



Application no: 21/00044/FUL

## PLANNING PERMISSION REFUSED

Town and Country Planning Act 1990 (as amended)

To: Mr Peter Tanner

Barton Wilmore  
7 Soho Square  
London  
W1D 3QB

Applicant: Healey Development Solutions  
(Broadway) Ltd

C/O Barton Wilmore  
7 Soho Square  
London  
W1D 3QB

The Council of the Royal Borough of Kingston upon Thames, as the Local Planning Authority under their powers provided by the above legislation, do hereby **REFUSE** planning permission for the development specified in the First Schedule hereto for the reason(s) specified in the Second Schedule.

### FIRST SCHEDULE

**Change of use of the existing 3rd to 22nd floors in Tolworth Tower from office (Use Class B1) to residential (Use Class C3), change of use of the existing 2nd floor from office (Use Class B1) to ancillary amenity space, including a residents gymnasium and lounge (Use Class C3), change of use of existing 1st floor Car Park (sui generis) to create a flexible workspace unit (Dual Use Class C3/E), change of use of part of the existing ground floor undercroft from office (Use Class B1) to create freestanding retail kiosks (Use Class E) with associated external facade alterations and internal refurbishment works to Tolworth Tower;**

**The demolition of the existing retail units fronting Tolworth Broadway and the construction of two new buildings (T2 up to 19 storeys and T3 up to 15 storeys) with residential units, ground floor commercial space (Use Class E) and public plaza; and**

**The reconfiguration of the existing multi-storey car park, vehicle parking and servicing, along with the provision of associated cycle parking, refuse storage, amenity floorspace, landscaping and public realm works (existing M&S, Travelodge and RBK Council Car Park are excluded from the proposals).**

**At Tolworth Tower Tolworth Broadway Tolworth KT6 7EL**

Application valid as of 6th January 2021.

### SECOND SCHEDULE

**Reason(s):**

1. The applicant has failed to demonstrate through the submission of accurate and consistent information that the scheme would be deliverable or that it would provide the maximum reasonable amount of

affordable housing on-site, contrary to Policies H4 and H5 of the London Plan (2021), Policy DM15 of the Kingston Core Strategy (2012), the Mayor's Affordable Housing and Viability SPG (2017) and the NPPF (2019).

2. The applicant has failed to demonstrate through the submission of cogent and consistent evidence or robust justification that there is no quantitative or qualitative demand for the existing employment use of Tolworth Tower as offices, or for a range of alternative employment uses such as smaller and affordable offices. The scheme would also result in a net loss of ground floor commercial space and designated shopping frontages fronting Tolworth Broadway which could adversely impact the viability and vitality of the District Centre. The proposed development is therefore contrary to Policies CS12, DM17 and DM19 of the Kingston Core Strategy (2012) and Policies E1 and E9 of the London Plan (2021).

3. The applicant has failed to robustly demonstrate that the site is unsuitable to provide a minimum of 30% of dwellings as 3 or more bedroom units and no robust arguments or evidence has been submitted to demonstrate that a policy compliant provision of 3 or more bedroom units would be unviable. The proposed development would fail to contribute towards meeting the objectively assessed need within the Borough for 3 bedroom units. The proposed development is therefore contrary to Policy DM13 of the Kingston Core Strategy (2012).

4. The proposed tall buildings would conflict with the locational requirements of Policy D9(B) of the London Plan (2021) and the scale of the proposed tall buildings of the proposed design would compromise the comfort and enjoyment of the proposed private and communal open spaces within the proposed development contrary to Policy D9(3) of the London Plan (2021).

5. Through the submission of conflicting and insufficient information, the applicant has failed to demonstrate that the proposed development would provide sufficient levels of private and communal amenity space and child playspace. It has further not been robustly demonstrated that the proposed amenity space would be of a good quality given the incomplete assessment in relation to sunlight and overshadowing and the wind comfort levels of "standing" for areas of communal and private amenity space. The proposed development is therefore contrary to Policies DM10 and DM13 of the Kingston Core Strategy (2012), Policies D6 and S4 of the London Plan (2021) and the Kingston Residential Design SPD (2013).

6. Due to the identified inaccuracies with the submitted information in relation to car parking numbers across the site, Officers are unable to conclude that the proposed level of car parking is justified and that the proposed mitigation measures would be appropriate. No mechanism has been provided to secure the financial contribution towards the funding of a potential future Controlled Parking Zone (or to preclude residents from applying for car parking permits within any such designated zone) or Car Club membership for residents. It has therefore not been demonstrated that the proposed development would not increase on-street car parking stress and would not harm highway safety, contrary to paragraph 109 of the NPPF (2019) and Policies DM9 and DM10 of the Kingston Core Strategy (2012).

7. Insufficient information has been submitted to demonstrate that the proposed development would not increase flood risk on-site or elsewhere, contrary to the NPPF (2019), Policy SI 13 of the London Plan (2021) and Policy DM4 of the Kingston Core Strategy (2012).

8. The proposed development has failed to adopt a site wide approach towards heating and additional overheating measures and no legal agreement has been completed to secure the necessary net-zero carbon off-set payment. A robust Circular Economy Statement has not been submitted and the proposed development would fail to provide the minimum Urban Greening Factor score of 0.4. The proposed development would therefore be contrary to Policies SI2, SI7 and G5 of the London Plan (2021).

9. The applicant has failed to submit a robust Fire Statement which addresses the requirements of Policy D12 of the London Plan (2021) to the satisfaction of the Greater London Authority. It has therefore not been demonstrated that the proposed development would achieve the highest standards of fire safety, contrary to Policy D12 of the London Plan (2021).

10. No mechanism has been submitted by the applicant to secure the required financial contribution to mitigate the site specific primary healthcare requirements that would arise from the proposed development. The proposal is therefore contrary to Policies IMP 3 and CS13 of the Kingston Core Strategy (2012), the Planning Obligations SPD (2017) and Policy S2 of the London Plan (2021).

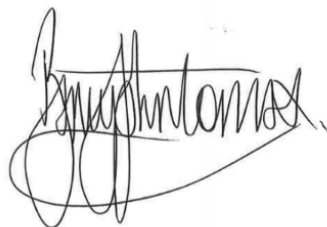
**Informative(s):**

Number of neighbours originally consulted	795
Number of contributors	319
Number of objectors	305
Number in support	13
Number making a neutral representation	1

1. In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.

2. In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. An extension of time was agreed to allow the applicant to submit additional viability information and clarification following repeated requests from the Independent Viability Assessors, however, the requested information and clarification was not submitted in a timely manner to allow the Local Planning Authority to consider the additional information within the agreed timescale and therefore the additional information relating to viability has not been accepted by the Local Planning Authority.

Signed



Barry John Lomax  
Head of Development Management (acting)

On behalf of Kingston Council

20th May 2021

**ROYAL BOROUGH OF KINGSTON UPON THAMES  
APPENDIX TO PLANNING DECISION NOTICES  
NOTES TO APPLICANTS**

### **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development, or to grant it subject to conditions, you can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990 (as amended).

Before you decide to appeal you may wish to consider amending your proposal to meet the Council's reasons for refusing permission. The Council's planning staff are always prepared to discuss ways to avoid an appeal by submitting an alternative application. This may involve a charge in line with our pre-application service. Please see the following link for further information:

[https://www.kingston.gov.uk/info/200155/planning\\_applications\\_and\\_permissions/231/pre-application\\_advice](https://www.kingston.gov.uk/info/200155/planning_applications_and_permissions/231/pre-application_advice)

### **Time Limits for Appeal**

If this is a decision to refuse planning permission for a minor commercial application and you want to appeal against the decision then you must do so within 12 weeks of the date of this notice, subject to the exceptions listed below.

If this is a decision to refuse planning permission for any other application and you want to appeal against the decision then you must do so within 6 months of the date of this notice, subject to the exceptions listed below.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

### **Exceptions**

1. If there is an enforcement notice relating to the same or substantially the same land and development as is the subject of this decision, and you want to appeal against the decision, then you must do so within 28 days of the date of this notice.
2. If an enforcement notice is later served relating to the same or substantially the same land and development as in your application, and if you want to appeal against the decision, 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 or minor commercial appeal] of the date of this notice, whichever period expires earlier.

### **Public Inquiries**

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 can be found at the following link:

<https://www.gov.uk/government/collections/casework-dealt-with-by-inquiries>

### **How to Appeal**

You can appeal using a form that you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Customer Support Unit, Tel: 0117 372 6372. Appeal forms and guidance can also be downloaded from the Planning Inspectorate's website <https://www.gov.uk/appeal-planning-decision>.

Alternatively, the Planning Inspectorate have introduced an online appeals service which you can use to make your appeal at <https://www.gov.uk/appeal-planning-decision>. The Inspectorate will publish details of your appeal on the internet. This may include a copy of the original planning application form and relevant supporting documents supplied to the local planning authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information, that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so.

The Secretary of State need not consider an appeal if it seems to him 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 him.

### **Purchase Notices**

If either the local planning authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that they 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 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 (District Council, London Borough Council, or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provision of Part VI of the Town and Country Planning Act 1990.

### **Compensation**

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State appeal or reference of the application to him.

These circumstances are set out in section 114 and related provisions of the Town and Country Planning Act 1990 (as amended).

### **The Party Wall etc. Act 1996**

Anyone intending to carry out work described in the Act MUST give adjoining owners at least 2 months notice in writing of their intentions. The Act covers:

- (i) work to be carried out directly to an existing party wall or structure
- (ii) new building at or astride the boundary line between properties
- (iii) excavation within 3 or 6 metres of a neighbouring building or structure, depending on the depth of the hole or foundations

If you are not sure whether the Act applies to work that you are planning, you should seek professional advice. A free explanatory booklet is available from ODPM Free Literature, PO Box 236, Wetherby, West Yorkshire, LS23 7BN. Tel 0870 1226236 e-mail [odpm@twoten.press.net](mailto:odpm@twoten.press.net)