front, suggests the amendment was not following consultation, but by the fiat of the Cabinet. The Council could have carried out a further review of the Standards but have not done so. These

[27] CD5.6
[28] PH XX

factors cumulatively led to Simon Slatford ('SS') giving the Parking Standards very limited weight as a document – far from the significant weight attributed by PH.

38. Worse still, the minimum standards approach (even with exceptions) is agreed to be out of step with NPPF. To be blunt the LPA's policy case in this regard was to be charitable – a complete dog's breakfast.

39. Even if the 2011 Parking Standards did nonetheless carry weight, then the Appellant's proposal in fact accords with the flexible approach set out within it. Paragraph 5 i) of Part 1 expressly allows for a reduction of parking requirements within the town centre where public transport accessibility is high. It goes onto set out five criteria which are relevant factors to this question.

40. It was accepted by PH that there was no dispute between the parties on criterion b) to e)[29] and that the only real issue between the parties was the distance and quality of walk to the railway station. The Inspector indicated that he had already walked this route but as set out by Phil Jones ('PJ") the route is just over 800m and good quality, well-lit and overlooked. It was also the case (as a) concerns bus stations as well as train) that the Site was very well located for bus services which were further planned to be improved by Surrey County Council. The Appeal Scheme clearly meets criterion a) and its location would, based on the 2011 Parking Standards, justify a reduction in the number of parking spaces. Furthermore, as the regeneration of this part of the TC progresses then the quality of the route will also improve, but it is already sufficiently convenient that there will be an obvious propensity for people to walk to the station – indeed the site's proximity to the bus and train stations as well as sitting in the heart of the TC are likely to be prime attractors to draw people into living here.

41. It is an oddly old-fashioned view that Councillors have taken, to refuse the scheme because, despite the site's credentials, that they believe that people will bring their cars to the scheme anyway.

42. The above is an examination of the local policy context – but to address the substantive issues raised by the Council of an amenity impact due to competition for parking spaces

[29] PH XX

there are two main arguments that can be made. The primary argument is that the issue will simply not occur, and the secondary is if it did then there is a solution provided to protect existing residents. In addition, there is the overarching scepticism as to what exactly is the land use harm anyway which arises as a result of an existing resident one day finding that they aren't able to park immediately outside their home. With respect – so what? – how on earth is that land use harm sufficient to warrant the withholding of PP, and PH's concession that this not a determinative issue – is palpably realistic, therefore.

43. The primary argument that this issue will not occur is due to multiple factors that will reduce demand for car parking spaces from new residents of the Appeal Scheme.

44. The first point is that the Appeal Scheme is being promoted as a car-free development in the heart of a highly accessible town centre. It will be attractive to people whose lifestyle will be suitable to live there – which will be those who either do not own or do not need a car. Therefore, of the potential 206 units sold one needs to discount those who will be buying them expressly because of their car-free lifestyle. As set out by PJ this is the approach of "decide and provide" rather than "predict and provide" – the provision of 48 spaces for 206 units is a purposeful nudge to promote a car free lifestyle (as was recognised as being effective in research carried out by TFL[30]). Indeed, it is telling that the Council required Charter Sq phase 1A to provide a much higher proportion of car parking spaces[31] – which on its own evidence are simply not being used. How on earth is that consistent with using land efficiently in accordance with national policy?

45. The second point is that there may then be those who, despite being told of the unsuitability of car ownership, have brought a unit at the Scheme but still own a car. Some of them might get one of the 48 car parking spaces, for which there is no security of tenure, but would again be discounted from causing parking conflict with existing residents for the time when they are no doubt realising that retention of car ownership is unwarranted. The 48 spaces would be managed and leased out on rolling three-month

[30] PJ Proof – 4.4.2
[31] CD10.1

leases which would promote them as short term rather than long term options, specifically to facilitate the opportunity to have time to divest themselves of their cars[32].

46. Of those car owners who do not have a car parking space there is then both a carrot and a stick for them to give up their cars.

47. The carrot comes in the form of various positive 'nudges' that are provided for them to sell their car. This may be from the Easit discounts for non-car travel or it may be from the provision of a Car Club which allows for the flexible renting of cars on a short term basis. The Car Club would be operated by Enterprise who are currently setting up operations in Staines. While the initial offer is only two spaces it is important to bear in mind that this does not equate to only two cars on offer. If a space is left empty, then Enterprise will bring in another car to fill it and being a commercial enterprise, they will increase capacity to meet demand. The availability of Car Club will be a powerful nudge to those few car obstinate occupiers who are reticent about giving up their cars.

48. The stick comes in the lack of nearby available on street parking. As set out by PJ the usual walking distance for those searching for a car parking spot is 200 to 300 metres from their destination. However, at the Council request, the Appellant has looked to a maximum of ten minutes of walking – ie further than would usually be walked.

49. What the analysis shows[33] is that there is no real on street parking opportunity within the immediate vicinity of the Site and only limited parking opportunities further away. What this means is that for a resident of the Appeal Scheme to park their car on on-street parking would involve walking a considerable distance and leaving their car well away from their home. This is something that residents are loathe to do for several reasons – from lack of convenience to a concern about the security of a valuable asset being in unsupervised on-street parking.

50. The overall effect of this is there will be several 'filters' to take into account when accessing the potential of the Scheme to cause parking stress to existing residents. It would be wrong to suggest that all 206 units will contribute to the stress of on-street

[32] PJ XiC
[33] PJ Proof 4.6.1

parking. Firstly, one must exclude those residents (who the Scheme is expressly marketed to) who have a car-free lifestyle. Then, of those residents who bring cars, we must exclude those who obtain one of the 48 spaces, and those who are nudged out of car ownership either due to the benefits provided by the developer, or the hassle of having to park their car a considerable distance from their flat in an unsecure location.

51. Once we have whittled down to those potential new residents who may, despite it all, continue to attempt to park on-street, we also must discount those existing residents who do not require on-street parking (of which it was agreed to be approximately two-thirds).

52. What this means is that the impact that the Council consider to partly warrant refusal is a sub-set of a sub-set hypothetically impacting a third of residents. The Appellant's primary case is that this is not a justifiable concern.

53. However even if it were, which is strongly disputed, then the Appellant has provided the solution. The Appellant has offered to help fund a residents parking scheme if the County Council believe that it is required. This is a common solution to these concerns which is recognised in the Surrey Transport Plan Parking Strategy[34] and even referenced in the Council's 2011 Parking Standards[35].

54. This is very much a last resort and offered as a safety net as the Appellant does not believe that the Council have justified this concern either factually or in policy terms. But there is an easy solution if the Inspector is concerned and therefore the alleged issues by the Council should not be a bar to permission being granted.

55. It is worth ending this section on a wider contextual point about car-free development in Staines. A point that emerged through the Inquiry was the comparison of car free households in the 2011 Census to those in the recently consented residential flat schemes.

[34] 3.2.2
[35] Para 1 c) under General Notes on Page 8

56. Relying on PH Appendix 3 it was shown that in 2011 in Staines Ward the total percentage of car free households was around 37%. This figure can then be compared with Figure 4.1 of PJ Proof which sets out the level of car free dwellings allowed for in the consented developments in Staines Town Centre. This figure of 339 means that they are cumulatively providing 29% car free dwellings. Even when our scheme is added (providing an additional 158 car free units) this would still only bring the overall percentage to 32% - which ignores the 6 - 9%discount (accepted by PH[36]) that needs to be applied to the 2011 data to reflect falling levels car ownership.

57. The wider contextual point is this. When development in Staines is looked at as a totality there is already an oversupply of parking spaces in Staines Ward. There is no suggestion that the other consented developments would have led to an unacceptable amenity impact on nearby residents – and the Council have not justified why it will occur here.

58. Overall, the Council's concern about an amenity impact from on-street parking conflict between new and existing residents is not justified or evidenced. It fails to recognise the car-free principle which is a critical part of the Appeal Scheme.

Planning Balance and Conclusion

59. There are clear and substantial benefits which arise from the Appeal Scheme. It will provide much needed market housing in a context where the Council does not have a five-year housing land supply and on the HDT has only delivered 50% of their need. As explained by SS this points to two separate issues – not only are the Council failing on their present requirement they also have historically underdelivered.

60. There is then the future concern that currently the Inspector can have little confidence that the Council can bring forward development to meet their housing need in the near future. Not only is the emerging local plan at an early stage but the Council have taken the active step in proclaiming a moratorium on any development on Council owned land. This reflects a Council that is attempting to freeze time until the local plan comes

[36] PH XX

forward – but that stance is in direct tension to their requirement of national policy to delivery homes to meet need.

61. This is a scheme on brownfield land in the centre of Staines which is being promoted by a residential developer with a proven track record. In a borough such as Spelthorne which is constrained by Green Belt this is a golden opportunity for the Council to help meet their housing need in a sustainable way. The delivery of market housing on the Site should be given significant weight.

62. There is then the further benefit of the provision of affordable homes. As set out in the s.106 the Appellant is providing 34% of the unit as affordable with a review mechanism if the development has not reached a certain stage after 18 months. The provision of affordable housing is always a benefit but in the context of the Council needing 459 affordable homes a year[37] this, as set out by SS, should be given very significant weight

63. There are then the regenerative benefits for the Site itself and Staines Town Centre. SS compelling characterised the Site as '*a shocking piece of urban form'*[38]. This Site lies at the heart of Staines but currently can only be seen as a detractor dominated by concrete, empty space and the back of other properties. It will be replaced by two well designed buildings linked on a podium which have landscape corridors linking the High Street to the Memorial Gardens and the River Thames. This transition will be beneficial not only to residents of the Appeal Scheme but to the wider community of Staines.

64. These are just some of the significant benefits that are recognised and agreed with the Council[39].

65. The Council only alleges two narrow harms. An ill-explained design harm due to the height of the Scheme (rather than any other element of design) and an ill-judged amenity harm due to potential for on-street parking conflict.

66. The Appellant's starting point is that those harms are not justified and to the contrary the development comprises high quality accessible design which patently accords with

[37] CD5.9 page 36
[38] SS XiC
[39] See 7.2 of Statement of Common Ground

the development plan as a whole including EN 1 and CC3. It therefore attracts the presumption from para 11(c) of NPPF.

67. However, if the Inspector were to find that there was some breach with either EN 1 or CC3 then such harm would then have to be given a weight and fed into the overall planning balance which is tilted in favour of the development due to the operation of 11 d).

68. In relation to CC3 it has already been conceded by the Council that a breach of CC3 would not, in isolation, justify refusal. However, it should be noted that even if the Inspector were to accept the Council's position on parking, then it was SS evidence that as a whole CC3 would still be accorded with. Even if it were not, then the out of datedness of the policy would have to be taken into account when ascribing any supposed conflict with the policy (which remains difficult to understand).

69. In relation to EN 1 a) even if the Inspector fully accepted the Council's case then this would still only result in a finding that the Appeal Scheme conflicted with one of the seven criteria of EN 1 and this was solely due to the height of the scheme. The Council accept that they have no other design issues with the Scheme.

70. On that basis the height harm that arises, as per SS evidence, would not be significant and would need to significantly and demonstrable outweigh the various benefits of the scheme such as the delivery of much needed housing and the re-generation of derelict brownfield land in the heart of Staines. Even if the Council is right about the height (and they are patently wrong), it is still hard to see how this could outweigh the benefits of the Scheme and lead to significant and demonstrable harm so as to outweigh the tilted balance.

71. Overall, this is exactly the sort of development that should be being promoted in Staines. It would re-generate the Site to allow it to make a positive contribution to the town centre, fulfil the promise set by the gateway development, and provide a landmark which would help to further characterise and enhance the townscape.

72. It is development that is in accordance with the Council's development plan, the NPPF and for that reason the Inspector is invited to allow this Appeal and grant permission without delay.

Paul G Tucker QC

Piers Riley-Smith

9th December 2021

KINGS CHAMBERS