

**From:** Owens, James [REDACTED]  
**Sent:** 22 February 2021 10:46  
**To:** Jennifer Margetts <[JMargetts@elmsbridge.gov.uk](mailto:JMargetts@elmsbridge.gov.uk)>  
**Subject:** RE: 2018/3810 Jolly Boatman & Hampton Court Station

Jenny,

Thank you for forwarding the further objections from The Gardens Trust and HCRC last week. In the limited time available, it has not been possible to provide a detailed response, but I hope that the following will be helpful in respect of each of the main topics raised.

#### **Request for additional verified/rendered views**

I note that The Gardens Trust would like the wirelines used to be rendered and for some additional viewpoints to be provided. As I think you know, this is a very substantial task that would take many weeks and in any event is not justified.

What the objector may not appreciate, is that in Heritage, Townscape and Visual Impact Assessments you assess a number of representative views in order to give consideration to the impact of a proposal. There are always an infinite number of possible positions/locations that could be assessed, but it is clearly impossible to assess them all. In this case, your Council asked us to assess eleven views, which it selected - the applicant did not select them. Over half of these viewpoints were from Hampton Court Palace and therefore your Council has a good selection of representative viewpoints in order to inform its consideration.

#### **Future loss of horse chestnuts from Cigarette Island Park**

As you know, your Council owns and manages Cigarette Island Park and therefore is responsible for the future of these trees, not the applicant.

As a living thing, trees change over time. Over the medium and long term, they grow and periodically individual trees will die and be replaced with smaller younger trees. The position is never static and hence nor is the extent of screening they provide. However, there is an even greater effect on screening in the short term, with the changes between the seasons. The Impact Assessment undertaken managed to capture the time when the trees were in bud, before the leaves had come out fully. It therefore shows far more of the proposed development than would be the case in the late spring, summer and autumn. This impact is likely to be more significant than would be the case with an old tree being replaced with a young one, which is what the Gardens Trust is concerned about.

Also relevant to note is that the proposal includes the planting of new trees within the new public square being offered by the proposal. In addition, funding has been offered by the applicant and would be secured by a S106, to fund additional tree planting within Cigarette Island Park.

#### **The South Western Railway Act 1913**

Whilst The Gardens Trust explains that it has only just become aware of the South Western Railway Act 1913 since its last objection, the applicant and your Council has always been aware of it and we discussed it during the pre-application discussions. The scheme has been designed so that it does

not exceed a height of 50ft, measured from the undeveloped land immediately in front of the main station entrance.

In any event, it should be stressed that the 1913 South Western Railway Act is separate legislation that is unconnected to the Town and Country Planning Act. Furthermore, the restriction is not carried across into any part of the Development Plan. As such, it is not a material planning consideration for Elmbridge Borough Council to take into account in its consideration of the planning application. This is no different to other legislation, such as the Building Regulations – the applicant has to comply with it, but is not the responsibility of the Council’s planning team or that of the planning committee.

### **Traffic Signals south of Hampton Court Bridge**

HCRC is suggesting that Listed Building Consent is required for the proposed signals within the highway, that would control south bound traffic coming off the bridge.

The need for Listed Building Consent is set out in Section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that ‘no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would *affect its character* [emphasis added] as a building of special architectural or historic interest, unless the works are authorised’. The words ‘affect its character’ are critical.

The proposed signals will not interfere with the reasoning behind the listing. The adopted highway boundary within which the signals will be installed, is not an integral part of the structure. As such, the signals would not affect the character of the bridge, as a structure of special architectural or historic interest, and therefore the works within the highway boundary do not require Listed Building Consent.

### **Viability Assessment**

HCRC has made further comments on the viability of the development, focusing on the commercial returns of the applicant.

How the applicant assesses any commercial return requirements for their business or makes their own value judgements on risk levels versus how much profit may be available is entirely a matter for them. The commercial requirements and reasoning of applicants approach is not a planning matter nor is it a matter for public disclosure.

The viability study has been agreed between professional valuers. In the context of a planning application for residential the viability study represents one realistic, possible, financial outcome which is used to assess how much affordable housing the scheme can provide and remain viable. With the high costs of this development in providing a new public square, extensive highways works and high quality architecture, it perhaps should not be supporting any affordable housing. However the applicant recognises the political importance of always providing affordable housing in new developments and has included this within the scheme to ensure a proposal that is well balanced with the other benefits the scheme is providing.

HCRC’s “assessments” continue to try and stir up prejudice against the applicant because they are an Isle of Man company. HCRC does not have any rights to insist on more public disclosure beyond the full corporate information which is already publicly available. HCRC’s disingenuous commentary continues to refer to them as “hiding” and is an attempt to create the impression that

the background to the applicant is somehow tainted, which is not the case. The commentary that the company operates in an offshore tax haven is misleading. UK HMRC tax law requires that any profits generated in real estate within the UK are taxed at UK rates. There are no corporate tax benefits from undertaking property development in Isle of Man companies. None of this is however, relevant to determining a planning application.

What is relevant is that the applicant has offered to undertake a late stage review of the viability, working openly with the Council and its advisors. This will use actual costs and actual values. Therefore if the financial position ends up being better than the estimated figures that have been agreed to date, then the Council will be able to secure more affordable housing, either on-site or money for off-site provision. As a result, the Council is entirely protected and it does not really matter if the estimates turn out not to be precisely right – the actual figures will be used.

I hope that helps.

**James Owens**

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