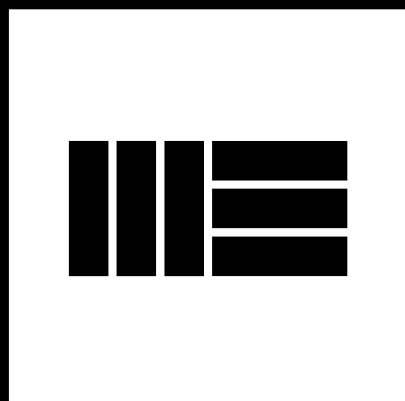


LONDON BOROUGH OF RICHMOND UPON THAMES LOCAL PLAN EXAMINATION

WRITTEN STATEMENT: MAIN MATTER 18

**PREPARED BY MONTAGU EVANS ON BEHALF
OF ST GEORGE PLC & MARKS AND SPENCER**

JUNE 2024



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1.0 INTRODUCTION

- 1.1 Montagu Evans LLP has been instructed by St George Plc (SG) and Marks and Spencer (M&S) to prepare this written statement and participate in the forthcoming examination of the London Borough of Richmond upon Thames's Local Plan (Publication Version) ("Draft Local Plan").
- 1.2 The Landowners have been undertaking pre-application discussions with London Borough of Richmond upon Thames over the period 2022-24 with regards to an emerging masterplan which seeks to bring forward comprehensive residential and retail led redevelopment of the Site, to include a new M&S to replace the existing M&S store. Dialogue between the Landowners is ongoing to agree how best to bring the Site forward.

BACKGROUND

- 1.3 Avison Young and Montagu Evans submitted representations on behalf of St George and Marks and Spencer to Pre-Publication Regulation 18 draft Local Plan in January 2022, and the Richmond Local Plan Regulation 19 Consultation ("the Representations") in July 2023. The purpose of the Representations was to critically assess and provide recommendations to positively influence the drafting of Building Heights - Site Allocation 31; the Place Based Strategy for Kew and draft Policy 45; Affordable Housing and Whole Plan Viability – Policy 11; and other emerging policies including Policy 31 (Views and Vistas).
- 1.4 This Statement outlines SG and M&S' position in relation to policies relating to design, the delivery of high quality places, and tall buildings (Policies 44-46).

SUMMARY

- 1.5 Section 2.0 of this Statement concludes that a tall building policy is justified; however, the drafting of Policy 45: Tall and Mid-Rise Building Zones is requires amendments to be sound and consistent with national policy and the development plan. Recommended amendments to address soundness issues have been provided.

2.0 MAIN MATTER 18: QUESTION 1

1. Are the requirements of the Improving design, delivering beautiful buildings and high-quality places policies justified by appropriate available evidence, having regard to national guidance, and local context, and meeting the requirements of the London Plan?

2.1 No. The 2021 London Plan approach to tall buildings in Policy D9 is broadly to:

- seek Local Plan positive designation of areas appropriate for tall buildings; and
- allow proposals where they pass the D9(C) filters (confirmed in the *Master Brewer* case).

2.2 The 2004 Planning and Compulsory Purchase Act requires general conformity with this overarching spatial strategy, which is intended to achieve housing supply in a housing market area suffering extreme housing stress through optimisation of site capacity.

2.3 The Framework approach equally promotes the effective use of land in urban areas (Paras 8, 11(a)) and criteria-based approach to design excellence and placemaking.

2.4 We recognise this approach as being a means of achieving good place-making and increasing housing supply.

2.5 Policies that 'rule out' areas for tall buildings would require a substantial, detailed, evidence base in order to be Justified. The submitted evidence base recognises that this level of assessment has not been undertaken (a point we return to below).

2.6 There are core issues with the alignment between Policy 45 as proposed to be modified and the Framework/ London Plan.

2.7 First, Policy A, C and D limit policy support for tall and mid-rise buildings to the areas identified in the Policies Map. These policy limbs do not recognise the potential, subject to detailed testing, for tall and mid-rise building to come forward on other sites as part of wider transformation and regeneration aspirations. This approach is not consistent with the evidence base (as we return to below and have already set out in the Representations).

2.8 Second, the policy is more restrictive than London Plan Policy D9 and would depart from the Framework because it seeks to prohibit tall buildings over a set height in specific locations without: (i) specific evidence, which is not justified; or (ii) allowance for application of the LP D9(C) filters (which as a result is not in conformity with the London Plan or consistent with the NPPF approach to see effective use of land in urban areas and criteria-based approach to design excellence noted above).

Specific comments on the evidence base relating to Kew Retail Park

2.9 As set out in SG and M&Ss Representations for the Regulation 18 and 19 consultations, we consider the current drafting of Policy 45: Tall and Mid-Rise Building Zones (insofar as they relate to Kew Retail Park and Site Allocation 31: Kew Retail Park, the Place Based Strategy for Kew) are not justified by the evidence base (the *Urban Design Study* [2023]) which supports it.

2.10 Consequently, we consider Policy 45 specifically is unnecessarily restrictive and not consistent with the Framework (including the requirement to be in general conformity with the London Plan).

2.11 To summarise our concerns detailed within the Representations, we highlight the following:

- Further consideration to be taken to the emerging context within identified Character Areas, particularly in relation to the emerging masterplan at Kew Retail Park, which is at an advanced stage of design development and pre-application engagement with LBRuT. We consider that the identified "Probability of Change" of "Medium" (as assessed in the Urban Design Study [2023]) does not reflect the context, nor the draft site allocation.

- A “overly” conservative approach has been taken to the identification of the Kew Retail Park as having a “Medium” sensitivity, which does not reflect the low-quality environment seen across the Site and its negative contribution to the surrounding context.
- Based on the ‘broad-brush’ approach taken throughout the Urban Design Study, specific height recommendations for Tall Building Zones should be amended to be a ranged figure, similar to the approach taken to other Tall Building Zones within the Urban Design Study to provide consistency and flexibility to allow development to meet broader planning objectives.

As stated within the Urban Design Study, a ‘broad brush’ approach has been taken to the assessment, which has been undertaken on a borough-wide scale and is ‘*not intended to be exhaustive or detailed*’ (Page 321). The Urban Design Study also acknowledges that every new development will need to consider the specific context of the plot/ Site, and that all development proposals will need to show further detailed analysis at a specific site scale and should have sensitive consideration of the building’s massing, form, style and materials (Page 321). In relation to Kew Retail Park, therefore, the Study should acknowledge its limitations and clarify that tall buildings (above the prescribed seven storeys, or proposed ranged figures as noted above) could be acceptable with appropriate and contextual detailed design and supported by necessary justification including a Heritage, Townscape and Visual Impact Assessment.

To provide a comparison where such flexibility has already been considered by LBRuT is the Stag Brewery (LPA Reference: 22/0900/OUT). The Officers’ Committee Report noted that ‘*Whilst the site is within a tall building zone, the heights exceed the parameters of the Brief and Urban Design Study 2023, and do not meet elements of Policy D9 of the London Plan. Notwithstanding such, on balance, this is acceptable, with additional height mainly centrally located, scaling down to the perimeters, achieving a suitable relationship with the adjacent townscape...*’. This is a clear example of where flexibility drafting should be employed to allow wider planning objectives to be delivered where a scheme is found to be acceptable. We note such an approach has been taken for Lower Richmond Road, North Sheen (7-8 storeys), Richmond Station Tall Building Zone (7-8 storeys) and Twickenham Station Tall Building Zone (7-9 storeys).

- Further analysis is required for Kew Retail Park, including the testing of an eight-storey development scenario. Visibility of such a scenario as against the recommended height of seven storeys was presented within the Representation. The images illustrated very little difference in the Zone of Theoretical Visibility. Moreover, the facets of a design that can mitigate the impact of scale (articulation of facades; materiality; colour palette; variation in form, height and massing) can all assist creating a high quality place that is acceptable. The simple massing of a masterplan as shown in Figure 439 (Page 378) of the Urban Design Study does not reflect that nuance. The prescription of a single height as set out in Policy 45 A (10) is overly prescriptive and unsupported by evidence.

2. Do the policies provide clear direction as to how a decision maker should react to a development proposal?

- 2.12 In general, we support the drafting and the direction that a decision maker should take when considering a development proposal.
- 2.13 That position is stated here on a without prejudice basis accounting for the criticisms we have of the evidence base drafting of Policy 45 specifically.

3. Do the policies serve a clear purpose, avoiding unnecessary duplication of national policy? Is the wording consistent with national policy?

- 2.14 We consider that Policies 44 and 45 does serve a clear purpose for defining Design Process and Tall and Mid-Rise Building Zones respectively. The policies are not in conformity with the Framework for reasons set out in Question 1 (above) and Question 4 (below).

4. Policy 44 (E) – Design Process - Are the requirements to enter into a PPA; engage with the Richmond Design Review Panel; and provide 3D digital massing models justified by specific local evidence? Are the requirements deliverable?

2.15 To answer this question, we consider each part in turn.

2.16 First, paragraph 46 of the Framework states:

Applicants and local planning authorities should consider the potential for voluntary planning performance agreements, where this might achieve a faster and more effective application process. Planning performance agreements are likely to be needed for applications that are particularly large or complex to determine.

2.17 Policy 44 (C) takes a firmer position by stating that applications for major development “should” be informed by a pre-application process that involves engagement in a planning performance agreement (PPA).

2.18 We support the principle of PPAs to assist the delivery of major applications through the planning process. However, we consider the current drafting of Policy 44 (C) to equate, essentially, to requiring a developer to engage in a PPA which moves beyond the “potential” for a “voluntary” agreement, to a requirement of the pre-application process. Given the costs involved with PPAs, we consider that the policy is not therefore consistent with national policy. Moreover, we cannot see any specific local evidence that supports this change in emphasis between the Framework and the drafting of the local policy.

2.19 Policy 44 (C) (2) requires engagement with the Richmond Design Review Panel. We consider the requirement to use a design review panel to be consistent with Policy 138 of the Framework, and Policy D4 (D) of the London Plan and deliverable. There are, however, a range of different Design Review Panels that applicants can choose to engage with (for example Design South East). In our judgement there is no specific evidence for why an applicant should have to compulsorily engage with the Richmond Design Review Panel as opposed to any other. Of course, LBRuT can emphasise a preference towards their own DRP in the drafting of the policy, but any additional emphasis goes beyond the requirements of the Framework.

2.20 Policy 44 (E) states:

Applicants will be required to provide 3D digital massing models to enable the Council to assess cumulative impact of development where relevant. This could be in a form that accommodates software, such as VU.City. This is required for Tall Building proposals or those located within the protected views and vistas as designated in Policy 31 'Views and Vistas 'and shown in the Policies Map.

2.21 We support the general principle of using 3D technology and virtual city models to inform design development. These are tools that are now commonplace in design and townscape assessments and are commonly discussed during pre-application consultation with local planning authorities across England. The provision of a virtual model is not, however, a mandatory requirement of the pre-application process. Rather, the use of 3D modelling is encouraged and should be used to inform both plan-making and decision-taking. That is the emphasis in Policy D4 (B) of the London Plan which does not include a requirement to share virtual models unlike draft Policy 44 (E).

2.22 The evidence base, namely the Urban Design Study, does not include a requirement to provide massing models. Moreover, it is common that developers use a variety of modelling tools (Vu.City being one) in addition to city models prepared by visualisation specialists with their own bespoke software. Thus, it is not always possible to share virtual models with other parties, not least due to the need to ensure different parties have the ability to read the same file formats (an issue even in Vu.City). Given there is no evidence base, nor a requirement in national policy, we consider that the Policy as currently drafted is not deliverable.

Policy 44 (F) – Design Process - Is the requirement for design codes on all major planning applications justified by specific local evidence?

2.23 It is now recognised that national policy supports the use of design codes to secure design quality and effective community engagement in the design process.

2.24 Specifically, paragraph 134 of the Framework states:

Design guides and codes can be prepared at an area-wide, neighbourhood or sitespecific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents. Landowners and developers may contribute to these exercises, but may also choose to prepare design codes in support of a planning application for sites they wish to develop. Whoever prepares them, all guides and codes should be based on effective community engagement and reflect local aspirations for the development of their area, taking into account the guidance contained in the National Design Guide and the National Model Design Code. These national documents should be used to guide decisions on applications in the absence of locally produced design guides or design codes.

2.25 Draft Policy 44 (F) encourages the use of design codes for large developments of multiple phases, long duration, and outline applications. In our experience, design codes have long been part of the planning process for outline applications and we do not anticipate any particular change in that area of practice. The change in emphasis that is set out in national policy is the application of design codes to a wider range of sites.

2.26 Overall, we support the use of design codes and while there does not appear to be specific local evidence to require them, we recognise the emphasis in national policy.

Policy 45 – Tall and Mid-Rise Buildings - Is the policy consistent with Policy D9 of the London Plan?

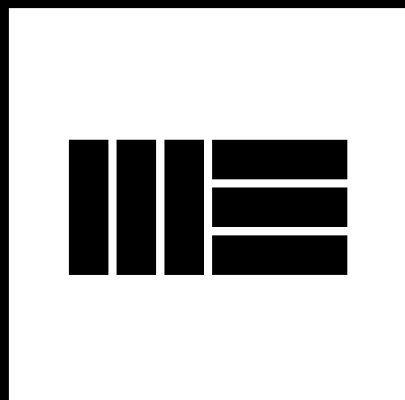
2.27 See answer to Question 1 specifically that Policy 45 is not consistent with Policy D9 of the London Plan.

2.28 Policy 45 is more restrictive and would depart from the Framework because it seeks to prohibit tall buildings over a set height in specific locations without: (i) specific evidence, which is not justified; or (ii) allowance for application of the LP D9(C) filters (which as a result is not in conformity with the London Plan (see Master Brewer) or consistent with the Framework approach to see effective use of land in urban areas and criteria-based approach to design excellence).

2.29 In our judgement the drafting of the policy should be amended for the following reasons:

- i. The evidence base is not comprehensive and the heights proposed have not been subject to environmental testing. Accordingly, their adoption would represent a disproportionate, unjustified, restriction on site capacity contrary to policies in the London Plan, for example D3 and D9, framework policies comprising efficient use of land in sustainable locations;
- ii. The blanket prohibition of tall buildings that are higher than the prescribed maximum threshold would stifle development opportunity, while placing greater pressure on other areas in the borough. The prescribed heights are not supported by the evidence base (for reasons set out in the Representations). To suggest that any height taller than the prescribed height would be inappropriate in principle is unjustified not least because the heights have not been arrived at through appropriate environmental testing. The locations and heights are based on broad criteria.
- iii. The present drafting of Policy 45 is onerous and restrictive, and not consistent with London Plan policy D9 as interpreted by the courts. It is inflexible and should be amended to reflect the environmental testing of specific proposals to have an acceptable heritage, townscape, and visual impact.

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WE CONSIDER OUR CREDENTIALS, HOW WE HAVE STRUCTURED OUR BID AND OUR PROPOSED CHARGING RATES TO BE COMMERCIALY SENSITIVE INFORMATION.
WE REQUEST THAT THESE BE TREATED AS CONFIDENTIAL