

28 November 2007

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Our Ref: APP/F5540/A/05/1189464  
APP/F5540/A/05/1189466

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990  
(SECTIONS 20 AND 74)  
APPEALS BY ISIS WATERSIDE REGENERATION: LAND AND BUILDINGS AT  
COMMERCE ROAD, BRENTFORD, MIDDLESEX, TW8 8LE  
APPLICATION REFS: 00297/R/P2 AND 00297/R/CA2**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Chris Frost BSc(Hons) DipLD FLI CBiol MIBiol MRTPI, who held a public inquiry into your client's appeals:
  - Appeal A: under section 78 of the Town and Country Planning Act 1990 against a failure by the Council of the London Borough of Hounslow to give notice within the prescribed period of a decision on a hybrid application for planning permission. The development proposed is mixed use development including residential, commercial, community and leisure uses A1, A2, A3, D1 and D2 and car parking. The retention of a bus depot use or for possible alternative commercial uses (B1 or B8), public open space and car parking on land and buildings at Commerce Road, Brentford, Middlesex, in accordance with application number 00297/R/P2 dated 24 January 2005;
  - Appeal B: under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure by the Council of the London Borough of Hounslow to give notice within the prescribed period of a decision on an application for conservation area consent. The development proposed is the demolition of a structure currently overhanging part of a towpath into the Grand Union Canal Conservation Area, in accordance with application number 00297/R/CA2 dated 24 January 2005.

The Inquiry sat for a total of 32 days between 4 July 2006 and 21 May 2007.

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2. On 6 October 2005 the appeals were recovered for the Secretary of State's determination in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 and sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Inspector's recommendations and summary of the decisions**

3. The Inspector recommended that both appeals be dismissed and planning permission and conservation area consent refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and with his recommendation to dismiss both appeals and refuse planning permission and conservation area consent. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural Matters**

4. At the Inquiry, an application was made by your client for a partial award of costs against the Council of the London Borough of Hounslow. The Secretary of State's decision on that application is the subject of a separate letter.
5. During the early stages of the Inquiry, your client sought to make two amendments to the original planning application that forms the subject of Appeal A (Amendment A and Amendment B).

#### *Amendment A (IR17-21)*

6. Amendment A seeks to delete reference to an alternative use on the site of the bus depot and to reduce the amount of car parking from 900 to 833 spaces. The Secretary of State notes that the Council raised no objection to the principle of considering this amendment and the main parties agreed that the description of Appeal A can now be recast as follows: *'mixed use development including residential (992 units), commercial, community and leisure uses, shops, financial services, restaurants, bars, day centre, and 833 car parking spaces. Redevelopment of existing depot retaining bus depot use and the provision of public open space following the demolition of existing buildings'*.
7. The Secretary of State agrees with the Inspector that, since no evidence has been submitted in support of any alternative use of the bus depot site for B1 or B8 use, it seems sensible to take on board the revised description of the development (IR145-146). The Secretary of State also shares the Inspector's view that, as the appellants have invited the Inspector to consider Amendment A in place of what was originally described, the former description of the development should be regarded as effectively having been withdrawn (IR147).
8. The Secretary of State agrees with the Inspector at IR151-154 that Appeal A in its original form would be most unlikely to succeed given that the flood defences were considered inadequate by the Environment Agency. Both Amendment A and Amendment B are preferable to the original Appeal A in this regard.

#### *Amendment B (IR22-23)*

9. In addition to the changes made in Amendment A, Amendment B also includes changes to the mix and quantum of uses described at IR148. For the reasons

given in IR149 and Appendix C to the Inspector's report, the Secretary of State shares the Inspector's misgivings concerning the principle of this degree of variation. She considers that the changes proposed in Amendment B are too substantial to be accommodated within this appeal and would necessitate a fresh application in order to be considered.

10. The Secretary of State agrees with the Inspector on this point and has therefore determined Appeal A on the basis of Amendment A (referred to as "Appeal A" in the remainder of this letter) and is satisfied that no prejudice has been caused to any party by this course of action.

### **Correspondence**

11. Since the close of the Inquiry, the Secretary of State has received correspondence from the Council of the London Borough of Hounslow dated 30 October 2007 enclosing a copy of the Government Office direction dated 18 September 2007 to save specified policies of the UDP beyond the 3 year period allowed under the Planning and Compulsory Purchase Act 2004. The correspondence also included a copy of the First Amendment to the London Borough of Hounslow's Unitary Development Plan September 2007. The Secretary of State has taken account of this correspondence, but she does not consider that it raises any issues which make it necessary, in the interests of natural justice, to circulate it to the parties for comment. However, copies can be made available upon written request to this office.
12. The Secretary of State has also received a letter which you sent on behalf of your clients, dated 16 November 2007, and which you also copied to the London Borough of Hounslow. This proposed revisions to the list of suggested planning conditions submitted before the close of the inquiry, and is considered further in paragraph 53 below. The Secretary of State received a letter from the London Borough of Hounslow dated 22 November 2007 confirming that the Council has no comments on the proposed revisions. For the reasons given in paragraph 53 below, the Secretary of State does not consider that this correspondence raises any issues which make it necessary, in the interests of natural justice, to circulate it to all the parties for comment. However, again, copies can be made available upon written request to this office.

### **Environmental Statements**

13. In determining Appeal A, the Secretary of State has taken into account the Environmental Statements which were submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as part of the original application and to support Amendment B. The Secretary of State agrees with the Inspector that, for the reasons given in IR26, the fact that Amendment A was not directly supported by its own specific Environmental Statement is not a deficiency. For the reasons given in Appendix D to the Inspector's report, the Secretary of State therefore agrees with the Inspector that the Environmental Statements comply with the above regulations and that sufficient information has been provided for her to assess the environmental impact of Appeal A.

## **Policy considerations**

14. In deciding Appeal A, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the London Plan, adopted in 2004 and the London Borough of Hounslow Unitary Development Plan (UDP), adopted in 2003. The Secretary of State agrees with the Inspector that the development plan policies most relevant to the proposals are those summarised in the Statement of Common Ground (Inquiry Document CD 8/1A, paragraphs 7.5 and 7.6 page 31) (IR35).
15. Emerging policy includes the Further Alterations to the London Plan, published by the Mayor of London for public consultation in September 2006. An Examination in Public was held into these in June/July 2007. As the Panel published its report in October 2007, the Secretary of State considers that this emerging policy can be afforded some weight.
16. Other material considerations which the Secretary of State has taken into account include Planning Policy Statement 1 (PPS1): "Delivering Sustainable Development"; Planning Policy Statement 3 (PPS3): "Housing"; Planning Policy Statement 6 (PPS6): "Planning for Town Centres"; Planning Policy Guidance note 13 (PPG13): "Transport"; and Planning Policy Guidance note 15 (PPG15): "Planning and the Historic Environment". She has also had regard to the Supplementary Planning Guidance listed in the Statement of Common Ground (Inquiry Document CD8/1A, paragraph 7.15, page 40).
17. As part of the appeal site is situated within the Grand Union and Boston Manor Conservation Area (GU&BMCA), the Secretary of State has also paid special attention in determining both Appeals to the desirability of preserving or enhancing the character or appearance of that area, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **Main issues**

18. The Secretary of State agrees with the Inspector that the main considerations in respect of Appeal A are those listed at IR156-161. She also agrees with the Inspector that the main consideration in respect of Appeal B is the effect that the proposed demolition would have on the appearance and character of the GU&BMCA (IR162). For the reasons given in IR163, the Secretary of State agrees with the Inspector that it would only be appropriate to consider granting conservation area consent in the event of Appeal A succeeding.

## **Housing, Affordable Housing and Housing Mix**

### *Housing Supply*

19. The Secretary of State agrees with the Inspector that, although it is common ground that Hounslow can demonstrate an up to date 5 year supply of available, suitable and deliverable housing sites, there is no reason not to exceed targets where sites come forward that are generally in accordance with policy (IR164). However, the Secretary of State agrees with the Inspector (IR165) that, while the scheme has its attractions in promising a substantial addition to housing delivery in Hounslow in accordance with London Plan policy 3A.1, the

shortcomings are sufficiently serious to treat this potentially valuable addition to housing numbers with caution.

#### *Sequential Approach to Residential Development*

20. For the reasons given in IR166, the Secretary of State agrees with the Inspector that, while the proposed development would make use of a previously developed site in accordance with PPS3, it would fail to re-use any existing buildings, contrary to London Plan policy 4B.6. She also agrees with the Inspector that, while there is reason to accept that this is a suitable location for new housing development, the scheme under consideration has a number of significant shortcomings.

#### *Residential Density*

21. Although UDP policy H.4.2 (which sought to restrict densities to generally no more than 250hrh) has not been extended (see paragraph 11 above), the Secretary of State agrees with the Inspector that the appeal scheme (at 582 hrh) would exceed even the higher density guidelines (300 - 450 hrh) in the London Plan (IR167-169). The Secretary of State agrees with the Inspector that, coupled with a high quality scheme that would be particularly well served by facilities and infrastructure, the density proposed might be seen as acceptable and highly efficient (IR170). However, for the reasons given in IR170, the Secretary of State agrees with the Inspector that exceeding the density ranges suggested in the development plan would not be justified.

#### *Affordable Housing*

22. For the reasons given in IR171-176, the Secretary of State agrees with the Inspector that, notwithstanding the decision to retain the bus depot and transfer it to Transport for London (TfL) for a nominal amount, the pressing need for affordable housing in London means that the level of affordable housing provision proposed in the appeal scheme should be regarded as the minimum acceptable. Furthermore, for the reasons given in IR177, the Secretary of State agrees with the Inspector that it would have been preferable to have seen a greater commitment to affordable housing provision within phase 1, and she considers this to be a factor which weighs against the appeal proposal.
23. For the reasons given in IR178-179, the Secretary of State agrees with the Inspector that it would have been reasonable to expect a less extreme shift from the London-wide target for tenure split (70% social housing and 30% intermediate housing) than the split of 70% intermediate housing and 30% social housing being offered in the appeal proposal. She considers that the mix offered does not reflect the needs of the community, and she regards that as another factor weighing against the scheme.
24. For the reasons given in IR180-181, the Secretary of State agrees with the Inspector that the segregation of the affordable housing units is wholly contrary to the aim of creating a well-mixed and integrated community. She agrees that this is not in accordance with the advice in PPS1 and that the approach taken in designing the appeal scheme fails to respect the development plan policies with regard to inclusiveness. Again, she considers that this is a factor which weighs against the appeal scheme.

### *Housing Mix*

25. For the reasons given in IR182-187, the Secretary of State agrees with the Inspector that, by failing to provide any units with 4 or more bedrooms and any one bedroom social housing units, the proposed scheme would fail to provide an adequate basis for the creation of a balanced, mixed and inclusive community, and that this would be contrary to London Plan policies 3A.4 and 3A.6. Like the Inspector, the Secretary of State regards this as a significant shortcoming, to which she gives considerable weight.

### Design and Layout

#### *Amenity and Recreation Space*

26. For the reasons given in IR189, the Secretary of State agrees with the Inspector that, whilst some balconies would be less adequate than others, their availability is an important consideration as they would provide an important outdoor, private amenity facility in this urban and high density environment. For this reason, she also agrees with the Inspector that the late addition of balconies in Block B is a welcome and necessary addition.
27. For the reasons given in IR190, the Secretary of State agrees with the Inspector that the attractiveness of the communal podium decks would be limited, and that it seems unlikely that the communal roof-space at Block B would provide an attractive venue. She also agrees with the Inspector that, for the reasons given in IR191, the public outdoor space between blocks J and L would result in conflict between passive use and play, as well as being in an isolated position pending the completion of phase 2 of the development.
28. For the reasons given in IR192-194, the Secretary of State agrees with the Inspector that it is not certain that the appeal scheme would cater adequately for the needs of children's play and informal recreation, and that this could lead to conflict between user groups. She also agrees with him that, as the level of children's formal and informal playspace to be provided cannot be said to be reasonably related to the scale of the proposed development, it would not meet the requirements of the relevant development plan policies (IR195).

#### *Other Public Realm Considerations*

29. For the reasons given in IR196-201, the Secretary of State agrees with the Inspector that the quantity and quality of the public realm within the appeal scheme as a whole would leave much to be desired. She shares the Inspector's view that, while parts of the scheme around the canal basin could be said to achieve a high quality and a strong sense of place, this would fail to make amends for inadequacies in the quantity and quality of public realm space elsewhere. The Secretary of State therefore considers that the proposed development would not accord with the public realm requirements contained in London Plan policies 4B.4 and 4B.5.

## Residential Amenity

### *Effect on Existing Occupiers*

30. The Secretary of State agrees with the Inspector that, while there would be some loss of amenity through loss of direct evening sunlight reaching some of the existing flats on the Island site, there is no reason to accept that there would be any serious loss of amenity (IR203). The Secretary of State also agrees with the Inspector that the most significant effect on daylight would relate to flats on the northern edge of the Heron View development. However, she shares the Inspector's view that, while the loss of daylight involved would be regrettable, it is not so serious or widespread as to justify rejecting the offending part of the development (part of Block A) (IR204). The Secretary of State therefore agrees with the Inspector's conclusion in IR205 that none of the effects on existing occupiers arising in relation to light would be so serious as to breach the relevant part of the UDP policy H.4.1.
31. For the reasons given in IR206, the Secretary of State agrees with the Inspector that, with appropriate controls over opening hours and noise escape in respect of the proposed drinking establishments, the appeal proposal would not conflict with UDP policy H.4.1 in respect of noise, even though it would be unlikely to be welcomed by all residents.
32. For the reasons given in IR207, the Secretary of State agrees with the Inspector that the loss of outlook and increased sense of enclosure would amount to a deterioration in the living conditions of existing occupiers. However, like the Inspector, the Secretary of State concludes that, in view of the separation provided by the canal basin, the effects would not be so severe as to indicate that the scheme should be rejected for this reason.

### *Effect on Potential New Occupiers*

33. For the reasons given in IR208, the Secretary of State agrees with the Inspector that although, even with the solutions offered, the level of privacy achieved in some of the proposed flats would be inadequate and would point to design failings in the scheme, UDP policy H.4.1 would not be breached.
34. For the reasons given in IR209-214, the Secretary of State agrees with the Inspector that the lack of adequate sunlight for a substantial number of the proposed flats represents a design failing that should be taken into account. For the reasons given in IR215-216, the Secretary of State agrees with the Inspector that, if permission were to be granted for the appeal scheme, modifications would be required at the detailed design stage to achieve the requirements set out in UDP policy H.4.1.
35. The Secretary of State agrees with the Inspector (IR217) that, although there would be no justification for refusing the appeal scheme on the grounds of potential air quality, noise and micro-climate effects on potential new occupiers, the disadvantages which he describes fit poorly with the aim of achieving high quality housing set within a sustaining environment, in line with PPS3.

## Design and Conservation

### *Conservation Areas*

36. The Secretary of State agrees with the Inspector that the appeal scheme would have a considerable influence on the context of the GU&BMCA and, to a lesser extent, on the Butts Conservation Area which abuts it to the east (IR218).
37. The Secretary of State agrees with the Inspector that it would only be appropriate to consider granting conservation area consent (Appeal B) in circumstances where, in line with UDP policy ENV-B2.2, something acceptable would replace the warehouses (IR219). For the reasons given in IR220-221, she agrees with the Inspector that the overhanging warehouses have a significant effect on the character of the adjacent stretch of the Grand Union Canal and that to lose these structures in the absence of any acceptable replacement would be both unnecessary and undesirable. Furthermore, for the reasons given in IR222, she also agrees with the Inspector that the current scheme fails to represent either a visually or functionally appropriate replacement.
38. The Secretary of State agrees with the Inspector (IR223) that the types of uses proposed in the appeal scheme would, in principle, be entirely consistent with the character of the GU&BMCA as it now exists; and that a thoughtful and appropriate density of provision could well enhance the relationship between the appeal site and the Conservation Area. However, for the reasons given in IR224-236, the Secretary of State agrees with the Inspector that the size, height and density of the proposed scheme would have an overwhelming impact which would fail to form an appropriate response to the sensitivity of the location and would be contrary to related development plan policies. The Secretary of State therefore concludes that the proposed development would fail to preserve or enhance the character or appearance of the GU&BMCA and, to a lesser but still significant extent, the Butts Conservation Area (IR229).

## Highways, Transport and Access

### *Safety and Congestion*

39. The Secretary of State agrees with the Inspector that the proposed development would result in a significant increase in pedestrian movements along Commerce Road and into London Road (IR238). She shares the Inspector's concerns regarding the Commerce Road/London Road junction as described at IR239-251, and she concludes that pedestrian safety would be compromised as a result, contrary to development plan and national policy. The Secretary of State also agrees with the Inspector that the proposed development would result in unacceptable traffic congestion unless traffic from other sources is deterred from using London Road and Brentford High Street by implementing the Strategy formulated as a result of the Brentford Transport Study 1999 ('the MVA Strategy') (IR47). However, as much of this Strategy remains only an aspiration, the Secretary of State agrees with the Inspector (IR251) that it does not provide the confidence required to demonstrate that congestion would not occur. She therefore agrees with the Inspector that the appeal proposal would not accord with UDP policy T.4.3.

40. The Secretary of State also agrees with the Inspector (IR252) that, in the face of the increased traffic and pedestrian activity that the development would create, the failure to provide for an all-red phase at the Commerce Road/London Road junction indicates that road safety would be compromised, which would be contrary to the relevant development plan policies.

#### *Bus Gate*

41. For the reasons given in IR253, the Secretary of State agrees with the Inspector that, since the proposal to provide a bus gate has not been fully worked up and would be dependent on TfL approval, it remains far from certain that it would materialise. Accordingly, the Secretary of State affords the provision of a bus gate limited weight.

#### *Sustainable Transport Choices*

42. For the reasons given in IR254, the Secretary of State agrees with the Inspector that the site would perform reasonably well in providing access to many local services including Brentford town centre, the Grand Union Canal, Syon Park and Boston Manor Park. However, for the reasons given in IR255-259, she agrees with the Inspector that, although the site might be regarded as sufficiently accessible to accept some form of mixed use development, the shortcomings of the location would be considerably magnified by the size and scale of the appeal scheme. Accordingly, she agrees with the Inspector (IR259) that sustainability objectives would not be well served by focusing such a large development in this location and that the appeal proposal would therefore be contrary to related development plan policies.

#### *Car Parking*

43. For the reasons given in IR260-263, the Secretary of State agrees with the Inspector that, given the moderate PTAL rating<sup>1</sup> of the appeal site and the limitations on the range of local (walkable) services and facilities, the failure of the scheme to meet the car parking standards required by the relevant development plan policies is not acceptable and would fail to comply with relevant development plan policies. For the reasons given in IR264-265, the Secretary of State also agrees with the Inspector that the use of 'Controlled Parking Zones' would not necessarily help in defusing the situation. She therefore gives considerable weight to the inadequacies of the car parking proposals.

#### *Cycling and Walking*

44. For the reasons given in IR266-269, the Secretary of State agrees with the Inspector that the scheme would make provision for cyclists and pedestrians and would help encourage cycling and walking. She also agrees that, taking the development as a whole, cycle parking provision would more than meet Council standards. However, she shares the Inspector's view about the significant shortcomings he identifies at IR268. She therefore concludes that, while there is

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<sup>1</sup> Public Transport Accessibility Level high 2 to low 3 (poor to moderate) (IR44) on a scoring of 1 (poor) – 6 (excellent)

no overall conflict with the relevant development plan policies, their objectives could be better met - particularly in relation to cycle provision in Block B.

### Employment

45. In determining Appeal A, the Secretary of State has had regard to the fact that the proposed development would provide new employment opportunities (IR270 and 272), albeit of a type which would not be related to the type of industrial uses (IR271) suggested by the allocation of the site as a Preferred Industrial Location (PIL) within a framework of Strategic Employment Locations (SELs) defined by the London Plan (IR273). She also notes that the Greater London Authority considers that the appeal proposal would secure a wider range of industrial benefits than would accrue from a blanket application of a single policy on industrial land (IR274) and, for the reasons given in IR275-278, she agrees with the Inspector that the setting of this part of this SEL has altered considerably since the site was designated. The Secretary of State therefore agrees with the Inspector that the loss of the appeal site as a PIL could possibly be justified in circumstances where proposed new development fitted happily within the setting that the site currently enjoys, even though this would be in conflict with relevant development plan policies. She also agrees with the Inspector that the fact that the proposed development would provide additional (non-industrial) jobs close to Brentford town centre speaks in favour of the scheme (IR279). However, she does not consider that the potential employment benefits are sufficient to outweigh her concerns in relation to design, transport and housing matters as considered above.

### Town Centre Vitality and Viability

46. For the reasons given in IR282, the Secretary of State agrees with the Inspector that there is no reason to question the catchment used to assess the need for the proposed quantum of A3 and A4 floorspace. However, she shares the Inspector's view that the suggestion that 80% of expenditure on A3 and A4 uses is capable of being retained within that catchment is optimistic and, for the reasons given in IR283-284, that achieving a level of 50% retained expenditure would still require a significant shift in spending patterns. The Secretary of State therefore does not consider that the need for the quantum of floorspace set out in IR280 has been clearly demonstrated.
47. For the reasons given in IR285, the Secretary of State agrees with the Inspector that, in terms of A3 and A4 trade, the proposed development would compete with Brentford town centre and become a preferred destination. For the reasons given in IR286-289, she agrees with the Inspector that, in line with the sequential approach set out in PPS6, sites within town centres should be considered first for such activities and that, after that, the land to the south of the High Street would be sequentially preferable to the appeal site. She also agrees with the Inspector (IR290) that, if the appeal site were to be developed ahead of sites within the town centre and closer to its core, it would be likely to prejudice decisions relating to the viability and desirability of pursuing options on more central sites.
48. The Secretary of State therefore agrees with the Inspector's conclusion at IR291 that the need for the proposed quantum of A3 and A4 floorspace has not been clearly demonstrated and that, even if it had, the proposed development

would not accord with PPS6 or related development plan policies with regard to adopting a sequential approach.

#### Canal Infrastructure

49. For the reasons given in IR292-302, the Secretary of State agrees with the Inspector that, while the development plan makes some provision for the protection of wharfs, this does not include those with access along Commerce Road. She therefore shares the Inspector's view that there would be no conflict with policy in relation to the loss of any wharf and that there would be insufficient reason to protect the Commerce Road wharf simply on the basis that it has the potential to make a future contribution to sustainable transport.

#### Nature Conservation

50. For the reasons given in IR304-306, the Secretary of State agrees with the Inspector that nature conservation interests would be adequately protected in the appeal scheme; and that there would be an overall enhancement of the nature conservation value of the site, in accordance with related development plan policies.

#### MP Motor Repairs Ltd

51. The Secretary of State has had regard to the objections raised by MP Motor Repairs Ltd. However, for the reasons given in IR308-311, she does not consider that these, alone, would be sufficient to prevent the proposed development from taking place. She agrees with the Inspector that, although the proposed development would not sit comfortably with the retained motor repair business, it should be possible to manage the relationship so as to avoid serious conflict.

#### Section 106 Obligation and Conditions

52. The Secretary of State has considered the terms of the unilateral undertaking submitted by the appellants under section 106 of the Town and Country Planning Act 1990 (IR312-329), but she does not consider that these overcome her reasons for refusing the application. She has also considered the proposed conditions and the Inspector's comments and modifications as set out in IR330-332 and the Appendices to the IR, as well as national policy as set out in Circular 11/95. However, she does not consider that these overcome her reasons for refusing the application.
53. As mentioned in paragraph 12 above, you wrote to the Secretary of State on 16 November 2007 enclosing suggested revisions to the list of suggested planning conditions submitted before the close of the inquiry. These revisions relate specifically to proposed conditions 7a & 7b, 8a & 8b, 9a & 9b and 10a & 10 b. However, as the Secretary of State agrees with the Inspector that, for the reasons given in IR331(b), these conditions would be unnecessary if planning permission were to be granted, she has taken no action on your letter.

#### Overall Conclusions

54. The Secretary of State concludes that, while the site has the potential to provide a pleasant setting for a certain amount of new housing close to Brentford town

centre, the number of new homes and businesses proposed in Appeal A would stretch the site well beyond what can be considered to be its natural limit and beyond what it could reasonably be expected to accommodate. The result would be an over-dense development with inadequate on-site amenities and unsatisfactory affordable housing that would increase the burdens on the existing transport infrastructure and harm the setting of the Conservation Areas. The Secretary of State therefore concludes that, even taking account of the changes made in Amendment A to minimise flood risks and clarify that it is not proposed to redevelop the bus depot, the shortcomings associated with the proposed development are so substantial that both Appeals A and B should be dismissed and planning permission and conservation area consent refused.

### **Formal Decision**

55. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. She hereby dismisses your client's appeals dated 24 January 2005 on land and buildings at Commerce Road, Brentford, Middlesex and:

- refuses planning permission for a mixed use development including residential (992 units), commercial, community and leisure uses, shops, financial services, restaurants, bars, day centre, and 833 car parking spaces. Redevelopment of existing depot retaining bus depot use and the provision of public open space following the demolition of existing buildings, in accordance with application number 00297/R/P2 as amended (Appeal A);
- refuses conservation area consent for the demolition of a structure currently overhanging part of a towpath into the Grand Union Canal Conservation Area, in accordance with application number 00297/R/CA2. (Appeal B).

For the reasons given in paragraph 7 above, the Secretary of State has treated the original version of Appeal A as having been withdrawn. Also, for the reasons given in paragraph 9 above, the Secretary of State has not considered Amendment B to Appeal A as she considers that the amendments are so substantial that they cannot be considered within the scope of the current appeal.

### **Right to challenge the decision**

56. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
57. A copy of this letter has been sent to the Council of the London Borough of Hounslow and all parties who appeared at the inquiry.

Yours faithfully

Jean Nowak  
Authorised by Secretary of State to sign in that behalf