Wimbledon Park
Residents' Association

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Dear Sir/Madam

Merton Application 21/P2900 **Wandsworth Application 2021/3609**

Development of Wimbledon Park Golf Course by All England Lawn Tennis Ground Plc

The Wimbledon Park Residents' Association (WPRA) has been established for many years, an Association for the Ward of Wimbledon Park, some 12,000 residents and 4,500 households.

Summary Wimbledon Park is a statutorily protected space spanning the London Boroughs of Merton and Wandsworth: Metropolitan Open Land (Green Belt), Grade II* listed, in a Conservation Area and a Site of Importance for Nature Conservation (SINC).

The proposed development would include a 26-metre-high covered stadium, 10 other buildings, 38 substantially engineered and protected tennis courts, 9.4kms of roads and extensive hardscape for traffic and large temporary buildings.

The development would re-model all the land within the red line beyond the root zones of existing trees. This Historic Park has been "at risk" for more than five years, reflecting a lack of cooperation and effort between the three landowners.

WPRA objects to this application for inappropriate development in MOL which will cause substantial harm to this Heritage Park, a proposal by one landowner to pursue its own interests, doing nothing to address the key "at risk" issue. No special circumstances exist to make this appropriate, and no harm to the Park is outweighed by the benefits proposed.

WPRA requests Merton to *reverse the decision to validate the application*, since an Outline application is not acceptable for a Heritage Asset: Merton Local Plan, 2014, Policy DM D4(e).

WPRA requests all planning authorities to *refuse the application*.

WPRA asks to be formally invited to all consultations in this planning process up to determination.

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WPRA welcomes the applicant's offer of more community uses and greater access to spaces, but it is on terms that are vague and permissive only, and on which the community, of which WPRA is a significant representative, has never been consulted or engaged. WPRA welcomes any invitation from the applicant or the Councils to be involved.

WPRA acknowledges the aspiration of the applicant to improve the qualifying events and urges them to think more imaginatively about other sites to benefit from such investment.

Part 1. History, and challenges to the Community of this Application

This part highlights immediate questions and concerns raised by the Wimbledon Park community. The next 2 parts develop the technical and policy arguments.

1. This application: the role of the Planning Authorities

Over the period March to July 2021 the applicant conducted 'Consultations' with local resident groups and stakeholders. The consultations gradually revealed, in drip-feed fashion, the extent of their ambitious plans for development of the Golf Course. It is clear from the planning application that despite the feedback from residents, nothing in their plans has changed.

The application reveals a daunting volume of documents; one hundred and one in total. The Design and Access statement alone is 600 pages and the Planning Statement 150 pages. The Planning Officer has permitted five weeks for consideration. Even against that weight of material and in that short time, it has been possible to identify fundamental flaws in the application which justify its refusal.

2. The applicant's aspirations and community benefits

The applicant claims that it needs to expand its facilities to keep up with the three other Grand Slams and maintain its claimed reputation as the best, a direct result of the competition between the world's tournaments. They vie with each other to be the best and of course the Wimbledon Championship is the only grass court championship. It appears the main motivation for this arises from the fact that other tournaments have 'qualifying' facilities on the main site and more show courts. So, why must the applicant emulate this to keep up? No serious argument for this has been put forward by the applicant

The applicant holds the only grass court grand slam in the world. Does it suggest that anywhere else will ever be brave enough to challenge that? There is no question that the applicant has established, in SW19, a wonderful tennis experience which people from all over the world travel to see. It is unique. The combination of the lovely setting, greatly enhanced by the openness of the golf course on the opposite side of Church Road, offers a (rather expensive) experience which is a combination of sophistication, incredible organisation, hospitality, and friendliness which is unsurpassed in the world of global tennis grand slams. Does it really need to get bigger to get better? Indeed, will it be better by getting bigger? Many would say not. The small intimate atmosphere is a great part of its huge appeal.

Even if the applicant wishes to bring the qualifying tournament onto its recently acquired adjoining property, the scale of its further ambition and the surprising introduction of a new major Show Court to seat 8,000, is, by its own admission in the planning statement, not required for the qualifiers and is inappropriate under the planning rules that apply to a property of MOL and Heritage status.

What is wrong with having the qualifying competition at the Bank of England grounds; a truly lovely setting, next to the National Tennis Centre? Qualifiers are qualifiers. It is not playing a main match at Wimbledon even if it was on the golf course alongside the main site. The main competition is and always will be on the main site. What about the wonderful court complex in Raynes Park of which much better use could be made? Has the applicant considered other

alternatives? The Emma Raducanu effect should carry tennis to all parts of the country, way beyond SW19.

There are rather vague statements about Community benefits, and a new public park is offered with 'permissive access' and a walk around the lake (*a walk around the lake is an obligation under the terms of the 1993 freehold transfer once golf ceases to be played*). Unless the new public parkland is enshrined in a way which makes it a permanent public park, it has no value as a benefit because it can be withdrawn at any time. The 'community benefits' stated in this application lack substance and the applicant has made no attempt to engage with the community about them and their terms. This offer in no way compensates for the harm to the landscape.

At the heart of this is the fact that the applicant is an exclusive, members-only club whose main facilities are used effectively for only two weeks every year but generate huge cash flow particularly from attendance and broadcasting rights. The overall effect of the proposed plans will be to suck in attendance and employment from elsewhere, eventually perhaps generating an increase in income but without any commitments to reinvest any profits or to offer permanent and irreversible benefits.

3. Historic Significance

These proposals will completely transform the majority of the Golf Course into what can only be described as an industrial tennis complex: destroying views and the historic significance of this area which has never been built upon. These proposals are overambitious and wasteful. Does the applicant really need another show court? This is 28 metres high and made of concrete. Does the applicant seriously think that building the equivalent of a 10-storey block of flats pays appropriate respect to our historic landscape? Is it possible to 'reimagine' the Capability Brown landscape by bulldozing two thirds of the golf course and constructing 38 tennis courts with a significant network of 10 ancillary support buildings and an extensive web of paths and roadways?

4. Metropolitan Open Land

Designated as such for many years, a golf course on which members of the public could play, this is well-protected open space. Construction of so many buildings and works will destroy the landscape irrevocably. If departures from major national, regional, and local policies like this are permitted, no open space in London will be safe.

5. Carbon Footprint, Car Parking, Traffic and Church Road

In these times of concern about climate change should the applicant not be considering ways of *reducing* its carbon footprint; for example: building less, using less concrete and promoting car-free travel. Despite the applicant's increased landholding, it still wishes to use the public park for car parking and the queue. This should not be necessary and deprives the community of use of a large part of the open park for the duration of the championship. But worst of all it confirms that arrival by car, not public transport, is acceptable.

The applicant's travel plan is inadequate and fails to contribute to climate change mitigation. There should be a more serious attempt to reduce the number of cars coming to the championship and encourage greater use of park and ride and public transport. It was quite

clear from the operation of the Olympic tennis in 2012 that this could be done. The only parking available then was for the disabled.

The closure of Church Road and the disruption to traffic and public transport will spread environmental pollution among narrow residential streets and deprive the public of a bus route.

6. Local Plan and Merton's Special Characteristics

Residents of Merton are familiar with the rigour with which the local plan is applied in Conservation Areas and for Heritage Assets. The most contentious and disruptive aspects of the application, the Show Court and Maintenance Hub on Home Park Road, are proposed in Outline only, contrary to the *Local Plan Policy DMD4E*: *"Outline applications will not be acceptable for developments that include Heritage Assets*". Why is this application a policy-breaking exception, and how will the community be able to comment on any detail?

While a new draft local plan largely repeats the policies of the current version, it proposes to re-allocate this, the most protected site in Merton, for development, as if it were brownfield and despite an *Allies & Morrison 2021 Character Study* protecting it. A substantial number of objections to the new plan will be considered by the Inspector, so the new plan cannot be relied upon in this application.

7. 'At Risk' designation by Historic England

There are three landowners: the applicant, The Wimbledon Club and the London Borough of Merton. The (Heritage) park has been considered 'at risk' for several years by Historic England by reason of the total lack of a coordinated management plan. The community has been excluded from any attempts to remedy this situation, and nothing in these proposals seeks to address it.

This is a major missed opportunity, failing to give any consideration to the needs and future ambitions of all three landowners. The London Borough of Merton is custodian trustee for the public part of the Lake and Park, which the application does nothing to improve, and the awkward buildings of The Wimbledon Club could so easily be enhanced by a negotiated integration into a tripartite scheme. No attempts have been made to achieve any of that.

8. Disdain for legal obligations, Conflicts of Interest

The parkland was acquired by the London Borough of Merton in 1915. They hold the whole of the Park as trustee for the public. In 1993 the freehold of the Golf Course was sold to the applicant. Many still remember that this was a very controversial sale and the local community tried very hard to stop it. The Wimbledon Park Residents' Association and the Wimbledon Society led the movement, and, through their efforts, various undertakings were made in public and in the press by both the Leader of the Council at that time and the Chairman of the applicant that they recognised that the land should remain open land and free of any future building. As a result, the Council formally minuted several steps to protect it for the future, including extending the Conservation Area, changing their UDP, and emphatically imposing a covenant on the AELTC in the Transfer Deed to that effect.

These statements were published (presumably to reassure residents) in September 1993:

John Currie, All England Chairman: "We completely understand and support everyone's determination to keep the land open and we purchased the land on that basis."

Tony Colman, Merton Council Leader: "Respecting the wishes of local people, this Council is resolute that the land will be retained as open space. All England has bought the land knowing this is our policy and is aware that we would not allow development of the site."

The current Chairman of the AELTC, Ian Hewitt replied to recent correspondence as follows:

"As to the assurances made in 1993, I am sure you can appreciate that the requirements of the club and the community have developed in the resulting 28 years and that the AELTC has needed to work to ensure that The Championships remain a preeminent tennis tournament and continue delivering significant and improved socioeconomic benefits to the local area. It has been our stated aim for many years that purchasing the golf course and especially the freehold was done with the intention of moving our Qualifying event onsite, but our proposals also mean that Wimbledon Park will be as open as it is now in terms of verified views and will in fact, through the creation and opening up of parkland previously occupied solely by a private golf course, be substantially more openly accessible to the public in the future."

In 2014 Ben Ellery of the Mail on Sunday wrote an article about an interview with the then Chairman Philip Brook about massive AELTC plans for the future of the Golf Course. The article was accompanied by a detailed plan showing the myriad of buildings that would occupy the site. This was quickly refuted by the AELTC in the following statement:

"The All England Lawn Tennis Club would like to make it clear that the story in the Mail on Sunday (23.6.14) which made claims about a "massive expansion" of the Club on to Wimbledon Park Golf Club was wholly inaccurate and a complete fabrication.

"The Club's vision for the future is published in the Wimbledon Master Plan and we will continue to be open and transparent about our intentions in liaison with the relevant authorities and our neighbours."

Clearly the existence of a Covenant in the Transfer Deed, willingly sealed by the applicant in 1993, seems to present no obstacle to their ambitions. These responses, and this application have undermined the integrity of the applicant and the trust of the local community.

Part 2. Technical objections to the application

This section discusses some of the main technical issues, with further detail about each in Part 3. NPPF references are of course carried through into regional (London) and local (Merton) policies.

1. This application: the role of the Planning Authorities (Local Plan DM D4e).

This is a very large application. The WPRA appreciates that the planning authorities are undertaking a great deal of work in a short time. It must trust them to check and scrutinise all the documents, including due compliance with the Scoping Decision 21/P1709, noting that this application is invalid as it breaches Merton's own policy that an Outline application is not acceptable for Heritage Assets (DM D4e) (Merton Sites and Policies Plan, 2014, page 92).

2. The applicant's aspirations and community benefits (NPPF 200 and 147).

Substantial harm to this Heritage Asset cannot be permitted unless it is necessary to produce substantial benefits, and very special circumstances are required before development in MOL can be permitted. (NPPF 200 and 147). Despite its suggestions that they should remain the premier tennis tournament, the applicant does not argue that any of this development is necessary or special: in downgrading the harm, the applicant merely seeks to argue that any benefits outweigh any harm. Even applying this weaker test, the applicant relies on aspiration, not even probability, and so fails to provide the clarity and detail, together with the guaranteed certainty of permanence required. Since the decision in *Save Stonehenge v Secretary of State for Transport* [2021] EWHC 2161, the decision-maker will be aware of the need to be satisfied that all alternatives (in SW19 and of course elsewhere) have been adequately considered, including the option to do nothing.

3. Historic significance (NPPF 199 and 200).

The historic significance of the Park that was created by Capability Brown and other leading designers of their period, justifying its II* listing many years ago, lies in the variety of long-distance views and the openness between planting and features in the landscape, and across the lake, its principal feature. Having survived piecemeal development around the margins, these core elements continue to demonstrate considerable heritage value. Local and national planning policies forbid the substantial harm to the significance of the Park that this development will cause.

4. Metropolitan Open Land (=Green Belt) (NPPF 147, London Plan G3A1).

Development that is harmful to the open character of the land so designated should not be approved except in *very special circumstances*. The proposed 'show court' (effectively a sports and entertainment stadium), and the increased intensity of development on the rest of the site would compromise this protection. Soft landscaping and arboriculture, with minor ancillary buildings for sports facilities may be permissible. Development beyond this would require a level of exceptional justification that this application does not provide.

5. Carbon Footprint, Car Parking, Traffic and Church Road (Local Plan, 2014, DM T1 and T2).

The scheme offers no attempt to restrict car parking, or to provide an environmentally sustainable limitation of private transport. Car parking on all public park areas should be prevented. If the applicant considers such provision essential, it should do so on its private land, and in the process limit its ambitions to develop that land and restrict car travel to satisfy environmental concerns.

6. Local Plan and Merton's special characterisation (Local Plan 2011, DMO1A).

In the current Merton Local Plan, 2011, Merton will "*continue to protect MOL from inappropriate development*" (DMO1A). The proposed Local Plan 2021 has not yet been approved, and despite the applicant's arguments has little weight. In any case, aside from an attempt to re-allocate the Park, it adopts identical planning safeguards for MOL.

Merton's Character Study 2021, by Allies & Morrison and adopted SPD by Merton June 2021, notes the Borough is blessed with "*a wealth of high-quality green spaces*", advocates "*protecting open spaces as well as sensitive conservation areas*", explains that "*It is highly unlikely that a tall building (i.e. >18m; the show court is 25.75m, 28m at lakeside) would be appropriate in a low-scale residential area*", and notes that Wimbledon Park, Heritage at Risk and in a conservation area is "*the most sensitive area in the Borough for Tall Buildings*".

7. Heritage at risk for 6 years.

The Park has been on the "Heritage at Risk" Register since 2015, due to "major localised problems" and, from the current entry: *"The divided ownership results in differential landscape management. A masterplan exists for the municipal park, but a shared vision for the whole historic landscape is needed."* The Municipal Park is the area owned by Merton as trustees for the public, but that masterplan has not been shared with the community nor formally implemented. Nothing in this proposal remedies the reasons for the Park being at risk, and indeed it adds all the risks associated with an attempt to satisfy only the interests of one party. Any proposed development of the Park should be presented as part of a *shared* vision.

8. Disdain for Legal Obligations, Conflicts of interest.

The applicant claims (Planning Statement 1.1.6) to be *committed* to paying for de-silting of the Lake. Rolfe-Judd Planning (email from Jon Roshier 6/9/21, 17:10) in fact state that the applicant's *offer is conditional on permission being granted*. This is on land that the applicant does not own, outside the application area, owned by LBM, and not required as an integral part of the development. It would be inappropriate for LBM to grant consent for development to bring about this subsidy to overcome their years of neglect as owners of the lake.

Part 3. Relevant planning policy and legal issues: discussion

1. This application: the role of the Planning Authorities

This is a very large application indeed, one of the largest ever to reach the planning department of the London Borough of Merton, in gestation for some considerable time. The applicant has been working on proposals for many years possibly since it acquired the golf course freehold in 1993 (and promised not to develop), and certainly since it started to think about acquiring the golf club leasehold interest which it ultimately achieved in 2018, and instructed its landscape consultants (personal comment made by LUC on 16 July 2021) to "see how many tennis courts it could squeeze on to the site".

The Park has been on the HAR Register since 2015, and the 3 landowners may have been expected to try to resolve some issues in the 6 years since.

The applicant started pre-application consultation in 2020, briefing local associations in spring 2021, about a scheme which appeared to be constantly evolving. The first draft of the applicant's 150-page EIA Scoping Report application was produced on 16 March 2020, the second draft more than a year later, on 20 April 2021. The applicant's resources and commitment have been huge over a long period of time.

The applicant's attention to comments made to it over this time is quite remarkable. Despite this length of gestation, and the extensive resources available to it, the pace of the applicant's approach to this project has also apparently quickened in recent weeks: it rushed out its planning application before the end of July.

The applicant's consultation with local interest groups during 2021 produced no material changes to its proposals (personal comment Justin Smith, AELTC, Zoom meeting 16 June 11.30).

The applicant's EIA Scoping application, in progress for more than a year was ultimately submitted to the London Borough of Merton and registered on 22 May 2021 (21/P1709). Comments were due by 14 June. LBM employed consultants to review it: their opinion was dated June 2021 and the decision-notice making it public was issued on 16 July. Within 2 weeks the application had been made. It is not clear whether, in that short time, the applicant was able to produce all the further and modified reports required by that decision.

Many pre-application comments and summaries of Design Review Panel consultations were also missing when it lodged the application (Jon Roshier, Rolfe-Judd Planning email 6/9/21, 17:10).

The application was registered and validated by LBM on 24 August with a date for the end of consultations of 16 September, since extended by the Planning Officer to 30 September. It exceeds 100 documents, with many running into hundreds of pages. Whether due to the rush to submit the application, or to the number of consultants involved, the application documents overlap and in places repeat or contradict each other, indeed sometimes a consultant contributes comments on a topic which is dealt with by another. Whether the applicant finally checked the papers, proof-read and de-duplicated them and aimed to clarify them for the benefit of the planning authorities and others who will read them is not clear. However, it is

quite apparent that the volume and complexity of the application will challenge the resources of anyone who would like to understand and comment on them.

With this history of the application in mind, we have the utmost respect and concern for the resources available to LBM's planning department and all other decision makers, undertaking a great deal of work in a short time. We must trust them to check and scrutinise all the documents, including due compliance with the Scoping Decision 21/P1709, and to arrive at a considered report on them. As is apparent from just the few topics on which we can comment, there are some very complex issues of law, policy and fact engaged here, and mistakes or oversights will be expensive in terms of time and money in connection with any appeal or judicial review.

We have confined our comments to key topics, where our technical expertise and consultations have enabled us to raise telling questions and concerns. We have drawn attention to a few examples, among many, of inaccuracies or potentially misleading observations or explanations. Many more issues have occurred to us as we read all the documents but lacking the resources, we have been unable yet to pursue them in a sufficiently meaningful way to challenge this application fully. We firmly believe that the many assertions and un-debated and one-sided points made by the applicant deserve much greater scrutiny, and can only hope that LBM, and all the other authorities charged with reaching a decision on this challenging case will have the time and resources to do so.

2. The Applicant's aspirations and community and other benefits

NPPF 147, 196 and 200
Save Stonehenge v Secretary of State for Transport
Trusthouse Forte v Sec of State for Environment

If there is substantial harm, which itself should be wholly exceptional, then consent should be refused unless it can be demonstrated that it is necessary to achieve substantial public benefits which also outweigh that harm. This is a two-stage test. First, is it substantial, in which case is it necessary, and, secondly, even if it is not substantial, is the harm outweighed by the public benefits? The applicant merely suggests that this application is a case of benefits outweighing harm, so it *fails to show that the substantial harm is necessary*, and it fails to offer any compelling reason for the public benefits.

Dealing first with "*necessary*", this must include not only the very basis of the assertion that the development must happen but also whether there are any alternatives which have been adequately considered, such as the Secretary of State failed to show in the Stonehenge case this year.

The claimed purpose of this project is to enable the applicant to be the premier world tennis tournament. But no critical evidence of threats to this position are provided. If it is at that position now, the applicant must offer the strongest evidence of threats to begin to argue that harm to the historic landscape is necessary to overcome it.

The applicant is a private club: none of the projected increase in its own income can qualify as a *public benefit*. It claims to make donations to the Wimbledon Foundation, an independent charity, and to the LTA, but neither of these are the result of legal commitments and the

applicant offers no evidence that they are commitments into the future, so of course, they can be withdrawn at any time.

The "benefits" or "other considerations" of this application proposed by the applicant are critical to the planning argument, but also difficult to assess. They are largely over-stated and reliant on small, vague, incomplete, and unattested community "aspirations". Employment and business-generation "benefits" are sometimes double-counted and there are grossly over-optimistic generalised economic projections without parameters or risk assessments.

No public use of the applicant's proposed tennis courts is contemplated or offered. This is even more restricted and private than the current golf club arrangements, where members of the public in Merton may play without joining as members. This omission demonstrates no corresponding public benefit in the encouragement of tennis, nor alternative recreational uses for the purposes of the NPPF. A major part of the applicant's argument is that they encourage tennis, but they admit no-one to play and make no promises of future subsidy to tennis organisations. They do not even offer to improve the failing municipal tennis facilities in Wimbledon Park.

The golf course currently has a fine, well-positioned and well-appointed club house, ideal for community use. The applicant makes no provision or offer of any public use of it.

A claimed significant benefit, de-silting the lake costing many £millions, is not even within the site and arises due to deliberate neglect of the lake by the Council over many years, as evidenced by the "at risk" register, so should be left out of account for Heritage purposes (NPPF 196).

Equally the re-paving of Church Road, again off-site and not owned by the applicant, is claimed as a benefit but will be outweighed by its proposed closure, not only for these extensive works, including a tunnel, but also during any closure for the Championships and Qualifying Events. This will cause considerable disruption to traffic and transport, including to an important local bus route, and major inconvenience to members of the public: it will be a *disbenefit*.

Having questioned whether the applicant's aspirations justify the development or whether it was necessary, the decision-maker needs to be satisfied about alternatives. In detailed reasoning in *Save Stonehenge v Secretary of State for Transport* [2021] EWHC 2161 at paragraph 269 *et seq* Mr Justice Holgate set out a general review of the need for the deciding authority to consider alternatives, beginning with *Trusthouse Forte v Sec of State for Environment* (1987) 53 P&CR 293 at 299: where there are clear planning objections to development upon a particular site then "*it may well be relevant and indeed necessary" … to consider whether there is a more appropriate site elsewhere… "This is particularly so where the development is bound to have significant adverse effects and where the major argument advanced in support of the application is that the need for the development outweighs the planning disadvantages inherent in it*".

In its EIA Vol 3 Non-Technical Summary the applicant at paragraph 4 offers just two "do nothing" arguments. At 4.3 it argues: "*Do nothing - would prevent the qualifying event taking place*." This is a non-sequitur: the qualifying event requires 16 grass tennis courts, not 38. The qualifying event could happen anywhere, maybe Raynes Park or elsewhere in England, but the applicant has not addressed other options. That event does not require a stadium, it

merely needs player facilities which could be anywhere. It just so happens that the applicant chooses to put them in the proposed stadium (DAS 3.5.2 p357).

Again, at 4.4: "*Do nothing – would prevent the opportunity for works that may deliver the proposed Development's aspiration of having the site removed from the 'at risk' register*". This is specious. Plenty of works and cooperation would ensure removal from the register, but not merely this. The de-silting works are not central to the development, they are off-site and a problem with which Merton has been faced for a long time. The applicant has linked its commitment to the cost of de-silting to the grant of planning permission so that it will gain a material advantage from offering the Council this enormous commitment. In any event, as mentioned above, NPPF para 196 prevents the offer from being considered as a relevant benefit.

3. Historic Significance and Protection

HE Conservation Principles, Policies and Guidance 2008,
Merton Character Study 2021,
s72 Planning Act 1992
Forge Field v Sevenoaks DC
NPPF 197

The development will cause substantial harm (NPPF 200 (b)) which should be wholly exceptional. The historic significance of this Grade II* listed heritage asset lies in the variety of long-distance views and the openness between planting and features in the landscape, with the lake at its core. See the Aerofilms 1952 photograph Historic England archive EAW047957. While the List Description sets out its features and history, the extent and degree of its historic significance is best evaluated in terms of the heritage values that underpin Historic England's *Conservation Principles, Policies and Guidance* (2008) which explains that: "*Significance is a collective term for the sum of all the heritage values attached to a place, be it a building, an archaeological site or a larger historic area such as a whole village or landscape*."

To encourage objective and consistent evaluation of historic significance, the Conservation Principles recommended four primary 'heritage values': historic, aesthetic, communal and evidential. The following paragraphs apply these to the circumstances of Wimbledon Park.

In terms of its **historic** heritage value, the park is **associated** with important and influential individuals and families who commissioned the Park as the setting of and amenity for the occupants of and visitors to a substantial country house. This has a wider significance as the ownership and patronage that led to the construction of the original house and its Park also influenced the development of the wider area and the people and events involved had wider influence throughout England and its Empire.

This **associative** value extends to the influential designers engaged to undertake the original transformation of the landscape and subsequent enhancements and refinements. These designers developed their skills and their eye for landscape potential through many successive and concurrent commissions, and the Park's significance should be considered along with other such examples, many of which are similarly prized and protected today.

Historic significance is enhanced by the Park being **illustrative** of a particular - neo-classical, romantic and picturesque - approach to landscape design that thrived through the eighteenth

and nineteenth centuries. Demand for such designs was informed by familiarity with the classical features of ancient Europe gained through the grand tours of aristocratic and wealthy estate owners. Such sites were explored and recorded by the designers who met and fuelled this demand with an ability to envision and illustrate the potential of a particular location for such transformation. The significance of the Park should not therefore be considered only as a specific location, but as an example within the *oeuvres* of these designers to show how their skills developed and how themes were picked up, replicated and replaced over time.

The **aesthetic** heritage value of the Park lies in the surviving informal layout and mature planting of the Park landscape. While some of this has been removed to accommodate later uses, the relationship to the original topography, the lake and original watercourses, and its influence on the character of the later, surrounding development can be easily understood and appreciated. Surviving plans and images of the original layout will facilitate the restoration of features where opportunities allow.

Communal heritage value is different from and supplementary to the utility value of the Park to the wider community. The whole of the existing Park, originally designed as a private pleasure park for the occupants of the house and their visitors, was acquired for public benefit in 1915. Part was then a golf course, part cricket pitches and the rest open and wooded areas, the lake always at the core of this significant heritage asset. The creation and protection of this large area of open land shaped the pattern of the community that grew up around it, and the amenities that it has accommodated are embedded in the identity of the area.

Allies & Morrison's *Merton Character Study 2021* (SPD adopted June 2021) at page 65 described the Distinctiveness, heritage and key features of the Wimbledon Park area thus:
"*A largely non-residential neighbourhood area. The campus of the All England Lawn Tennis Club forms the western half of the area with large sports arenas dominating views along Church Road. Green spaces of Wimbledon Park Golf course and Wimbledon Park form the eastern half…*"
and its key issues and opportunities:
"*Large areas of green space are not publicly accessible and the routes into the park could be more legible due to level changes. Improvements to boundary treatments or development that provides more positive frontage to edges and streets should be encouraged in appropriate locations…".*

Although a great deal is known of the creation and evolution of the Park, further **evidential** heritage value may lie in archaeology yet to be revealed, including in the Lake. Any interventions in the Park and Lake should ensure that such evidence is not compromised, and where appropriate may be revealed to add to our understanding of the history of the Park and its historic significance. We have seen that Historic England suggest a condition on *archaeological evaluation*, presumably to overcome the lack of one in the application, required by 6.52 of Merton Sites and Policies Plan, 2014, page 94. However, HE did not require such an evaluation of the 72,000 cubic metres of silt to be dredged from the Lake, where 250 years' worth of archaeology will be found. Such a condition, to include wet sieving, must be required.

In addition, the Park is within the *Wimbledon North Conservation Area*, detailed in the Conservation Area Appraisal as the second of six key sub-areas (Sub Area 2). That Appraisal states that "Wimbledon Park is of *high heritage significance,* with its fundamentally open and verdant character as a parkland reflecting a land use largely unchanged since the medieval

period" (or since forever, come to that). Its survival adds to its historic value and confirms the need for careful stewardship to retain its special Grade II* status.

Conservation Areas are protected by Section 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990:
"…*land in a conservation area…special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*".

Among a great deal of case law, noting *East Northamptonshire DC v SSCLG* [2015] 1 WLR 45; *South Lakeland District Council v Sec of State for Environment* [1992] 2 AC 141 and *Bath Society v SSE* [1991] 1 WLR 1303, see especially *Forge Field v Sevenoaks DC* [2014] EWHC 1895:
"*There is a statutory presumption, and a strong one, against granting planning permission for any development which would fail to preserve…the character or appearance of a conservation area…authority [must] demonstrably apply the statutory presumption in favour of preservation*".

The applicant's Environmental Statement (Volume 01:10.74) and Historic Environment Assessment (Volume 02:10.1) are confusing and contradictory about *views.* The latter at paragraph 4.28 claims that Marlborough House was the focal point, when at 3.50 it had dismissed this notion, because the House was sunk at the insistence of the Duchess, a comment repeated and reinforced in the former at 10.74. And at 3.50 the latter also suggests that St Mary's was a focal point but in fact St Mary's was not rebuilt, with a new and now iconic spire, until at least 20 years after the Brownian landscape was completed. This flawed HEA reasoning has been used to support narrow, selective and direct views across the Park, when it was the general views and vistas, with the Lake at its core, that made the Heritage Park worthy of its Grade II* listing.

At Volume 01:10.74 of the Environmental Statement, the applicant reminds that *"Brown's landscapes rarely included … static viewing points. Instead, his landscapes were all about movement, open vistas and the concealment and revealment of features as people moved through and around the Park."* It is clear that it is the openness of the Park which is of lasting significance and which any development within it will harm.

It will be immediately apparent that the assertion in the applicant's Environmental Statement at 01:10.152 that the Park's significance is derived "primarily from its historical documentation and association" is an inadequate and unduly limited appreciation of the concept of significance such that the conclusion that this significance "will not be affected in any way by the construction of the Proposed Development" is unsafe.

The Show Court (more accurately described as a Stadium) is bound to disrupt any views from many directions: the top of it is above the tree line from all directions at ground level, more emphatically from the lip of the surrounding bowl in the landscape, which would have been Brown's viewpoints. The Stadium will cause substantial harm. In fact, the tennis courts, requiring considerable year-round animal and security fencing, specialist grow-nursery lighting and fans in accordance with the AELTC's very high standards of groundsmanship (see the Outline Construction Management Plan), will be much larger, more obtrusive and harmful than any feature on the golf course at present. Taken with the 10 sizeable sheds and electricity transformer enclosures and the large maintenance buildings, the effect is substantial harm throughout.

Added to this catalogue of substantial harm are the huge hard standings for entrance villages at each end of the Park and the extensive road network throughout, calculated at more than 9.4 kilometres. The entrance villages, with their permanent bases up to 100m long, will be in construction or de-construction for at least 3 months of each year. There used to be similar pop-up entrances on Church Road to the main site, but these soon became permanent buildings. And all that is without allowing for the considerable soil movement everywhere: not one square metre of ground outside the tree root-throws will be untouched by the bulldozer.

The planning authority will be aware that some of the proposals may satisfy two of the three issues to be considered in the protection of heritage assets under NPPF 197. Perhaps some of the soft landscaping and arboriculture could be claimed to be "desirable for sustaining and enhancing the significance of" the Park (NPPF 197 (a)) or the community use of the dedicated park and walkways will "make a positive contribution to sustainable communities" (NPPF 197 (b)). However, nearly all of this proposed development fails to satisfy either of these two or the third because it will not make a "positive contribution to local character and distinctiveness" (NPPF 197 (c)) since it will destroy the MOL and its character and there is plenty of Commercial tennis on the west of Church Road, as demonstrated in the Merton Character Study.

A telling example of the application's wilful dismissal of the need to preserve heritage and environmental assets is to be found tucked away in the Design Guidelines. It is argued elsewhere in this submission that an Outline application is invalid on local policy grounds, but even if it were to be accepted, it is also submitted that little weight can be attributed to the applicant's claim to preserve the natural environment. The Design Guidelines that apply to the largest and most obtrusive buildings should be a place where the effect of the development on veteran and retained trees is paramount. However, Terminology at page 5, defines 'Should' as "*this feature or guideline is part of the design intent; deviation from it should be well justified*"; and 'Must' as "*this feature or guideline is not optional and is expected to form part of the detailed design*." The rules that apply to trees are governed by "should", not "must" (Design Guidelines 1.2.2, 2.2.2, 3.2.2). So, if a tree must go because it is in the way, it will go. That demonstrates no respect for veteran trees.

4. Open Space and Metropolitan Open Land (= Green Belt)

NPPF 99 and 147 to 150
Sam Smith v North Yorkshire

NPPF 99 "Existing open space, sports and recreational buildings and land should not be built on…unless…clearly…surplus to requirements". The golf course is actively used, as the applicant's statements make clear. It is also accessible to the public, many exercising the rights reserved in the lease for locals to play without needing to become a member. The proposal is to replace that sports use by a private tennis club where the public will not be able to play. Clearly not surplus to requirements, NPPF 99 prevents this development.

The Park is designated Metropolitan Open Land which has the same status as Green Belt for the purposes of planning policy protection. The NPPF 147 and 148 tests are even stronger for MOL than for Heritage. *All development* (adopting the well-known definition of "works etc in on or under land", s.55 Town and Country Planning Act 1990) is "*inappropriate and should not be approved except in very special circumstances*" (NPPF 147). Planning authorities must ensure that "substantial weight is given to *any* harm" (not just substantial harm) (NPPF 148). All building works in this proposal fall under this rule: not just the prominent stadium and other buildings, but also the extensive network of 9.4 kilometres of roads, hardscapes, and paths as well.

Due no doubt to the breadth of this rule there is an exception for new buildings providing "appropriate facilities for outdoor sports" (NPPF 149 (b)). Clearly the stadium and other major works could never pass this threshold. On no grounds whatsoever should the stadium be approved. There may be a few examples in this proposal of other appropriate buildings, such as some small, discreet maintenance and changing facilities.

In addition, these are no ordinary tennis courts; compare the average levelled ground tennis court 34.5m x 16.5m. The method of construction required by the applicant involves an extensive concrete bund below ground, fans, covers, fencing and much wider-and-longer-than-average tennis-playing surfaces: 37m x 22.4m, constructed from scratch with substantial new concrete: see Court Layout Drawings and Appendix B to the Outline Landscape Management Plan.

All of that is far more environmentally intrusive, by contrast, than simply levelling the ground and improving the grass to make a playing surface. We believe that the decision-maker should review this difference very carefully indeed. Works of this extent are *development*, so they are *inappropriate*, but they are not covered by the exception in NPPF 149(b) because they are *not a building*. The greater the number of courts of this nature proposed by the applicant the more stringently should this test be applied. That the project envisages so many courts built in this way is demonstrably inappropriate and should be refused.

These submissions cannot be expected to comment on all of the considerable number of errors and fallacious arguments in the applicant's submission, nor does the community have the time (in just 5 weeks), money or resources to deal with each. Just one example will be sufficient here: paragraph 7.3.17 of the Planning Statement, which cited *Sam Smith v North Yorkshire* [2020] UKSC 3 to support the applicant's interpretation of "openness" and its claim that the proposal achieves a sufficient degree of openness. The Sam Smith case concerned a quarry, which is allowed as a specific exception to the prohibition on development in the green belt "*provided it preserves its openness*" (NPPF 150(a)). The argument was whether the authority in that case took due notice of that concept. But this application is not concerned with a quarry, nor is it within the list of exceptions to the prohibition. The Sam Smith case has nothing whatsoever to do with it, and the applicant is misleading itself and the decision-making authority in seeking to rely on it.

5. Carbon Footprint, Car Parking, Traffic and Church Road

The applicant's Travel Plan documentation in support of the application does not meet the challenges posed by climate change.

The applicant proposes to continue the use of Wimbledon (Public) Park for their own generated requirements, car/bicycle parking, vehicular drop-off, retention of the Queue, servicing, etc. All the requirements generated by the applicant should be catered for within their ownership, not to the detriment of the local residents' facilities.

The traffic data is almost impossible to analyse, since the main traffic changes proposed by the applicant for the Championships are dealt by LBM on a yearly basis under separate legislation such as the intended proposed Church Road temporary road closure underpinned by public security considerations.

The proposed changes to the status of Church Road, should be the subject of a comprehensive traffic assessment analysing the impact on all the adjacent roads from a pedestrian, cyclist and vehicular including public transport from a wider perspective which is not offered under the applicant's proposals, both during the extended building site and servicing operations that such development would entail, as well as later during the Qualifying and Championships events.

Accordingly, the intended works to Church Road should be excluded from this application and the red line of the application modified accordingly.

6. Local Plan and Merton's special characteristics

Site and Policies Plan and Policies Map, 2014-2024
New Draft Local Plan
Merton Character Study

This application will be assessed by LBM in accordance with the following local plan documents:

Core Planning Strategy (2011-2024 Adopted)
Site and Policies Plan and Policies Map (2014-2024)
Estates Local Plan (Adopted 2018)
South West London Waste Plan (2012) – 2021 version currently subject of independent examination by a Planning Inspector
New Local Plan (2021) – Stage 3 subject to independent examination by a Planning Inspector

In doing so, LBM is bound to give the appropriate weight to recent policies and guidance emanating from NPPF and the London Plan (2021).

Policies emerging from the draft (unadopted) New Local Plan and its Site Allocation Wi3 should be given no weight in the decision-making process for this application given the extensive and comprehensive objections raised for consideration by the independent Inspector by many organisations. However, it should be noted that the current (2014-2024) Merton Sites and Policies Map for Wimbledon does not include any proposal for a site allocation for development associated with the site the subject of this application.

The Local Plan refers to Supplementary Planning Documents (SPD) that inform the formulation of policies and guidance for assessing development plans within the Borough. One such SPD, recently adopted by the Council on 22 June 2021, is the Merton Character Study. This document is intended to be used as an important tool for developers and others investing in Merton to ensure proposals positively respond to the local context.

This Character Study 2021, prepared by Allies & Morrison, who as it happens also created the Masterplan, is directly relevant and compelling in this case (*emphasis added*):

Page 6: "*Where areas have a strong existing character, this will be reinforced and protected.*"

Page 104: "… it is also about highlighting thresholds - beyond which change needs to be limited. This will include *protecting open spaces*, routes, as well as *sensitive conservation areas*/zones."

Page 130-9: Tall Buildings (>18 metres; the Stadium -show court- is at least 25 metres) "*It is highly unlikely that a tall building would be appropriate in a low-scale residential area*". Wimbledon Park, a Conservation Area and Heritage at Risk, is *the most sensitive area in the Borough for Tall Buildings*.

Page 142: "The borough is blessed with *a wealth of high-quality green spaces* ... *Re-emphasising this inbuilt green infrastructure* … could significantly enhance the borough's neighbourhoods and their sustainability."

7. Heritage at risk for 6 years

HE1000852

On the HE "Heritage at Risk" Register since 2015, the relevant entries read as follows:

"2016 - Wimbledon Park is a remnant of the C18 landscape that Capability Brown laid out for Earl Spencer of Wimbledon House, a C16 estate. The lake is a survivor from this landscape and is in very poor condition. The Local Authority manages the municipal park with an emphasis on sport and land to the west is Wimbledon Golf Course. Designed views are obscured and the divided ownership results in discordant landscape management."

"2021 - A remnant of the C18 landscape by Lancelot 'Capability' Brown for the 1st Earl Spencer's manor house at Wimbledon, itself developed from a C16 estate. The Local Authority manages Brown's lake and land to the east as a municipal park with an emphasis on sport, with land to the west in private ownership as golf and sports clubs. The divided ownership results in differential landscape management. A masterplan exists for the municipal park, but a shared vision for the whole historic landscape is needed. The Local Authority, with the other landowners, is developing a project for works to the lake."

The distinction between these descriptions is noticeable and caused Historic England now to assess the Park as of High Vulnerability and in a Declining Trend. It is getting worse, and nothing has been done. In the discussion elsewhere in this submission attention is drawn to NPPF 196: *neglect should not be taken into account in the decision*. This is a very important policy issue. The applicant cannot argue that the output of the works to remedy neglect is a feature of any benefit, potentially outweighing harm. Nor can the applicant argue that if the works cause substantial harm, it is necessary to achieve substantial benefits.

The municipal park mentioned here is the area owned by LBM as trustee for the public. Nothing has been done or changed to overcome the reasons for listing Wimbledon Park as "at risk". Desultory meetings in which the applicant has been involved have failed to achieve a meeting of minds and ambitions, a shared vision, of all landholdings to unite the "whole historic landscape". It would be perverse to suggest that this would be overcome by any development of one landholding alone leaving aside all the other policy reasons preventing development. However, the applicant's statement in EIA Vol 3 Non-Technical Summary 4.4: "Do nothing – would prevent the opportunity for works that may deliver the *proposed Development's aspiration of having the site removed from the 'at risk' register*" is incredible. It is also an example of an attempt to argue that neglect should be taken into account, contrary to NPPF 196, and therefore plain wrong.

The applicant could have addressed the concerns, but this scheme does not. In addition, this failure to address the Heritage at Risk problem is a further example of substantial harm, not benefit, to be weighed under the NPPF para 200.

The applicant's EIA, Volume 1, Environmental Statement, at paragraph 10.59 reassures that if the proposed project is not pursued, the applicant will improve the condition of the "At Risk" issues through a Conservation Management Plan currently in course of preparation. In other words, doing nothing will address "At Risk"; carrying out the development will make it worse.

This clearly argues for no development.

8. Disdain for Legal Obligations, Conflicts of interest

In 1993 the applicant covenanted not to develop the land, a Deed which it now proposes to ignore. The entire Park was originally acquired by Wimbledon Corporation (now LBM) in 1915 as a trustee for the public. The covenant, that "*building shall not impair the appreciation of the general public of the extent or openness of the property*", was given by the applicant for the benefit of the remainder of the Park which LBM retained, still as trustee for the public. LBM must enforce that covenant for public benefit, but if they grant consent the applicant might expect them to release the covenant, or if LBM are offered some consideration (perhaps to release the covenant), they may feel compelled to promote development. This issue has been drawn to the attention of LBM. An adequate response is awaited.

The applicant claims (Planning Statement 1.1.6) to be *committed* to paying for de-silting of the Lake. The offer of such valuable works (many £millions) applies to land which the applicant does not own, is outside the application area and owned by LBM, and is not required as an integral part of the development. De-silting may, however, assist LBM to comply with its statutory obligations which are not in any way related to the development or its role as planning or local authority, but as registered owner of a reservoir under the Reservoir Act 1975 to prevent 'over-topping' of the dam. Following enquiry, Rolfe-Judd Planning have confirmed that this in fact means that the applicant has made an offer to LBM to pay for de-silting which it will fulfil only if planning for the whole scheme is granted. LBM have been asked in writing to explain their very difficult position and a response is awaited.

In conclusion …

"Heritage assets are an irreplaceable resource" (NPPF 189),
"Construction of new buildings in the Green Belt is inappropriate" (NPPF 149) and
"Special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area" (s.72 Planning (Listed Buildings and Conservation Areas) Act 1990.

As Mr Justice Holgate said in Save Stonehenge v Secretary of State in July this year, among nine reasons for granting judicial review (para 282):

"*The decision-maker failed to give adequate weight to the necessity of the scheme, the harm that it would cause and the alternatives available*".

The burden on the decision-maker is considerable. The interests of the applicant in a swift decision on an incomplete application are irrelevant. The interests of the rule of law and public policy are paramount, and this application should be refused.

Iain C Simpson
Chairman

Christopher Coombe
Mario L Avendano, RIBA
Planning Committee

Wimbledon Park Residents' Association