



# Report to the Secretary of State for Communities and Local Government

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TOWN AND COUNTRY PLANNING ACT 1990  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

APPLICATIONS BY  
THORNFIELD PROPERTIES (LONDON) LIMITED

TO  
THE CITY OF LONDON COUNCIL

DEVELOPMENT AT 43 FARRINGDON STREET, 25 SNOW HILL AND 29  
SMITHFIELD STREET, LONDON EC1A

Inquiry opened on 6 November 2007

File Refs: APP/K5030/V/07/1201433-36

## CONTENTS

SECTION	TITLE	PAGE
1.0	Procedural Matters	3
2.0	The Site and Its Surroundings	3
3.0	Planning History	5
4.0	Planning Policy	6
5.0	The Case for the Thornfield Properties (London) Limited	7
5.1	Introduction	7
5.2	Character and Appearance of the Surrounding Area including the Settings of Nearby Listed Buildings and Conservation Areas	8
5.3	Viability	19
5.4	Repair, maintenance and retention of the existing buildings	23
5.5	Sustainability and Accessibility	31
5.6	Retail	31
5.7	Transportation	32
5.8	Other Matters	33
5.9	Section 106 Agreement and Conditions	35
5.10	Conclusion	36
6.0	The Case for the City of London Corporation	36
6.1	Introduction	36
6.2	Character and Appearance of the Surrounding Area including the Settings of Nearby Listed Buildings and Conservation Areas	36
6.3	Viability	42
6.4	Repair, maintenance and retention of the existing buildings	43
6.5	Sustainability and Accessibility	49
6.6	Retail	50
6.7	Transportation	50
6.8	Other Matters	51
6.9	Section 106 Agreement and Conditions	54
6.10	Conclusion	54
7.0	The Case for English Heritage	55
7.1	Introduction	55
7.2	Character and Appearance of the Surrounding Area including the Settings of Nearby Listed Buildings and Conservation Areas	55
7.3	Viability	63
7.4	Repair, maintenance and retention of the existing buildings	66
7.5	Sustainability and Accessibility	71
7.6	Retail	72
7.7	Other Matters	72
7.8	Section 106 Agreement and Conditions	75
7.9	Conclusion	75
8.0	The Case for SAVE Britain's Heritage	76
8.1	Introduction	76
8.2	Character and Appearance of the Surrounding Area including the Settings of Nearby Listed Buildings and Conservation Areas	76
8.3	Viability	83

8.4	Repair, maintenance and retention of the existing buildings	86
8.5	Other Matters	88
8.6	Section 106 Agreement and Conditions	88
8.7	Conclusion	89
9.0	The Case for Network Rail	89
10.0	The Cases for Interested Persons	94
11.0	Consultation Responses and Written Representations	96
12.0	Inspector's Conclusions	100
12.1	Introduction	100
12.2	Character and Appearance of the Surrounding Area including the Settings of Nearby Listed Buildings and Conservation Areas	100
12.3	Viability	112
12.4	Repair, maintenance and retention of the existing buildings	115
12.5	Accessibility	122
12.6	Retail	122
12.7	Transportation	123
12.8	Other Matters	124
12.9	Section 106 Agreement and Conditions	128
13.0	Overall Conclusion and Recommendation	132
13.1	Overall Conclusion	132
13.2	Recommendation	134
App 1	Appearances	135
App 2	Documents	138
App 3	Schedule of Site Visits	150
App 4	Schedule of Conditions to be Attached Should the Applications be Allowed	151
App 5	Glossary	157

Application A: APP/K5030/V/07/1201433

Application B: APP/K5030/V/07/1201434

Application C: APP/K5030/V/07/1201435

Application D: APP/K5030/V/07/1201436

43 Farringdon Street, 25 Snow Hill & 29 Smithfield Street, London EC1A

- The applications were called in for decision by the Secretary of State by a direction, made under Section 77 of the *Town and Country Planning Act 1990*, on 27 April 2007.
- The applications are made by Thornfield Properties (London) Limited (TPL) to the City of London Council (CLC).
- Applications A, B, C and D are all dated 15 February 2007 and have File Refs 07/00172/FULEIA, 07/00161/CAC, 07/00160/LBC and 07/00168/LBC respectively.
- The development proposed in Application A is demolition of the existing building and other structures at 43 Farringdon Street and part redevelopment and part refurbishment of the existing buildings and other structures at 25 Snow Hill and 29 Smithfield Street to provide office (B1), retail/market (A1, A2, A3, A4 and A5) uses with associated railway engineering works, car parking, servicing, pedestrian and vehicular routes (44,896 m<sup>2</sup>).
- The demolition proposed in Application B is the existing building and other structures at 43 Farringdon Street and part redevelopment and part refurbishment of the existing buildings and other structures at 25 Snow Hill and 29 Smithfield Street.
- The works proposed in Application C at The Red House are internal, and minor external, alterations to the existing building.
- The works proposed in Application D are the dismantling of the canopy spanning between 43 Farringdon Street and Smithfield Poultry Market and work of making good to the Poultry Market.
- The reason for making the direction was that the Secretary of State considers that the proposal may conflict with national policies on important matters.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of her consideration of the application:
  - a) The extent to which the application to demolish the building in a conservation area accords with national policy on buildings in conservation areas as set out in *Planning Policy Guidance Note 15: Planning and the Historic Environment* (PPG15), with particular regard to the consideration of:
    - i) the desirability of preserving or enhancing the character or appearance of conservation areas (paragraph 4.62);
    - ii) the condition of the buildings, the cost of repairing and maintaining them in relation to their importance and to the value derived from their continual use (paragraph 3.19 (i));
    - iii) the adequacy of efforts to retain the buildings in use, including the merits of offering the unrestrictive freehold of the buildings on the open market (paragraph 3.19 (ii));
    - iv) the merits of alternative proposals for the site (paragraph 3.19 (iii)); and
    - v) in the event that the application is contrary to national policy, whether any grounds exist sufficient to justify granting consent for the demolition of the building in a conservation area.

- b) The extent to which the proposed redevelopment is consistent with advice in PPG15, with particular regard to the consideration of:
  - i) the importance of balancing the effect of any changes on the special interest of listed buildings against the viability of any proposed use and of alternative, and possibly less damaging, uses.
  - ii) preserving the settings of nearby listed buildings (paragraph 2.16);
  - iii) preserving and enhancing the character and appearance of the Smithfield Conservation Area; and
  - iv) preserving or enhancing the setting, views into and out of, and character or appearance of the adjoining conservation areas.
- c) The viability of the proposed redevelopment at this location.
- d) The extent to which the proposed development is consistent with Government policies in *Planning Policy Statement 1: Delivering Sustainable Development* (PPS1); and accompanying guidance *The Planning System: General Principles* with particular regard to:
  - i) the achievement of sustainable development and sustainable communities through an integrated approach to social cohesion, protection and enhancement of the environment, prudent use of natural resources and economic development;
  - ii) whether the design principles in relation to the site and its wider context, including the layout, scale, open space, visual appearance and landscaping, are appropriate in their context and take the opportunities available for improving the character and quality of the area and the way it functions, having regard to the advice in paragraphs 33 to 39 of PPS1;
  - iii) the extent to which the proposed redevelopment promotes high quality, inclusive design in terms of function and impact, which takes the opportunity available for improving the character and quality of areas (paragraphs 33-35 of PPS1); and
  - iv) the extent to which the application takes into account the access needs of all in society, including people with disabilities - including access to and into buildings, having regard to the advice in paragraphs 36 and 39 of PPS1.
- e) The extent to which the proposed development accords with Government planning policy advice in *Planning Policy Statement 6: Planning for Town Centres* (PPS6).
- f) The extent to which the proposed development is consistent with the advice in *Planning Policy Guidance Note 13: Transport* (PPG13), in particular on the need to locate development in a way which helps to:
  - i) promote more sustainable transport choices;
  - ii) promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling; and
  - iii) whether a transport assessment or travel plan has been submitted in accordance with paragraphs 23-27 and 87-91 of PPG13.
- g) The consideration given to relevant transport issues including any impact for Crossrail, Thameslink and the capacity of nearby stations.
- h) The relationship of the proposed redevelopment to the relevant policies of the published *London Plan* (LP) and City of London's adopted *Unitary Development Plan* (UDP).
- i) Any other matters that are considered material to the determination of these applications. This includes whether any approval or consent granted for the proposed works should be subject to any conditions, including the City's proposed conditions for (i) the granting of conservation area consent (ii) the granting of planning permission with regard to archaeological work, and the form these would take.

Summary of Recommendations: The applications be refused.

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## 1.0 Procedural Matters

- 1.1. A Pre-Inquiry Meeting (PIM) was held on 11 December 2006 in connection with earlier proposals for part of the site the subject of this Inquiry. Following the PIM, a ruling was issued on the procedure to be adopted at the Inquiry. When the current applications were 'substituted' for the earlier proposals further Pre-Inquiry Notes were issued in lieu of another PIM. The Inquiry sat for 24 days between 6 November 2007 and 25 January 2008. An accompanied visit to the railway lines and sidings beneath the site were made during a possession of the railway in the early hours of 11 March 2007. Further accompanied visits to the site and its surroundings, to the building at Billingsgate Market, and to other buildings by the architects for the proposed scheme were undertaken towards the end of the Inquiry and unaccompanied visits to the markets at Borough, Greenwich, Camden and Spitalfields on a Saturday and Sunday were made immediately after the close of the Inquiry.<sup>1</sup>
- 1.2. Amended drawings were formally substituted for the original application drawings on 1 October 2007. The amendments are relatively minor and no party at the inquiry objected to their consideration. I do not consider that anyone would be disadvantaged by consideration of the amended drawings, which are listed in Section 4 of the Statement of Common Ground, and this report is written on the basis of the revised information.<sup>2</sup>
- 1.3. An Environmental Statement (ES) has been produced in accordance with the *Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999* as amended by the *Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2006*. A note was submitted at the beginning of the Inquiry detailing how the statutory requirements have been met. Statutory and non-statutory consultations were carried out on the applications and ES between 6 and 27 March 2007. I have taken into account all the comments from statutory consultation bodies and others that have been submitted to me but there is little comment relating specifically to the ES. Matters were raised, and a Supplementary ES issued and publicised, during the Inquiry. These matters are considered in the body of this report.<sup>3</sup>
- 1.4. This report includes descriptions of the application site and its surroundings, the planning policy background, the gist of the representations made at the Inquiry and my conclusions and recommendations. Lists of appearances, documents and site visits are attached as appendices together with a schedule of conditions that might be attached should the Secretary of State be minded to grant any of the applications and a glossary.

## 2.0 The Site and Its Surroundings<sup>4</sup>

- 2.1. A live meat market was established in Smithfield in the medieval period. The arrival of the Metropolitan Railway in the early 1860s provided the opportunity to transport slaughtered meat by rail to the market site. Horace

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<sup>1</sup> ID/1, ID/2, ID/3, ID/4, ID/5 & ID/6

<sup>2</sup> CD1.4A. CD14.1 Sect 4

<sup>3</sup> CD2.1-2,10, CD14.1 Paras 4.12-4.13, CD29.8, TPL/10

<sup>4</sup> CD14.1 Sections 1, 6, 7 & 8, CD14.2 & CD14.3

- Jones designed a new dead meat market, completed in 1868, with rail sidings in the basement and accessed by a carriage ramp from West Smithfield. The surrounding roads were also refashioned to allow access. The market was expanded westwards with the Poultry Market completed in 1875. This building was rebuilt in 1957 after a fire destroyed the original.
- 2.2. The General Market Building to the west of the Poultry Market was finished in 1883. There was a prominent corner tower and a high timber lantern over the market space and a smaller turret roof by the ramped access leading to the railway sidings in the basement. Unlike the earlier market buildings, shops were located along the street frontages. The roof was supported on columns assembled from rolled wrought iron sections known by the patent name 'Phoenix'.
- 2.3. To the south of the General Market Building was a triangular site, which from 1886 was developed with three buildings; a fish market known as the Annex Building; a cold store known as the Red House completed in 1899; and a lavatory block for the market porters which had full stack venting refrigeration boilers. A fifth market building on the north side of Charterhouse Street was completed in 1892 by Alexander Peebles but was demolished in World War II. The corner tower of the General Market Building was also destroyed during the war and was rebuilt in a simpler fashion in the 1950s. The timber lantern has also been replaced with a shallow dome sitting on the original wrought-iron trusses. A canopy was erected between the General Market Building and the Annex around 1900.
- 2.4. The site, which has an area of approximately 1.24 hectares, lies within the Smithfield Conservation Area and is bounded by Farringdon Street to the west, Charterhouse Street to the north, West Poultry Avenue to the east, Smithfield Street to the south east and Snow Hill to the south west. The buildings on the site are: the General Market Building (43 Farringdon Street); the Annex Building (25 Snow Hill); the Grade II listed Red House (1A Smithfield Street); and, the Lavatory Block (29 Smithfield Street). Canopies link 43 Farringdon Street to both the Grade II listed Poultry Market and the Annex Building. The buildings on the site were formerly in use as part of Smithfield market but are now largely vacant.
- 2.5. There is a car park at basement level beneath the General Market Building and the Thameslink running tracks and sidings run under the site and West Poultry Avenue at basement level. The basement of the General Market Building is scheduled as surface interest, a temporary works site and a lorry holding area as part of the Crossrail project, although the areas would not be required on a permanent basis. An Iron Mountain Storage Facility is located below the Annex Building and Lavatory Block.
- 2.6. Farringdon Street includes a number of 9 and 10 storey post-war office buildings. The west side of the street is outside the Smithfield Conservation Area and St Paul's Heights restriction. Planning permission was recently granted for a 9 storey office scheme with retail at ground level on the site of Bath House on Holborn Viaduct to the south of the site (LPA Ref: 06/00915/FUL). Many of the buildings on Charterhouse Street originally housed functions that supported the operation of the markets including the Port of London Authority and cold store buildings. The predominant ground floor uses are now restaurants, drinking establishments and retail units with

offices on the upper levels. The buildings are generally 4 to 5 storeys high with the exception of the 9 storey Caxton House immediately to the north of the site. The London Borough of Islington has recently granted planning permission for the redevelopment of Caxton House with a part 8 and part 11 storey building (LPS Ref: P062846).

- 2.7. Canopies link the buildings that are, or were, in market use. These span West Smithfield linking the General Market and Annex Buildings, West Poultry Avenue linking the General Market and Poultry Market Buildings, and East Poultry Avenue linking the Poultry Market and the Grade II\* listed Meat Market. In addition, Grand Avenue runs through the middle of the Meat Market Building. Both the Poultry Market and Meat Market Buildings continue in market use and are predominantly two storey in height.
- 2.8. West Smithfield consists mainly of 4 to 5 storey buildings and, as in Charterhouse Street, the predominant ground floor use is restaurants, drinking establishments and retail uses with offices on the upper floors. St Bartholomew's Hospital is located to the south east of the market complex and includes buildings up to 10 storeys in height.
- 2.9. The Hatton Garden Conservation Area in the London Borough of Camden lies to the west of Farringdon Road and north of Charterhouse Street and its south-east corner adjoins the Smithfield Conservation Area adjacent to the application site. To the north east of the site on the north side of Charterhouse Street is the Charterhouse Square Conservation Area in the London Borough of Islington whilst the Newgate Street and Postman's Park Conservation Areas adjoin the southern boundary of the Smithfield Conservation Area.
- 2.10. In addition to the listed Red House, Poultry Market and Meat Market buildings, Holy Sepulchre Church on Snow Hill to the south of the site is listed Grade I. To the south west of the site, the bridge of Holborn Viaduct crossing Farringdon Street is listed Grade II, as are 51-53 Charterhouse Street and 67-77 Charterhouse Street to the north-east of the site and 25 and 27 Farringdon Road to the north-west. There are other listed buildings slightly further afield from the site.
- 3.0 Planning History<sup>5</sup>
  - 3.1. In May 2004 TPL made applications for planning permission and conservation area consent (LPA Refs: 04/00537/FUL and 04/00536/CAC) to redevelop 43 Farringdon Street, 25 Snow Hill and 29 Smithfield Street. An application to dismantle the canopy between 43 Farringdon Street and the Poultry Market building (Ref: 04/00663/LBC) was also submitted. These applications were withdrawn in May 2006.
  - 3.2. The Secretary of State for Culture, Media and Sport listed the Red House cold store Grade II in March 2005 following requests from various bodies and individuals, including SAVE Britain's Heritage (SAVE). In June 2006 TPL requested that the listing of the Red House be reconsidered. This request for de-listing has not yet been determined. Applications were made for Certificates of Immunity from listing for the other buildings on the

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<sup>5</sup> CD14.1 Section 2, CD14.2 Section 2



application site and Certificates were granted in respect of 43 Farringdon Street, 25 Snow Hill and 29 Smithfield Street on 15 December 2005.

- 3.3. Subsequent to the listing of the Red House, applications for planning permission, conservation area consent and listed building consent for the redevelopment of 43 Farringdon Street only were made in August 2005 (LPA Refs: 05/00768/FULEIA, 05/00760/CAC and 05/00770/LBC). The City's Planning and Transportation Committee resolved to grant planning permission, subject to conditions and a Section 106 Agreement, in May 2006. However, in June 2006 the Secretary of State called these applications in and issued an Article 14 Direction preventing the City from determining any applications for similar development on the site until a decision on the 2005 applications had been issued.
- 3.4. The applications subject of this Inquiry were submitted in February 2007 and the City resolved on 23 April 2007 that, but for the Article 14 Direction, it would have granted planning permission subject to conditions and a Section 106 Agreement. On 27 April 2007 the Secretary of State called in the 2007 applications. The 2005 applications were withdrawn on 2 May 2007.

#### 4.0 Planning Policy<sup>6</sup>

- 4.1. The development plan for the vicinity includes the *London Plan 2004* and the 'saved' policies of the *City of London Unitary Development Plan 2002* with the former, being the most recent, taking precedence where there is conflict between policies in the plans. The *Central London Sub-Regional Planning Framework 2006* sits between the two documents and is also a consideration. The most relevant policies are summarised below.<sup>7</sup>
- 4.2. The site lies within the Central Activities Zone (CAZ) and an Area for Intensification (AOI) as defined in LP Policies 5B.2 and 5B.5. Where there is an increase in office floorspace within the CAZ, Policy 3B.4 generally seeks a mix of uses, including housing, unless there would be a conflict with other policies. LP Policy 2A.3 requires higher densities and more mixed and intensive use in an AOI. Clusters of specialist activity in and around the CAZ will be protected and supported by LP Policy 5B.3. UDP Policy ENV 32 encourages activities that contribute positively to the environmental character of their area. ECON 6 specifically seeks to maintain the varied and special character of Smithfield, whilst ECON 8 requires regard to be had to the operational needs of the meat market at Smithfield.
- 4.3. In more general terms, LP Policies 3B.1, 3B.2 and 3B.3 seek to develop London's economy by seeking an increase in office stock and the rejuvenation of office based activities, particularly in the CAZ. This is echoed by UDP Policy STRAT 2A which promotes the City as the world's leading international financial and business centre. UDP Policy ECON 1 encourages office development, ECON 3 seeks large floorplate buildings where their scale bulk and massing are appropriate to the surroundings, whilst the objective of ECON 5 is a variety of uses at street level which contribute positively to economic and social vitality.

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<sup>6</sup> CD19.1, CD20.1, CD14.1, CD14.2, TPL/9/A Sect 9, CLC/3/A 4.12.1-47, EH/6/A Sect 10

<sup>7</sup> EH/6/A 5.2, CD19.1

- 4.4. The general thrust of LP Policies 4B.1, 4B.2, 4B.7 and 4B.9 and UDP Policies STRAT 10A and ENV 1 is to require good design, including maximising the potential of sites. LP Policy 4B.3 seeks the highest possible intensity of use compatible with the local context. The statutory duties to consider the desirability: firstly, of preserving listed buildings, their settings or any features of special architectural and historic interest they might possess, and secondly, of preserving or enhancing the character or appearance of a Conservation Area, are generally reflected in LP Policies 4B.10-11 and UDP Policies STRAT 10B, ENV 11, ENV 12, ENV 16 and ENV 18. The protection of strategically important or significant views is sought by LP Policies 4B.15-17 and UDP Policy ENV 2. The general thrust of LP Policy 4B.12 and UDP Policy ENV 17 is to encourage schemes that make use of historic assets, bring redundant buildings into use, or secure the repair and re-use of Buildings at Risk.
- 4.5. Sustainability criteria are set out in LP Policy 2A.1 whilst Policy 4B.6 seeks the highest standards of sustainable design and construction. Section 4A of the LP sets out more detailed policies for managing natural resources and Policies 4A.7-9 specifically deal with energy efficiency and renewable energy. The thrust of LP Policy 4B.5 is the creation of an inclusive environment. UDP Policy TRANS 6 seeks to improve the environment for pedestrians generally and the objective of LP Policy 4B.4 is to enhance the quality of the public realm and ensure it is accessible for all.
- 4.6. UDP Policy STRAT 6A generally looks to retain the existing pattern of retail uses in the City. UDP Policy SHOP 1 seeks to resist the loss of retail floorspace whilst the replacement of retail uses in development schemes, primarily at pedestrian level, is sought by UDP Policy SHOP 2. SHOP 3 encourages new or increased retail facilities, particularly close to a public transport interchange amongst other locations. The thrust of UDP Policy SHOP 4 encourages a variety of unit sizes compatible with the character of the area.
- 4.7. The integration of transport and development, with the latter matching transport capacity are sought by LP Policies 3C.1 & 3C.2. More specifically UDP Policies TRANS 15, TRANS 22 and TRANS 23 seek the provision of off-street servicing, cycle and motorcycle parking.
- 5.0 The Case for the Thornfield Properties (London) Limited
- 5.1. Introduction
- 5.1.1. TPL proposes the refurbishment of the listed Red House, a building within the retained 'rind' of the Annex Building and the construction of a major mixed use scheme on the site of the old General Market Building. In addition, replacement of the railway tunnel lids beneath would be of immense public benefit as major investment in Thameslink comes on stream.<sup>8</sup>

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<sup>8</sup> TPL/2 Paras 1 & 2

## 5.2. Character & Appearance of the Surrounding Area including the Settings of Nearby Listed Buildings and Conservation Areas

### *Introduction*

5.2.1. It is common ground that the unlisted buildings on the site, which are not of any special architectural or historical interest, make a positive contribution to the Conservation Area. However, there is a difference of opinion as to the degree of that contribution. Notwithstanding that, if the demolition of the General Market Building would enable substantial community benefits to be realised then, in accordance with paragraph 3.19 (iii) of PPG15, that should lead to a grant of conservation area consent whatever the degree of positive contribution the existing buildings make to the character and appearance of the Conservation Area.<sup>9</sup>

### *The Existing Buildings on the Site*

- 5.2.2. The buildings on the site, collectively known as the western market buildings, were built during the mid to late 19<sup>th</sup> century. They were not part of Sir Horace Jones' original 1860s scheme but he took advantage of the arrival of the railway to integrate the facility with the transport infrastructure fitting buildings onto sites left over after the construction of the surrounding roads.<sup>10</sup>
- 5.2.3. The General Market Building is the only one in the market complex with shops on the perimeter. A key feature of the original design was the corner entrance tower, which was destroyed by bombing and replaced in 1953 with a more modest tower. The central dome was also replaced circa 1960 by a concrete dome that does not contribute to the external appearance due to its low profile. Indeed, when SAVE was asked to describe features of the building that illustrated Jones' work, attention was drawn to the features lost. Two points of interest survive, a round tower that has lost its original conical roof at the south-west corner, and an entrance arch relating to a similar feature on 25 Snow Hill. Research now indicates that the building was not built as originally conceived, which might explain why the elevation to Farringdon Street is architecturally weak.<sup>11</sup>
- 5.2.4. The Phoenix column, a feature of the General Market Building, was patented in America and is of interest in the development of iron framed fireproof construction in the United States. The advantages of the Phoenix column included avoiding the defects found when casting longer columns, and it may have been introduced into the Market Building as Jones had difficulties with the iron founder. Such columns tended to be concealed and it is unclear how common it was in the UK. However, EH did not consider the columns of sufficient interest to merit listing the building.<sup>12</sup>
- 5.2.5. Listing has been considered on a number of occasions. However, the building has not been found to be of sufficient architectural interest and a Certificate of Immunity from Listing has now been issued. The building's

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<sup>9</sup> TPL/22 E.1 & E.8-E.9

<sup>10</sup> TPL/6/A 4.2-4.4, 4.13 & 4.28, TPL/6/C 18-22

<sup>11</sup> TPL/6/A 4.5-4.12, Dr Freeman XE by TPL Day 19

<sup>12</sup> TPL/6/C 25-31, TPL/7/A 4.17-4.24

setting has also changed markedly due to post-war redevelopment. The bomb damage, the 1960s Poultry Market that separates it from Jones' listed market buildings in form and style, and the change in level from east to west that make the building less prominent in relation to the rest of the market complex, limit its positive contribution to the character and appearance of the Conservation Area.<sup>13</sup>

- 5.2.6. The Red House is listed but an application to de-list is outstanding. The advice of EH is that the listing criteria are not met. Nevertheless, the building makes a positive contribution because of its historical associations and character. Its architecture is handsome and relates to other buildings at the western end of the market complex. The Annex also makes a positive contribution for the same reasons. The Lavatory Block lies to the south of the Grade II listed Poultry Market and east of the Red House. It is a simple building in poor condition and was last inspected by EH in July 2003 when its advice was that it was not of listable quality. A Certificate of Immunity from Listing has been issued for both the Annex and Lavatory Block. The canopy spanning West Smithfield appears to be an addition, as it interferes with elements of the buildings either side, but it reflects the functional linkage between the buildings. However, it is not so special that it could not be removed as a consequence of demolishing the General Market Building.<sup>14</sup>

*The Character and Appearance of the Conservation Area*

- 5.2.7. The City's *Smithfield Conservation Area Character Summary* identifies three areas within the Smithfield Conservation Area. Cloth Fair and the streets to the east of Smithfield have a tight grain and modest scale and the former priory church of St Bartholomew is the key landmark in this part of the Conservation Area. St Bartholomew's Hospital, the second sub-area, forms a discrete precinct characterised by a single use and buildings of a significant scale and grain. The third element is the market complex characterised by large footprint buildings whose layout and character reflect the single industrial use laid out for ease of movement and the sale of wholesale goods. The character and appearance derives from decades of engineering interventions and the traffic to the west of the site is characteristic of this. A fourth sub-area can be discerned bounded by Hosier Lane, Cock Lane and Snow Hill which is left over space between the highway works of Holborn Viaduct, the Snow Hill access 'ramp' and West Smithfield and the character is the result of modern development.<sup>15</sup>
- 5.2.8. The areas come together in the open space of West Smithfield, which includes the engineered curving vehicle ramp to the underground car park. To the north of the market the character changes from Victorian development in the Charterhouse Square Conservation Area to the east to the more recent substantial development on the highly trafficked, largely 20<sup>th</sup> century, commercial boulevard that is Farringdon Street. Giltspur Street to the south forms the principal approach to the heart of the

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<sup>13</sup> TPL/6/A 4.6, 4.9, 4.14-4.16, TPL/22 E.2-E.7

<sup>14</sup> TPL/6/A 4.17-4.27, TPL/7/A 4.25-4.31

<sup>15</sup> CD20.2, TPL/6/A 4.32-4.38

Conservation Area. It is relatively broad and has buildings of different types and dates.<sup>16</sup>

- 5.2.9. In terms of the wider townscape, the road north of Holborn Viaduct is typical 'City fringe'. Larger scale uses and buildings line the busy street with a lower hinterland. There is a contrast between old and new that provides a reminder of the City's development over time.<sup>17</sup>
- 5.2.10. Farrell and Partners produced a report for EH, *Smithfield – Farringdon: Reinforcing Urban Identity and Character*, that was published the same month that the current applications were submitted. This calls for a shared vision to emerge from dialogue between interested parties but EH apparently did not consult the City or the Greater London Authority (GLA). Little weight should therefore be given to this document. In any event, when the proposal is assessed against the principles outlined in the Farrell report they are considered to be met.<sup>18</sup>

#### *The Proposed Buildings*

- 5.2.11. Lee Polisano is an architect of distinction who leads his world-renowned practice KPF by example. KPF has received many awards and has considerable experience of designing buildings in the City and of working with heritage buildings and areas. Sir Terry Farrell appearing as a witness for English Heritage (EH) acknowledged the standing of Mr Polisano and KPF.<sup>19</sup>
- 5.2.12. The proposed new buildings are the product of 27 years experience in architecture and designing buildings that are environmentally responsible. The appointment was to look at redevelopment although refurbishment options were also considered. No particular target was set for office floor area and, in any event, expectations have to be balanced against the context. Analysis and ideas have been shared with interested parties including the City, the Commission for Architecture and the Built Environment (CABE), EH and the GLA amongst many others.<sup>20</sup>
- 5.2.13. Guiding principles were established early in the design process, including responding appropriately to the context. The buildings respond to the complex engineering constraints, just as Jones' Meat Market, the Poultry Market, and Holborn Viaduct did. Considerable improvements to the public realm would be provided with a mix of uses and active frontages. The most important principle is for the buildings to establish their own identity, and to be of the highest standard of design, befitting the context. Finally, the buildings have to strike a balance between environmental, economic and social factors.<sup>21</sup>
- 5.2.14. An urban analysis illustrates the location of the site alongside a north/south route, of which Farringdon Street forms a part. The route has a dense urban grain. However, there is little activity in the vicinity of the site and a

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<sup>16</sup> TPL/6/A 4.39-4.41

<sup>17</sup> TPL/6/A 4.42-4.48

<sup>18</sup> CD24.10, TPL/3/H 2.2-2.5, TPL/6/A 5.69-5.76, TPL/3/A Section 11, TPL/7/A 5.29-5.34

<sup>19</sup> TPL/22 F.7-F.10, Sir Terry Farrell XE by TPL Day 15

<sup>20</sup> TPL/3/A 1.2.01-1.2.14, 2.2.01-2.2.30, 5.3.01-5.3.10, Mr Polisano XE by EH Day 1 & Day 2

<sup>21</sup> TPL/3/A 5.4.01-5.4.07, TPL/7/D 2.1

lack of public spaces in the immediate area. The site is surrounded on three sides by structures that are generally 4 storeys high, with the exception of much taller buildings on Farringdon Street. It is particularly important that the proposed buildings facilitate a transition from the scale of the Conservation Area to that of Farringdon Street.<sup>22</sup>

- 5.2.15. The proposal for 43 Farringdon Street is for the complete replacement of the building. The scheme for 25 Snow Hill would retain the listed Red House and the façade 'rind' of the Annex Building. The Lavatory Block would be retained and renovated. Each building would be a response to the underlying infrastructure utilising strong engineering principles within a clear architectural language. The facades would be composed of a series of layers with an environmental, as well as aesthetic, function.<sup>23</sup>
- 5.2.16. The form of the proposal for No 43 is a perimeter block structure, similar to the other market buildings. The building would have three layers. The base would provide a scale to the street and pedestrians, the body of the proposal would sit within a structural frame defining the datum and providing a street wall comparable in scale with that in the Conservation Area, whilst the roof would rise towards the west mediating between the market buildings and the larger buildings in Farringdon Street.<sup>24</sup>
- 5.2.17. At ground level, shops would line Farringdon Street and a market hall would face the Poultry market. Approximately 83% of the façade would be permeable. The market space could be entered from three corners of the building and would be a 'Grand Room' unlike anything in the area. A double height entrance at the corner of Farringdon Street and Charterhouse Street would direct pedestrians into the heart of the site, as the lost tower of the General Market Building used to. The upper floors would be offices centred around an atrium with an entrance at the south-west corner of the site. Access to the upper floors would be via lifts 'floating' in the light filled atrium. This space would be active around its edges. All servicing would occur at basement level.<sup>25</sup>
- 5.2.18. The external structural frame would lift the building above the ground plane and cantilever over the Thameslink running tracks below the eastern part of the site. It would provide a column free zone around the perimeter at ground floor level. The exposed steel trusses that would wrap around the building would vary from three to five storeys deep and act as an organising device on the elevations. The bays within the truss would be infilled with stainless steel hexagonal screens inspired by the listed Poultry Market. The layered facades would reduce the heat gain better than a standard glazing solution and the generous atrium would allow daylight penetration into the building reducing the need for artificial light. Above the truss, the glass façade would step back in a series of faceted planes, and the roof would be supported by a space frame. The approach disintegrates the 1.5 metre module often expressed in modern office buildings and would provide a unique building.<sup>26</sup>

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<sup>22</sup> TPL/3/A 5.5.01-5.5.38

<sup>23</sup> TPL/3/A Sect 6.1, TPL/7/A 5.2

<sup>24</sup> TPL/3/A 6.2.01-6.2.14, TPL/7/A 5.4

<sup>25</sup> TPL/3/A 6.2.15-6.2.24, 6.2.85, 6.5.52-6.5.61, TPL/7/D 2.4

<sup>26</sup> TPL/3/A 6.2.25-6.2.51, TPL/7/A 5.5

- 5.2.19. 25 Snow Hill would consist of the retained Victorian façade of the building, the new office accommodation set behind, and the Red House. The site has always consisted of an assembly of buildings and this has informed the design. The new intervention would be higher than the Red House, but set back considerably from the edges of the site. The retained elements would be clearly seen, whilst the new volume would only be visible in mid and long distance views of the site. There are numerous examples of successful interventions in central London such as the OXO Tower and Tate Modern.<sup>27</sup>
- 5.2.20. The ground and first floors would have retail uses with a small amount of offices above. The Red House would be kept separate on plan. The office accommodation would be accessed from between the Annex and Red House on West Smithfield where the document store and loading bay are at present. About half the building would sit above the railway tracks that would be straddled by a major transfer structure. At third floor level the building would cantilever about 8 metres over the Red House.<sup>28</sup>
- 5.2.21. The elevations would be dominated by the retained facades, with a minimal number of new openings introduced in areas that were previously open. Only on West Smithfield would the new intervention meet the street, with a glass pavilion forming the entrance to the offices. The new insert would be a seamless glass box with bronze 'micro-louvres' bonded between the sheets of glass to give shade. The vertical circulation would be enclosed in a solid bronze clad element. The new structure would provide a bronze coloured backdrop to the retained facades.<sup>29</sup>
- 5.2.22. The proposal would be of high architectural quality and would harmoniously satisfy all the requirements on this important site. It would not only enhance its context but would lead to regeneration of the surrounding area.<sup>30</sup>

*The Effects of the Proposal on the Conservation Area and Nearby Listed Buildings and Conservation Areas*

- 5.2.23. UDP Policy ENV11 commits the City to the retention of positive contribution buildings in Conservation Areas, reflecting paragraph 4.27 of PPG15, which in turn cross references paragraphs 3.16 and 3.19. In Conservation Areas it is the area, rather than individual buildings, that are to be preserved or enhanced and, therefore, the tests should not be applied as strictly as for listed buildings.<sup>31</sup>
- 5.2.24. If a case can be made for the demolition of the General Market Building it would be entirely sustainable to make better use of the site. The context is that buildings of a greater scale and height lie to the north (Caxton House), west (Atlantic House on the opposite side of Farringdon Street) and south (Bath House) of the site. The proposal has been designed to act as a transition between these buildings and the height and scale of the market

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<sup>27</sup> TPL/3/A 6.3.01-6.3.07, TPL/7/D 2.5

<sup>28</sup> TPL/3/A 6.3.08-6.3.18

<sup>29</sup> TPL/3/A 6.3.19-6.3.28, 6.3.25-6.3.42

<sup>30</sup> TPL/3/A 13.21

<sup>31</sup> TPL/6/A 6.2-6.9

buildings. Although the higher buildings lie outside the Conservation Area, they still form a significant part of the site's context.<sup>32</sup>

- 5.2.25. SAVE maintains that the area is remarkable for its gradual evolution and the *Smithfield Conservation Area Character Summary* defines the character as "one exhibiting gradual and incremental evolution". Whilst that is true of the Cloth Fair, and part of the St Bartholomew's areas, it does not apply to the market component which was transformed over a period of around 20 years. The environs of the site have altered dramatically from the fields and domestic scale buildings that existed when the western market buildings were built. The proposal reflects this by responding to the scale of the nearby 20<sup>th</sup> century buildings. Indeed, the taller, differently scaled, building on the north-west corner of Charterhouse Street and Farringdon Street is within the neighbouring Hatton Garden Conservation Area. EH's consultation response to the proposals for the Caxton House site explicitly recognise that the height and scale of the buildings on that site have an influence on the General Market Building site.<sup>33</sup>
- 5.2.26. The proposal would maintain the existing plot pattern of the market buildings, and the grain of the area, and as such would not undermine the rationale for the Conservation Area's current boundaries.<sup>34</sup>
- 5.2.27. The Conservation Area comprises many styles. Smithfield is not an homogenous area and the language of the market buildings evolves from east to west. The listed Poultry Market reinterprets a traditional market reflecting its time, and the then current materials and aesthetics. It interrupts any sense of group value with the Meat Market to the east. The proposal would add to that sequence of development, and celebrate the significant scale of the engineering works that shaped the area. Grouping the middle floor within a structural armature would articulate the fall in the land. This would link the building back to the Poultry Market and draw the eye into the area. The building would be a gateway to the market and its 'undercroft' would draw people into the Smithfield area.<sup>35</sup>
- 5.2.28. At its eastern end, the building would take its cue from the Poultry Market. It would mediate between the scale of the Conservation Area and the townscape of Farringdon Street. The change in scale would take place within the Conservation Area. The design quality of the building would enhance the area but has never been advanced as the exclusive reason why demolition should be allowed. Sir Terry Farrell's *Manifesto for London* published in the *Architectural Review* illustrates a building on the General Market site that also steps up from the lower Poultry Market to Atlantic House. Although the proposed building is higher than Sir Terry's, his illustration recognises the good sense in making the transition.<sup>36</sup>
- 5.2.29. It is claimed that the low lying nature of the General Market Building, allied to the wide roads, produce views of the open sky, but this is not identified in the City's *Conservation Areas in the City of London*. Whilst sky can be

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<sup>32</sup> TPL/22 F.13-F.16

<sup>33</sup> CD20.2, TPL/6/C 51, TPL/22 F.17-F.20, EH/5/G

<sup>34</sup> TPL/6/A 7.28-29, TPL/6/C 48

<sup>35</sup> TPL/6/A 7.30-7.38, TPL/22 F.35-F.37

<sup>36</sup> CD20.3, TPL/6/A 7.39-7.40, TPL/6/C 50, TPL/6/D App 4, TPL/6/I, TPL/22 F.21-F.23



appreciated from the open area south of the Meat Market, the streets elsewhere are enclosed and do not have the same character. In any event, the loss of the corner tower makes the view when approaching the General Market Building along Charterhouse Street an undistinguished one.<sup>37</sup>

- 5.2.30. The expression of the engineering has also been criticised. However, the run of market buildings, and Holborn Viaduct, are the product of impressive feats of Victorian engineering. The 1960s Poultry Market is listed, amongst other reasons, for its 'complex' and 'eye-catching' engineering. Sir Terry Farrell's article in the *Architectural Review* describes the buildings as "heroically conceived in scale" and notes they "exploited the new glass and metal technologies". The Poultry Market did the same for concrete. The proposal is a modern interpretation of these engineering feats and the expression of the force diagram in the external truss would be heroic and deal boldly with the constraint of the railway underneath.<sup>38</sup>
- 5.2.31. Criticism has also been levelled at the 'emmental' or 'gruyere' metal screens, but there is a similar rationale for the design of these elements. Jones was "an innovator who was always looking for new materials and technologies and how to use them" and who was also eclectic. The proposal is contemporary eclecticism that would add to, rather than harm, the character and appearance of the Conservation Area.<sup>39</sup>
- 5.2.32. In terms of the Annex, EH accepts that it is a matter of judgement whether the proposed works would amount to substantial demolition. The geometry and arrangement of the proposal would reflect the original. A route through the building would utilise the existing carved carriageway entrances to the north and south and the original plan form, fabric, and structure integral to the building's character would be retained. Nonetheless, a conservation area consent application has been submitted as a 'belt and braces' approach. The intervention, albeit considerable, is necessary to deliver the scheme benefits, including the replacement of the tunnel lids, by spreading the required quantum of development across two sites.<sup>40</sup>
- 5.2.33. The works to the Annex would integrate the retained fabric with a contemporary intervention. The new 'box' would add a strong horizontal to a building that is dominated by existing modern architecture. The retail and office areas be lit by opening up blind openings in the elevations. The proposed insertion would reflect the island nature of that part of the site and the materials would reinforce the characteristic materials of the host building and the nearby Red House. The glass would be innovative, and its simplicity of form and colour would complement the brickwork below, similar to the glass box on top of the Tate Modern. The entrance off West Smithfield would bring an active frontage to a part of the street that has historically been 'dead'. The proposal would be a creative solution to finding a new use for the building, preserving its key features and adding to the quality of the building and the Conservation Area.<sup>41</sup>

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<sup>37</sup> TPL/6/C 49

<sup>38</sup> TPL/3/H 1.10, TPL/6/D App 4, TPL/22 F.24-F.29

<sup>39</sup> TPL/22 F.30-F.32

<sup>40</sup> TPL/6/A 5.10 & 7.18, TPL/6/C 54-58

<sup>41</sup> TPL/6/A 7.19 & 7.43-7.47

- 5.2.34. The Red House is listed for its historical and technical interest as a purpose built, steam driven, cold store. The internal features are not mentioned in the list description, although the Secretary of State had information on the poor condition of the interior, and the considerable loss of significant areas of historic fabric, when considering listing. The southern part, where the roof has gone, would have the structure dismantled and the internal features conserved where possible, although the condition of the building makes it difficult to assess what could be retained. The geometry of the building, and its lack of openings, present challenges to its re-use. Openings proposed for the ground floor are essentially reinstatements of older openings, and the blind elements in the upper southern return of the building would now be left as such, respecting the building's original character. Although cork wall insulation remains, water penetration over a long period has led to its severe degradation. The building could sustain the proposed significant change to secure a viable long-term future.<sup>42</sup>
- 5.2.35. The Red House has a robust character and its setting already includes radically different contemporary development. The removal of the canopy across West Smithfield would clarify the form of the listed building, introduce a view towards the gatehouse of the Viaduct, and create a new visual link with the Port of London cold store. The new elements of the Annex would be visible but the difference in form and materials would enrich the visual experience and avoid any confusion with the parapet of the listed Red House.<sup>43</sup>
- 5.2.36. The opening of blind windows and doors, and the re-use of the Lavatory Block for retail, would renovate that building, which is in poor condition, and positively enhance this part of the Conservation Area.<sup>44</sup>
- 5.2.37. Considering the wider area, views, including some requested by EH and SAVE, have been selected to assess the impact of the proposals by reference to *Conservation Areas in the City of London*. This acknowledges that "Though the City's conservation areas are less representative of large scale post 1945 development, there are examples within or adjacent to them which emphasise the contrast between the traditional and characteristic forms of the City and later-adopted alternatives. Many of the City's conservation area boundaries are tightly and abruptly defined by the contrasting scale and forms of development of this period".<sup>45</sup>
- 5.2.38. In panoramic views from Greenwich Park and Blackheath Point the proposal would not be seen. From Primrose and Parliament Hills, part of the roof would be seen but would have a neutral effect on views. The proposal would be behind St Sepulchre's Church, when seen from St Paul's viewing gallery, and would have only a minor impact due to its design and colour. The contrast with the Church tower would be slightly beneficial.<sup>46</sup>
- 5.2.39. When approaching the site from the south along Farringdon Street, the building would be seen alongside Caxton House and Bath House and its

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<sup>42</sup> TPL/6/A 7.23-7.26, TPL/6/C 60-66

<sup>43</sup> TPL/6/A 7.65-7.69

<sup>44</sup> TPL/6/A 7.27

<sup>45</sup> TPL/7/A 3.21-3.31, 4.1-4.3 & 6.1, CD 20.3 Page 28

<sup>46</sup> TPL/7/A 6.3-6.13, TPL/7/C Views 1, 2, 3, 5 & 4

quality would enhance the character of the street. The building would continue to be read as the 'head' of the market complex. The existing discordant roofline would be replaced by a strong architectural statement and, whilst there would be some loss of sky, the gains would be substantial. From close to Holborn Viaduct, the considerable change in scale, materials, and architectural concept from the existing buildings would contribute positively to the 21<sup>st</sup> century townscape of Farringdon Street. Even if it were considered harmful, any harm would be limited by the high architectural quality of the proposals.<sup>47</sup>

- 5.2.40. Looking east down Charterhouse Street, the junction with Farringdon Street is a major entrance to the City that the existing diminutive scale of the façade, and the missing tower at the north-west corner of the site, does nothing to celebrate. The increase in scale, and the structural skeleton of the building, would make a positive urban statement celebrating the entrance to the City, and acting as a counterpart to the taller Caxton House and Atlantic House. The view would be channelled along Charterhouse Street enhancing the surviving market domes. The loss of sky would be compensated for by the concealment of the Barbican Tower and the creation of a high quality townscape.<sup>48</sup>
- 5.2.41. From the north-west, looking down Farringdon Road, the increase in scale and attention to detail would reinforce the engineering character of the Victorian Viaduct. The concealment of much of Bath House and improvements to the townscape would more than compensate for the partial loss of sky, and from closer to the Charterhouse Street junction the proposal would still be seen as the head of the market buildings.<sup>49</sup>
- 5.2.42. Looking south-west down Charterhouse Street, the linearity would be maintained and the Meat Market domes would continue to provide vertical punctuation to the rhythm of the street. The proposal would form a backdrop to these and soften the impact of Atlantic House beyond the Conservation Area. The existing structure is a weak end to this run of buildings and the increase in scale would create a conclusion, whilst using metal and glass that would be compatible with the listed market buildings. The proposed new roof would add variety to the skyline, as the Poultry Market does. Closer to the site, West Poultry Avenue would be opened to the sky transforming a service street into a new public realm. The character of the modern Poultry Market would be complemented by the design of the proposed building.<sup>50</sup>
- 5.2.43. From the north-west, looking down West Smithfield from the junction with Grand Avenue, the removal of the canopy across West Smithfield would open up a view of the reconstructed Gatehouse on Holborn Viaduct. The new building at 25 Snow Hill would not be seen, but No 43 would provide a definite conclusion to the run of listed market buildings, enhancing the townscape of the Conservation Area. Looking the same way from outside 1 West Smithfield, the street opens up and the new intervention would be

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<sup>47</sup> TPL/7/A 6.14-6.32, TPL/7/C Views 9, 7, 7a, 8 & 8a

<sup>48</sup> TPL/7/A 6.41-6.53, TPL/7/C Views 19, 18, 18a & 24

<sup>49</sup> TPL/7/A 6.33-6.40, TPL/7/C Views 10 & 10a

<sup>50</sup> TPL/7/A 6.54-6.62, TPL/7/C Views 12, 21 & 21a

seen rising beyond the Red House, reducing the visual impact of Bath House behind, and adding to the visual vitality of the area.<sup>51</sup>

- 5.2.44. No 43 would not be seen from the eastern end of Hosier Lane. However, the uppermost part of the new offices at 25 Snow Hill would be visible. It would complement the colouration of the Red House, and conceal the glass clad upper floors of Atlantic House. The narrowness of the historic street would be emphasised and its intimacy re-established. From the western end of the street, the expressed truss at No 43 would relate to the lower cornice of the Red House, whose solidity would contrast with the horizontality and transparency of No 43. The Port of London building would draw the eye through the new public realm enlivening the townscape between the Red House and the Lavatory Block.<sup>52</sup>
- 5.2.45. From Snow Hill, the existing contrast in scale would be replaced by the recessive stepped form of the new intervention at No 25. The high quality of the replacement at No 43 would augment its backdrop. The lower of the three elevation elements at No 43 would relate to the principal storey of the Annex, and the metallic bronze and glass skin of the office building above 25 Snow Hill would contrast positively with the brick and stone of the retained facades. The domestic scale of the existing buildings is compromised by the larger scale of surrounding mediocre modern buildings. The proposed increase in scale would improve the continuity of the street, and replace an awkward gap with a building of high quality and visual variety. The setting of the Newgate Conservation Area would be enhanced. Looking down Smithfield Street from Snow Hill, No 43 would not be seen. The simple box like elements inserted into the core of No 25 would relate well to the retained facades, and the discordant height of the Annex at the junction would be mitigated by the insertion.<sup>53</sup>
- 5.2.46. Turning to nearby listed buildings, the Poultry Market was listed for the technical virtuosity of its shell dome. It is composed of strong simple forms and has a directness that would not be compromised by the proposed development. The canopies spanning the roads at either end are of lesser interest, with no particular architectural, or structural, refinement. If the General Market Building were removed, the canopy over West Poultry Avenue should also be removed. This would open up a view of the historic Cold Store that closes the view north along West Poultry.<sup>54</sup>
- 5.2.47. The Grade II\* listed Meat Market is an imposing building. Its visual integrity and the presence of its towers as defining features would be maintained. Indeed, the view from the west along Charterhouse Street would be enhanced, and focussed, by the greater degree of enclosure that the proposed development would provide.<sup>55</sup>
- 5.2.48. The townscape presence of Holborn Viaduct has been increased by recent gatehouse reconstructions. Its setting is defined by the movement of vehicles and the significant scale of post-war developments. It has a visual

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<sup>51</sup> TPL/7/A 6.63-6.71, TPL/7/C Views 16, 16a & 22

<sup>52</sup> TPL/7/A 6.72-6.77, TPL/7/C Views 17 & 22a

<sup>53</sup> TPL/7/A 6.78-6.89, TPL/7/C Views 6, 23a & 23

<sup>54</sup> TPL/6/A 7.20-7.22, 7.54-7.56

<sup>55</sup> TPL/6/A 7.62-7.64

relationship with the site, but they were not designed as an ensemble. The demolition of the General Market Building would lead to a loss of historical association, but the quality of the proposed building would mitigate against this. It is not accepted that the view from Holborn Viaduct is the most significant one of the Smithfield area, the key views are those north along Giltspur Street through the Meat Market into St John Street. The 1860s market was specifically designed to span this route and provide a focal point. The views around the open space in West Smithfield allow all three parts of the Conservation Area to be appreciated. Views along Charterhouse Street and West Smithfield are dramatic and enable the scale of the market to be appreciated.<sup>56</sup>

- 5.2.49. The special interest of the Grade II listed Cold Store in Charterhouse Street is its faience façade, which stands out in a run of traditional townscape within the Charterhouse Square Conservation Area. The proposal would not harm this and the functional relationship of the listed building with the wider market complex would persist.<sup>57</sup>
- 5.2.50. Considering the settings of nearby Conservation Areas, Charterhouse Square Conservation Area, to the north and east of the site, already includes modern development and busy roads. The western part of the area has a relationship to the listed market buildings that would be preserved. The cold stores nearest the site are architecturally robust and their character would be unharmed. The focus of the Hatton Garden Conservation Area is to the north, away from the site, and the boundary closest to the site is characterised by post-war development. The Newgate Conservation Area is small and focussed on the Church of the Holy Sepulchre at the top of Snow Hill. It is characterised by a number of larger scaled contemporary developments. The Annex closes views out of the Conservation Area and its refurbishment would improve these, and enhance the setting of the Newgate Conservation Area. None of the Conservation Areas' settings would be harmed.<sup>58</sup>
- 5.2.51. It would be wrong to treat CABE's letter of 30 September 2007 as an objection to the proposal. CABE can, and does, appear at inquiries and specifically requests that planning permission be refused when it considers this appropriate. It has not done so here. Indeed, its letter supports the key principles of the proposal, such as the transition in scale, bulk, and mass, and the expressed engineering.<sup>59</sup>
- 5.2.52. CABE's points of detail have been addressed by refinements in the design. 72% of the Charterhouse street frontage would be active and 65% of that to West Smithfield. In addition, West Smithfield would be pedestrianised for much of the time. The trusses would be an honest expression of the structure, acting as an organising device on the elevations. The balance between design, structural expression, and architectural language has been carefully considered and the GLA in its letter of 31 May 2007 came to the opposite view to CABE. CABE was also concerned about the material for the glazed intervention at 25 Snow Hill but did not have the opportunity to view

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<sup>56</sup> TPL/6/A 7.57-7.61, TPL/6/C 70

<sup>57</sup> TPL/6/A 7.70-7.73

<sup>58</sup> TPL/6/A 7.74-7.80

<sup>59</sup> TPL/22 F.11-F.12, CD8.22

large scale samples. Alternatives would continue to be explored in co-ordination with others, including CABE, as part of the normal continuing design process.<sup>60</sup>

### *Conclusion*

5.2.53. Although the proposed buildings have been criticised, the history of architecture is full of examples of vilified buildings subsequently being listed, such as the neighbouring Poultry market and the Barbican Towers. The proposal would be a remarkable example of the best of today's architecture from an internationally renowned architect adding to the continuing evolution of Smithfield.<sup>61</sup>

### 5.3. Viability

5.3.1. The key to viability is a sound development appraisal. Developers, banks contemplating lending, and anyone bidding in the market place would undertake one and its importance is recognised in EH's *Enabling Development and the Conservation of Heritage Assets*. Although this is not a case of enabling development, the principles contained in the *Guidance* have been used as best practice. The methodology is set out in the *Viability Report* that accompanied the applications. SAVE sought to apply standard valuation methods to establish viability and Knight Frank, when asked by EH to review a viability report by GVA Grimley that accompanied TPL's May 2004 application, noted that "each scenario has been prepared in accordance with standard market practice by the residual method of valuation".<sup>62</sup>

5.3.2. Knight Frank's first report analysed Grimley's inputs and reported that the conclusions were robust and, given the expenditure required for repair, economic viability was unsustainable. A review of the updated viability report did not alter Knight Frank's conclusions and they reported that Smithfield did not have the characteristics for success as an indoor market. The only clarification sought by EH was on market rents, where although Knight Frank could have sought specialist input, if such matters were outside its expertise, it did not do so. There is no explanation why EH did not ask Knight Frank for further advice, or why its report was not accepted. All the qualified valuers agree that a retention scheme would not be viable.<sup>63</sup>

5.3.3. EH and SAVE's witnesses are not qualified to carry out the necessary development appraisal exercise. EH's witness is an expert on market rents and operating costs, but these are only a very small proportion of the overall scheme. SAVE's witness was unable to demonstrate any relevant expertise in valuing major development schemes in recent years and his comparables were generated after the event, contain no detail of specifications, fit out or rent free periods, were not analysed in terms of quality of location or accommodation, were untested in cross-examination and should attract little weight.<sup>64</sup>

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<sup>60</sup> TPL/3/A 10.5-10.7, TPL/3/H 5.30-5.35, TPL/7/A 5.21-5.28

<sup>61</sup> TPL/22 F.1-F.6 & F.41

<sup>62</sup> CD2.3, CD24.11, CD28.6 Sect 6.0, TPL/5/A 4.1-4.17, TPL/22 D.1-D.3

<sup>63</sup> TPL/5/A 10.1-10.12, TPL/5/D 2.7, TPL/5/T, TPL/6/A 6.57-6.60, CD28.6, TPL/22 D.36-D.42

<sup>64</sup> TPL/22 D.43-D.46, EH/3/A 1.1-1.11, SBH/7/A 1.1-1.10, Mr Lerner XE by TPL Day 18

- 5.3.4. It is misconceived to consider that where expert valuers have failed to demonstrate viability, a marketing exercise would excite interest from entrepreneurs who could deliver a viable development. Those potentially interested would carry out a development appraisal to assess viability. EH's witness tries to demonstrate viability but neither he, nor anyone else, has been able to put together a scheme that, with correct inputs, comes anywhere close to stacking up. In November 2005, on the basis of a valuation exercise from its own experts, EH's Officers concluded that marketing would be pointless in this case. Nothing has changed since that time.<sup>65</sup>
- 5.3.5. EH and SAVE rely on interest expressed over the years, but no one explains how they would deliver a viable scheme. This is not a development for a small entrepreneur. Other than minor omissions suggested by EH's quantity surveyors, it is agreed that works costing at least £18 million are needed. A company with the resources to carry out such a project would require the comfort of a development appraisal. There is no evidence that the investors known to SAVE's expert exist and investment through SIPPs, as suggested by EH's witness, would require some sort of valuation. Anyone expressing an interest would have to secure funding and a bank would require a development appraisal.<sup>66</sup>
- 5.3.6. The valuation exercises carried out on behalf of TPL and the City involve a standard methodology that is sensitive to a number of variables. The net lettable floor area for the various scenarios has been calculated and has not been challenged. EH has assumed ancillary retail space converted to offices and that the rental income from basement ancillary space would be at the same level as the ground floor. However, the cost of moving the ancillary space has not been assessed in the refurbishment cost exercise.<sup>67</sup>
- 5.3.7. Estimating rents requires information from agents and an assessment of comparables. TPL's witness adopted the approach endorsed by Knight Frank in 2005. Assumptions have to be made for voids, marketing periods and rent free periods. EH's rents are unjustified by evidence. 'Comparables' produced during cross-examination are, for the most part, sales particulars rather than deals and do not set out the essential terms such as voids and rent free periods. SAVE's rents are out of kilter, even with EH's, and no weight should be attached to them.<sup>68</sup>
- 5.3.8. In terms of markets, there is no sensible comparison between Smithfield and Spitalfields, which is reducing the number of trading days. Greenwich is in a different market. The £100 internal retail rent at Spitalfields is wrong and was dropped when challenged. The prices achieved for high specification modern space within a well-established popular market are about half of that claimed by EH. At Greenwich, the 'comparables' were not for internal retail space, which is important as EH's approach assumes that internal rents will be twice those achieved on surrounding streets. There is

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<sup>65</sup> TPL/22 D.4-D.6, EH/6/B APP 2 5.7-5.9

<sup>66</sup> TPL/22 D.5-D.11, CLC/10/C, Mr Reynolds XE by TPL Day 15, Mr Lerner XE by TPL Day 18

<sup>67</sup> TPL/5/A 5.24-5.26, 6.14, 7.12, 8.4 & 9.7, TPL/22 D.12 & D.47, Mr Kut XE by EH Day 5, Mr Reynolds XE by TPL Day 15

<sup>68</sup> TPL/5/A 5.34-5.86, 6.33-6.92, 7.21-7.35, 8.7-8.18 & 9.11-9.14, TPL/22 D.13, EH/3/J, SBH/7/A 2.7 & Appraisals 1, 2 & 3

no evidence that internal rates exceed external rents. Indeed, evidence from Spitalfields suggests the opposite. Even so EH's market rents and costs, appropriately adjusted, make little difference to the overall income as they form only a small proportion of total rental income.<sup>69</sup>

- 5.3.9. In terms of yields, comparables have been analysed in detail and adjustments made to reflect specific risks. In contrast, EH's approach is not assessed against any comparable data but based on the witness's 'experience' and an undisclosed transaction. For the market element the correct approach is to assess the appropriate multiplier for the business. There has been no response or explanation as to why EH considers the relevant multipliers are wrong. Other adjustments, such as purchaser's costs on the finished project, have been allowed, as recognised in EH's *Guidance*, although EH has omitted purchaser's costs from its illustrations.<sup>70</sup>
- 5.3.10. A scheme and a specification are necessary to assess costs, and a number of scenarios and a specification by NPS were made available to all parties before evidence was exchanged. There has only been limited comment on the specification and the costs of the base scenario have been largely agreed between the quantity surveyors for TPL and EH. EH has priced a basic scenario but assumed rents that would be achieved by a far more expensive specification. A specification for TPL's engineering works has been priced in detail but EH has no scheme to cost. EH makes no allowance for on-costs in relation to the lids. In terms of EH's repair option, the substantial difference of just less than £4 million between TPL's and EH's quantity surveyors appears to be due to the absence of any temporary support/propping in EH's costs. Operating expenditure differences are again due to EH's unrealistic assumption of no maintenance to the repaired lids for 30 years.<sup>71</sup>
- 5.3.11. Contingency, professional fees and sales costs have to be assumed. TPL's figures are in line with the EH *Guidance* but EH's witness was unable to explain the basis of his figures. TPL has explained the basis for its assumption on interest rates but SAVE's witness has not.<sup>72</sup>
- 5.3.12. The present value of future income flows also has to be assessed. The market may change in the interim, anticipated rents may not be achieved, incentives may have to be offered, interest rates and inflation might change and other schemes might come on stream. Despite allegations of triple counting, TPL's discount rate is a standard approach explained in detail. EH assumes peak occupancy as soon as a particular section is complete, which is unrealistic in a new start up location. EH makes no allowance for rent free periods or other inducements in this untested location and no management fee has been included, although its witness takes a fee for managing markets. Moreover, EH's witness has not applied a discount rate but has merely sought to remove the effects of inflation, wrongly included in

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<sup>69</sup> TPL/5/U, TPL/22 D.13 & D.48-D.50, EH/3/Q, Mr Reynolds XE by TPL Day 15

<sup>70</sup> TPL/5/A 5.87-5.98, 6.93-6.109, 7.36, 8.19-8.26 & 9.15-9.16, TPL/5/D 2.61-2.64, 2.67-2.68, TPL/22 D.15-D.16 & D.55-D.56

<sup>71</sup> CD5.1, TPL/5/A 5.27-5.33, 6.15-6.24, 7.13-7.20, 8.5-8.6 & 9.8-9.10, TPL/5/D 2.16, TPL/5/R, TPL/5/S, TPL/22 D.17-D.22 & D.57-D.58, EH/12

<sup>72</sup> TPL/5/A 5.108-5.127, 6.110-6.132, 7.37-7.46, 8.27-8.40 & 9.17-9.26, TPL/5/D5.22, TPL/22 D.23-D.25 & D.59-D.60



the first place. This significantly inflates the value of the EH retention scenarios.<sup>73</sup>

- 5.3.13. Reference was made to the credit crunch but this has to be considered in context. Lending is still taking place to good quality businesses. Grade A office schemes will still get funding, but the secondary and tertiary markets will suffer and 90% loans will not be available. Developers would have to put additional equity, say 30-40%, into projects. Developers take a longer term view. The proposal is a five year scheme which would span cycles. In any event, a sensitivity analysis, with a 10% change in yields, would still be viable with a developer's profit of 20%. It is alleged that there is an over supply in prime office space. However, figures indicate that over 35% of the floor space that would become available in 2008 has been pre-let. Beyond 2009 figures become increasingly subjective and developers would react to market conditions. If there is a decline in construction activity, there would be more competition between contractors with a possible benefit in terms of reduced construction costs.<sup>74</sup>
- 5.3.14. TPL's scenarios are based on the assumption of a 60% pre-let four years before the development would be completed. Whilst many witnesses were unable to give immediate examples of pre-lets so far in advance, nine examples of sizeable pre-lets 3 and 4 years in advance have been submitted.<sup>75</sup>
- 5.3.15. It is suggested that the tunnel costs should be excluded from the development appraisal. There is a legal obligation to bear the cost of the tunnel lids but the obligation was entered into to create the ability to build over the railway. The land includes the tunnels and the buildings depend on the lids. Any costs associated with the lids are therefore linked to the buildings. Applying the purpose for which paragraph 3.19 of PPG15 was drafted, the costs should be taken into account. However, even if the lid costs are excluded all the retention scenarios are still substantially unviable. The only basis on which refurbishment costs should be taken out of the appraisal is if the buildings had been deliberately neglected. The maintenance schedule since 2002 shows this is not the case and the building had been in long term decline prior to its vacation.<sup>76</sup>
- 5.3.16. There was no attempt to mislead the Inquiry over the ownership of the basement car park. The purchase figure is included in documents available prior to the Inquiry but, in any event, standard practice is to ignore purchase price in a viability appraisal as it is not an existing use value and may include hope value. Analysis ignores the fact that TPL voluntarily acquired National Car Park's (NCP) interest in the car park in 2001 and has proceeded with the cost of pursuing this application, not some other larger scheme. Similarly, it would not affect EH or SAVE's valuations of retention schemes as both consider the implications of other uses in the car park.<sup>77</sup>

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<sup>73</sup> TPL/5/C, TPL/5/D 2.19-2.20, 2.36-2.39, 2.65, TPL/5/G, TPL/22 D.26-D.28 & D.51-D.54

<sup>74</sup> TPL/5/V, Mr Kut XE by EH Day 9 IC Day 17

<sup>75</sup> TPL/5/V App 1, Mr Kut XE by EH Day 5

<sup>76</sup> CD8.38 A & B, TPL/13, TPL/22 D.62-D.71

<sup>77</sup> CD7.5 Annex C, TPL/5/AA, TPL/22 D.72-D.84, EH/3/H 10.9, EH/3/V, EH/7/I, Mr Reynolds IC Day 14, SBH/7/A 2.11

5.3.17. EH's witness accepted TPL's expert was "high up in the valuation tree" and that EH had no criticism of the valuation methodology, which was endorsed by Knight Frank in 2005, or of the comparables and yields. What EH provided was "another way of looking at it". Considerable weight should be attached to TPL's evidence on viability.<sup>78</sup>

#### 5.4. Repair, Maintenance, and Retention of the Existing Structures

##### *Introduction*

5.4.1. The railway line through the tunnel under the site is a key part of London's transport infrastructure, the importance of which will increase dramatically after 2011 following substantial public expenditure on the Thameslink project. There will be a short 'window of opportunity' during the Thameslink works to put this key piece of infrastructure into a condition that will ensure it serves its purpose for the long term. Appropriate works would serve the public interest by minimising the risk of future planned, or unplanned, possessions. Works that would leave a legacy of problems would not be a solution.<sup>79</sup>

##### *The Condition of the Structures*

5.4.2. The structures on the site can be divided into buildings and substructure. The latter comprises the deck, or lid, over the railway lines and sidings. The areas beneath the lid have been divided into 5 zones: Area A is the main railway lines running beneath the West Poultry Avenue highway bridge and part of the General Market; Area B is the sidings; Area C is beneath the West Smithfield highway bridge; Area D is under the area south of the West Smithfield highway bridge; and Area E is below the buildings along Farringdon Street and the ramp, and includes the basement car park and the City's salt store.<sup>80</sup>

5.4.3. The natural ground level is at or near the level of the tracks, some 5m below street level. The Farringdon Street buildings, the ramp to the basement, and the Snow Hill façade of the Annex have brick cellars and are independent of the railway structures. The rest of the buildings derive support from the railway structures, which are supported on pad foundations. It has not been possible to identify the soil beneath the foundations and their load capacity is unknown.<sup>81</sup>

5.4.4. The structural frame of the General Market consists of a grid of wrought iron, cast iron and steel elements, with trusses spanning between columns on top of the lids. The post-war reinforced concrete dome is supported directly from the grid of trusses, as is the timber roof structure that consists of a series of vaults. The roof is partly glazed. Market stalls and offices have been constructed within the building but are independent of the main structure. Their weight is carried into the floor deck, through jack arches, secondary, and primary beams into the columns at basement level.<sup>82</sup>

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<sup>78</sup> TPL/22 D.29-D.35, Mr Reynolds XE by TPL Day 14

<sup>79</sup> TPL/22 C.1-C.4

<sup>80</sup> TPL/4/A 2.1.1-2.1.6 & Figure 3

<sup>81</sup> TPL/4/A 2.1.4, 2.2.1-2.2.14

<sup>82</sup> TPL/4/A 2.2.17-2.2.29

- 5.4.5. The interior of the Annex is similar to the General Market with timber ribs supporting the glazing forming long 'vaults' running parallel to the facades within the triangular footprint of the building. Instead of Phoenix columns, the roof structures are supported from beams spanning between narrow tubular columns. The market stalls at ground level have been cleared and the offices at first floor level, which are of no engineering significance, have been created by infilling within the roof structure using brickwork and partitions. At the junction of West Smithfield and Snow Hill is a brick turret supported from the cellars at basement level.<sup>83</sup>
- 5.4.6. A survey of the General Market Building, by NPS, concludes that its condition is variable with the roof in a poor condition. Another report, by Whitbybird, notes the buildings suffer from neglect, lack of maintenance and significant water penetration. This has caused corrosion of the iron and steelwork and timber joists suffer from dry and wet rot. Even if the water penetration were stopped, hidden defects would remain. NPS considers that the primary structure is 'basically sound', whilst Whitbybird comment that the main frame appears to be in good condition with no visible distress and no undue deflection or movement apparent under present loadings. The condition of the buildings has little bearing on the structural stability of the railway structures below.<sup>84</sup>
- 5.4.7. Those parts of the buildings built on cellars are capable of retention independent of the railway structures. The facades supported on the railway structures would need support if they were retained whilst the railway structures were replaced. This is common practice in London, although technically more difficult where the roadway is elevated on decking such as along West Smithfield and Charterhouse Street. Temporary support would not be practical for the façades over the railway along West Poultry Avenue, and the Charterhouse and West Smithfield highway bridges, due to the large spans.<sup>85</sup>
- 5.4.8. The railway lids are supported by primary beams that span between a grid of columns. Secondary beams span between the primary beams and brick jack arches span between the secondary beams. The columns in the basement are not a continuation of the columns in the building above and forces are distributed in a complex way that cannot be modelled or predicted. 'Gunite' fireproofing hides the structure and its condition from view over much of the basement area. Without removing the 'gunite' it is not possible to tell what condition the lower flanges or fixings are in. Creating an inspection hole can take several hours to complete and, where partly exposed, it can be seen that the 'gunite' was placed over corroded metal.<sup>86</sup>
- 5.4.9. Removing any part of the structure would increase the loads on other elements in an unpredictable way, which is why brickwork was not removed from the arches near the ends of beams even though there was visible evidence of severe corrosion that ought to have been investigated. Replacing the lids whilst retaining the General Market Building would be a

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<sup>83</sup> TPL/4/A 2.2.30-2.2.37

<sup>84</sup> CD5.1, CD1.12, TPL/4/A 2.3.1-2.3.10 & 2.3.20

<sup>85</sup> TPL/4/A 2.3.11-2.3.15

<sup>86</sup> TPL/4/A 2.2.15-2.2.16, 2.4.1-2.4.13

complex and hazardous operation. It would not be possible to prop each Phoenix column from below in areas A, B and D due to the need to keep the railway in operation.<sup>87</sup>

- 5.4.10. In Area A, the integrity of the structure depends entirely on abutment walls which the beams span between. There is no information on the foundations of these walls, or on the thickness of the eastern abutment below West Poultry. Investigations have revealed the abutment varies in thickness, and coring indicates a range of conditions and materials behind the wall. There are concrete infill sections to the abutments but their purpose is unknown. It is not known why a relieving frame was installed in Area B in 1948 but it indicates there was a weakness. The frame should not be re-used as it is not known what weight it was meant to carry or how effective it has been.<sup>88</sup>
- 5.4.11. Areas D and E support the Annex with large spans, few columns, and no clear structural distinction between the two areas. There are voids open to the sky in Area D and the beams are in poor condition. Removing the lid in Area D without removing that in Area E would be complex. Part of the outer wall of the Annex sits on a primary beam and could not be propped from below because of the railway. The foundations should not be reused as no details of them are available.<sup>89</sup>
- 5.4.12. Historic engineering reports highlight corrosion of the metal in the railway structures caused by steam engine exhaust gases, and more recently by wet conditions due to failed waterproofing of the decks above. A number of inspection and assessment reports have been produced and an extensive intrusive investigation of beam conditions was carried out in 2007. Locations for the latter were chosen on the basis of engineering judgement and common sense, but the subsequent report only provides a snapshot of conditions on the site.<sup>90</sup>
- 5.4.13. The key findings are that there is heavy corrosion on both exposed beams, and those covered with 'gunite', and that 'gunite' has been sprayed onto corroded beams with missing rivet or bolt heads. Loss of metal due to corrosion affects the load carrying capacity of beams. In addition, samples indicate that the wrought iron used is up to 6 times more brittle than steel, making it unreliable in tension. Although they work in different ways, rivets and bolts have been used interchangeably. Many rivet or bolt heads are missing or severely corroded, which prevents joints effectively transferring forces. This introduces unpredictable stresses and performance under load. Moreover, there is some evidence of welded repairs, which are unreliable due to the fibrous structure of the iron which 'peels away'.<sup>91</sup>
- 5.4.14. The latest findings agree with previous reports, but provide a much fuller picture. Corrosion has particularly affected the bottom flanges, web, flange to web angles, rivets and bolts. However, only a small fraction of the total area of ironwork has been inspected and it is likely that worse conditions

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<sup>87</sup> TPL/4/A 2.4.14-2.4.17

<sup>88</sup> TPL/4/A 2.4.18-2.4.33

<sup>89</sup> TPL/4/A 2.4.34-2.4.51

<sup>90</sup> TPL/4/A 2.5.1-2.5.11

<sup>91</sup> TPL/4/A 2.5.12-2.5.34

exist in unexposed areas. The more detailed information from the 2007 investigations show conditions are worse than reported in 2002 and 2003.<sup>92</sup>

- 5.4.15. A number of structural assessments have been carried out to investigate the likely current load conditions. The reports have adopted different assumptions and care is needed when comparing them. A review by Atkins in 2003 concluded that the lid over West Poultry could not carry its own weight. The fact that it does shows that the structure is distributing its weight in a more complex way than accounted for by engineering analysis. West Poultry Avenue was closed following this report, which made recommendations for urgent action "in the next financial year". A review by Whitbybird in 2005 made similar findings but no works have been carried out.<sup>93</sup>
- 5.4.16. EH places a great deal of reliance on a finite analysis report, produced for the City, but fails to appreciate its severe limitations, which were set out by the City's engineering witness. It treats the structure as if it is elastic, but that is not the case.<sup>94</sup>
- 5.4.17. The lids have exceeded the normally anticipated design life of 120 years. Any attempt at repair would need to take a conservative view, for reasons of public safety, and the resulting works would be long and complex. Even if repair were possible, the hybrid structure would require ongoing monitoring and maintenance. In practice, demonstrating that the repaired structure had an adequate margin of safety, for the required lifetime of the structure, under any new loading regime, would not be a credible option. No designer could give a warranty that would cover the whole structure, rather than just the repairs. The lids in Areas A, B and D should be replaced immediately in the public interest as they are clearly unsafe.<sup>95</sup>
- 5.4.18. Network Rail (NR) relies on the City, as owner of the structure, to ensure safety. EH's engineer is alone amongst the engineering experts in considering that there is not a significant problem. The condition of the structures is not well understood. Remedying visible problems would not allow the structure to be 'justified', as it is not known how the forces interact. Nor is it safe to proceed on the assumption that investigations have identified the worst areas as only a small part of the overall structure has been investigated.<sup>96</sup>
- 5.4.19. EH now claims that only simple repairs are required but that would leave West Poultry Avenue closed, the use of the buildings restricted, and a legacy of maintenance and eventual replacement. Added to that are the practical realities of developing an appropriate repair option, although it is accepted that given unlimited time and money a repair/strengthening solution could be devised. It is important that any intervention should be carried out safely. A clearly demonstrable margin of safety would need to be demonstrated for the purposes of NR's approval regime, but the uncertainty over the way the forces are transferred would prevent this. Who would

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<sup>92</sup> TPL/4/A 2.5.40-2.5.49

<sup>93</sup> TPL/4/A 2.5.50-2.5.59

<sup>94</sup> CD5.15, TPL/22 C.61, Mr Morton XE by TPL Day 13

<sup>95</sup> TPL/4/A 2.5.60-2.5.66, TPL/22 C.45, CLC/10/B Tab 8 7.1.4

<sup>96</sup> TPL/22 C.50-C.54

invest in a building when they could not be assured, by warranties or insurance, of the structural integrity of the structure?<sup>97</sup>

*Scenarios for Retention and Replacement*

- 5.4.20. There are three engineering options: repair; strengthening; and replacement. Any engineering works should have a design life of 120 years with minimum trackside access maintenance requirements. The highway structure in West Poultry Avenue stretches from West Smithfield to Charterhouse Street and partly lies under the building. If this is to be re-opened it should be strengthened with design loadings of 30 Units HA and 45 Units HB, the maximum abnormal vehicle size under Department of Transport standards. The road should also connect at grade to West Smithfield and Charterhouse Street.<sup>98</sup>
- 5.4.21. Reports effectively suggest three options in some, or all, of Areas A, B and D. First a new structure beneath the existing decks in the form of a grillage of beams. Headroom requirements alone mean this is not viable. The second option would hang the existing structure from a new overslab. The old structure would still have to be inspected and repaired and the new slab would have to fit into a limited depth to maintain the road surface levels. This would incur all the costs of repair and the additional cost of constraining the slab thickness. The third, repair only, option has been dismissed as it would leave risks to the public. These are not practical solutions and the lids would eventually have to be replaced.<sup>99</sup>
- 5.4.22. Four scenarios have been considered. Scenario 1 is a baseline case. Only immediate and critical repairs would be done to support new loading requirements and meet modern standards. No warranties would be provided for the lids, which would restrict options for the future use of the buildings. Repairs to the lids would be complex and slow and a continuing monitoring regime would be required. This would not be easy after overhead line electrification (OLE) has been installed in 2009. In any event, even if it was technically feasible, and the cost was acceptable, repair could not be carried out in the time available.<sup>100</sup>
- 5.4.23. Scenario 2 would bring the buildings and highway back into use through repair and refurbishment of the buildings and replacement of the lids over Areas A, B and D. Around a third of the General Market Building and Annex would have to be demolished and the remainder propped where necessary. Replacement of the lids would remove many of the Scenario 1 difficulties. Such works could be carried out in the period of planned possessions before the installation of OLE. Full warranties would be available for Areas A, B and D. No warranties would be available for Area E, which would be strengthened locally, as in Scenario 1, and would have an ongoing inspection and maintenance requirement.<sup>101</sup>
- 5.4.24. Scenario 3 is similar to 2 but would include the replacement of the lids over Area E. No additional demolition would be needed as that part of the lid is

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<sup>97</sup> TPL/22 C.55-.60

<sup>98</sup> TPL/4/A 3.1.1-3.1.8, TPL/22 C.62

<sup>99</sup> TPL/4/A 3.2.2-3.2.18

<sup>100</sup> TPL/4/A 3.1.3, 3.3.1-3.3.10

<sup>101</sup> TPL/4/A 3.4.1-3.4.12

not over the railway and could be propped from the car park. Whilst this would provide a lasting solution with full warranties and is technically feasible it would not be cost effective compared to other scenarios.<sup>102</sup>

- 5.4.25. Scenario 4 would replace all the lids over the railway and provide a new building above. A lasting solution with full warranties would be achieved and risks, in terms of programme and cost, would be much reduced. The dependence of the buildings on the substructure over the railway would be removed and the number of load bearing structures at basement level greatly reduced. The application scheme is similar to Scenario 4.<sup>103</sup>
- 5.4.26. In terms of EH's proposals, a 'hanger' scheme would not meet the road loading requirements and a patch repair option would not provide any strengthening. An overbeam proposal has been subject to detailed criticism and was not pursued. Whilst it is possible to extend the life of structures by repair, there comes a point where costs become disproportionate to the value of the structure. Many reports confirm that is the case here. In any event, there is no repair option before the Inquiry, as EH's engineer recognised that significant further investigations were needed to assess what works would be required, and even if there were uncertainty would remain. Reports have dismissed repair options largely for this reason. Even if this could be overcome, the works would have to be carried out in the context of an operating railway.<sup>104</sup>

#### *Timescales*

- 5.4.27. NR confirmed that even with the current number of trains through the tunnel, a single broken down train quickly has a dramatic impact on the network. The number of trains will increase significantly after the Thameslink improvements, and closure of the tunnels for maintenance or repair would have an even greater impact.<sup>105</sup>
- 5.4.28. Possessions of the railway, even for weekend periods, are planned around 18 months in advance to allow measures to be put in place to minimise disruption. Possessions are not normally allowed during week days or peak periods, other than Christmas and Easter. Even the Thameslink programme has sought to keep possessions to a minimum, and there would be a strong public interest in avoiding additional possessions. Possession planning for 2008 and 2009 is currently underway and discussions with NR have considered the feasibility of carrying out works prior to OLE installation in December 2009. Following the Thameslink works, access will be restricted. A solution for the lids that would avoid possessions after 2009, or 2011 when the problems associated with any closures would be multiplied, is critically important.<sup>106</sup>
- 5.4.29. The proposal would provide a new, largely maintenance free, solution which EH's repair or hanger schemes would not. The scheme outlined in EH/8/D would only provide largely maintenance free lids in Area A. EH's proposal requires the acceptance of 19<sup>th</sup> century lids in a piece of important 21<sup>st</sup>

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<sup>102</sup> TPL/4/A 3.5.1-3.5.7

<sup>103</sup> TPL/4/A 3.6.1-3.7.4

<sup>104</sup> TPL/22 C.63-C.70

<sup>105</sup> TPL/22 C.8-C.10, Mr Mitchell IC & RE Day 20

<sup>106</sup> TPL/4/A 3.1.9-3.1.17, TPL/22 C.11-C.15, Mr Mitchell XE by EH Day 20

century infrastructure that would lead to periods of disruption in the long term. This would be inconsistent with the aim of providing a 24 hour railway with only 4 hour possessions on Saturday nights. Even if anything other than replacement was feasible from an engineering and safety perspective, patch repair would leave the possibility of localised failures leading to emergency closures.<sup>107</sup>

- 5.4.30. Establishing a longer 'window of opportunity' is crucial to any repair case. However, NR confirmed that the sidings are important to the daily running of the railway. The point of switch over from third rail to OLE has to be moved by 2009 and it is now too late to move it to the north. Moving it further south would not meet operational requirements. After October 2009 there will be no flexibility in terms of OLE programming. By December 2009 at the latest, unimpeded access to the lids will be seriously constrained by the OLE installation, which would have to be dismantled at each possession. Even if a step change in setting up and removing apparatus could be achieved, the scope for carrying out significant works in any but the longest possessions would be extremely limited. Most of the hours of possession time referred to by EH are in small blocks and although EH suggested that further possessions might be available, NR intimated that this would not be acceptable.<sup>108</sup>
- 5.4.31. TPL's application designs are well advanced in the NR approvals process and discussions have taken place on using Thameslink possessions for carrying out the works. This has all been done 'at risk' as there is every prospect of the application scheme meeting the 'window of opportunity'. Although reference has been made to the time a legal challenge to any decision by the Secretary of State might take, there is no reason to think there would be any grounds for challenge. Even if there were, the importance of the tunnels and the 'window' would justify an early hearing. In any event, a challenge does not stay a decision. An injunction would have to be sought with a cross undertaking in damages.<sup>109</sup>
- 5.4.32. EH's repair proposal would require further major intrusive investigations before a scheme could be specified. The NR approvals process is a long one, and it would be many months before it could even be started. Repair works could not be done in the 'window of opportunity' to 2009 and there are not enough long possessions to even finish patch repairs in the period to 2011.<sup>110</sup>
- 5.4.33. The City has been criticised for not pursuing alternative options for works to the lids but its engineer did not support any other options, the scheme it was taking forwards with TPL appeared to be NR's preferred option, the limited extent of the 'window of opportunity' only became clear in recent months in the run up to the inquiry, and even now no one has presented a meaningful and coherent alternative.<sup>111</sup>

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<sup>107</sup> TPL/22 C.16-C.26

<sup>108</sup> TPL/22 C.27-C.33, Mr Mitchell IC & XE by SAVE & EH Day 20

<sup>109</sup> TPL/22 C.34-C.36

<sup>110</sup> TPL/22 C.37-C.38

<sup>111</sup> TPL/22 C.39



*The Case for Demolition*

- 5.4.34. Paragraphs 3.5, 3.17 and 3.19(iii) of PPG15 indicate that “the extent to which the proposed works would bring substantial benefits to the community” is a consideration. Paragraph 3.17 indicates that demolition should only be allowed where ‘all reasonable efforts’ have been made to sustain existing or find viable new uses, and a ‘convincing case’ can be made against the criteria set out. Reference is made to preservation in some form of charitable trust but the object is to prevent demolition on the grounds that it would be more attractive financially. Further considerations set out in paragraph 3.19 should be applied reasonably and flexibly.<sup>112</sup>
- 5.4.35. The first two criteria are essentially viability and reasonable effort tests. The latter includes the offer of the freehold on the open market but in this case that would bring considerable liabilities. It is unrealistic to expect that such an exercise would produce a purchaser, and the delay that would be involved would increase the risk to the public from the tunnel lids. Finally, paragraph 3.19, in conjunction with 4.27, indicates that the merits of any proposed redevelopment are a material consideration.<sup>113</sup>
- 5.4.36. The General Market Building was declared surplus to requirements, and the final traders moved out, in 1999. It had been underused for 15 years prior to that. Resources were focussed on the more significant Meat Market. There is, therefore, no need for the original use of the building. A range of uses, including a modern urban market hall, have been explored. These scenarios have included retaining part of the building, but the existing building does not have enough architectural quality or townscape presence for this approach to be successful.<sup>114</sup>
- 5.4.37. EH is concerned that until the site is marketed there will remain some doubt about the viability of retention. However, if there are no reasonable grounds to think that the offer of the unrestricted freehold would produce a buyer with the means to address all the site’s issues then there is no point in marketing. There does not appear to be any community body to take on ownership. Indeed, the longest established community at Smithfield, the market traders, support the redevelopment. Finally, there are no potential funding sources for such a site and building.<sup>115</sup>
- 5.4.38. The Officer’s report to EH’s London Advisory Committee (LAC) considered that a reasonable case had been made for the demolition of the General Market Building that was not undermined by the lack of marketing. The LAC did not accept the conclusions. It was also unconvinced that the need for works to the tunnel lids justified demolition, although as far as is known it had no independent engineering advice. EH’s Commissioners repeated the concerns about the lack of market testing and also believed, despite the fact that its own valuers had already given advice to the contrary, that there was scope for re-use of the property due to the renewed popularity of markets.<sup>116</sup>

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<sup>112</sup> TPL/6/A 6.10-6.16

<sup>113</sup> TPL/6/A 6.17-6.23

<sup>114</sup> TPL/6/A 6.27-6.36

<sup>115</sup> TPL/6/A 6.40-6.42

<sup>116</sup> TPL/6/A 6.61-6.78

5.4.39. The buildings are capable of repair and there is now considerable detail on costs. However, the deck structures are in a worse condition than previously thought. It would be difficult to support the buildings, and the repair of the decks would be complex, time consuming, and leave a legacy of problems. Examination of the various scenarios leads to the conclusion that there is no real alternative to replacing the tunnel lids. Moreover, there would be a substantial public benefit in doing so that would outweigh the loss of the unlisted building in the Conservation Area.<sup>117</sup>

## 5.5. Sustainability and Accessibility

5.5.1. In terms of sustainability, the target is to achieve an 'Excellent' BREEAM rating for the office elements. Rainwater would be harvested for flushing WCs. A biomass boiler using recycled wood chippings would provide base space heating and domestic hot water in each building. This would be a major factor in achieving the Mayor's 10% renewable energy target on site. In addition, a trigeneration CHP system would be investigated but is not currently considered appropriate as higher carbon savings could be achieved through alternative practices. Photovoltaic cells were originally considered but could not be provided on the roof of 25 Snow Hill due to shading. Their use on the roof of No 43 would be considered in terms of technical and practical feasibility. In addition to the passive shading provided by the layered design and materials of the elevations, a heat recovery strategy would be deployed in both new buildings.<sup>118</sup>

5.5.2. The proposal would promote a mix of uses in a location that would attract a large number of people, the majority of whom would use public transport to get there, in accordance with the aims of paragraphs 5 and 27 of PPS1. The development would also make more efficient use of previously developed land. The City's report to Committee states that the scheme "has evolved to ensure a high standard of sustainable design and construction, in accordance with Policy 4.6 of the London Plan". The *Design Statement* submitted with the application includes an Access Statement at Section 7. Level access would be provided to all the buildings and lifts would provide access to all floors. The buildings have been designed to allow access for all.<sup>119</sup>

## 5.6. Retail

5.6.1. The application site has historically been in retail use, albeit that these uses have almost ceased. A *Retail Impact Assessment* was submitted with the application and considers two scenarios. Firstly, one which takes account of the existing retail uses, and secondly, the worst case, a scenario that makes no allowance for existing retail uses. The proportion of A1, A2 and A3-5 uses has not yet been finalised and a number of assumptions have been made as to the maximum and minimum A1 floorspace that might be built. The net additional retail floorspace in Scenario 1 would be 1,066m<sup>2</sup> minimum or 2,834m<sup>2</sup> maximum whilst in Scenario 2 the figures would be 1,767m<sup>2</sup> and 3,535m<sup>2</sup>.<sup>120</sup>

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<sup>117</sup> TPL/6/A 6.43-6.56

<sup>118</sup> TPL/3/A 6.5.01-6.5.18, TPL/18 45-51

<sup>119</sup> TPL/9/A 6.1.1-6.1.6, 6.4.1-6.4.2, CD1.5, CD15.1 Para 205

<sup>120</sup> CD1.6, TPL/9/A 7.1.1-9

- 5.6.2. There is no indication in the UDP of the scale of retail development that would be appropriate in the Smithfield area. The advice in Paragraphs 2.41-2.43 of PPS6 therefore needs to be considered. The proposal would be part of a mixed use development and would largely serve the needs of the new office workers, those in the area to the north, and the wider Smithfield area generally.<sup>121</sup>
- 5.6.3. The site is not in an existing centre, nor allocated for retail in the development plan, therefore a sequential approach is necessary as set out in paragraph 3.13 of PPS6. The site is an established retail location, but of only local significance and so not included in the retail hierarchy. LP Policy 4B.1 and UDP Policy ECON 6 both require mixed use development that maintains or enhances the varied or special character of Smithfield. The proposal would meet the needs of workers in the new development and the wider area and so would be appropriate to replace the former retail facilities. There is no scope for disaggregation as the retail provision would be part of a mixed use development and would enhance social and economic activity at street level in accordance with other development plan policies.<sup>122</sup>
- 5.6.4. The *Retail Impact Assessment* considers the impact of the proposal on seven centres within the catchment area. The retail impact of the various scenarios would range between 1.4% and 4.7%. This is modest and would not have any significant impact on the vitality and viability of any of those centres. A view endorsed by the report to Committee. The proposal would, therefore, accord with the requirements of PPS6.<sup>123</sup>
- 5.6.5. Although EH contend that the *Retail Impact Assessment* is unsatisfactory, paragraph 1.7 of the *Assessment* indicates that it is deemed appropriate because of the location of the site in the CAZ and the fact that the proposal would effectively replace existing retail floorspace. In any event, EH's retention scheme would also include shops and a covered market and EH's planning witness accepted that retail matters would not justify refusal.<sup>124</sup>
- 5.7. Transportation
- 5.7.1. The site has the highest possible Public Transport Accessibility Level (PTAL) ranking of 6a. The mode share assumptions advised by the City are that nearly 90% of commuters would arrive by rail (Thameslink, Circle, Hammersmith and City, and Metropolitan Lines) and only around 5% by car. Farringdon Station is nearby and Chancery Lane, Barbican and St Paul's Underground Stations, two of which are also served by the Central Line, are within a 10-15 minute walk. Improvements to the Thameslink service and the construction of Crossrail would improve rail access even further. The site is also well served by bus services with 9 running along Charterhouse Street and Farringdon Street/Road. There are 76 buses per hour in both directions within 350 metres of the market. There is 24 hour controlled parking around the market but a considerable surplus of off-street parking in the Smithfield underground car park and the car park below the site.<sup>125</sup>

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<sup>121</sup> TPL/9/A 7.2.1-7.3.3

<sup>122</sup> TPL/9/A 7.4.1-7.4.5

<sup>123</sup> CD1.6 Tables 9a & 9b, CD15.1 Para 133, TPL/9/A 7.4.6-7.4.9, 7.5.1-7.5.4

<sup>124</sup> TPL/9/C 2.7, TPL/22 H.4, Mr Dodds XE by TPL Day 17

<sup>125</sup> TPL/8/B Sect 2, TPL/9/A 10.20

- 5.7.2. A ramp to the basement of No 43, with a minimum headroom of 4.25 metres, would be the only vehicle access to the development. Servicing would be from the basement and a maximum of 10 parking spaces, including 2 for disabled users, would be provided in accordance with Appendix 4 of the UDP. Cycle and motorcycle parking would also be provided in excess of the UDP minimum. Part of Smithfield Street between the Red House and No 29 would be stopped up and used as a small pedestrian plaza. In West Poultry Avenue, a wider footway would be provided separated from a shared space and the Poultry Market by bollards. The proposed development would be fully accessible to all.<sup>126</sup>
- 5.7.3. A number of traffic engineering proposals have been agreed with the City and Transport for London (TfL). These would include the re-opening of West Poultry Avenue to provide an additional way out of the market, the relocation of a number of parking bays around the market whilst maintaining the number, and the resignalling of the Farringdon Street/Charterhouse Street junction. This would include the addition of a pedestrian phase to improve pedestrian access to the site. A time managed partial closure of West Smithfield would allow access to the market during its working hours, but provide a more pedestrian friendly area during office hours. These matters would be covered by a Section 106 Agreement.<sup>127</sup>
- 5.7.4. In recognition of the additional passengers that would use Farringdon Station as a result of the new development, a financial contribution would be made towards the refurbishment and ongoing maintenance of the Station. A Travel Plan would also be prepared and implemented to ensure that the mode choice assumptions were achieved and maintained. With all these measures, the proposal would be consistent with the requirements of PPS1 and PPG13 and the relevant development plan transportation policy objectives.<sup>128</sup>
- 5.8. Other Matters
- 5.8.1. A number of opportunistic matters outside its heritage responsibilities were raised by EH. EH's planning witness acknowledged that these planning issues of housing, affordable housing and energy strategy did not bear on the conservation area consent application, which is dependant on the engineering issue. EH states that the City's resolution on the applications was made in the absence of an EH consultation response. The proposals were first presented to EH in June 2003. When the planning committee considered the applications in April 2007, nearly 4 years later, responses had been received from EH in letters dated 20 March and 5 April 2007. The latter provided comments but stated that a formal response would not be available until July 2007. The committee was, therefore, fully informed of EH's position.<sup>129</sup>
- 5.8.2. It is claimed that the failure of the development to provide a mix of uses, including housing, would conflict with policies in the LP and that a contribution towards 4 affordable housing is not an acceptable substitute.

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<sup>126</sup> TPL/8/B 4.1-4.4,

<sup>127</sup> TPL/8/B Sect 4.5, TPL/9/A 10.21

<sup>128</sup> TPL/8/B Sects 4.6-4.7, TPL/9/A 10.22

<sup>129</sup> TPL/9/C2.1, TPL/22 H.1, H.2 & H.9

Paragraph 3.125 of the LP recognises that there may be exceptions where such a mix would conflict with other policies. The provision of housing in this case would prejudice the ability of the proposal to contribute to the economic growth sought by other policies in the LP. This is accepted in the Mayor's Stage 1 report, which also notes that a contribution towards the provision of affordable housing would be in accordance with the City's SPG on Planning Obligations, albeit that the Mayor considered that a more significant contribution could be made. Any additional contribution would affect the viability of the scheme. It is interesting to note that it is no part of the EH 'scheme' to provide flats or affordable housing or even to make financial contributions for these purposes.<sup>130</sup>

- 5.8.3. EH claims that the determination of the application would be premature in advance of the production of a specific policy framework for the Smithfield/Farringdon area and that the only area specific framework is a study by Farrells commissioned by EH. The City does not intend to produce an area action plan for Smithfield and refusal on the grounds of prematurity would not be justified in terms of the guidance in *The Planning System: General Principles*. Moreover, the Farrell document has not been the subject of any consultation, even with the City, and it was accepted that it had no planning status.<sup>131</sup>
- 5.8.4. The context for EH's pursuit of energy matters is that it formed no part of the Commissioners' objections to the proposal and there is a complete lack of any energy efficiency matters in its retention 'scheme'. The energy position is clearly set out in the Supplementary ES. The Mayor's Stage 1 report raised a number of concerns that have subsequently been addressed and are included in the Supplementary ES. The building would achieve a highly reduced carbon footprint for operation. Solar and internal heat gains would be minimised through design to drastically reduce cooling loads compared to traditional office designs such that the benefits of biomass fuelled boilers would be "clearly significant". CHP and tri-generation are not considered appropriate as higher carbon savings could be achieved through alternative technologies and it is understood that there is no spare capacity in the Citigen CHP network. A Section 106 Agreement would require the development to achieve a BREEAM rating of 'excellent' and to secure a minimum of 10% of the energy used from on-site renewable energy technology. The technical and practical feasibility of roof mounted photovoltaic cells, CHP and tri-generation will be examined, as well as the use of bio mass boilers, and the final choice will be indicated in an Energy Statement to be submitted to the City for approval.<sup>132</sup>
- 5.8.5. EH maintains that the City should have submitted the ES for independent review. There is no legal requirement to do this. The City's Officers deal with numerous large planning applications supported by ESs, and have both the experience and expertise to review such assessments. The statutory requirements relating to the ES have been satisfied and paragraph 2.2 and Table 2.1 in Volume 1 of the ES explain how the requirements of Part II of Schedule 4 of the Regulations have been met. The obligation under the

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<sup>130</sup> TPL/9/A 9.1.7-8, TPL/9/C 1.2 & 2.4, TPL/22 H.3, CD27.1 Para 32

<sup>131</sup> TPL/9/C 1.2 & 2.3, TPL/22 H.6, CD24.10

<sup>132</sup> CD27.1, CD27.2, TPL/18, TPL/22 H.5

Directive and Regulations is for the main alternatives to be outlined and the reasons for the developer's choice to be indicated. The ES does this. None of the case law referred to by EH enlarges this obligation and the argument put by EH has already been rejected by the High Court in *R (on the application of Bedford) v Islington LBC [2002] EWHC 2044*. Although the Inspector requested at the PIM that scenarios be agreed, attempts to discuss them with EH were unsuccessful. It is not understood how a plan purporting to illustrate a new scenario, submitted by EH at the end of Day 1, could have been assessed.<sup>133</sup>

## 5.9. Section 106 Agreement and Conditions

- 5.9.1. A Section 106 Agreement has not been executed, signed and sealed but it has been agreed between TPL and the City. A completed document will be sent to the Secretary of State who will need to check that it is in the form considered at the Inquiry. Similarly, the Agreement between TPL, the City and NR has been agreed and is shortly to be put to NR's Board for final approval. This will also be sent to the Secretary of State when executed.<sup>134</sup>
- 5.9.2. Comments on the utility of the S106 Agreement are based largely on the contention that the 'best endeavours' as defined in the draft deed are insufficiently clear and/or robust to achieve their stated aims. When compared to the definition of 'reasonable endeavours' in earlier drafts, the amendment has removed the provision that TPL would not be obliged to pursue further proceedings reflecting the more onerous meaning of 'best endeavours' in *IBM v Rockware [1980] FSR 335*. This judgement indicates that the courts have no difficulty understanding terms such as 'reasonable' and 'commercially prudent'. If such concepts were unclear or easy to escape they would hardly be found in case law as part of the Court of Appeal's definition of 'best endeavours'.<sup>135</sup>
- 5.9.3. SAVE's contention that it is not known what other consents are required in order to carry out engineering works are unfounded. NR's approval processes are set out in its document *Technical Approval of Design-Construction and Maintenance of Civil Engineering Infrastructure* and EH's engineer was cross-examined on the document.<sup>136</sup>
- 5.9.4. EH and SAVE contend that any conservation area consent should include a condition precluding any demolition until planning permission has been granted, and a contract let, for any replacement building, which paragraph 4.29 of PPG15 indicates would 'often be appropriate'. However, in this case, conservation area consent should be granted, even if planning permission is refused. The case for demolition stands or falls on the engineering issue. New lids should be installed and there is a limited 'window of opportunity' to do so without causing substantial disruption to the travelling public. If planning permission is granted a condition as outlined by EH and SAVE should still not be attached as a pre-let is required and there would not be time for this before the 'window' closed.<sup>137</sup>

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<sup>133</sup> TPL/9/C 1.2 & 2.8, TPL/10, TPL/11, TPL/12, CLC/6

<sup>134</sup> CD12.6, TPL/22 I.1 & I.2

<sup>135</sup> TPL/22 I.3, I.4 & I.5, TPL/22 Case report page 4 "I can feel no doubt...."

<sup>136</sup> TPL/16, TPL/22 I.6

<sup>137</sup> TPL/22 G.1-G.6

5.9.5. In both cases, a condition should be imposed requiring the prior letting of a contract to install the new railway structure lids. This condition, together with the terms of the Section 106 Agreement, would ensure that the engineering works were carried out expeditiously in the 'window of opportunity' and that the proposed scheme was built once a sufficient pre-let was in place. It would be in TPL's best commercial interests to build the scheme as quickly as possible as it would have laid out tens of millions of pounds for the engineering works. EH's concern that the credit crunch would affect the viability such that the application scheme would not fit within the 'window of opportunity' would also be answered by the commitments in the Agreement.<sup>138</sup>

## 5.10. Conclusion

5.10.1. Objector's contentions that if the proposals are refused, and there was some tinkering with a few bolts and rivets, the railway infrastructure difficulties would be resolved and a new Covent Garden would spring into life in the heritage buildings are pie-in-the-sky. On the other hand, the application proposals offer a real opportunity, which it would be short sighted and foolish not to grasp. The railway engineering issues would be resolved bringing substantial public benefits. A first class scheme by a world class architect, which proudly wears its heroic engineering, would be a wonderful addition to the life and vitality of Smithfield and help to maintain and enhance the City's important role as the world's leading financial centre.<sup>139</sup>

## 6.0 The Case for the City of London Corporation

### 6.1. Introduction

6.1.1. This is a most unusual case where the existing buildings sit above a live railway track. The City, in addition to being the local planning authority, is the freehold owner of the site and has duties to maintain the lid structures over the railway imposed by the *London Central Markets Acts* of 1875 and 1886 and an Agreement dated 18 November 1880.<sup>140</sup>

### 6.2. Character & Appearance of the Surrounding Area including the Settings of Nearby Listed Buildings and Conservation Areas

#### *Introduction*

6.2.1. The statutory duties set out in Sections 16(2), 66(1) and 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* to have regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possess, and preserving or enhancing the character or appearance of a Conservation Area, are generally reflected in UDP Policies ENV 16 and ENV 11.<sup>141</sup>

#### *The Existing Buildings on the Site*

6.2.2. The General Market Building is one of a group of market buildings that have group value and historical significance. The building contributes to the

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<sup>138</sup> TPL/22 G.7-G.9, EH/7/C 4.5

<sup>139</sup> TPL/22 K1-K2

<sup>140</sup> CD29.3, CD29.2, CLC/9, CLC/2 Paras 2 & 7

<sup>141</sup> CLC/3/A 2.1.1-4 & 3.2.1-3

townscape interest, particularly along West Smithfield and Charterhouse Street where the elevations step down the sloping site. The Farringdon Street elevation, which was designed to be appreciated in oblique views, is less successful and fails to relate to the width of the street at this edge of the Conservation Area where it faces considerably taller post-war development. The architectural qualities of the building have been compromised to some extent by the insensitive rebuilding of the north-west entrance tower and the central dome following bomb damage. This lessens the contribution the building makes to the Conservation Area.<sup>142</sup>

6.2.3. The General Market Building appears most prominently in views from Holborn Viaduct and Farringdon Street outside the Conservation Area. The topography limits views from the east, and in any event the 1963 Poultry Market, which has a dramatically different architectural style and palette of materials, breaks the visual linkage between the site and the Grade II\* listed Meat Market by Sir Horace Jones. The General Market Building's scale and style relates successfully to the Annex and Lavatory Block and contributes to the settings of the listed Red House and Poultry Market.<sup>143</sup>

6.2.4. EH has carried out several assessments of the architectural and historic interest of the General Market Building in connection with requests to list it. Its conclusion is that the building is not worthy of listing but that it "forms a considerable part of this major metropolitan complex and is endowed with considerable historic interest. It is a landmark structure with some very good details". EH also considers that "It contributes positively to the setting of several nearby listed buildings, many of which are part of, or related to, the market complex. We strongly believe that the General Market Building makes a significant and positive contribution to the character and appearance of the Smithfield Conservation Area, and also to the adjacent Charterhouse Conservation Area". The Secretary of State in considering the special interest of the General Market Building, Annex and Lavatory Block in 2005 noted the decision not to list was a finely balanced one but nevertheless Certificates of Immunity from Listing have been granted.<sup>144</sup>

6.2.5. The Red House was built as a cold store and was listed Grade II in 2005. It is on EH's Buildings at Risk Register as it is a shell with a temporary corrugated iron roof. The use of the building did not require windows and this is expressed in the predominantly 'blind' windowless appearance. The building is of townscape and historic interest in the Conservation Area and its design and use of materials has clear links with Sir Horace Jones' other market buildings.<sup>145</sup>

#### *The Character and Appearance of the Conservation Area*

6.2.6. The special interest, character and appearance of the Smithfield Conservation Area is set out in the City's *Smithfield Conservation Area Character Summary*. The topography is of particular relevance sloping from east to west. The application site lies at the bottom of this slope and is not therefore prominent in views from the east. The pattern of long blocks of

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<sup>142</sup> CLC/3/A 2.2.6-10

<sup>143</sup> CLC/3/A 2.2.11-12

<sup>144</sup> CLC/3/A 2.2.13-16

<sup>145</sup> CLC/3/A 3.3.1-5, 4.3.31



grand scale progressing down the hill is a feature of the north and west sides of the Conservation Area and is different from the more modest development, generally 4-5 storeys high, and tighter grain of the medieval plots. The view from Holborn Viaduct provides arguably the best view of the General Market Building.<sup>146</sup>

- 6.2.7. The character of the area derives from the diversity of built forms and uses reflecting the range of institutions and activities that have evolved within it. Contrast in scale has been a strong characteristic since the 19<sup>th</sup> century with the development of massive square or rectangular market and hospital buildings and the grand scale of the engineering interventions. The materials used for the grander scaled market buildings have traditionally been brick, stone and metal whilst the more modest buildings are predominantly brick, render or Portland stone. The *Character Summary* observes that "Its character, therefore, can best be described as one exhibiting gradual and incremental evolution which has largely been prompted by the fortunes of the priory, hospital and market".<sup>147</sup>
- 6.2.8. The *Character Summary* does not identify buildings that make a positive contribution to the character and appearance of the Conservation Area. This is because the boundary is drawn tightly and itself defines the important buildings. Both the General Market Building and the Annex make positive contributions to the character and appearance of the Conservation Area.<sup>148</sup>

#### *The Proposed Buildings*

- 6.2.9. The proposed development is in two parts and would comprise three buildings, 43 Farringdon Street, the Red House and Annex, and the Lavatory Block. The main body of the Farringdon Street building would be contained within an externally expressed steel structure bridging the site and the railway deck. There would be three main parts, a glazed base with two storey retail units and a large open retail market area, a three storey steel truss containing office floorspace around an atrium, and a three storey roof on top of the truss set back from the street frontages. The top of the truss would be at a similar level to the parapet of the Port of London Authority building on Charterhouse Street, more than 20 metres below the top of Caxton House, and approximately 13.8 metres below the main parapet of Atlantic House.<sup>149</sup>
- 6.2.10. A new office building would be placed behind the retained facades of the Annex Building and the Red House with retail use at ground floor level. The new building would be set back 7 metres from the facades and the third floor wing would cantilever out 5 metres above the Red House, which is considered powerful enough to accommodate such a bold juxtaposition. CABE supports the overall approach to this part of the site but criticises the proposed glazing.<sup>150</sup>

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<sup>146</sup> CLC/3/A 2.2.2, 4.3.1

<sup>147</sup> CLC/3/A 2.2.5, 4.3.2-8, CD20.2 Page 17

<sup>148</sup> Mr Rees IC Day 11

<sup>149</sup> CLC/3/A 4.5.1-7

<sup>150</sup> CLC/3/A 4.5.8-13

*The Effects of the Proposal on the Conservation Area and Nearby Listed Buildings and Conservation Areas*

- 6.2.11. Criteria for appraising new development in Conservation Areas are set out in *Guidance on the Management of Conservation Areas and Building in Context – New Development in Historic Areas*. In addition, paragraph 4.18 of PPG 15 states that “Special regard should be had for such matters as scale, height, form, massing, respect for the traditional pattern of frontages, vertical or horizontal emphasis and detailed design.”<sup>151</sup>
- 6.2.12. The design of the building is an imaginative response to the constraints of the site. Like the market buildings it would have a heroic scale and its character would draw on the local tradition of engineering structures such as the roof of the listed Poultry Market and Holborn Viaduct. It would be a high quality contemporary building that would complement, rather than copy, its surroundings. The cladding would be punched metal respecting the traditional use of metal in the market buildings.<sup>152</sup>
- 6.2.13. The building would fill the entire street block just as the market buildings have done since the 19<sup>th</sup> century. The proposal would sit within the constraints of the St Paul’s Heights controls and would be lower than commercial buildings that lie outside the Conservation Area to the north, west, and south of the site. Its height would not be apparent in views from the east due to the fall towards Farringdon Street. Farringdon Street is a busy thoroughfare with a ‘corridor’ character created by the high post-war buildings. From Stonecutter Street the proposal would be seen behind Holborn Viaduct and appear similar in scale to Bath House and Caxton House, adding to the strong enclosure of the street and marking the edge of the Smithfield Conservation Area and the City boundary. The proposal would be a prominent and dramatic element in the view and would act as a ‘marker’ for the Smithfield area behind creating a transition in height between Farringdon Street and the listed Poultry Market.<sup>153</sup>
- 6.2.14. The site, within the Smithfield Conservation Area, immediately adjoins the Charterhouse Square and Hatton Garden Conservation Areas which lie in the Boroughs of Islington and Camden respectively. Long views along Charterhouse Street, from the Charterhouse Square Conservation Area, and along West Smithfield are dominated by the linear character of the Meat Market and the Poultry Market with the Farringdon Street buildings forming a backdrop. The proposal would close these views with a simple form stepping down in response to the market buildings and its scale and massing would have a neutral impact on this view. The Hatton Garden Conservation Area is diagonally opposite the site to the north-west. When the site is approached from the west at Holborn Circus the views are framed by large commercial buildings. The scale of the proposal would be consistent with recent development along Farringdon Street and would not have any adverse effect on the setting of the Hatton Garden Conservation Area.<sup>154</sup>

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<sup>151</sup> CD24.3 Paras 7.8-9, CD 26.2 Page 37, CD16.7, CLC/3/A 4.3.10-12

<sup>152</sup> CLC/3/A 4.3.17-18 & 20

<sup>153</sup> CLC/3/A 4.3.9-32

<sup>154</sup> CLC/3/A 4.3.36-37, CLC/3/A 4.4.1-5

- 6.2.15. The proposal would bring back into viable use the listed Red House, the 'rind' of the Annex Building and the Lavatory Block, all of which are incapable of being used in their present condition. The alterations and infill would be bold interventions. The proposal would insert new windows into existing openings, which would be acceptable subject to detail, but the insertion of a window into a later opening in the ground floor façade should be amended by condition. Similarly, whilst there is no objection to the use of the roof as a terrace where it 'cranks' back at second floor level, the insertion of large scale window openings into the 'blind' arched brick panels would dominate the façade and should be amended. No extensions are proposed and the external alterations are of a limited nature that could be accommodated by the building. Conditions could ensure that the character of the Annex was safeguarded.<sup>155</sup>
- 6.2.16. The setting of the Red House is dominated by Bath House and Atlantic House. In this context, the proposal would not have an adverse effect on its setting. The retention of the 'rind' of the Annex Building would secure an appropriate setting for the Red House. The 'seamless glass box' office infill would be set back from the retained street facades and the use of contrasting materials and the unusual form oversailing the Red House would achieve a degree of separation such that it would not have an adverse effect.<sup>156</sup>
- 6.2.17. The Annex lies back from Farringdon Street and views of it are limited to the area at the junction of Farringdon Street with West Smithfield. From there the new building would be a prominent element behind the small scale of the retained frontage, but would not have an adverse effect as it would only be glimpsed. From the junction of Snow Hill and Smithfield Street, the new office would be visible above and behind the retained facades with the listed Red House and Poultry Market beyond. However, the scale of the adjoining buildings framing the view means that it would not be adversely affected. Looking along Snow Hill from near Holborn Viaduct, the upper part of the extensions would appear somewhat bulky in relation to the scale and character of the retained facades but Bath House is the dominant building. From West Smithfield the office would be seen behind the retained frontage and 'in the shadow' of Bath House behind but would be a small incidental element not affecting the view.<sup>157</sup>
- 6.2.18. The retail use of the ground floor with offices above would provide a mix of uses appropriate to the area and would bring activity and vitality to this western end of the Conservation Area enhancing its character. The re-opening of West Poultry Avenue and associated environmental improvements and landscaping would enhance the public realm. The retained buildings make a valuable contribution to the Conservation Area and their refurbishment would enhance its character and appearance.<sup>158</sup>
- 6.2.19. The canopy between the General Market Building and the Poultry Market is listed by virtue of being attached to the latter and is not considered to be of interest in its own right. When it was consulted on the 2005 applications,

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<sup>155</sup> CLC/3/A 3.3.6-14 & 4.3.21-25, CLC/17 Paras 144-147

<sup>156</sup> CLC/3/A 4.2.15-19

<sup>157</sup> CLC/3/A 4.3.33-35 & 4.3.39-41

<sup>158</sup> CLC/3/A 4.3.18, 4.3.22, 4.3.26-27

EH indicated that the removal of the canopy linking the General Market Building to the Poultry Market “was not overly contentious”. No explanation has been given to explain why EH has altered its position. The canopy between the General Market Building and the Annex dominates the view from Farringdon Street and detracts from the corner turret of the General Market Building. Its demolition would open up views of Charterhouse Street, reveal one of the Barbican towers, improve the setting of the listed Poultry Market, and enhance the setting of the Conservation Area.<sup>159</sup>

- 6.2.20. In panoramic views from the St Paul’s Cathedral viewing gallery the existing buildings are barely noticeable in the middle distance. The proposal for 43 Farringdon Street would be more prominent, but would sit comfortably with the surrounding buildings. Its roof would not conflict with the copper roof of the Poultry Market. The intervention behind the Annex and Red House would be hardly noticeable and the view would not be adversely affected.<sup>160</sup>
- 6.2.21. The setting of the Poultry Market is partly provided by the modestly scaled market buildings and partly by the backdrop of larger commercial buildings. Notwithstanding the increase in scale and bulk, the proposal would provide a neutral backdrop. The proposal for 25 Snow Hill would be some distance from the Poultry Market and the two would not be seen in conjunction. The Grade II\* Meat Market also lies some distance to the east of the proposed development and would be separated from it by the Poultry Market. Its distinctive cupolas would maintain its dominance.<sup>161</sup>
- 6.2.22. 51-53 Charterhouse Street lies opposite the Poultry Market and its setting is affected by the existing commercial offices at Caxton House. The removal of the canopy would open up views and enhance the setting of the building. 67-77 Charterhouse Street, 25 and 27 Farringdon Road and 41 Farringdon Street are some distance from the site and the listed Police Station at 4 Snow Hill is separated from the site by a 6 storey building. Holborn Viaduct lies to the south-west of the site and its setting is dominated by Atlantic House and Bath House. From the bridge of the Viaduct the proposal would be seen in conjunction with these two buildings, both of which are higher than the proposal would be. No listed buildings would have their settings adversely affected.<sup>162</sup>
- 6.2.23. Many of the principles of good design, set out in Government guidance, would be met. The proposal is integrated into, and responds to, the City’s existing urban form and reinforces the distinctiveness of this part of the City. The scale, form and design respond to the context and the railway infrastructure and are well designed and visually attractive. The proposal optimises the site’s potential to accommodate significant new development with an appropriate mix of uses, but includes the retention of a listed building and the façade of an unlisted building. The proposed scheme would comply with the aims of PPS1, LP Policies 4B.1, 4B.3, 4B.7, 4B.9, 4B.10, 4B.11 and 4B.12 and UDP Policies ECON 6, ENV1, ENV 6, ENV 16, ENV 17, and ENV 18.<sup>163</sup>

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<sup>159</sup> CLC/3/A 3.4.1-5, 4.3.3 & 4.3.38, CLC/17 Paras 148-149

<sup>160</sup> CLC/3/A 4.3.42-45

<sup>161</sup> CLC/3/A 4.2.3-7

<sup>162</sup> CLC/3/A 4.2.9-14

<sup>163</sup> CLC/3/A 4.5.24-25

### 6.3. Viability

- 6.3.1. Whilst PPG15 provides little guidance on assessing viability, EH's *Enabling development and the conservation of heritage assets* provides some assistance. It advises the use of qualified and experienced professionals. Both TPL and the City had experienced professionals carry out conventional valuations that indicate that retention scenarios are not viable. EH also initially sought advice from experienced professional firms. They cautioned against over optimism and concluded that, even if the railway lids were excluded, the values from refurbishment and retention schemes would not be viable. It is telling that EH relied on professional advice in relation to the 2005 applications and initially instructed a professional company, but does not produce any evidence from an appropriately qualified professional valuer in this case. On any conventional analysis, retention and refurbishment is unviable. The viability of the proposed development has been appraised by experts on behalf of both TPL and the City. Although there are some differences in the assumptions made, both conclude that the proposal would be viable. Objectors have sought to criticise the appraisals and assumptions but none of the objectors have put forward an alternative appraisal. Indeed, when Knight Frank considered the matter in 2004 they advised EH that there was a realistic prospect of viability being achieved for redevelopment in the medium term.<sup>164</sup>
- 6.3.2. EH's viability witness has experience of running markets but is not a qualified valuer or surveyor. No criticism is made of the methodology used by the professional valuers and little or no criticism of their assumptions but an alternative approach is advocated. The illustrations provided are akin to business proposals for a joint venture and rely on investors advancing 20% of the cost of the project and the landowner accepting no payment initially, if at all. They are not an assessment of the viability of renovating the buildings and should be ignored.<sup>165</sup>
- 6.3.3. Even if the illustrations are considered, they do not demonstrate the viability of the proposed joint venture. In illustration 1, rents of £43/ft<sup>2</sup> for the market are assumed but this is more than double that achieved at Spitalfields and Greenwich where it is accepted that £20/ft<sup>2</sup> is being achieved. Illustration 2 assumes internal retail units would achieve rents of £60/ft<sup>2</sup> but that exceeds rents achieved at Spitalfields and Greenwich. Illustration 3 is based on the assumption of internal units achieving £80-100/ft<sup>2</sup> but at Spitalfields the glass retail boxes achieve £55/ft<sup>2</sup> at ground floor level, £35/ft<sup>2</sup> at first floor and £10/ft<sup>2</sup> for balcony/outside space.<sup>166</sup>
- 6.3.4. The unreliability of the illustrations is demonstrated by making minor adjustments. In illustration 1 a negative return would be achieved if the yield is increased from 7% to 8%, which it was agreed was within a reasonable range, and professional fees are increased from 10 to 16%, purchaser's costs of 5.75% are allowed, and an allowance is made for a

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<sup>164</sup> TPL/5/C App 9 Scenario 5, CLC/5/B App 3, CLC/17 Paras 83-89, CD24.11, CD28.6 Para 8.0(vi), CLC/17 Paras 112-114

<sup>165</sup> CLC/17 Paras 90-92, Mr Reynolds XE by City Days 14 & 15

<sup>166</sup> CLC/17 Paras 93-97, EH/3/T 2A-2D

developers profit of 20%, all in line with EH guidance. The illustrations do not demonstrate that a retention scheme would be viable.<sup>167</sup>

- 6.3.5. SAVE's witness produced three appraisals based on assumptions not within his knowledge or expertise. The construction cost of £170/ft<sup>2</sup> is not from a quantity surveyor. No allowance has been made for circulation space and the assumed yield of 6% and relatively low figures for interest, contingency and professional fees appear over optimistic. If more realistic assumptions are made for yield and finance costs, and the omissions are correct, the outcome is negative. Revised appraisals were submitted but merely demonstrate that an appropriate developers profit would not be achieved. If circulation space is allowed and account taken of purchaser's costs and future operational expenditure, the project becomes unviable even with the 7% yield and unrealistic rental levels demonstrating again that the retention and refurbishment is not viable. This is the conclusion reached by all the professionally qualified valuers.<sup>168</sup>
- 6.3.6. Doubt has been cast on the assumption that a 60% pre-let five years in advance of occupation could be achieved, but evidence has been submitted of pre-lets in the City some years in advance of occupation. The base to any development would be the lid over the railway. Once the lid has been replaced a cleared site would be available for redevelopment similar to other sites.<sup>169</sup>
- 6.3.7. Reference has been made to the 'credit crunch' but no witnesses have attempted to quantify the effects of market conditions. Conditions and a Section 106 Agreement would ensure that no demolition took place unless the railway works were to be carried out and commit TPL to carrying out the railway works if all the consents are granted. It is difficult to envisage TPL committing to the railway works unless it considered the scheme to be viable within the foreseeable future and TPL would not have spent the time and money on this Inquiry if the scheme were not likely to be viable in the foreseeable future.<sup>170</sup>

#### 6.4. Repair, Maintenance, and Retention of the Existing Structures

##### *Introduction*

- 6.4.1. There is no dispute that the buildings on the site make a positive contribution to the character and appearance of the Conservation Area. Paragraph 4.27 of PPG15, and UDP Policy ENV 11, indicate that there is a general presumption in favour of retaining such buildings and that proposals for their demolition should be assessed against the same broad criteria as proposals to demolish listed buildings. Consent for demolition should not be given unless there are acceptable and detailed plans for redevelopment.<sup>171</sup>
- 6.4.2. However, although the same criteria apply, there will be differences in emphasis when considering a positively contributing unlisted building rather than a listed building. Paragraph 3.19 of PPG15 refers to considerations set

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<sup>167</sup> CLC/17 Paras 98-99

<sup>168</sup> CLC/17 Paras 100-105, CLC/5/C App A, SBH/7/A & B, TPL/5/W

<sup>169</sup> CLC/10/I, CLC/17 Paras 115-117

<sup>170</sup> CLC/17 Paras 118-119 & 111

<sup>171</sup> CLC/3/A 2.3.2-3, CLC/17 Paras 10-14

out in paragraph 3.5. For an unlisted building, more emphasis is likely on sub-paragraph iii) of 3.5. That would be consistent with paragraph 4.27 which indicates that the decision maker is entitled to consider the merits of any proposed development in determining whether consent should be given for the demolition of an unlisted building in a Conservation Area.<sup>172</sup>

#### *The Condition of the Structures*

- 6.4.3. SAVE contends that the buildings have been deliberately neglected and that in accordance with paragraph 3.19(i) of PPG15 less weight should be given to the cost of repair. Smithfield Market is not run by the City as part of its local authority functions but is financed from its own funds. The City spends around £10 million a year on its listed buildings and spent £70 million on refurbishing the Meat Market. In June 1999 the General Market Building and the Annex were declared surplus to the Market Superintendent's requirements and their management was transferred to the City Surveyor with 11 retail tenants and 5 office tenants remaining in occupation.<sup>173</sup>
- 6.4.4. Passenger traffic on the railway under the site ceased in 1916 and freight traffic in 1969. Thameslink passenger traffic recommenced in 1988 and in 1995 works were undertaken by Railtrack to deal with concrete spalling in the tunnel. Between 1995 and 1999 reports on the structures over the railway lines were procured by the City. The necessary works were considered best carried out in conjunction with the Thameslink 2000 proposals that emerged in the mid-1990s. However, this project was delayed.<sup>174</sup>
- 6.4.5. A structural survey of the General Market Building was reported in March 2000 and a report following an inspection of the tunnel beneath the Annex was issued in June 2000. The City commissioned a survey of the existing buildings from NPS and the findings are summarised in a report dated January 2007. This concluded that the main problem was the condition of the roof coverings, which were leaking badly in several areas. In addition, downpipes were blocked causing water to flood into the structure below. However, the structures are capable of repair and refurbishment. The City's engineering expert concurs with the findings. He notes that the buildings have been mostly empty for some years and have suffered from a low level of maintenance, probably for a period of some years before they became empty.<sup>175</sup>
- 6.4.6. The General Market and Annex Buildings are built on suspended slabs over the railway. A review of the numerous engineering assessments and reports relating to the tunnel lids has been carried out. The girders have deteriorated significantly and the main problems are rivet shear and girder web shear with a few instances of girder bending capacity. The main zones of concern are Areas A and D. Whilst the girders do not exhibit any signs of structural distress, there is a high degree of uncertainty about the condition of some parts, although it is safe to operate the railway. Composite action between the girders and the associated jack arch masonry and fill produces

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<sup>172</sup> CLC/3/A 2.3.4, CLC/17 Paras 15-16

<sup>173</sup> CLC/10/D Paras 7-12 & 46, Mr Bennett IC Day 10

<sup>174</sup> CLC/10/D Paras 13-28

<sup>175</sup> CD5.6, CLC/4A 6.2.2 & 6.7.1, CLC/10/D Paras 29-30

an improvement in the strength and, within limits, allows loads to be shared. This could divert load away from a deteriorated or damaged girder avoiding a critical situation. However, it could also mask a more dangerous situation where a number of girders reach a critical situation together.<sup>176</sup>

- 6.4.7. A finite element analysis has been carried out, but this is a relatively simple linear analysis. It is useful to assist the assessment process but makes numerous assumptions and does not give a definitive answer. It helps in understanding why a structure is still standing but will not answer the question of how long it will last. Investigations have concentrated on what were considered to be the 'worst' areas, but as some beams are covered in 'gunnite' fire protection there may be problems that have not been identified.<sup>177</sup>
- 6.4.8. The slab and girders could be improved by remedial works. Additional bolts could be introduced and steel plates provided where flange and web plates require reinforcement. However, this work could be difficult as access to the top of the girders that are embedded in the jack arch and concrete infill would require a hole through the entire slab, which is approximately 2 metres thick, at each end of the girder. Normally this would require propping from below. Any such propping would have to be removed when the railway was operating. A number of alternative approaches have been considered but discounted for various practical reasons.<sup>178</sup>
- 6.4.9. Remedial works could be carried out in Area E away from the railway. These would be expected to have an effective life of many years. Works carried out in Area B in the 1960s appear to be functioning satisfactorily some 40 years later. However, although warranties or other forms of assurance may be available for the remedial works carried out they are unlikely to extend to the performance of the overall structure.<sup>179</sup>

#### *Scenarios for Retention and Replacement*

- 6.4.10. A number of scenarios have been considered. Scenario 0, mothballing, would make the buildings watertight and secure but they would remain unused. Essential repairs to the deck would be carried out with fire and corrosion protection works. However, any additional works identified could mean a programme over-run. This would be a high risk strategy and unlikely to be acceptable to NR. Scenario 1, a benchmark, would refurbish the existing buildings to maintain current usage although some floors might need strengthening to meet modern requirements. The decks would be treated as in the mothballing scenario and so this would also be a high risk strategy unlikely to be acceptable.<sup>180</sup>
- 6.4.11. Two repair and refurbishment options have been considered. Firstly, in Scenario 2, the existing building would be dismantled to deck level. Deck Areas A, B and D over the railway would be dismantled and a new deck constructed whilst the deck in Area E would be repaired. The building would then be reconstructed to the existing layout, although the City does not

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<sup>176</sup> CLC/3/A 2.3.6-12, CLC/4/A Sect 5

<sup>177</sup> CLC/17 Paras 28 & 29, Dr Matthews XE by EH Day 8

<sup>178</sup> CLC/4/A 7.2.1-6, 7.3.1-8

<sup>179</sup> CLC/4/A 7.4.1-2

<sup>180</sup> CLC/4/A 9.1.1-11, 9.2.1-7, 9.3.1-9



think the quality of the building would justify this. This would give a greater certainty to the planning and execution of the works, and their cost, and should provide a period of around 50 years to the first maintenance. Scenario 3 would be similar except that all the slab areas would be new. The buildings over area E would have to be supported making this option more expensive. Warranties would be likely to be available for a new deck but not for a repaired deck which also needs to be considered in any evaluation.<sup>181</sup>

6.4.12. Scenario 4 would retain the facades with the exception of that to West Poultry, much of which sits on the deck over the railway. New deck slabs would then be provided as in Scenario 3. On completion of the new deck, a new building would be constructed behind the retained facades. Finally, Scenario 5 is the application scheme with demolition of the buildings, the provision of a new deck slab and the construction of a new building on the site above the new deck. Both these options would provide greater certainty that the works could be carried out within the Thameslink 'window of opportunity' and warranties are likely to be available. However, only the application scheme has been progressed and that is therefore the only option that could realistically take advantage of the Thameslink possessions.<sup>182</sup>

6.4.13. EH's engineer effectively accepted that at least some replacement rather than repair is appropriate. In any event, there are a number of technical concerns raised by the repair scheme originally proposed by EH. Cutting trenches across the deck would affect the flow of forces and potentially weaken the slab and little account has been taken of previous repair works to the slab. Some aspects of the repairs could exacerbate problems, such as inadequate rivet shear capacity. Propping would be required and would mean work would have to take place in cramped conditions above a 'crash deck'. There is the potential for clashes with the OLE installation and the increased use of the railway would make access for any future maintenance work impractical. In addition, the works might extend beyond the available railway possessions. As with the benchmark scheme considered above this would be a high risk strategy and unlikely to be acceptable to NR.<sup>183</sup>

6.4.14. The increase in rail traffic will bring an increased risk of fire in the tunnels. A fire could cause the damaged girders to buckle if they were not protected. The works include the installation of OLE. Stray electrical currents from the OLE are another possible source of corrosion to the existing deteriorated girders, although it is understood that this is only a problem in a fault condition.<sup>184</sup>

#### *Timescales*

6.4.15. Works to increase the capacity of the railway beneath the site create a potential opportunity, in the period up to the autumn of 2009, to address the structural deficiency of the deck slabs. After autumn 2009 increased rail traffic and other works elsewhere will act as major restraints to the tunnel

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<sup>181</sup> CLC/4/A 9.4.1-5, 9.5.1-8, Mr Rees XE by SAVE Day 12

<sup>182</sup> CLC/4/A 9.6.1-6, 9.7.1-4

<sup>183</sup> CLC/4/C, CLC/17 Para 32, EH/8/K

<sup>184</sup> CLC/4/A 8.4-8.5

lid works and it would not be possible to undertake any significant works until after 2015 without substantial disruption to the travelling public. After 2015 the railway will become a 24 hour/7 days a week service and possessions will reduce to around 4 hours a month.<sup>185</sup>

- 6.4.16. With the problem of providing and removing temporary propping every possession in Areas A and D over the railway, it is estimated that the 'known' remedial works could be completed in the available time allowing for the loss of 10% of the planned railway possessions. However, a contractor would have to be ready to start on site on 1 July 2008 with all NR approvals in place. No such arrangements have been commenced and, based on the application scheme, could take about a year to organise. Remedial works would not address unknown deficiencies and problems that might be identified by further investigations. Inspections and investigations are time consuming and require access and the quantity of remedial works could grow substantially. Projects set up in this way have experienced long over-runs in both time and cost. That would not be acceptable in this case due to the disruption that would be caused. The level of future inspection and maintenance activities for a repaired structure would also be appreciably greater than for a new deck slab.<sup>186</sup>

#### *The Case for Demolition*

- 6.4.17. Whilst a number of enquiries from parties interested in taking a lease on the building were received, the property was not marketed whilst the surveys were being carried out. In addition, Crossrail Safeguarding Directions extended over the building and the Thameslink scheme did not get the go ahead until mid 2007. Because of these uncertainties the short term letting of the building was impractical and the building was maintained in a watertight condition with no extensive works. The City was looking for a long term solution the essence of which was redevelopment as re-use would not achieve the full asset potential.<sup>187</sup>
- 6.4.18. TPL approached the City early in 2001 and a Development Agreement was completed on 24 December 2002. It provided the opportunity to combine a long term strategy for the buildings with a solution to the required strengthening works over the railway and repair of West Poultry Avenue, which has been closed since April 1999, within the likely timescale for the Thameslink works. There were no other offers that provided the same advantages. Not until the Thameslink programme began to emerge in the summer of 2007 did the practical difficulties of a failure to coordinate the lid works with the Thameslink works and the tightness of the timescale become apparent. The only way the lid works could be undertaken to meet the Thameslink window of opportunity is to implement the TPL proposals. The story is not one of deliberate neglect but that of a prudent landowner reacting to an uncertain situation.<sup>188</sup>
- 6.4.19. A number of approaches were made to the City in relation to the use of the building but prospective occupiers/developers were kept at arms length

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<sup>185</sup> CLC/4/A 8.1-8.3 & 8.6

<sup>186</sup> CLC/4/A 7.5.1-25, 7.6.1-8

<sup>187</sup> CLC/10/D Paras 29-46, Mr Bennett IC Day 10

<sup>188</sup> CD7.5, CLC/10/D Paras 47-53, CLC/17 Para 50

whilst the surveys were undertaken. Some approaches were from well respected companies but were not progressed, whilst other unknown companies were not investigated. Allsops were one point of contact, although not formally appointed to act as agents for the City, and they knew of some of the problems.<sup>189</sup>

- 6.4.20. PPG15 states that all reasonable efforts should be made to sustain existing uses or find viable new uses. The market use ceased in 1999 and no one contends that it could, or should, have continued. PPG15 also indicates that the unrestricted freehold of the building should be offered on the open market to provide evidential support for the balancing exercise described in paragraph 3.19(i) of PPG15. The City cannot offer the unrestricted freehold as it does not own an unencumbered interest. It cannot divest itself of the powers and duties to maintain a deck structure above the railway under the Private Acts. The uncertainties mentioned above would inhibit or frustrate any attempt to market a long term interest in the site. Refusing consent now would not serve any purpose as the same difficulties and uncertainties would still exist. The only realistic way forward is to take advantage of the Thameslink 'window of opportunity'.<sup>190</sup>
- 6.4.21. Indeed, in relation to the 2005 applications, EH's officers advised that given the costs of repair and the uncertainty that anyone would come forward with a realistic and viable proposal, the failure to offer the unrestricted freehold was not sufficient to undermine the case for demolition. EH now takes a different view but the guidance it relies on does not apply to local authorities and appeal decisions mentioned can clearly be distinguished on the facts. The PPG15 objective would not be served by offering the freehold even if the conservation area consent application was refused to allow such an offer to be made.<sup>191</sup>
- 6.4.22. Paragraph 3.17 of PPG15 also indicates that preservation in some form of charitable or community ownership should be considered. There has been no serious suggestion that the buildings are suitable for such preservation and no charity or community organisation has come forward with a scheme for preservation or renovation.<sup>192</sup>
- 6.4.23. A third element of paragraph 3.17 requires a balance to be struck between benefit to the community and the importance of the buildings. The General Market Building, Annex and Lavatory Block have been considered for listing on a number of occasions and the consistent advice is that they do not merit listing. Moreover the loss of the original tower on Farringdon Street/Charterhouse Street has diminished the value the General Market Building has as a part of a Victorian market complex. In assessing the importance of a building to the character and appearance of a Conservation Area, account should be taken of its surroundings. The context of the buildings has changed since their construction and the ability of the replacement building to address that change is a mitigating factor when considering the loss of the buildings.<sup>193</sup>

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<sup>189</sup> CLC/10/C, Mr Bennett XE by EH Day 10

<sup>190</sup> CLC/17 Paras 62-72 & 81, Mr Bennett IC Day 10

<sup>191</sup> CD23.2 Para 5.13, CLC/17 Paras 44, 73-76 & 81, EH/7/B App 6 2.1, Mr Tomback XE by City Day 16

<sup>192</sup> CLC/17 Paras 79 & 106

<sup>193</sup> CLC/17/Paras 107 & 39

### *Conclusion*

- 6.4.24. Whilst the proposal would conflict with UDP Policy ENV 11, there would be substantial benefits to the community from redevelopment that would justify demolition in this case. Closure of this part of the railway as a result of unplanned engineering works or the need for possessions other than those planned for the Thameslink project would affect over 80,000 people who pass through the tunnel in the morning peak period. Even more would be affected by the knock on effects. These people contribute to the economic activity in the City. The benefits of allowing the demolition to replace the tunnel lids during the possessions already planned would reduce the need for further disruption and decisively outweighs the loss of the unlisted buildings.<sup>194</sup>
- 6.4.25. The lids over the railway should be replaced and this would require significant demolition. Replacement during the planned Thameslink possessions would be a very substantial public benefit and the proposed building would have considerable merit. The presumption in favour of retention is clearly rebutted in this case.<sup>195</sup>
- 6.4.26. Even if the proposed building is considered unacceptable, the general approach that consent for demolition should not be given unless there are acceptable and detailed plans for redevelopment should be set aside in this unusual case. Normally there would be little or no advantage to set against the creation of an ugly 'gap' site in a Conservation Area. In this case the disbenefit of any gap has to be balanced against the fact that the lids need to be replaced and utilising the Thameslink 'window of opportunity' would minimise disruption to the travelling public. Conservation area consent could be made the subject of suggested conditions to ensure that demolition would only take place if the railway lid replacement works were to take place. Once money has been spent on the lids it would not be in a developer's interest to leave a gap site.<sup>196</sup>
- 6.4.27. If no permission or consents are granted the City would have to consider its position. However, it is unlikely that an alternative scheme could be prepared, agreed and implemented before the OLE equipment is installed. Any alternative would therefore lead to significant additional disruption for the travelling public. Although objectors suggest an alternative should have been prepared in case of refusal, it was not until summer 2007 that it became clear that the 'window of opportunity' would end in the autumn of 2009. It would have been difficult to progress an alternative in time alongside the proposed scheme, particularly as the repair approach would have involved persuading NR to agree a course at odds with the engineering advice.<sup>197</sup>
- 6.5. Sustainability and Accessibility
- 6.5.1. The site is in a highly sustainable location adjacent to Farringdon Station and the proposed development is considered to comply with the objectives

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<sup>194</sup> CLC/3/A 4.12.46, CLC/17 Paras 109-110

<sup>195</sup> CLC/17 Paras 120-126

<sup>196</sup> CLC/17 Paras 127-133

<sup>197</sup> CLC/17 Paras 140-143

of PPS1. Although EH has raised criticisms of the proposed energy strategy, the Mayor is satisfied, following amendments, that the building would comply with the energy policies in the LP. The environmental implications are considered in detail in the ES. A Section 106 Agreement would secure that a minimum of 10% of the energy used will be provided by onsite renewable energy technology.<sup>198</sup>

6.5.2. The proposed building has been designed to provide a fully accessible and inclusive environment for everyone in society and there has been no suggestion that it would fail to meet the requirements of any policies or standards relating to accessibility including UDP Policies STRAT 10E, ENV 27 and LP Policies 3A.14 and 4B.5.<sup>199</sup>

## 6.6. Retail

6.6.1. The promotion and enhancement of existing centres is a key objective of Government Policy as set out in PPS6. As indicated in the UDP, the pattern of retailing in the City is different to the rest of London. Shoppers are workers who have commuted into the City and can walk to shops. The broad objectives of the City's retail policy is set out in UDP Policies STRAT 6A-6C which generally encourage new retail development, particularly where it would be related to main shopping areas or public transport interchanges as the City is underprovided with retail facilities.<sup>200</sup>

6.6.2. A *Retail Impact Assessment* has been prepared and the City agrees with its broad conclusions. A number of scenarios have been considered, but even in the worst case the highest impact on any existing centre would be 4.7%, with most impacts in the range 2.6% to 3.8%. These are relatively small and would be offset by expenditure growth within a few years and therefore would be unlikely to affect any existing centre.<sup>201</sup>

6.6.3. The site is close to two major main line stations, two Underground stations and major bus routes. The location close to a transport interchange would accord with UDP Policy SHOP 3 and LP Policies 3D.1 and 5B.2. The consideration of a more central location is less applicable in this case as the redevelopment is for mixed uses and to facilitate works to the railway. New permanent retail uses combined with a semi-permanent market use would add considerably to the vitality of the area. The increase in office floorspace would comply with UDP Policy ECON 1 and the mix of uses would meet the aims of UDP Policy ECON 6 and LP Policy 3B.4.<sup>202</sup>

6.6.4. Although retail issues were raised by EH it was agreed that they would not in themselves justify refusing planning permission.<sup>203</sup>

## 6.7. Transportation

6.7.1. The site would provide 10 car parking spaces for operational purposes, which would be in compliance with UDP Policies TRANS 18 and TRANS 21

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<sup>198</sup> CLC/3/A 4.6.1-4.6.7, CLC/17 Paras 174-176

<sup>199</sup> CLC/3/A 4.7.2

<sup>200</sup> CLC/3/A 4.8.2, CLC/17 Paras 1789-179

<sup>201</sup> CD1.6, CLC/3/A 4.83-4.8.7

<sup>202</sup> CLC/3/A 4.8.8-4.8.15

<sup>203</sup> CLC/17 Para 182, Mr Dodds XE by TPL Day 17

and LP Policy 3C.22. However, most trips to and from the site would be by public transport.<sup>204</sup>

- 6.7.2. In respect of previous applications, TfL indicated that the pedestrian arrangements in the immediate area are inadequate, and would be exacerbated by the increased level of pedestrian movement the proposal would generate. The same would apply to the current applications. A contribution of £300,000 towards the design and construction of formalised pedestrian crossings at the Farringdon Street/Charterhouse Street junction would be expected together with £25,000 toward footway resurfacing to tie in with kerb alignment works on Farringdon Street. These would be in addition to the tariff allocated to transportation works as this would form part of the developer's contribution to the cost of replacing the Thameslink tunnel roof under the building. These matters could be dealt with by way of an Agreement.<sup>205</sup>
- 6.7.3. A study of vehicular movement patterns around the site has been carried out. Special consideration has been given to how the market operates, as it is dependant on vehicular delivery and collection. The operation of the meat market should not be disrupted during demolition or construction and this would be dealt with by a Section 106 Agreement which would also require a travel plan to be submitted. Improvements to the local infrastructure would include the re-opening of West Poultry Avenue allowing full access to the Poultry Market. The number of waiting bays, used by market traders, would be maintained. Although some would be re-positioned, many would be closer to the market buildings.<sup>206</sup>
- 6.7.4. The site falls within the Crossrail Safeguarding Direction. The basement has been designed to give access to the railway for maintenance, and to comply with Crossrail requirements, and Crossrail confirms it has no objection, subject to conditions. Network Rail would prefer the replacement of the tunnel lids as it would mean reduced disruption in terms of on-going maintenance. It objected to previous proposals, due to the likely impact on the capacity and operation of Farringdon Station, and although NR was unable to identify any specific proposals for improvement, it would accept a contribution of £50,000 towards future upgrading at the Station. This would be in addition to the normal contribution towards transport improvements required in accordance with the City's Supplementary Planning Guidance (SPG) on Planning Obligations.<sup>207</sup>
- 6.8. Other Matters
- 6.8.1. LP Policy 2A.3 and Map 2A.1 identify the Farringdon/Smithfield area as an AOI. LP Policy 5B.5 indicates that in such areas Boroughs should promote development opportunities through higher density redevelopment. Other than the General Market Building, all the other buildings within the AOI and the City are listed, making the site the only one on which the objective of higher density redevelopment could realistically be realised. The *Sub Regional Development Framework for Central London* provides further

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<sup>204</sup> CLC/3/A 4.9.2, Dwg A-097 Rev 01

<sup>205</sup> CLC/3/A 4.9.2, 4.9.8

<sup>206</sup> CLC/3/A 4.9.3-4.9.10

<sup>207</sup> CLC/3/A 4.10.2-3, CD8.6, CLC/3/A 4.10.4-15

guidance and notes that the potential uplift to office capacity is one of the key issues to be considered. The City's *Performance Indicators and Targets* SPG contains two relevant targets relating to offices. The first is "to maintain the potential supply of City office floorspace that is permitted but not yet commenced above 1 million m<sup>2</sup> gross" and the second "to increase the total stock of City office floorspace by at least 1 million m<sup>2</sup> gross during the period 2000-2010". Neither target has been met as yet and although the proposed office floorspace would not be available until after 2010 and would not count towards the second target it would contribute to maintaining the supply of high quality office space following 2010.<sup>208</sup>

- 6.8.2. There is no substance to EH's point that housing should be included, to contribute towards the minimum target of 100 homes. The period over which they are to be provided is likely to be extended to 2026, rather than the current period of 2001-2016, and 48-50 units have already been provided. Whilst it might be possible to get 20 small flats on the upper floors of the proposal, it is far from an ideal site as the area has a night time economy with the market use. In any event, office developers would not want housing, as it might be uneconomic due to the need for two service cores and separate accesses. Not allowing redevelopment on the site would be inconsistent with the policy objective of higher density redevelopment. Moreover, the *LP Housing Provision Targets, Waste and Minerals Alterations December 2006* provides the most up-to-date housing figures. The City's annual monitoring target is 90 units per annum, which is being exceeded.<sup>209</sup>
- 6.8.3. LP Policy 3B.4 encourages a mix of uses, including housing, within the CAZ. Paragraph 3.125 of the explanatory text recognises that exceptions to the requirement for housing as part of the mix might exist, where such a mix would demonstrably undermine strategic policy for other areas such as the City and the Isle of Dogs. UDP Policies ECON 6 and ECON 8 are specific to Smithfield. They encourage the maintenance of the varied and special character of the area, and require regard to be had to the operational needs of the meat market. Although EH has suggested that housing should be included in the mix, its re-use scheme for the buildings does not include housing. The proposed mix of offices, retail and a market hall would be consistent with ECON 6 maintaining non B1 use at ground level. Such a mix, with no housing, has been accepted by the Mayor elsewhere. Moreover, the provision of housing would be likely to be incompatible with the continued operation of the meat market and so conflict with ECON 8. LP Policy 5B.3 seeks to protect clusters of specialist activity and, although Map 5B.2 is difficult to read, the application site appears to lie within areas shown as office renewal, CAZ and mixed uses with strong special uses character. The proposal would fit with this aim.<sup>210</sup>
- 6.8.4. EH contends that it would be premature to grant permission for the proposal in advance of the production of a document setting out planning policy for the Smithfield area. Whilst EH believes that such a document should be produced, the City is not intending to produce an area action plan for

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<sup>208</sup> CLC/17 Paras 190-193 & 219, CD20.6 Pages 8 & 9, CLC/14

<sup>209</sup> CLC/17 Paras 194 & 212, CLC/3/C Table 5B.1, CD19.1 Table 5B.2, CD19.8 Table 3A.1, Mr Rees IC & XE by EH Day

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<sup>210</sup> CLC/17 Paras 195-200, Mr Rees IC Day 11

Smithfield. The City's Local Development Scheme (LDS) indicates it is contemplating preparing a Supplementary Planning Document (SPD) for the city fringe as a whole, with the aim of co-ordinating planning in the City with areas of regeneration and intensification in adjoining Boroughs. No draft has been produced as yet. *The Planning System: General Principles* gives guidance on prematurity. There is no Development Plan Document (DPD) in the course of preparation or under review, there is no DPD at consultation stage or approaching submission stage, and there is no DPD or SPD process that could be prejudiced by approval of the proposals. Refusal on the grounds of prematurity would not be justified.<sup>211</sup>

- 6.8.5. Although EH maintains that the ES should have been subject to independent review, there is no statutory requirement for such an independent review. As far as alternatives are concerned, EH was invited at the PIM to agree scenarios that should be considered, and an e-mail from the City dated 11 October 2007 asked EH to indicate any areas of concern about the ES and to provide a brief explanation. EH did not respond to either. In any event, paragraph 4 of Part II Schedule 4 of the *Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999* provides that an ES should include "An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects". The ES includes that information. If the Secretary of State takes a different view, the appropriate remedy would be to make a request for information to be provided under Regulation 19.<sup>212</sup>
- 6.8.6. The ES indicates that the proposal would not generate any particular adverse conditions in terms of the wind environment. The expected wind conditions would meet nationally accepted criteria. Daylight and sunlight assessments indicate that there would be some adverse effects on surrounding buildings but these would not be unusual for commercial buildings in the City and would not lead to unacceptable levels of light. The proposal would therefore comply with the objectives of LP Policy 4B.9 and UDP Policies ENV 34 and ENV 35.<sup>213</sup>
- 6.8.7. The question of whether NR could hold the City/TPL to ransom has been raised. This is highly unlikely as it would be inconsistent with NR's public position. The consequences of seeking a financial ransom would be disruption to the operation of the railway and could have safety implications. Indeed, NR has expressed support for a new tunnel lid and acknowledged its obligation to make access available. The *London Central Markets Acts* of 1875 and 1886 and the 1880 *Agreement* give the City the power to maintain the lids, which is likely to be held to encompass replacement. In the absence of an agreement to schedule the repairs during possessions already scheduled, such access would cost the City only £50 an hour but would cost NR considerably more. The draft *Agreement* recommended to NR's Board, and NR's statement to the Inquiry, are consistent with NR not seeking a ransom.<sup>214</sup>

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<sup>211</sup> CLC/17 Paras 201-205

<sup>212</sup> CLC/6 Paras 2-9

<sup>213</sup> CLC/3/A 4.11.2-7

<sup>214</sup> CD8.25, CD8.41 Para 3.2, CD29.3, CD20.2, CLC/9, CLC/17 Paras 134-139



## 6.9. Section 106 Agreement and Conditions

- 6.9.1. The Development Agreement and Supplemental Agreement between the City and TPL do not oblige TPL to carry out the proposed works. Although the site is one where the developer would make a reasonable profit, and developers are prepared to do works to obtain a cleared site, the Section 106 Agreement seeks, amongst other things, to close this loophole. The intention is that the grant of conservation area consent would trigger the railway structure works. In planning terms, there is a need to secure the railway works if demolition is to take place. A Section 106 Agreement is therefore necessary. The definition of Planning Permission in the Section 106 Agreement does not allow for any amendments. If there were to be any amendments a new Agreement would be required so the requirement to complete the railway structure works would not come to an end.<sup>215</sup>
- 6.9.2. The Chamberlain, in a report to a number of Committees, recommended that TPL's joint venture partners be required to guarantee the development obligations as TPL had a negative net worth and had made an operating loss in the last audited accounts. However, this is not usual and was not carried forward into the final recommendation. A Bond, required by the Section 106 Agreement, would ensure that there were funds to carry out the railway structure works should the need arise.<sup>216</sup>
- 6.9.3. A number of the suggested conditions reflect the fact that the railway structure works need to start as soon as possible to meet the Thameslink 'window of opportunity'. For example, the requirement to submit additional details for approval should not hold back the railway structure works.<sup>217</sup>

## 6.10. Conclusion

- 6.10.1. The tunnel lids should be replaced, which would require substantial demolition. Although the buildings on the site make a positive contribution to the character and appearance of the Conservation Area, their restoration would not be viable. The proposed scheme would have considerable merit, would bring substantial benefit to the travelling public, and the presumption in favour of retaining the buildings is clearly rebutted in this case. The Red House could accommodate the proposed alterations, without any effect on any features of special architectural or historic interest, and so would be preserved. The removal of the canopy between the General Market Building and the Grade II Poultry Market would enhance the latter and improve its setting. All the applications should be granted.<sup>218</sup>
- 6.10.2. In the unusual circumstances of this case conservation area consent should be granted whether or not the detailed plans for replacement are considered acceptable. However, in such a situation the consent should be conditioned so as to only allow demolition if the railway lid works are committed and secured.<sup>219</sup>

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<sup>215</sup> CD7.5, CD7.6, Mr Bennett XE by EH & SAVE Day 10, Mr Rees IC Day 11

<sup>216</sup> Mr Bennett XE by EH & SAVE Day 10, Mr Rees XE by SAVE Day 11

<sup>217</sup> Submission by Mr Hicks Day 21

<sup>218</sup> CLC/17 Paras 221-227 & 229-231

<sup>219</sup> CLC/17 Para 228

## 7.0 The Case for English Heritage

### 7.1. Introduction

7.1.1. The western market buildings are an integral part of Smithfield market and make a positive contribution to the Smithfield Conservation Area. However, they have been neglected by the City, which has chosen not to offer the buildings for sale on the open market. It has been suggested that the condition of the tunnel lids requires demolition, but the City has a duty to repair them regardless of any redevelopment. Even if it were necessary to replace the lids, not all the General Market Building would have to be developed, and even if the whole had to be demolished the proposed replacement would not be worthy of its location in a Conservation Area. The proposal would be inconsistent with development plan policies in that and other respects.<sup>220</sup>

### 7.2. Character & Appearance of the Surrounding Area including the Settings of Nearby Listed Buildings and Conservation Areas

#### *Introduction*

7.2.1. There is little dispute that the existing buildings make a positive contribution to the character and appearance of the Conservation Area, and the Red House is listed, although there is an application to de-list. The view of one of TPL's witnesses that the General Market Building does not make a positive contribution is eccentric. None of the other TPL or City witnesses agree. The City takes the view that the boundaries of the Conservation Area are drawn so tightly that it is unnecessary to identify which individual buildings contribute positively as they all do. The General Market Building is not an exception to that general principle.<sup>221</sup>

#### *The Existing Buildings on the Site*

7.2.2. In architectural and townscape terms, the Smithfield market complex is the most significant in London. It has retained its integrity, despite war damage to the General Market Building, complete reconstruction of the Poultry Market, and sympathetic renewal of the Meat Market. It has a footprint of some 4 hectares, but its facades and height create a more human scale at street level. The streets are unusually wide which, together with the relatively low building heights, gives an open feel in contrast to the tight medieval routes that converge on the Grand Avenue running through the Meat Market. West Smithfield and Charterhouse Street form the most important east-west routes.<sup>222</sup>

7.2.3. The form of the General Market Building was determined by the fall of the land towards the River Fleet, the underlying railway lines and the surrounding Victorian street pattern. The building has a basement and a market hall with shops facing in, and out, of the building. The architectural style is different to the Meat Market but the frontages, although varied, are treated consistently. Inside the building, a central area is encircled by

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<sup>220</sup> EH/2

<sup>221</sup> EH/23 B1 & B4

<sup>222</sup> EH/4/A 6.1.1-6.1.6 & 6.1.9

roadways which link to the entrances on the north, south and east sides. The latter aligns with the 'buyers avenue' that continues through the connected Poultry and Meat Markets.<sup>223</sup>

- 7.2.4. The building occupies a prominent position at the gateway to the Smithfield Conservation Area and is the westernmost termination of the long, linked, linear form of market buildings that characterise and dominate the greater part of the Conservation Area. The building's characteristics, its relationship with the market complex, and its townscape role in this part of the Conservation Area, mean it makes a significant positive contribution to the Smithfield Conservation Area and the settings of the Charterhouse Square Conservation Area and nearby listed buildings.<sup>224</sup>
- 7.2.5. The building is unlisted and a Certificate of Immunity from Listing was issued in December 2005, although it was noted that the building "makes a strong and positive contribution to the Conservation Area".<sup>225</sup>
- 7.2.6. The canopy between the General Market and the Annex appears to have been added around 1900. However, it is important in townscape terms as it links the main east-west procession of buildings with those to the south. It is also prominent in views along West Smithfield from inside, and outside, the Conservation Area.<sup>226</sup>
- 7.2.7. The Annex, Red House and Lavatory Block form an integral part of the market complex due to their expressive 19<sup>th</sup> century market architecture. They sit comfortably in their context due to the predominance of low rise buildings on adjacent streets.<sup>227</sup>
- 7.2.8. The architectural style of the Annex elevations, with arcaded walls, ornamental ventilation grilles and pedimented gateways, has a strong resonance with the Grade II\* Meat Market. The building is unlisted and has a Certificate of Immunity from Listing. Given its characteristics and relationship with the market complex, its townscape role in this part of the Conservation Area, and its contribution to the setting of the listed Red House, it makes a significant positive contribution to the Conservation Area.<sup>228</sup>
- 7.2.9. The Red House was listed in March 2005 as "the earliest existing example of a purpose built powered cold store" and is on EH's Register of Buildings at Risk. It has not been in use since about 1983. There are areas of internal collapse but no major structural problems. The southern section of the interior is now a largely open space with a modern lightweight roof above a skeletal framework of columns and floor beams. The floors have been removed. Nonetheless, the building retains legible fragments reflecting its original function. It forms a group with the adjoining Annex and its main elevation faces the triangular Lavatory Block to which it is related. Its architecture also contributes to the setting of the General and Annex Market

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<sup>223</sup> EH/5/A 3.2.1-3.2.4

<sup>224</sup> EH/5/A 3.2.7-3.2.8

<sup>225</sup> EH/5/A 3.2.5-3.2.6

<sup>226</sup> EH/5/A 3.2.9

<sup>227</sup> EH/4/A 6.1.7-6.1.8

<sup>228</sup> EH/5/A Sect 3.4

Buildings and its solid character plays an important role in the townscape. An application for de-listing made in June 2005 is as yet undetermined.<sup>229</sup>

- 7.2.10. The Lavatory Building is a simple, red brick, single storey, triangular block. There is no visible evidence of the former connection to the vaults below, which once housed a steam-powered refrigeration engine vented by chimneys on the block. The building has a Certificate of Immunity from Listing but makes a strong positive contribution to the Conservation Area with contextual interest.<sup>230</sup>
- 7.2.11. The original Poultry Market was destroyed by fire and replaced by the current building in 1961-3. It is listed Grade II, not least because of the technical achievement of its shallow roof dome that prevents it overpowering the Meat Market. Canopies, which allow movement between the market buildings without exposure to the elements, link the building to those either side. The canopy between the General Market and the Poultry Market frames a view out of the Conservation Area towards the former Port of London cold store. It is a positive feature, characteristic of the overall market complex, physically and functionally linking the buildings.<sup>231</sup>
- 7.2.12. The western market buildings are attached to, and form an integral part of, the linear sequence of market buildings. These include the Grade II listed Poultry Market immediately to the east and the Grade II\* Meat Market beyond that. The buildings make a positive contribution to the settings of these listed buildings. They also contribute to the settings of the Grade II former Central Cold Store at 51-53, the former meat market and shops at 67-77, and the former Meat Inspection Offices at 79-83 Charterhouse Street. Further afield, the Grade II Holborn Viaduct has a visual relationship with the General Market and Annex Buildings. This is all the more important as "little of the 1860s-70s remains in either direction" to the east or west of the viaduct bridge.<sup>232</sup>

#### *The Character and Appearance of the Conservation Area*

- 7.2.13. The Smithfield Conservation Area was designated by the GLC in 1986 because of intentions to "redevelop the area with large office buildings" and "in view of the City Corporation's known proposals for the area". The City's *Smithfield Conservation Area Character Summary* notes the character of the buildings as being of "architectural variety and informal grouping" and states the important underlying characteristic of "consistency in the relationship between the scale and presence of these frontages and the space they define". The City's UDP noted that the area is "valued for its distinctive identity and character, and the vitality and diversity it brings to the capital" and is characterised "by its relatively small scale of building and its remarkable mixture of uses".<sup>233</sup>
- 7.2.14. In 2005, EH asked Farrells to produce an urban design study of the area. *Smithfield Farringdon: Reinforcing Urban Identity and Character* was published in February 2007 and sets out general principles to guide the

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<sup>229</sup> EH/5/A Sect 3.5, CD 4.8, CD4.6

<sup>230</sup> EH/5/A Sect 3.6, CD 4.2 p8

<sup>231</sup> EH/5/A Sect 3.3

<sup>232</sup> EH/5/A Sect 3.7, CD28.9 p520

<sup>233</sup> EH/5/A 2.1.1 & 2.2.4-2.2.5, CD20.1 2.32

regeneration of the area. New development is encouraged to be tested against them.<sup>234</sup>

- 7.2.15. At the heart of the area is the market complex. The original 'Smoothe Field' was created in the 12<sup>th</sup> century on high ground close to the River Fleet, and the topography is still evident. The General Market Building responds to this by stepping down to Farringdon Road, under which the river now runs. After the dissolution of the monasteries, the precincts of the religious foundations were developed for housing and other small scale uses but medieval buildings survive from St Bartholomew's Hospital and Priory, amongst others.<sup>235</sup>
- 7.2.16. The Victorian period saw rapid and substantial change in the form of new roads, railways, Holborn Viaduct and the market complex. The market buildings integrated with the earlier street pattern and, although the buildings were substantial, they were generally low rise and consistent with the scale of existing development. War damage and a decline in the meat trade and other industries led to partial dereliction in the 1960s and 70s but the emergence of creative industries and a bar, restaurant and café culture has created a mixed-use urban village over recent years.<sup>236</sup>
- 7.2.17. Smithfield lies on the edge of the City and has good public transport links. Its accessibility will be increased by the Thameslink and Crossrail projects increasing its attractiveness. The emergence of the creative industries sector has resulted in the re-use of many historic buildings. They retain a human scale at street level because they are predominantly low-rise. The General Market Building and Annex are arranged in small units internally. The former is broken down into a series of smaller bays that respond to the topography and the external elevations of the latter, although blind, have attractive architectural detailing.<sup>237</sup>
- 7.2.18. The latter part of the 20<sup>th</sup> century saw the introduction of large bulky office buildings, mainly in the south east of the area and along Farringdon Road on the western edge of Smithfield. These anonymous, large floorplate developments, with dead frontages and uninspired architecture, threaten the urban grain and diversity of the area. On Farringdon Street, they have created a canyon separating the Smithfield area from Hatton Garden and Holborn. This has thrown the distinctiveness of the historic area into greater relief.<sup>238</sup>
- 7.2.19. The market complex falls entirely within the Smithfield Conservation Area but the post war offices to the north and south of the General Market Building are specifically excluded from it, and the adjoining Charterhouse Square Conservation Area. The offices are intrusions that should not be used as a basis for defining the mass, bulk, height and architectural treatment of any proposed building. The starting point should be the qualities and characteristics that led to the designation of the Conservation Area.<sup>239</sup>

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<sup>234</sup> EH/4/A Sect 4, CD24.10

<sup>235</sup> EH/4/A 5.1.1-5.1.4

<sup>236</sup> EH/4/A 5.1.8-5.1.9

<sup>237</sup> EH/4/A 5.2-5.3

<sup>238</sup> EH/4/A 5.1.10

<sup>239</sup> EH/4/A 6.1.12

- 7.2.20. The Charterhouse Square Conservation Area adjoins the northern boundary of the Smithfield Conservation Area. The buildings on the north side of Charterhouse Street, including the former Port of London cold store at 47-49 and the Grade II former Central Cold Store and adjacent warehouses, were nearly all related to the market and share its scale and quality. The General Market Building contributes to the settings of these buildings, which in their turn make positive contributions to the character and appearance of the Charterhouse Square Conservation Area, the setting of Smithfield Conservation Area, and the settings of the listed and unlisted market buildings.<sup>240</sup>
- 7.2.21. The Hatton Garden Conservation Area lies to the north-west of the site on the opposite side of Farringdon Road. From the south-west corner of that Conservation Area there are important views towards the General Market Building and Holborn Viaduct. The Newgate Street and Postman's Park Conservation Areas lie to the south of the Smithfield Conservation Area and largely comprise areas of distinct character and appearance.<sup>241</sup>

*The Effects of the Proposal on the Conservation Area and Nearby Listed Buildings and Conservation Areas*

- 7.2.22. The proposals would affect a number of heritage assets and the impact has to be assessed in the light of national policy, as set out in PPG15, which is broadly reflected in regional and local planning policies. The proposals have also been assessed against the principles set out in Farrells 2007 document. Re-using buildings is the most sustainable way of creating regeneration and should always be the starting point. This is supported by national and local planning policy, particularly where buildings make a positive contribution as the existing buildings do.<sup>242</sup>
- 7.2.23. The statutory duty imposed by Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* is that special regard should be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 4.27 of PPG15 indicates that conservation area consent should not be granted for demolition unless there are acceptable proposals for redevelopment.<sup>243</sup>
- 7.2.24. The General Market Building and Annex are at a critical location. They form part of the setting of the Victorian Holborn Viaduct and are the gateway to Smithfield from Farringdon Street, making an important statement about what would otherwise be hidden. Whilst it is claimed that the proposed expressed metal trusses are in the tradition of Victorian engineering in the area, the other market buildings are engineered discreetly. Their structures are 'clothed' and the presence of the railway is unnoticed by passers by. The expressed trusses would, therefore, be alien to the spirit of the surrounding Victorian architecture.<sup>244</sup>
- 7.2.25. It is alleged that the proposal at No 43 would respond to a datum set by non-market buildings on West Smithfield and Charterhouse Street and that

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<sup>240</sup> EH/5/A 2.3.1

<sup>241</sup> EH/5/A 2.4.1

<sup>242</sup> EH/4/A Sects 7.1-7.2, EH/5/A 4.1.1

<sup>243</sup> EH/5/A 4.4.1

<sup>244</sup> EH/23 B12-B13

the proposed massing would effect a transition between the 'retained' market buildings and offices on Farringdon Street. Whilst the contextual role of buildings outside the Conservation Area should not be ignored, they should not form a precedent for development within the Conservation Area, particularly if they are a mistake. The consistent, powerful, datum of the market complex has been ignored and the change in scale would be far from transitional. There would be a sudden increase in height, and massing, west of the Poultry Market. The shoulder height of the proposed building would be around 19.11 metres above pavement level, compared with the perceived height of some 10.42 metres for the Poultry Market. The proposal would not respect the low rise buildings of the Smithfield area.<sup>245</sup>

- 7.2.26. Although the building would have three main horizontal 'layers', the roof would not link "more to the sky above than the ground below". Its angular composition and surface treatment would increase the height and massing of the building and draw attention to it. By increasing the height of the frontage to reflect the scale of office buildings in Farringdon Street, the proposal would strengthen the canyon effect and detach the building from the market behind. This is demonstrated in TPL's photomontage views 7, 8, 10, 16, 18, 19, 21 and 22. The effect would be to divorce the market complex from Farringdon Street, fundamentally changing the character of the Conservation Area and undermining the rationale for the current boundaries.<sup>246</sup>
- 7.2.27. The proposed building would be massive in its architectural composition and, despite the expressed structure, would have a monolithic appearance discouraging the perception that it would be publicly accessible. As CABE noted, the heavy structural supports and screening to service areas would create impermeable facades and a poor pedestrian experience. CABE's criticisms, even after the scheme had been resubmitted, were restrained but none the less devastating.<sup>247</sup>
- 7.2.28. The façade screen at intermediate level is stated to refer to the Poultry Market. However, it would reflect one of the least important features of the listed building and, in any event, would be superficial and inconsequential. The other surface features of the proposal are too 'busy' and do not work. The existing buildings are characterised by rich articulation, in particular vertical elements. They are divided into bays, which gives a fine grain rhythm to the street scene, even though they are deep plan buildings. They also use a variety of materials that gives consistency and variety to the street level experience. The proposal would have no such articulation. Its elevations would emphasise its deep plan depth and represent a departure from the architecture of Smithfield.<sup>248</sup>
- 7.2.29. The demolition of the General Market Building would extinguish the significant contribution it makes to the character and appearance of the Smithfield Conservation Area, the settings of the Charterhouse Square Conservation Area and nearby listed buildings, and views out of the Hatton Garden Conservation Area. Demolition would sever the visual and functional

<sup>245</sup> EH/4/A 7.3.1-7.3.3, EH/5/A 4.4.4-4.4.5., EH/23 B15, Sir Terry Farrell XE by TPL Day 15

<sup>246</sup> EH/4/A 7.3.4-7.3.10, EH/5/A 4.4.6, TPL/7/C

<sup>247</sup> EH/4/A 7.5.10-7.5.11, EH/23 B16

<sup>248</sup> EH/4/A 7.3.11, 7.6.5-7.6.6, EH/23 B14

relationship, and the physical link, to the Poultry and Annex Markets and other market and market related buildings. The proposed replacement would be set apart from, rather than woven into, the fabric of the area. This would have a detrimental impact on the various Conservation Areas and listed buildings.<sup>249</sup>

- 7.2.30. Farrells contributed to an article in the *Architectural Review* prior to appointment by EH in connection with the proposed scheme. Despite TPL's view that Farrell's published illustration of the General Market Building shows redevelopment rising towards Farringdon Road, it was only a sketch prepared without benefit of seeing inside the building and was intended to represent the retention of the buildings but with a new roof. Although shown rising towards Farringdon Road, the sketched roof would be lower than that of the proposal.<sup>250</sup>
- 7.2.31. All parties agree that Conservation Area consent is required for the demolition of the General Market Building. The *Shimizu* judgement makes it clear that it is not only total demolition that requires consent. There would be substantial demolition of the Annex, creating a site for redevelopment. The proposal would be a new building incorporating parts of the old rather than the existing building altered. Although the City disagrees, consent is required for this demolition, and TPL has applied for consent for the works to the Annex.<sup>251</sup>
- 7.2.32. Only the facades and roofs over the perimeter ranges of the north and south elevations of the Annex, and the facades at the north and south carriage entrances, would be retained. The roof over the market hall would be demolished. This would erase the original plan form and integrity of the building as a three dimensional object on a tight triangular plan, and its contribution to the Smithfield Conservation Area would be severely eroded. The removal of the canopy between the Annex and the General Market Building would sever the physical and visual link that is an important element in the townscape. The works would be detrimental to the character and appearance of the Conservation Area and the setting of the listed Red House.<sup>252</sup>
- 7.2.33. Notwithstanding the retention of the Annex's historic frontage, the new glass structure would change the surrounding streetscape. It would exceed the existing facade by 2 storeys on West Smithfield and Snow Hill and by up to three storeys behind the Red House. The cantilevered structure would narrow the perceived street corridor along Smithfield Street. The correctness of CABE's concern about the bronze and glass materials that would conflict with the listed Red House façade is demonstrated by TPL's montages 22 and 23.<sup>253</sup>
- 7.2.34. The proposed replacement building would have little articulation. It would be a dramatic departure from the architecture of the Conservation Area and reflect the anonymous offices of Farringdon Street. The glass box behind

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<sup>249</sup> EH/5/A 4.1.2, 4.4.9

<sup>250</sup> TPL/6/D App 4, TPL/6/I, Sir Terry Farrell IC & XE by TPL Day 15

<sup>251</sup> CD29.7, EH/5/A 4.1.3-4.1.4, EH/23 B6-B9

<sup>252</sup> EH/5/A 4.1.5-4.1.7

<sup>253</sup> EH/4/A 7.3.12-7.3.13, EH/5/A 4.4.11-4.4.13 & 4.5.6, TPL/7/C



the Annex façade would not relate to its context in terms of materials or form and would appear incongruous. Restoring the existing buildings would have a far greater impact in terms of improving the townscape and built environment and reinforcing the architectural character of the area.<sup>254</sup>

- 7.2.35. Turning to the Red House, the starting point is the duty imposed by Section 16(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. The proposal would effectively gut and reconstruct the interior of the Red House. External alterations would also be needed to facilitate the proposed retail use, with new window openings and the re-opening and glazing of blind openings. The elevations, designed without large windows due to the function of the building as a cold store, would change in character, contrary to the advice in Annex C of PPG15.<sup>255</sup>
- 7.2.36. The removal of the single storey loading bay would not be objectionable but the proposed extension would rise above and behind the listed building reducing its prominence, contrary to advice in PPG15 that modern extensions should not dominate. There is little information as to what other uses have been considered, and drawings showing the removal of floors contradict other documents which state that the structure in the north part of the listed building can be retained. The proposed retail use would be inappropriate, as the works necessary to provide it would be incompatible with the character of the listed building. In summary, the proposals for the Annex would neither preserve, nor enhance, the character or appearance of the Conservation Area.<sup>256</sup>
- 7.2.37. The works to the Lavatory Block are limited to internal alterations and the opening of external doors and windows and would have little impact on the character and appearance of the Smithfield Conservation Area.<sup>257</sup>
- 7.2.38. Each component of the market complex contributes to the setting of other components of the whole. The sequence of buildings remains a powerful feature of the Conservation Area, but the visual and physical link between them would be severed by the removal of the canopy between the General Market Building and the listed Poultry market. This would also erode the special interest of the Poultry market, by removing an element of its original design concept, and diminishing its role as an element in a group. The proposal would also erode the setting of the Grade II\* listed Meat Market that is also a part of the sequence of buildings.<sup>258</sup>
- 7.2.39. The most significant view into the Smithfield area is from Holborn Viaduct. This important gateway brings the existence of the area, and its attractions, to the attention of people passing by. Special regard should be had to this strong visual relationship. The view allows the extent of the whole market complex, including the low copper clad dome of the Poultry Market that was one of the features that led to its listing, to be appreciated. The proposal

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<sup>254</sup> EH/4/A Sect 7.6, EH/5/A 4.4.15

<sup>255</sup> EH/5/A 4.2.1-4.2.3, 4.4.14

<sup>256</sup> EH/5/A 4.2.4-4.2.7, 4.4.16

<sup>257</sup> EH/5/A 4.4.17

<sup>258</sup> EH/5/A 4.2.8, 4.5.3-4.5.5, EH/23 B3

would block this view and harm the legibility of the area, as demonstrated by TPL's photomontages 7 and 24.<sup>259</sup>

- 7.2.40. Many of the buildings on the north side of Charterhouse Street including the Grade II listed 51-53, 67-77 and 79-83 Charterhouse Street and the unlisted Port of London Authority cold store have a visual, and former functional, relationship to the market. Each contributes to the setting of the others as part of the market complex. The demolition of the General Market Building, part of the Annex and the canopy between the General and Poultry Markets would be detrimental to the settings of these buildings.
- 7.2.41. The area includes an impressive variety of uses with small scale retail scattered through the area. The proposal would provide a bulky office building and the new retail spaces would be significantly larger than others in the area. The proposal would do little to add to the rich mix and diversity of the area.<sup>260</sup>
- 7.2.42. In terms of permeability, it is accepted that Farringdon Street is an unpleasant pedestrian environment. The proposal would effectively deprive the Smithfield area of an 'address' on Farringdon Street. There would be no clear hierarchy, and little difference in character, between the public and corporate entrances to the replacement at No 43. There is no indication as to when the proposed ground floor would be open to the public, and in any event the north-west corner entrance would not be on any meaningful desire line. CABE considered that "the majority of pedestrians will walk along the existing street structure rather than through the building". There is no evidence that the urban market hall, which would be in a secondary location, would become a destination in its own right. Similarly, the route through the ground floor of the Annex would not improve pedestrian connectivity.<sup>261</sup>
- 7.2.43. Improvements to the public realm between the Red House and the Lavatory Block are welcomed in principle, but few proposed improvements to the surrounding public realm are detailed in the proposals.<sup>262</sup>

### *Conclusion*

- 7.2.44. The proposed redevelopment would not meet the objectives, set by primary legislation, of preserving or enhancing the character or appearance of the Smithfield Conservation Area. Nor would it preserve or enhance the settings of nearby Conservation Areas and listed buildings. The proposal, as far as it relates to the listed Red House and the canopy between the General Market Building and the Poultry Market, would have a detrimental impact on the special architectural and historic interest of the listed structures.
- 7.3. Viability
- 7.3.1. The only real test of viability is to offer the site on the open market. The City has deliberately chosen not to do this. Nor should the potential of publicly funded organisations to take on the buildings be ignored. The

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<sup>259</sup> EH/4/A Sect 7.4, EH/5/A 4.5.7-4.5.10, TPL/7/C

<sup>260</sup> EH/4/A Sect 7.7

<sup>261</sup> EH/4/A 7.5.1-7.5.8, 7.5.16-7.5.17

<sup>262</sup> EH/4/A Sect 7.8

difference between valuation theory and market reality is demonstrated by the difference between the £2.4 million figure used for the car park by TPL and the £12 million TPL actually paid for it. Whilst it might be claimed there are special circumstances, it is because the world is full of such circumstances that Government policy requires market testing.<sup>263</sup>

- 7.3.2. TPL were joint venture partners with Lehman Brothers and Bank of Scotland, but Lehman Brothers have subsequently been bought out. The latest audited accounts, predating the buyout, indicate an operating loss of £1.7 million and a negative net worth of some £6.8 million. The valuation exercise undertaken by TPL reveals that over £230 million would have to be borrowed, and spent, before any return could be anticipated from the proposed scheme. Lenders for such a project undertaken by this developer would be likely to attach importance to such a valuation.<sup>264</sup>
- 7.3.3. However, the proposed development was only just viable in June 2007, and only then if there was a 60% pre-let. It is accepted that "In practice it is highly unlikely that this would be achievable". Submitted examples of long range pre-lets were achieved in different market conditions. The St Alphage development is in the centre of the City, not on the fringe as this site is, and is for a larger building. Such buildings are rare and so there is a need for a potential occupier to pre-let. Since then the US sub-prime mortgage crisis has crossed the Atlantic, Northern Rock has collapsed, and the market has moved downwards. This is not reflected in TPL's evidence.<sup>265</sup>
- 7.3.4. The present realities of the market have been ignored. Respected practitioners have indicated that values have dropped by approximately 10% since last June and it has been suggested that yields could slip from 5% to 5.5% by November 2008. If yields were to slip by as little as 0.125% then the return to TPL would be below the 20-25% stated to be required. TPL has not even lined up the necessary finance. Letters from the Bank of Scotland do not offer any money, nor commit to provide it.<sup>266</sup>
- 7.3.5. A further factor is the effect of the reduction in annual revenue, caused by the obligation to pay the City ground rent, on the capital value of TPL's interest. The ground rent was stated to be a minimum of £545,000, but ranging to in excess of £1 million, at 2002 rental levels. This would affect the attractiveness of the project.<sup>267</sup>
- 7.3.6. TPL's purchase of NCP's interest in the basement was not revealed until very late in the Inquiry, although it took place before the Inquiry opened. Whatever the implications of the £12 million paid for the car park on a valuation, it would influence TPL, and any backers, as they would want their 20% profit to reflect that expenditure. If the £12 million plus interest is deducted from the residual land value of £416,000, which already excludes the City's ground rent, there is likely to be strong pressure not to proceed. That pressure would be even greater should allowance be made for the fall in commercial property values and adjustment in yields. This might lead to

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<sup>263</sup> EH/23 B25-B28 & B60

<sup>264</sup> EH/23 B29, TPL/5/C App 9 Scenario 5 page 2, SAVE/5/C App BB Para 69(iii), TPL/5/X

<sup>265</sup> EH/7/C 2.1, EH/23 B30-B32, TPL/5/A 9.26 & 8.36-8.40, Mr Kut XE by EH Day 5

<sup>266</sup> EH/7/C 2.2-2.7 & 3.3-3.4, EH/7/D Apps DHT/SS/1 & 11, TPL/5/A 4.12, CD8.40, TPL/5/X

<sup>267</sup> EH/23 B37-B39, SBH/5/C App BB paras 18 & 63, CD7.5 Annex G Schedule 2

an altered permission being sought for a larger building to increase revenue.<sup>268</sup>

- 7.3.7. Knight Frank acknowledges in its report that it is not an expert in markets and TPL's *Market Viability Report* is largely confined to the traditional type of market. EH's witness is an expert on markets, as evidenced by the City's invitation to him to assess the potential of a market on the site. The traditional type of markets, run by local authorities, have declined in recent years but specialist 'modern urban' markets, such as Camden Lock, Greenwich, Borough and Spitalfields, have been successful. Indeed, Camden and Spitalfields Markets have become catalysts for the creation of new visitor destinations. Many of the key benefits identified in the *Market Viability Report* could be provided by the re-use of the existing buildings and the establishment of a 'modern urban', rather than a traditional, market.<sup>269</sup>
- 7.3.8. As SAVE's expert observed, schemes to refurbish and re-use the General Market Buildings are inherently better able to withstand the vagaries of the commercial property market. The greater robustness of the re-use scenario is demonstrated by three cashflow and expenditure examples. The initial expenditure would be less than for demolition, business operators would be likely to want to participate in financing the operation, income would start to flow from an early stage, and such a scheme would be more responsive and flexible. A definitive scheme has not been produced but the examples illustrate the sort of schemes that could work. They should be given a chance by offering the site on the open market.<sup>270</sup>
- 7.3.9. Illustrations 1 and 3 are 'pessimistic' and 'optimistic', whilst Illustration 2 is 'middle of the road'. Illustration 2 is based on Grimley's rental levels for TPL of £25ft<sup>2</sup> for the Farringdon Street and Annex retail units but levels of £60ft<sup>2</sup>, achieved at Greenwich Market, for the internal units and stalls. Conservative office rentals have been assumed, and low values have been attributed to the basement. However, the purchase of the basement creates a potentially lucrative opportunity and the £2.4 million used in the appraisals could be a serious underestimate.<sup>271</sup>
- 7.3.10. Even if the City's assumptions are used, Illustration 2 would, if sold after 5 years, produce a surplus of more than £11.6 million for distribution without a developer's profit. After a return to investors of 5% per annum and 25% after 5 years there would be more than £10.7 million for distribution. Even after taking off 20% developer's profit more than £6.1 million would remain for distribution. All these assessments assume that £18.6 million is spent on repair works as well as fit out costs, although it is questionable whether occupiers should pay for the remediation of past neglect. The assessments do not include any sum for the car park area, not even the £2.4 million. If EH's assumptions are used, the amount for distribution after paying back finance and investors would be £27.525 million at 7% yield and including £2.4 million for the car park.<sup>272</sup>

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<sup>268</sup> EH/23 B40-B41, TPL/5/A 9.27

<sup>269</sup> CD1.11, CD28.6 7.2.2, EH/3/A Sects 4, 5 & 7, EH/3/B App EGR2

<sup>270</sup> Mr Lerner IC Day 18, EH/23 B47 & B49-B50

<sup>271</sup> EH/3/A Sect 8, EH/3/D final page, EH/3/J, EH/3/O, EH/3/R, SBH/7/D, EH/23 B51 & B43

<sup>272</sup> EH/3/T 2A, 2B & 2C, CLC/5/D, EH/23 B56-B59

7.3.11. Smithfield is a more attractive location for a market than Greenwich, as it is close to the tourist attraction of St Paul's, to high earners in the City and legal Holborn, and close to Farringdon Station, 3 Underground stations and bus routes that makes it very accessible, even before Crossrail. The loss of parking immediately under the building would not cause problems as there is substantial on-street car parking and parking under the Meat Market nearby. Smithfield is more attractive than Borough, Spitalfields or Greenwich in that respect. The pressure at Borough Market demonstrates the potential.<sup>273</sup>

#### 7.4. Repair, Maintenance, and Retention of the Existing Structures

##### *Introduction*

7.4.1. Paragraph 3.13 of the explanatory text to UDP Policy IMP 1 states that "The Corporation will, within the constraints of its other roles and duties, use its powers as landowner in support of the policies set out in this Plan". However, as far back as 1986 the GLC recognised that the City's redevelopment intentions for the area meant it was unlikely that it would designate the area as a Conservation Area. A report to various of the City's committees in 2002 indicates a determination to demolish the buildings, to maximise return, when advice suggested that re-use would be viable, even with the tunnel lid works, albeit not as financially attractive as redevelopment.<sup>274</sup>

##### *The Condition of the Structures*

7.4.2. TPL's engineer notes that the buildings on the site have suffered from neglect, whilst the City's engineer states that they have suffered from a low level of maintenance for some years. However, there is no dispute that the buildings are structurally sound, as was reported to the City's committees in 2002. Their condition would not justify demolition.<sup>275</sup>

7.4.3. Statements have been made about the condition of the lids over the railway. Although TPL's engineer originally stated that the tunnels were 'clearly unsafe', he later accepted that they were not so dangerous that trains should be stopped from running through them. Indeed, he accepted that the tunnels had also been neglected and that had they been maintained with proper investment over time they would not be in the condition they were. Moreover, the majority of the General Market Building is not above the tracks.<sup>276</sup>

7.4.4. The responsibility for the tunnel lids lies with the City, but NR carries out visual inspections and is aware of their condition. NR received a letter from Whitbybird, dated 6 February 2007, indicating that urgent measures were considered necessary. However, whilst structures should be assessed on their own merits, NR considers that the condition of this structure is not dissimilar to many others of the same age on the network. It would

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<sup>273</sup> CD8.52, EH/23 B52 & B54

<sup>274</sup> EH/6/A 2.11, EH/6/B App 1 5.3, EH/23 C40-42 pp29-30, SAVE/5/C App BB

<sup>275</sup> EH/8/A 4.1-4.16, SBH/5/C App BB Para 11, TPL/4/A 2.3.4, CLC/4/A 2.1.1

<sup>276</sup> Dr Steedman XE by SAVE Day 3

naturally prefer new lids, but saw no need to replace them as part of the Thameslink project.<sup>277</sup>

- 7.4.5. The lids were constructed in the same form as the fire resisting floors of cotton mills, of which there had been twenty years experience when the General Market Building was constructed. Indeed, all the engineers accept that given sufficient time and money the lids could be repaired, although for other reasons they would not all advise repair.<sup>278</sup>
- 7.4.6. It was originally thought that a 'hanger' system could be used to repair the lids. However, having seen a finite element analysis it is now considered that conventional repair techniques alone, such as welding, replacing rivets, and providing new or repaired flange plates, could be used. Even if it was considered that the lids had to be replaced, only partial demolition would be required, as illustrated in EH's schemes 2D and 2E.<sup>279</sup>
- 7.4.7. A number of reports on the lids have been produced over recent years following examination of what were considered the worst areas. In summary, Area B requires inspection and possibly modest works, no concerns have been expressed about Area C, and no major areas of repair have been suggested for Area E. The main concern are Areas A and D over the running lines.<sup>280</sup>
- 7.4.8. In 2004 Alan Baxter Associates concluded that "provided that local repair works were carried out, as well as continuing maintenance and other repairs in the future, the structures would be capable of continuing to support the loads currently applied to them". However, it was only "to achieve the investor and other stakeholder criteria, as set out by the investment advisers, regarding perceived risk of future disruption due to maintenance of the railway decks..." that they were unable to recommend repair and strengthening. It was a foregone conclusion as the advice from DTZ was "Repair of the existing railway deck would not satisfy the criteria to create an institutional investment".<sup>281</sup>
- 7.4.9. The finite element analysis concluded that the lids were unlikely to fail under self weight and an imposed load of up to 10kN/m<sup>2</sup>, which encompasses 'high emergency vehicle loading throughout'. Whilst not to be viewed in isolation, it provides support for the view of EH's experienced, hands-on, engineer. Further support comes from EH's planning and architectural witnesses who, though not engineers, are experienced professionals who are in the same position as the Inspector and Secretary of State in making judgements about engineering matters. Experience at Billingsgate, where it was claimed the building would have to be demolished but where it has proved possible to keep it, indicates that engineering arguments should not always be accepted at face value. Experience indicates that when pressed, engineers can 'sharpen their pencils'. Indeed, the City's engineer only identified a small number of girders that required substantial work and observed "thus the evolving investigative approach to remedial works can

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<sup>277</sup> CD8.41A Annex 5 q to u, EH/23 pp31-32

<sup>278</sup> EH/8/A 7.1-7.4, Dr Steedman XE by EH Day 3, Dr Matthews XE by EH Day 8

<sup>279</sup> CD5.15, EH/8/A 9.1, EH/8/L, EH/8/S, EH/8/C BAM 20-29, EH/8/D

<sup>280</sup> CLC/4/A 7.1.4-7.1.6, CLC/4/B Table B

<sup>281</sup> EH/23 pp33-34, CD5.11 pp2, 12 & 26

prove to be a high risk construction process, but can deliver the desired final result in difficult and unclear circumstances...".<sup>282</sup>

- 7.4.10. Concerns about increased fire risk do not appear to be shared by NR. The calculations are theoretical, and assume general rolling stock not the Thameslink specific trains. The calculated risk has not been balanced against the risks of demolition over a busy railway. In any event, fire protection measures could be undertaken as part of a repairs programme.<sup>283</sup>

*Timescales*

- 7.4.11. It is now alleged that demolition has to take place to allow the necessary works before OLE is extended to City Thameslink at the end of 2009. Whilst this would be the optimum time for the works, possessions would be available for 6 hours nightly until the end of 2011 and would total approximately 5,000 hours. Allowing ½ hour for set up and close down of the works at each possession, and 4 hours for de- and re-wiring, there would still be over 4,000 hours of possessions, including 5 long Easter/Christmas breaks. Works could be carried out in more than one area at a time, and time estimates for repair vary from EH's less than 500 to the City's minimum of 2019 hours. Even on the extreme assumption of additional defects requiring 100% flange integrity bolting, the City's engineer considered that the works would extend to the end of August 2009.<sup>284</sup>

- 7.4.12. In the event that the extent of necessary repairs required greater periods of time, then the number of full weekend possessions could be increased by 30 each year adding around 1,500 hours of 54 hour possessions. Closing for part of August in one or more years, or including Christmas 2011, would add long periods of uninterrupted possessions where propping would not need to be dismantled.<sup>285</sup>

- 7.4.13. Time lost to de- and re-wiring could be avoided by continuing to change between OLE and third rail at Farringdon for the whole, or part, of 2010/2011. The reason for moving the changeover south is because of the difficulty of detraining people at Farringdon when there is a failure. Failures happen 'once or twice' a year. If one happened during a peak period then pressure could be reduced by sending Underground trains through Farringdon without stopping. Whilst that might be inconvenient for passengers, it would not justify demolition of the General Market Building. Many areas of the General Market and Annex are not over the running lines and OLE would not be provided to the sidings. This would mean propping and crash decks could be left in place when trains were stabled there. Even when the OLE has been installed, inspection and non-propping work could take place during the effective 5½ hours of nightly possessions, although propping would not be required for all work and must have been taken into account by the City in its estimates of time.<sup>286</sup>

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<sup>282</sup> CD5.15, EH23 pp35-36, CLC/4/A 7.1.6, 7.5.9, CLC/4/B Table 2 and Fig G5 p187, Sir Terry Farrell XE by TPL Day 15

<sup>283</sup> EH/23 31

<sup>284</sup> CLC/2 para 23, CLC/4/A 7.5.16, 7.5.19, 7.5.23, 7.5.25, 8.3.1, CLC/4/B Figs G6 & G7, CLC/4/E, EH/8/A 9.17, EH/8/J, Mr Mitchell IC & XE by EH Day 20

<sup>285</sup> EH/23 24

<sup>286</sup> EH/23 21-23

- 7.4.14. Whilst the repair option was criticised for lack of detail, there is also a lack of detail about time critical elements of the replacement proposal. The latest detail of key matters is that set out by Hochtief in July 2007, and a simple programme. Although it has been stated that site investigations are on-going, no details have been submitted. For the proposals to go ahead a 60% pre-let is necessary and it would therefore be unreasonable to expect TPL to be in a position to go ahead immediately in June 2008. Even if it were acceptable to go ahead without the assurance of an acceptable replacement building, there is no reason to suppose such expensive works would be undertaken without permission for a viable scheme. The proffered Agreement would not get over this problem as no Court would send TPL Directors to prison for failing to do something for which it did not have the money and so would not issue an injunction requiring the works to be done.<sup>287</sup>
- 7.4.15. The need for maintenance on the line will not suddenly end. NR is not replacing all the 19<sup>th</sup> century structures on the line as part of the Thameslink project. Possessions will still therefore be needed for necessary works in the general area, and work could be coordinated to coincide and reduce possessions. A 'hoped for' reduction in maintenance would not justify demolition.<sup>288</sup>
- 7.4.16. The City should not gain any advantage from not having made contingency plans. Even if it were considered reasonable for the City to do nothing until the Secretary of State's decision is known, and the pessimistic time estimates for getting started are accepted, the works could still be carried out as possessions are already being put in place. In any event, the city has a right to possessions, at £50 per hour, to maintain the lids. This rate does not apply to replacement and redevelopment with a large building. The 'window of opportunity' only therefore applies to the replacement. Even if the right did not exist, it would be in everyone's interests to cooperate in ensuring possessions were made available before the end of 2011. As a last resort, the Rail Regulator could ensure that possessions were made available in the public interest.<sup>289</sup>

#### *The Case for Demolition*

- 7.4.17. For the demolition of an unlisted building that makes a positive contribution to the character and appearance of a Conservation Area the tests set out in paragraph 3.19 of PPG15 have to be satisfied. The same requirement would apply to the listed Red House in view of the substantial works of alteration being proposed. "Clear and convincing evidence" needs to exist to demonstrate that all efforts to sustain or find new uses have failed, that preservation by some form of charitable trust is not possible, or that development would bring substantial benefits for the community.<sup>290</sup>
- 7.4.18. The structures on the site are robust and capable of economic repair. Indeed, many repairs to the lids and buildings are only necessary because of inadequate maintenance over a prolonged period. The City has a duty to

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<sup>287</sup> CD5.12, TPL/4/H, EH/23 34-37, Mr Morton IC Day 12

<sup>288</sup> EH/23 32

<sup>289</sup> EH/23 24-29, CD29.3, CD29.2, CLC/9 Clause 5

<sup>290</sup> EH/5/A 4.3.1-4.3.3, EH/6/A 9.1, EH/7/A 4.2-4.4



maintain the lids regardless. It has had revenue from the buildings for over a century and should have established a 'sinking' fund. The costs of repairs should not form part of the economic case for demolition, not least as a failure to market the buildings at a realistic price reflecting its condition would reduce the chance of finding a new use.<sup>291</sup>

- 7.4.19. The principle of market testing is clearly established, as demonstrated by a number of appeal decisions. Valuation exercises are not a substitute. Advice to Government Departments and Non-Departmental Public Bodies in June 1999 from the Department for Culture Media and Sport is that disposal procedures should be set in train as soon as possible after historic buildings are judged surplus to requirements. Similar advice to local authorities is set out in Paragraph 3.37 of PPG15. The Red House and Annex became vacant in or around 1983 and the General Market Building closed in 1999. Inadequate efforts have been made to retain the buildings in use. Expressions of interest have not been pursued, and the buildings have not been marketed either freehold or as a long leasehold.<sup>292</sup>
- 7.4.20. It is asserted that the buildings would not be of interest to institutional investors such as pension funds. However, they are only part of the market. The properties on the site would appeal to the large non-institutional investment market such as property companies seeking rental income, individual investors and specialist operators. Despite the absence of marketing, there has been interest in the site from a number of companies but it is clear that the City has sought to impose additional constraints on any expression of interest.<sup>293</sup>
- 7.4.21. The alleged community benefits would only justify demolition if they were substantial and would not occur in any event. That is not the case here. There is an obligation to repair the lids and the proposal would simply help the City, as landowner, to defray the costs of that obligation. The City has substantial land holdings in the area and is likely to have other development opportunities in the medium term. It is therefore reasonable that these should also contribute towards any improvements that would enhance the area as a whole.<sup>294</sup>
- 7.4.22. The report to the various committees refers to proposed environmental improvements around the building, including the re-opening of West Poultry Avenue. The latter is the responsibility of the City as highway authority and should take place irrespective of any redevelopment or re-use of the site. West Poultry Avenue has been closed for several years, during which the market has operated successfully. Any advantage in strengthening it to take the heaviest goods vehicles would not justify demolition and replacement of the lids. In any event, EH's hanger proposal would carry such loads and any additional cost could be paid by the City from its On-Street Parking Surplus, which at times reaches £24 million, and for which the problem in 2002 was finding projects on which to spend it.<sup>295</sup>

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<sup>291</sup> EH/5/A 5.3.4-4.3.6, EH/7/A 7.1

<sup>292</sup> EH/5/A 4.3.8-4.3.9, EH/7/A 4.7-4.17

<sup>293</sup> EH/7/A 6.1-6.7, EH/3/B App 2

<sup>294</sup> EH/6/A 9.2-9.9

<sup>295</sup> EH/6/A 11.9, EH/23 33 SBH/5/C App BB 69 ii)

- 7.4.23. The fact that the building has been left vacant for 18 or more years should not be used as justification for redevelopment. Re-use would also create jobs that would support the special role and function of the area, already identified as part of its special character, in this AOI. A large floorplate office would be insignificant in terms of new office floorspace but would have a significant detrimental impact on the ability of the site to provide a supporting role within the City Fringe area.<sup>296</sup>
- 7.5. Sustainability and Accessibility
- 7.5.1. EH is required to “do such other things as the Commission think necessary or expedient” under Section 33(5)(d) of the *National Heritage Act 1983* and would be failing in its duty to protect heritage assets if it did not make submissions about the non-compatibility of the proposals with national and local sustainability policies.<sup>297</sup>
- 7.5.2. LP Policy 4B.6 requires planning authorities to ensure that schemes have the highest standards of sustainable design and construction and a scheme of this size is required by LP Policy 4B.9 to adopt “exemplary standards”. Such standards must be demonstrated before permission is given. The proposal fails both policies. It does not re-use the existing buildings, which is expressly identified as a feature of sustainability, and it fails to demonstrate the conservation of energy or making the “most of natural systems”.<sup>298</sup>
- 7.5.3. The fundamental data necessary to assess energy sustainability has not been provided. The City seeks to ensure its provision by condition, but the required studies would not be undertaken until after permission has been granted. Interested persons or bodies would not have a right to participate at that stage. This would be inconsistent with the EIA Directive and Regulations. References to BREEAM in the Section 106 Agreement do not remedy the fundamental lack of data. BREEAM uses many criteria, such as management systems, transport accessibility and the previous use of the site, that do not relate to energy efficiency and the use of natural systems. It is not known how much energy would be generated on site or what mode of generation would be adopted. If biomass is adopted it is not known what is available locally from sustainable sources, what volumes would be required, or what emissions to air there would be and how they might be vented away.<sup>299</sup>
- 7.5.4. There are a number of features of the building that suggest that it would be wasteful of energy. It would be artificially lit from dawn to dusk and include much heat generating electrical equipment. It would have large expanses of glass on the walls and roof and a large covered atrium that suggests unnecessarily large quantities of energy would be necessary for cooling due to solar gain and inadequate natural ventilation. The data to assess these points has not been provided.<sup>300</sup>

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<sup>296</sup> EH/6/A 11.8, 11.10-11.12, SAVE/5/C App BB Paras 114-119 & 129

<sup>297</sup> EH/23 C26

<sup>298</sup> EH/6/A 10.11, EH/23 C24-C25

<sup>299</sup> EH/23 C36-C39

<sup>300</sup> EH/23 C31

7.6. Retail

7.6.1. The City has relied on a *Retail Impact Assessment* submitted with the proposals. This has not been subject to an expert review. It does not include a sequential assessment, or consider the cumulative impact on nearby centres. The proposal promotes the development of large modern retail units, which would not respect the local character of the area, and so would conflict with the aims of PPS6, LP policies and UDP Policies SHOP 1 and SHOP 4.<sup>301</sup>

7.7. Other Matters

7.7.1. Decisions should be made in accordance with the development plan, which includes the City's UDP and the LP. In cases of conflict the latter, being the most up-to-date, should prevail. The City concedes that there is a conflict with UDP Policy ENV 11. The proposals also conflict with other conservation policies such as LP Policies 4B.10, 4B.11 and 4B.12 and UDP Policies ENV4, ENV17 and ENV18.<sup>302</sup>

7.7.2. Applications of any significant scale in London should include a Statement of Community Involvement. No such statement has been submitted, reflecting the fact that little public consultation was undertaken. TPL has therefore failed to take account of the advice in PPS1 in relation to the preparation and submission of applications.<sup>303</sup>

7.7.3. TPL and the City are asking for the proper application of PPG15, PPS1, and the development plan to be set aside. Advice at every level makes it clear that the Smithfield area should be the subject of a specific area based strategy. In the absence of such a document, large scale developments, such as the proposed scheme that may affect the special character, cannot be assessed properly. Their determination may prejudice the development of a comprehensive strategy. According to its emerging LDS, the City should have embarked on such a document in August 2007. It would not, therefore, cause a significant delay to await the outcome of the process. Determination of the applications would be premature in advance of a specific policy framework for the Smithfield/Farringdon area.<sup>304</sup>

7.7.4. The proposed uses conflict with development plan requirements. The proposal is primarily for a large Grade A office building. This would be out of character with the small-scale uses in the Smithfield area, which UDP Policy ECON 6 seeks to protect. As the site is within the CAZ and involves an increase in office accommodation, LP Policy 3B.4 requires a mix of uses, including housing, but no housing is proposed. LP Policies 3A.1, 3A.8, 5B.1 and 5C.1 all stress the importance of the maximum increase in housing provision and although TPL maintains that housing is a possible, rather than a required, element the policy clearly states that the mix of uses "shall include housing".<sup>305</sup>

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<sup>301</sup> EH/6/A 10.18-10.19,

<sup>302</sup> EH/6/A 10.1, EH/23 C1-C2, CLC/3/A 4.12.31

<sup>303</sup> EH/6/A 11.1

<sup>304</sup> EH/6/A 8.1-8.6

<sup>305</sup> EH/6/A 10.8, EH/23 C3-C7

- 7.7.5. The permitted exceptions to LP Policy 3B.4 are limited. Whilst fundamental conflict with strategic policy objectives would justify departure, such a conflict must be demonstrable. Exceptions may apply to parts of the City, but not all of it. The Mayor expressed regret at the absence of housing on the site, and the small amount of affordable housing contribution, and so did not consider the area to be one where housing would conflict with strategic policy objectives. The site is within the Smithfield/Farringdon AOI but the strategic LP Policy 5B.5 applicable to it encourages the provision of housing. The *Sub-Regional Development Framework* goes further and expressly requires a minimum amount of housing.<sup>306</sup>
- 7.7.6. The City sought to suggest that the area was unsuitable for housing due to inadequate services and the level of amenity. That flies in the face of paragraph 2.31 of the UDP. There is a wealth of services in the immediate vicinity including a Sainsburys, fresh meat and vegetable specialists and 24 hour shopping. Market evidence demonstrates that people value the opportunity to live in the area. UDP Policy ECON 8 does not suggest that the market precludes housing in the vicinity, and the Smithfield specific UDP Policy ECON 6 encourages a variety of uses. Whilst there might have been complaints about noise from vehicles, this has not prevented the market from thriving and new housing could include acoustic insulation.<sup>307</sup>
- 7.7.7. It was also suggested that there was inadequate space to provide a residential element. If a scheme of this size could not find space for residential accommodation, and a separate lift to serve it, then it is difficult to envisage any scheme doing so. The *Sub-Regional Development Framework* seeks affordable housing within the AOI. The proposal would not provide any and the contribution offered would only buy one small housing unit in the area.<sup>308</sup>
- 7.7.8. The need for office space would not override LP Policy 3B.4 as there would be an adequate supply, if not an oversupply, when the proposal came on stream. The area contributes to the City as a financial centre and World City by means other than the provision of conventional office space. The *Sub-Regional Development Framework* only provides an indicative figure for offices. A large amount of new office space has been allowed in the AOI, and there is no reason to think the indicative figure would not be reached by 2026 without the proposal.<sup>309</sup>
- 7.7.9. UDP Policy ECON 6 has three requirements, the first of which is that the proportion of non-B1 uses should be maintained. However, the proposal would provide a large increase in B1 use and a corresponding reduction in the proportion of non-B1 uses. The latter could consist of many types of use, reflecting the small-scale nature of the uses that characterise the Smithfield area.<sup>310</sup>
- 7.7.10. The decision maker is required to have regard to all material considerations, including the developer's ES and comments on it. Legal judgements

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<sup>306</sup> CD19.6, CD27.1 p1 3<sup>rd</sup> para, EH/6/C 3.2, EH/23 C8-C11

<sup>307</sup> EH/23 C12-C15

<sup>308</sup> EH/23 C16 & C19

<sup>309</sup> EH/6/A 11.12, EH/23 C17 & C19, CLC/3/A 2.4.17, CD20.1 2.32, CD19.6 161 & A21-A23

<sup>310</sup> EH/6/A 10.13, EH/23 C19, CD20.1

indicate that this is a cornerstone of the process and that public participation is important as, to some extent, it is designed to redress the imbalance in resources between promoters and those whose concern is to protect the environment. EH does not have the resources to subject the ES to the scrutiny it warrants, but it should have been subject to independent scrutiny in view of the City's financial interest in the outcome of the case.<sup>311</sup>

- 7.7.11. The ES must include information about alternatives. Although the words of the Directive, taken literally, support TPL's view that this is confined to information about alternatives actually considered, the Directive should be considered in a purposive way. This view is supported by the European Court of Justice which has held that the Directive must be construed in the broadest sense and in the light of the general environmental protection principles set out in the Treaty, including the precautionary, polluter pays, and preventive principles. Planning permissions granted in breach of the EIA Directive and Regulations must be quashed, unless such breach is de minimis.<sup>312</sup>
- 7.7.12. The ES does not deal adequately with alternatives. Those considered in the ES do not correspond with those discussed in evidence and the ES does not consider all those that should have been considered. Even if it were necessary to demolish over the running lines there are alternatives, which would have involved substantially less demolition than in TPL's Scenario 2, that should have been considered. EH's Scenarios 2D and 2E should not have needed drawing to the attention of TPL and the City.<sup>313</sup>
- 7.7.13. TPL's position on sustainable design is also confused. The ES states that photovoltaics would not be provided, but the architect stated that they would. A note to the Inquiry indicates that the architect was incorrect. It was also submitted that there would be photovoltaics and that the power is set out in the ES. The area set out in the ES as possible, but not to be provided, does not correspond with the areas in the architect's evidence. The ES does not set out what is proposed, and insofar as there is information it does not correspond with the ES. A paperchase does not constitute an ES.<sup>314</sup>
- 7.7.14. The opposition of the Smithfield Market Tenants Association to food stalls is not supported by any environmental health evidence, and their view is not shared by the City or TPL. Their concern to safeguard the meat market would not be compromised by the retention and re-use of the General Market Building.<sup>315</sup>
- 7.7.15. Finally, there is no Agreement in place yet between NR, TPL and the City. NR might decide to seek a ransom for permitting the replacement of the lids, which is a necessary prerequisite for redevelopment.<sup>316</sup>

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<sup>311</sup> EH/6/A 11.2, EH/9 Paras 1 & 7

<sup>312</sup> EH/9 Paras 2-5 & EH/10

<sup>313</sup> EH/9 Paras 8 & 9, EH/11 Para 5

<sup>314</sup> EH/14 Paras 3-5, EH/23 C33-C35, TPL/3/A 6.5.09 & 6.5.14, CD1.9 p32 & p40, TPL/17, TPL/18 para 46

<sup>315</sup> EH/23 B55

<sup>316</sup> EH/23 B36

## 7.8. Section 106 Agreement and Conditions

- 7.8.1. In the latest amendments to the Section 106 Agreement 'reasonable endeavours' is replaced by 'best endeavours', but the limitation to what is "in all the circumstances.....reasonable" effectively downgrades best endeavours to reasonable. The case of *IBM v Rockware*, cited by TPL, deals with different wording for a different purpose. The limitation to what is "commercially prudent" would defeat the purpose of the obligation as it seeks to address the situation where it would not be commercially prudent or reasonable in the circumstances to undertake the works. The proposal would, in any event, be expressly subject to the limitation of a 60% pre-let. An obligation subject to such limitations is not fit for its intended purpose.<sup>317</sup>
- 7.8.2. The amendments in respect of energy sustainability do not alter the fundamental problem. Planning permission would have been granted before the data necessary to assess the matter is supplied. Interested persons would have no right to participate in the later decision on the deferred matter. This is all the more important in this case as the City is the landowner as well as the planning authority, has shown a determination to demolish, neglected the buildings in breach of national and local policies relating to historic buildings, and acted in collusion with TPL. This is in addition to the general doubt about referring deferred matters to the local planning authority rather than the original decision maker as set out in *Smith v Secretary of State for the Environment, Transport and the Regions [2003] EWCA Civ 262*.<sup>318</sup>
- 7.8.3. Consent should not be granted for the demolition of buildings that make a positive contribution to a conservation area until secure arrangements are in place for their acceptable replacement. PPG15 indicates that empty gap sites are unacceptable in conservation areas, regardless of whether the previous building was listed, and what replaces it should preserve or enhance the Conservation Area. In any event, the City's suggestion that demolition could be allowed without a grant of planning permission for the redevelopment is not consistent with Clause 3.1 of the draft S106 Agreement. EH has suggested alternative conditions that would require a contract to be let for the full redevelopment rather than just the railway lids prior to any demolition.<sup>319</sup>

## 7.9. Conclusion

- 7.9.1. These decisions will be a test of the Government's commitment to its heritage policies and to participatory decision making. If a well funded landowner with a substantial local estate, such as the City, can flout national and local policies then other local authorities, many of which are subject to far greater financial pressures, will seek to do the same. Developers will seek to make secret deals and landowners will neglect historic buildings in the hope of enjoying similar benefits. There is an opportunity for regeneration of the kind undertaken at Covent Garden, Spitalfields,

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<sup>317</sup> EH/23 G2-G3, TPL/22

<sup>318</sup> EH/23 G5 EH/23 App 3 58-59

<sup>319</sup> EH/17, EH/18, Eh/19, EH/23 B10 & G6, CD12.6, Discussion of Conditions Day 21

Greenwich and Camden Lock. These proposals would throw that opportunity, and our heritage, away.

## 8.0 The Case for SAVE Britain's Heritage

### 8.1. Introduction

8.1.1. The Development Agreement between the City and Thornfield confirms the City's financial interest in the redevelopment of the site. Whilst it is accepted that the City's functions as planning authority and freeholders of the site are distinct, it is difficult to accept that the redevelopment of the site has not been a long term commitment. This has led to the need to justify overcoming the tests set out in PPG15, which could only be done by constructing the argument that there was a necessity to carry out works to the railway tunnels.<sup>320</sup>

### 8.2. Character & Appearance of the Surrounding Area including the Settings of Nearby Listed Buildings and Conservation Areas

#### *Introduction*

8.2.1. Meat has been bought and sold at Smithfield for over 800 years making it one of the oldest markets in London. In 1860, the City obtained the *Metropolitan Meat and Poultry Act* allowing the construction of new buildings on the Smithfield site. The first phase, by Sir Horace Jones the architect of Tower Bridge and other City markets, was completed in 1868. The Poultry Market opened in 1875, but was destroyed by fire in 1958. It was replaced in 1962 by the current building, which is different in style but a distinctive work respectful of the scale and use of its neighbours. The General Market Building was added in 1883 and the Annex building was under construction at the time of Jones' death in 1887 but was completed in 1888. A photograph from 1895 shows the integrated character of the whole.<sup>321</sup>

#### *Existing Buildings on the Site*

8.2.2. Smithfield Market is the product of one mind. The General Market Building was the last major market building designed by Jones (the Annex Market was smaller) and represents the culmination of a lifetime's experience. Those who worked in the building considered it a more effective market space than the spatial hierarchy dictated by the 'nave and aisle' plan of the earlier market buildings.<sup>322</sup>

8.2.3. The General Market Building is a response to a complex site. Below ground there were active railway lines and sidings and a canalised river. At surface level there was a recently widened road and different levels to be linked whilst creating a level surface for the market and access to the sidings below.<sup>323</sup>

8.2.4. The engineering problem of bridging a large space whilst providing a relatively clear floorplate is the same as faces TPL today. This was done by use of the Phoenix column. These are columns made up of flanged

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<sup>320</sup> CD7.5, SBH/2, SBH/10 Para 15

<sup>321</sup> SBH/6/A Sect 2, SBH/3/A Para 27, SBH/3/D App A

<sup>322</sup> SBH/5/A 2.1.1

<sup>323</sup> SBH/5/A 2.3.1-1, 4.4.1-5

segments bolted together through the flanges to create longer, stronger, supports. An article in the *Builder* of February 4<sup>th</sup> 1882 referred to the introduction of Phoenix columns in the General Market Building, but their importance is not yet fully understood. It is a clever piece of engineering that is almost entirely invisible. Jones was also interested in fire-proofing and a lecture by him on the market buildings addressed the issues of ventilation and excluding the sun's heat.<sup>324</sup>

- 8.2.5. The main façade to Farringdon Street is effectively a separate structure from the rest of the building. It sits on a brick basement with a ramp down to the basement level behind it. The elevation is a simple composition kept low to remain in scale with the other elevations of the building. The rhythm of the other market buildings is retained through the use of pilasters, detailed similarly to those on the Grade II\* Meat Market. The central 5 bays are three storeys high with another three bays each side. These are two storeys high with a further storey lit by dormers in the roof. The outer bays turn the corners with a tower on the southern end using a palette of details reflecting the towers on the Meat Market. The northern tower has been replaced by a more restrained structure.<sup>325</sup>
- 8.2.6. The north and south elevations have the same rhythm as other market buildings, with bays paired to allow them to step up the slope of the street to the main entrances that are set back from the building line. Details again reflect those on the Meat Market. However, unlike the other market buildings, the General Market Building is a fusion of the small scale shops and buildings in the area, and the market use itself with shops, pubs and offices giving an active street frontage.<sup>326</sup>
- 8.2.7. The building has been subject to change over the years, but this is a part of its character and should not condemn it. The dome over the centre of the building was lost, together with the north-western tower. The repairs are of their time and relate to the Grade II Meat Inspector's office at 79-83 Charterhouse Street. Given the recent rebuilding of a Holborn Viaduct pavilion, the reconstruction of the northern tower would not be inappropriate. The main floor of the market is top-lit with an intricate web of girders and trusses, like Jones' other market buildings, reflecting his concern for ventilation. Lightweight offices sit above what were originally stalls. The replacement dome sits on the original ironwork and could be replaced and the Phoenix columns are decorative and create a rhythm.<sup>327</sup>
- 8.2.8. The 1886 Annex Market was originally constructed as a fish market, and details such as boys riding dolphins above the entrance reflect that use. However, it was soon utilized as a specialist market for the sale of frozen imported meat. The bays repeat the rhythm found throughout the market and details echo those found on the Meat Market and General Market Buildings. The western most point of the building is, through its height and the fall of the road, the tallest part of the building and stands like the prow of a ship facing Farringdon Street. It makes a strong positive contribution

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<sup>324</sup> SBH/3/A Paras 9-25, SBH/3/D Apps C & D, SBH/5/A 2.3.8, SBH/5/C App K, Dr Freeman XE by Inspector Day 19

<sup>325</sup> SBH/5/A 2.3.3, SBH/5/C App E

<sup>326</sup> SBH/5/A 2.3.4-5, SBH/5/C Apps B, G & H

<sup>327</sup> SBH/5/A 2.3.6-7



to the Conservation Area by relating to the other market buildings in terms of materials, scale and architectural vocabulary.<sup>328</sup>

- 8.2.9. The Red House is listed Grade II, due to its importance in the history of the development of cold storage. Like other cold stores and warehouses in the area it is designed to fit the site created by the railways beneath it. It is a red brick structure with Portland stone dressings. It is 6 bays wide with two double height blind arcades. The upper arcade has bullseyes of Portland stone reflecting the corner tower of the General Market. The lower level has the same proportions as the Grade II\* listed Meat Market and the two central bays are topped with a pediment and defined by ball finials. The lower level extends south for 9 bays, of which 8 continue the arcade, whilst the terminal bay is more complex with doors and windows reflecting the rounded corners of the General Market Building's windows.<sup>329</sup>
- 8.2.10. Jones' buildings were not appreciated for a time, but views change and they are now recognised. Whilst not as outstanding as the Meat Market Building, and having suffered the loss of some original features, the buildings have considerable qualities and make a positive contribution to the character and appearance of the Conservation Area. The existing buildings are fundamentally integral to the area as a whole in a way that a new building could never be. If brought back into beneficial use, the buildings could transform the way Smithfield is perceived by giving it back its logical western boundary.<sup>330</sup>
- 8.2.11. All the buildings that would be affected by the proposals are carefully considered architectural designs and of a piece with the other market buildings in terms of their materials, design and scale. It is accepted that they all contribute positively to the character and appearance of the Conservation Area, which has been correctly designated. The condition of the buildings is not relevant when considering their architectural qualities and all the architectural historians consulted by SAVE consider the buildings worthy of preservation and reuse.<sup>331</sup>

#### *Character and Appearance of the Conservation Area*

- 8.2.12. The Smithfield Conservation Area is unique in its concentration of historic buildings and infrastructure, relating to the meat trade and reflecting the industrialisation of food production. It contains three coherent groups of buildings: one relating to the priory Church of St Bartholomew the Great; another to St Bartholomew's Hospital; and the third the markets. The latter dominate due to the area they cover. The frontage to Charterhouse Street is in the region of 400 metres long. The City's assessment of the buildings notes that "The General Market and the Annex Market, with their imposing facades, form part of an outstanding complex of mid-Victorian market buildings". The Red House shows how the meat trade changed with the introduction of powered cold storage and plays an important role in the

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<sup>328</sup> SBH/5/A 2.4.1-7, SBH/5/C Apps F & X, SBH/3/A Para 27

<sup>329</sup> SBH/5/A 2.2.1, SBH/5/C App D

<sup>330</sup> SBH/4/A Paras 7 & 10, SBH/3/A Paras 34-47, Dr Freeman IC & XE by Thornfield Day 19

<sup>331</sup> SBH/5/A 2.1.2-4, SBH/5/C Apps B & C, SBH/3/A Paras 28-33

historic quality of the area. Other cold stores lie outside the Conservation Area but complement it.<sup>332</sup>

- 8.2.13. Materials form an important part of the character and appearance of the Conservation Area as noted in the City's *Smithfield Conservation Area Character Summary*. The Hospital buildings are generally contained within their own island in the Conservation Area and are predominantly of stone. The residential buildings are of brick and the market buildings of stone, brick and cast iron. Analysis divides the buildings into important built fabric and backdrop. The latter have been lost at the western end of the market and replaced by massive new office blocks outside the Conservation Area. The market buildings are generally two storeys high with higher elements to emphasise their character. The replaced Poultry Market uses different materials but follows the building line and shares a similar rhythm and scale. It is still possible to progress through the market down a central aisle from east to west ending in the domed General Market Building.<sup>333</sup>
- 8.2.14. The mixed use nature of the area is an important part of its character. Large businesses are not amongst the uses identified in the *Character Summary*. Three of the five market buildings remain in market use. The potential of the two empty buildings to have a market use reinstated, as encouraged by PPG15, has been overlooked. Spaces are also important. Charterhouse Street and West Smithfield are wide boulevards running east/west either side of the market buildings. Their width, together with the low nature of the buildings, creates an open character with smaller spaces between the market buildings covered by canopies. Holborn Viaduct, and the narrowing of the road as Farringdon Street changes to Farringdon Road, also enclose the space and focuses the relationship between the Viaduct and General Market Building.<sup>334</sup>
- 8.2.15. The low height of the buildings allows views out of the Conservation Area to modern development beyond. The long straight roads frame views and the canopy between the General Market Building and its Annex is visible from far to the east. From the west, the canopy frames a view into the market. The view from Holborn Viaduct allows the General Market Building's response to the topography to be seen.<sup>335</sup>
- 8.2.16. The development spanned 20 years but the Market can still be read as a whole, despite the replacement of the Poultry Market Building. The structures on the site are high quality buildings, considered worthy of listing by some, that make up about a quarter of the whole market and are central to the character of the Smithfield Conservation Area, although it is accepted that there are other buildings than the market in the Conservation Area. As the Architectural Advisor to the Victorian Society states "Given the ease with which the buildings could be adapted for new uses it would be near-criminal to damage the cohesion of the complex which is one of the largest market areas in the country".<sup>336</sup>

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<sup>332</sup> SBH/5/A Sect 3 & 4.1, SBH/5/C App I

<sup>333</sup> CD/20/2, SBH/5/A 4.1.4, 4.2.1-3, 4.2.7 & 4.3.1-3

<sup>334</sup> SBH/5/A 4.5.1-5, 4.6.1-3

<sup>335</sup> SBH/5/A 4.7.1-6

<sup>336</sup> SBH/6/A Sect 2 & 3.1, Ms Andreae IC Day 19

- 8.2.17. Conservation Area legislation seeks to protect areas, rather than individual buildings, although the criteria in PPG15 do allow for exceptions. It is the development of the market concept that is critical in this case. Smithfield is unique in being such a substantial area devoted purely to market uses, and with so many of its buildings being designed by Sir Horace Jones. The architectural character derives from the homogeneity of uses. Indeed, market uses and associated trades spilled out into the neighbouring buildings. The application site is the gateway to the area and is readily visible from Holborn Viaduct. The existing buildings herald the beginning of Smithfield from the west. The fact that they contrast so markedly with the bland office blocks that dominate Farringdon Street, and Road, announces the Conservation Area to anyone approaching from that direction.<sup>337</sup>
- 8.2.18. Whilst the City itself might not be defined by any single overriding architectural idea, Smithfield is defined by its special character. The predominant characteristics of the period buildings in the area are richness and variety of detail in stone and brick. Many buildings turn corners with a flourish and the skyline is enlivened by pinnacles, turrets and finials.<sup>338</sup>
- 8.2.19. The appeal of the area has attracted a new wave of restaurants, cafes and specialist shops in recent years, just as Covent Garden did in the 1970s and 80s. If the buildings on the site were restored, and signage that contributes to the area were retained, they would draw more people in from the bland offices in and around Holborn Viaduct in much the same way as the older buildings of Spitalfields Market act as a magnet.<sup>339</sup>
- 8.2.20. The construction of a replica western pavilion restoring Holborn Viaduct to its former glory recognises the area's 19<sup>th</sup> century worth. The staircase used to access Farringdon Street from Holborn Viaduct includes a tiled mural illustrating the Victorian building of the area. Views of the site can be gained from the stairs linking the Viaduct and Market. However, the proposed building would dominate the view from Holborn Viaduct and the statues would no longer be seen against the sky. The slope of the site from the higher ground down towards Farringdon Street adds interest, rather than diminishes the scale of the buildings as the applicant suggests. It provides legibility at the entrance to the area. English Heritage's Inspector understood this when considering the listing of the buildings. He considered that "This block is a pivotal link between the important nodal points in the historical make-up of the City, between Smithfield and Holborn..... The block thus plays a vital part in defining the edge of the Conservation Area and is to be greatly valued in these terms".<sup>340</sup>
- 8.2.21. Whilst not listed, the buildings on the site make a positive contribution to the character and appearance of the Conservation Area. TPL's assertion that the new building would create "an appropriate scale on Farringdon Street which the existing General Market Building fails to provide" demonstrates a profound misunderstanding of the essential character of the area. The site is not a 'gap' site in the Conservation Area as intimated by TPL but includes significant period buildings that are integral to the area.

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<sup>337</sup> SBH/4/A Paras 6 & 9, Ms Andreae IC & XE by Thornfield Day 19

<sup>338</sup> SBH/4/A Paras 11 & 12, SBH/4/B, SBH/3/A Para 26

<sup>339</sup> SBH/4/A Paras 13 & 14

<sup>340</sup> SBH/4/A Paras 15-18 & 38

That they need repair is a consequence of the blight that has hung over the site for so long. This should not be used as an excuse that the buildings have no merit.<sup>341</sup>

- 8.2.22. Similar arguments were advanced in relation to redevelopment of South Kensington Underground Station in 2004. However, perceived structural problems of the deck above the track in that case have turned out not to be an insurmountable issue and the Royal Borough of Kensington and Chelsea is now actively encouraging a 'conservation-led' approach.<sup>342</sup>
- 8.2.23. A similar approach at Smithfield would see the existing buildings restored and adapted for new uses. This does not imply that they cannot be changed. Innovative and sensitive modern interventions often enhance old buildings. Façadism does not equate to a 'conservation-led' approach. TPL's treatment of the retained buildings on the site shows a scant regard for their character and scale. The existing buildings have a natural internal permeability and pedestrian movements through the buildings, as well as along the streets, could bring the buildings to life and help transform the area into a place tourists would flock to.<sup>343</sup>

*The Effects of the Proposal on the Conservation Area and Nearby Listed Buildings and Conservation Areas*

- 8.2.24. CABE's design reviews concentrate on individual proposals but CABE/EH's publication *Building In Context* seeks to illustrate how new buildings can be sensitively incorporated into historic areas. It includes guidance on how to appraise a proposal. If the proposed scheme is scrutinised against the criteria in the guidance it does not meet them. It relates to the office landscape of Farringdon Street and the area to the west, not to historic Smithfield. Many of the illustrations in the applicant's reports show the scheme in the context of Farringdon Street. Whilst the street pattern is respected, the historic grain of the surroundings isn't. The height of the proposal is greater than the 19<sup>th</sup> century buildings, the majority of which are only four or five storeys high, giving it the appearance of an interloper in the area. The glazed structure looming over the retained facades of the Annex would appear crude compared to the modern extension at St Bartholomew's Hospital in the Conservation Area.<sup>344</sup>
- 8.2.25. It is indicative of an out-dated and extremely short-sighted attitude that this unique site should be seen simply as another city office block opportunity. At a height of 7 commercial storeys, the replacement buildings would be grossly out of scale with their setting, particularly the listed market buildings. The design disregards the townscape by employing a gargantuan scale that would kill, rather than encourage, pavement activity. This would be exacerbated by a lack of permeability at ground level. Access through the building would require a ramp rising in excess of 2 metres diagonally across the site to an 'urban hall' rather than the existing 5 entrances linking into the Market.<sup>345</sup>

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<sup>341</sup> SBH/4/A Paras 19-23

<sup>342</sup> SBH/4/A Paras 24-26

<sup>343</sup> SBH/4/A Paras 27-29

<sup>344</sup> CD26.2, SBH/4/A Paras 30-36, SBH/4/B Apps G & H

<sup>345</sup> SBH/6/A 3.2-3

- 8.2.26. The massive structural 'V' braces on the exterior of the building belie the fact that the ground floor is far from open and has little relationship with the pavement. The steel 'emmental' screen cladding and overbearing angular pseudo-mansard roof are a gimmicky attempt to camouflage the fact that they contain standard, environmentally unfriendly, deep plan, air conditioned office accommodation. It is optimistic to claim that this would 'blend seamlessly' with its surroundings. The materials and colours of the proposal would draw attention to it rather than integrate it into the area. The angularity of the building would give it a dominance that would detract from the present hierarchy of market buildings that flow down to Farringdon Street.<sup>346</sup>
- 8.2.27. The token retention of the Red House and Annex façades would result in a clumsy composition. The new building would bear no relation to the walls in which it would be wrapped and extend above. There is no architectural rationale to the cantilever and the proposed finishes would result in a vulgar relationship to the red and white brickwork brutally dominating the original ornamental façade. In addition, the proposed public space is unconvincing. The loss of a significant chunk of the market area would render the historic character of Smithfield very much the poorer.<sup>347</sup>
- 8.2.28. The uses that the restored existing buildings could house would add to the vitality of the area. They have a human scale, unlike the proposed building, which by its size and character would hide the area away from the main thoroughfares of Holborn and Farringdon Street.<sup>348</sup>
- 8.2.29. Although TPL accepts that CABE still has some 'minor issues' with the design, CABE's letter of 3 September 2007 is stinging. It states that the latest proposal sits more comfortably within the context, but that is comparative and indicates the scheme is still not liked. The pedestrian experience along Charterhouse Street and West Smithfield "could be hostile to those walking by". Moreover, "The boxy expressed structure, 'gruyere' screen panels, regular glazed grid and stealth roof each have a different architectural approach which compete with each other for attention. There is simply too much going on, and we do not think that a successful balance between design thinking, structural expression and architectural language has been reached". Although on occasions CABE does recommend that schemes should not be permitted it tries to be as positive as it can. This is a damning comment and about as unpleasant as CABE gets.<sup>349</sup>
- 8.2.30. The proposals for the General Market site would result in a structure that would dominate the Annex, affecting its setting as a building that makes a positive contribution to the Conservation Area. The listed Red House would also be dwarfed by the proposals. The loss of the General Market Building, and its linking canopy, would remove the context of the Annex and Red House. They would be cut off in a sea of large post-war buildings destroying the character and setting of both. The proposals would detrimentally affect the massing of the Red House and Annex. The buildings would be treated as a shell with no regard to their layout. Holes would be punched through

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<sup>346</sup> SBH/4/A Paras 39-40, SBH/6/A 3.4

<sup>347</sup> SBH/4/A Paras 41-44, SBH/6/A 3.5

<sup>348</sup> SBH/4/A Para 8

<sup>349</sup> CD8.22, Mr Ferguson IC Day 18, Ms Andreae XE by Thornfield Day 19

the blind brick panelling to create windows, rather than allowing the space to be top lit as intended.<sup>350</sup>

- 8.2.31. The settings of a number of other listed buildings would be adversely affected. The proposal would dominate the Grade II Poultry Market and leave it on the edge of the market rather than at its heart. The proposed building would also cut off the view from Holborn Viaduct into the market destroying the visual relationship between them. The listed White House cold store at 51-55 Charterhouse Street would be dominated in a similar way to the Red House and its setting and historic relationship to the market eroded.<sup>351</sup>
- 8.2.32. Demolition of the General Market Building would remove a key building from the Conservation Area. The detailing of the proposed structure pays little regard to the complexity and richness of other buildings in the Conservation Area. It would introduce an international language rather than one that reflects the area, its history, or its character. Likewise, the proposal for the Red House and Annex would be at odds with the retained facades in terms of scale, massing, and rhythm. There are no other freestanding buildings in the Conservation Area with the same bulk as that proposed.<sup>352</sup>
- 8.2.33. The Conservation Area is clearly delineated by the contrast between the market buildings and taller buildings adjoining it. The proposal would erode this contrast, rather than mediate between Farringdon Street and the market. The open nature of the area, particularly at the western end where the ground falls away, harks back to the "smooth field". The sky is currently far more visible than many places in the City but this would change. Instead, the proposal would create an overbearing sense of enclosure reflecting the character of Farringdon Street outside the Conservation Area and all but eliminating views of the sky. Moreover the proposals would introduce uses not typical of the area. The character and appearance of the Conservation Area would be unacceptably weakened.<sup>353</sup>

### *Conclusion*

- 8.2.34. Each project is different but based on the extensive knowledge and experience of a number of witnesses, albeit not of lids over railways, including that of English Heritage's 'hands on' engineer, it is considered that the engineering issues could be overcome. There are a number of examples of where horror stories about structure and stability have proved to be unfounded such as Billingsgate and South Kensington Underground Station. Demolition of the buildings would not therefore be justified and, in any event, the quality of the proposed replacement is unacceptable and would not justify demolition.<sup>354</sup>

## 8.3. Viability

- 8.3.1. SAVE's viability expert is a property agent of 46 years standing who has been based in the Smithfield area since 1982. Although not personally

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<sup>350</sup> SBH/5/A Sect 5

<sup>351</sup> SBH/5/A Sect 6

<sup>352</sup> SBH/5/A Sect 7

<sup>353</sup> SBH/5/A Sect 7

<sup>354</sup> SBH/6/A 3.6, Mr Ferguson IC, XE by Thornfield & RX Day 18

involved in multi-million pound redevelopment schemes, his practice has a specialist knowledge and is recognised as one of the leading firms in the area for advising and dealing with property in the 'City Fringe'. The area has historically been in mixed use. As some uses have moved out, others have moved in, including residential. In financial downturns the banks and large organisations become more cautious but small businesses start up in new locations. There would, therefore, be more flexibility in refurbishment of the existing buildings, rather than trying to pre-let 60% of the proposed buildings to major tenants. This is not considered likely in the current economic climate, despite TPL's belief that a pre-let could be obtained several years in advance of completion. If they are wrong, the scheme would not be progressed.<sup>355</sup>

- 8.3.2. SAVE has not prepared a refurbishment scheme, but costs have been based on known developments in the area. £1830 per m<sup>2</sup> (£170 per ft<sup>2</sup>) is considered conservative based on these schemes. It would be neither 'gilding the lily' nor 'rough and ready'. Gold plating would be expected for TPL's costs of £3250 per m<sup>2</sup> (£302 per ft<sup>2</sup>). Build costs are estimated at nearly £42 million, made up of £33 million plus the cost of the railway works. TPL's original build estimate was £38 million but has now increased to £51 million. The estimate is higher than EH's costs of £29 million due to a more cautious approach. TPL has included the present value cost of ongoing maintenance over 60 years. This is not a legitimate approach as it should be part of the running costs, even if it is not a matter for the City as owner.<sup>356</sup>
- 8.3.3. The assumption has been made that any scheme would be at least 50% retail, much like Covent Garden. Three appraisals were originally prepared, based on assumed areas, and additional costs in relation to the railway works of £9.2 million. This latter figure is surmised from TPL's appraisals. Revised appraisals were later produced based on the floor areas in TPL's evidence. No allowance has been made for circulation or servicing space but that is offset by an allowance for a mezzanine level. Rental values currently being achieved in the area were projected, although no comparables were submitted until very late in the Inquiry. In any event, headline rents are of very little use, particularly in a recession, as there are a range of incentives available to prospective tenants. Rent free periods, capital contributions to fit outs, reverse premiums (payments to tenants) and developers taking on vacated buildings from tenants, are very difficult to find out. These could have a dramatic impact on the rental value. No reduction has been allowed for upper floors as they could be used for a food related use.<sup>357</sup>
- 8.3.4. TPL suggests that purchaser's costs of 5.75% should be included, interest costs should be 7.5% rather than 6.5%, the floor area should be reduced to allow for circulation, and operating costs for the tunnels included. This would lead to a loss with no residual land value. However, even in that scenario, if the cost of the tunnels fell on the City the loss would be reversed. Appraisals are not based on measurements. Build costs, use,

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<sup>355</sup> SBH/7/A Sect 1, SBH/10 para 60, Mr Learner IC Day 18

<sup>356</sup> Mr Learner & Mr Ferguson IC Day 18

<sup>357</sup> SBH/7/A 2.1-5, SBH/7/B, SBH/7/D, Mr Learner IC Day 18

rents and yields are matters for professional judgement and minor differences in assumptions affect the outcome. Yields of 6 to 8.25% have been assumed by various parties. Whilst they provide a reasonable range, the City's assumption of 8.25% is considered pessimistic.<sup>358</sup>

- 8.3.5. Experience indicates that there is a more constant demand from smaller traders than major multiples. Any refurbishment scheme developer would consider cashflow and so look at a volume of short term leases. It is still possible to get funding for schemes that would generate cashflow and this type of scheme is now more common. A yield of around 6%, as assumed by others, is a reasonable 'middle of the road' view but is an exercise to get a capital value of a scheme being sold on. It is not accepted that would necessarily happen.<sup>359</sup>
- 8.3.6. SAVE's original appraisals all indicate that the refurbishment of the existing buildings is not only financially viable, but that they would also provide for the works over the railway to be carried out. In addition, the car park beneath the buildings has sufficient height to allow the creation of additional levels providing conference/banqueting facilities. This was not allowed for in the appraisals as it was understood NCP had a long lease. It now transpires that TPL bought out NCP prior to the Inquiry opening. The revised appraisals look at 43 Farringdon Road and the Snow Hill buildings separately. All the appraisals for 43 Farringdon Street indicate the proposal would be viable whilst the Snow Hill building appraisals both indicate a profit on cost, albeit of less than the normal 20% a developer would expect.<sup>360</sup>
- 8.3.7. The importance of the proximity of Farringdon Station cannot be overestimated. It has one of the highest pedestrian flows on the Underground and with the proposed Thameslink improvements, and the possibility of Crossrail proceeding, it will become one of the most important interchange stations in the country. Many former market buildings have been refurbished, such as Covent Garden, Borough and Spitalfields. Other regeneration projects have included Camden Lock Market and the Courage Brewery that have created vibrant schemes. There have also been similar schemes abroad. Experience indicates that there is a high level of demand in the vicinity from all forms of retailers, particularly major multiples. However, a major disadvantage of a refurbishment scheme would be that units would not be of sufficient size to satisfy all enquiries. Residential accommodation could also be included, which would make the scheme even more viable as residential values are higher.<sup>361</sup>
- 8.3.8. The City and TPL have taken an institutional view and not attempted to retain the buildings or go to the market. There is an ample supply of office accommodation and no need for the proposed scheme. SAVE disputes that there is no viable way to retain the buildings because of the state of the lids over the railway. The lids can be repaired and the issue of the deck appears to have more to do with the nature of the funding for the proposed scheme.<sup>362</sup>

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<sup>358</sup> TPL/5/W, SBH/7/A, SBH/7/B, Mr Learner XE by Thornfield and City Day 18

<sup>359</sup> Mr Learner IC Day 18

<sup>360</sup> SBH/7/A 2.9-11, SBH/7/B

<sup>361</sup> SBH/7/A 2.5-7

<sup>362</sup> SBH/5/A 9.2-3, Mr Learner IC Day 18



- 8.3.9. A letter from Bank of Scotland, produced by Thornfield, does not guarantee funds to carry out redevelopment of the application site. The facilities made available are principally for another project, the cost of which is not known. Even if it did guarantee funds there may be conditions. If there is not 100% funding then it is not known where the rest would come from.<sup>363</sup>
- 8.4. Repair, Maintenance, and Retention of the Existing Structures
- 8.4.1. SAVE relies on EH's engineering evidence. It is common ground that this is a very unusual case and that the buildings make a positive contribution to the character and appearance of the Conservation Area. The only justification put forward to outweigh the presumption in favour of retaining such buildings is the timing of the railway possessions during the Thameslink works. Even that argument does not apply to the Red House, which is not directly over the tunnels.<sup>364</sup>
- 8.4.2. NR's evidence is, therefore, critical. NR confirmed unequivocally that there were no critical safety issues involved. The carrying out of the railway works during the Thameslink possessions is a matter of convenience. These possessions could be stretched beyond the middle of 2009, even though that might cause some additional inconvenience to passengers. However, it is clear that on any reasonable anticipation of a decision, and any legal challenge to it, that the completion of the works would be likely to extend into 2010 and so could not even be completed within extended possessions. The availability of the possessions would not, therefore, outweigh the presumption in favour of retention. In policy terms the applications fail.<sup>365</sup>
- 8.4.3. The Section 106 Agreement confirms that unless planning, and every other consent, are granted, and it is not known what all the necessary consents are, the railway works will not be carried out. TPL's only commitment is to pay legal fees for the Section 106 and £7,000 towards administration costs in connection with its negotiation and preparation. Even with the costs of this Inquiry that is not much of a commitment. SAVE's concern is that should planning consent be granted, establishing the principle of demolition, a further application would be submitted for a larger scheme in the hope that it would not be called in.<sup>366</sup>
- 8.4.4. The City's conservation and planning teams did not regard the General Market Buildings as an 'opportunity' site, otherwise a development brief would have been prepared. The buildings on the site could be restored and refurbished without the need for demolition. PPG15 emphasises the importance of regular maintenance and repair to prevent neglect and reduce the scale of future problems, whilst the UDP highlights the importance businesses attach to environmental quality. Paragraphs 3.37-38 of PPG15 indicate that local authorities are expected to deal with their own buildings in ways that would provide examples of good practice to other owners, and that full account should be taken of the policies in PPG15. However, even when the buildings were occupied, the City only carried out the bare minimum of maintenance to the buildings and lids, unlike other buildings it

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<sup>363</sup> CD/40, Mr Learner IC Day 18

<sup>364</sup> SBH/5/A Sect 10, SBH/10 Para 3

<sup>365</sup> SBH/5/A Sect 10, SBH/10 Paras 3 & 5, Mr Mitchell XE by SAVE Day 20

<sup>366</sup> SBH/10 Paras 11 & 12, CD12.6 para 4.2

owns. Schedules submitted by the City and TPL indicate that the buildings have been systematically neglected over a number of years, with vegetation growing even on the inside. Moreover, no evidence has been submitted to suggest that the buildings are in imminent danger of collapse. PPG15 specifically states that applicants should not benefit from their neglect but that is what is sought here.<sup>367</sup>

- 8.4.5. In terms of the tunnel lids, the City has an obligation under the 1875 Act to retain and repair them. However, no details of any maintenance were presented to the Inquiry, even in response to a request by the Inspector. NR states that some structures of a similar age in London would be in a better condition whilst some would be in a worse state. However, NR does not consider the tunnels under the site to be a safety hazard, which puts the volumes of technical engineering material in context.<sup>368</sup>
- 8.4.6. PPG15 also requires that the freehold should be marketed. The City maintains that it cannot dispose of the freehold due to the statutory duty to maintain the tunnel lids, but it has not even marketed any leasehold interest. No reasonable efforts have been made to sustain existing uses or find new ones. Successful shops in the General Market Building have been closed. SAVE has regularly contacted the City offering assistance in finding new uses. Agents used by the City stated they could not act as they had not been given clear instructions on what to do with the building. Despite offers from a number of organisations, the advice in paragraph 3.8 of PPG15 to keep historic buildings in some form of productive use as a means of securing their upkeep has been ignored.<sup>369</sup>
- 8.4.7. All approaches to the City have been rebuffed and it is clear that the City has been determined to continue only with TPL. The City's contract with TPL has never been formally notified in a transparent manner. A number of developers have expressed a wish to take the buildings on with re-use schemes that take account of the need to strengthen the tunnel lids, although this fact is not specifically mentioned in the majority of the letters. A report from 2002 indicates that some elements within the City have actively encouraged the redevelopment of the site from long before these applications. The City hopes that it can make a larger profit by demolishing the buildings, as well as passing on its statutory burden to bear the costs and liabilities of the repair and maintenance of the tunnel lids.<sup>370</sup>
- 8.4.8. A world renowned organisation has sought to utilize the buildings as a Blues Music venue, including performance area, restaurants, bars, recording studios, museum and ancillary accommodation. An offer of £2 million, which is still on the table, was put to the City. This is not conditional on anything and assumes the buildings are in their existing condition. A long lease with no gearing was proposed to start discussions but the City stated it was not in a position to talk due to its relationship with TPL.<sup>371</sup>

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<sup>367</sup> SBH/5/A 8.3 & 8.6, SBH/5/C Annex DD, SBH/10 Paras 6 & 8, CLC/8, TPL/13, CD16.7 para 7.1, CD20.1 para 10.46, Mr Wilkinson I/C Day 19

<sup>368</sup> SBH/10 Para 9, CLC/8, TPL/13

<sup>369</sup> SBH/5/A 8.2, 8.4 & 9.1, SBH/10 Para 10

<sup>370</sup> SBH/5/A 8.1-2 & 9.2, SBH/5/C Annexes Z & BB, CLC/8, TPL/13, SBH/10 Para 10, CLC/10/C, Mr Wilkinson I/C Day 19

<sup>371</sup> SBH/7/A 2.8 & attached letters, Mr Learner IC Day 18

- 8.4.9. The justifications advanced avoid the question of passing the building to some form of charitable ownership, as suggested in paragraph 3.17 of PPG15. It has simply been stated that the condition of the buildings and the liability associated with them would make it 'unlikely' such interest would exist. This is not evidence of a lack of interest.<sup>372</sup>
- 8.4.10. If it was imperative that the railway works be carried out, an independent application could have been submitted by the City or NR. However, there is no 'Plan B'. NR does not intend to submit an application, the applicants will not carry out the works unless they get permission for the offices, and the City continues to neglect the buildings in the hope that they will become incapable of restoration leading to a scheme that would make a profit and by-pass the duties under PPG15. The railway works could be done at any time, although it might cost more money and cause more disruption to do so, but this would be due to the City's neglect and it should pay the cost.<sup>373</sup>
- 8.5. Other Matters
- 8.5.1. SAVE is suspicious about the timing of comments from some local architects received at the very end of the Inquiry. It is not known what contact they have had with TPL or the City and the comments are not considered to reflect the views of architects who practise in the area. Very little weight should be given to them.<sup>374</sup>
- 8.6. Section 106 Agreement and Conditions<sup>375</sup>
- 8.6.1. The proposed Section 106 Agreement was first drafted in 2004 and alterations have been made right up to 21 January 2008. At the opening of the Inquiry the Inspector requested a signed copy of the Agreement, but that had not been submitted by the end of the Inquiry almost three months later. Indeed, a witness for the City accepted that it would not be sensible to sign the Agreement as it then stood. To have such a long gestation period there must have been major discussions and differences of opinion between the City and TPL.<sup>376</sup>
- 8.6.2. 'Best endeavours' has replaced 'reasonable endeavours', and its definition introduces the concept of 'commercially prudent'. It would be better undefined. SAVE would be happy to accept that 'best endeavours' obliges the applicant to take all those reasonable steps which a prudent and determined man, acting in his own interest and anxious to go ahead with a scheme, would have taken. Those are the words in *IBM UK Ltd v Rockware Glass Ltd 1980 FSR335*, but they are a far cry from what is used here.<sup>377</sup>
- 8.6.3. In summary, objections relate to Schedule 1 of the proposed Agreement. A Bond is required as both TPL and Thornfield Properties PLC have weak balance sheets and profit and loss accounts and it is not possible to identify if they have the means to fulfil their obligations. Only the City's legal costs have to be paid unless and until all consents have been granted.<sup>378</sup>

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<sup>372</sup> SBH/5/A 8.7, SBH/5/C Annex EE

<sup>373</sup> SBH/10 Paras 4, 13 & 14

<sup>374</sup> CD8.53, SBH/11

<sup>375</sup> CD12.6, CD3.5A

<sup>376</sup> SBH/10 Para 14, Mr Bennett XE by SAVE Day 10

<sup>377</sup> TPL/22, SBH/10 Paras 70-71

<sup>378</sup> SBH/10 Paras 72-73

- 8.6.4. Whilst these consents include planning permission, listed building consent and conservation area consent, there are other consents which are not, and could not, be identified. Even if all these consents are granted Thornfield's only obligation is to commence the Railway Structures Replacement Works 'sufficiently expeditiously'. That is not defined and means whatever Thornfield want it to mean. Thornfield do not even have to carry out the works during the likely possessions, only do the best they can, and they do not have to secure the other consents if it is not commercially prudent to do so according to the definition of 'best endeavours'. There is no time limit or certainty as to when any demolition or Railway Structures Replacement Works would be commenced.<sup>379</sup>
- 8.6.5. A pre-let agreement, without which there would be no commencement or completion of the development, only needs to be secured if it is commercially prudent to do so. There is no commitment to carry out anything unless Thornfield decides it is commercially prudent. All other obligations, except for the costs of the Agreement, only follow after the planning permission is implemented. The Agreement is not worth the paper it is written on and there is no guarantee that the Railway Structures Works or the proposed scheme would go ahead. This has to be balanced against the arguments for keeping perfectly sound buildings in a Conservation Area and allowing the market to decide whether they can be viably retained. The policy presumption of retaining the existing buildings is far from being overcome.<sup>380</sup>
- 8.7. Conclusion
- 8.7.1. The proposals offend all planning policies. They depend wholly on the quality of the replacement buildings, which have been shown to be incongruous, and on the state of the railway lids, which NR who are legally responsible for the railway says causes them no concern. All the applications should be rejected.<sup>381</sup>
- 9.0 The Case for Network Rail
- 9.1. NR made two written submissions, but did not intend to appear at the Inquiry. However, following a letter from the Inspectorate summarising a number of topics on which the parties sought information, written responses were made and a representative of NR attended the Inquiry to answer queries.<sup>382</sup>
- 9.2. Network Rail Infrastructure is responsible for the operation, maintenance and development of the UK's railway infrastructure, but passenger and freight trains are operated by the Train Operating Companies (TOCs) and Freight Operating Companies (FOCs). In addition to the track, signalling, underbridges, overbridges and tunnels for which NR is responsible, there are many bridges and tunnels that are not owned by NR and which are the responsibility of their owners to maintain.<sup>383</sup>

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<sup>379</sup> SBH/10 Paras 74-77

<sup>380</sup> SBH/10 Paras 78-83

<sup>381</sup> SBH/10 Para 84

<sup>382</sup> CD8.19, CD8.25, CD8.41A & D8.41B

<sup>383</sup> CD8.41A 1.4-1.6 & Annex 5 q)

- 9.3. The railway beneath the application site was originally constructed in an open cutting. This has been progressively roofed over by the City to form what is known as the Snow Hill Tunnel. The City is responsible for the maintenance of the tunnel, but has full development rights in the airspace above, subject to safeguards for the railway. In March 1898, the sidings on the site were leased to the railway for a term of 999 years with the City again retaining the airspace and associated development rights above. A small area within the southern triangular part of the site is not covered over and NR owns that land and the airspace above absolutely.<sup>384</sup>
- 9.4. Provisional agreement has been reached, with all the obligations on TPL, for this area to be covered over and incorporated into the development should the applications subject of this Inquiry be successful. This Agreement is expected to go to the Board of NR sometime in the month following the close of the Inquiry. NR has had regard to its position but does not consider that it has an advantage as described by EH. The draft Agreement with the City and TPL is its best commercial judgement. This started as a standard agreement but has been modified to take account of the particular circumstances of this case. A signed copy will be forwarded to the Secretary of State if it is accepted by the Board.<sup>385</sup>
- 9.5. The City undertakes a detailed examination of the structures on the site every 6 years and a visual inspection every year and, when necessary, reports to NR on the state of the structure and any works the City requires to undertake. The Thameslink programme has relied on this regime continuing. Although NR holds certain information, the structure is the responsibility of the City and they should hold any records of past repairs/maintenance. Notwithstanding the City's inspections, NR clearly has an interest and also inspects, and is aware of, the condition of the structure. If there was a safety issue NR would step in regardless of any legal position. Each structure should be assessed on its own merits but, in general terms, the condition of the Snow Hill Tunnel is not dissimilar to many other structures of the same age on the network. NR's prime concern is safety and it is comfortable that the structure is safe as it currently stands.<sup>386</sup>
- 9.6. Railway industry practice and regulation requires NR, the TOCs and FOCs to apply for disruptive access to the railway. Whilst the City has a right of access to undertake repairs to its structures, there is no automatic right of access except where the immediate safety of the railway is at stake. Under the *London Central Markets Act 1875*, NR is only entitled to compensation at the rate of £50 per hour when the City seeks access for maintenance and repair. However, negotiations in relation to the works proposed in the applications have been on the basis that the applicant would pay the full cost of any possessions, irrespective of the provisions of the 1875 Act. Whilst £50 per hour might have been a fair cost in 1875, possessions now cost thousands of pounds an hour. An unplanned disruption in the peak period could cost from £800,000 to £1 million an hour and the cost would fall on whoever was responsible.<sup>387</sup>

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<sup>384</sup> CD8.41B,

<sup>385</sup> TPL/19, CLC/9, Submission on behalf of Network Rail Day 20

<sup>386</sup> CD8.41A Section 3 & Annex 5 q), r), s) & t), Mr Mitchell XE by SAVE Day 20

<sup>387</sup> CD8.41A Section 3 & Annex 5 k), CD8.41B Para 6, Submission on behalf of Network Rail Day 20, TPL/19

- 9.7. Thameslink has been in the offing for a long time and the City has been waiting to 'piggy back' on the Thameslink possessions. Now that the Thameslink Programme is funded, and construction timetables are known, there is an opportunity with extended access to do works without disruption to the travelling public. The City has been encouraged to consider what works it wishes to undertake during the more regular access that will be available. The City's works would need to be complete by August 2009, but as the scope is not known NR does not know when they would have to begin. NR has assisted the City in securing access for the purpose of inspecting its structure, and more recently has discussed the impact of various proposals with the City's developer TPL. The only NR contact with EH and its consultants was on 2 November 2007, although a report by EH's engineer was given to NR by TPL prior to NR's letter of 24 October 2007.<sup>388</sup>
- 9.8. Blackfriars Bridge is not strong enough to carry freight trains, and there is no plan to introduce freight or diesel locomotives to this section of the network, other than the two or three a year currently used mainly for maintenance. The strategic Thameslink passenger route serving the City runs through the Snow Hill Tunnel beneath the site. Currently 8 trains an hour, of 8-car maximum length, pass through the tunnel at peak times. The Thameslink programme will introduce a two stage step-change in rail capacity. It will also offer many more direct journeys through London alleviating pressure on the Underground and other modes of transport. The first phase will provide 12-car capability at a maximum frequency of 16 trains per hour by December 2011, whilst the second phase will provide 24 12-car trains per hour. Works in the Snow Hill Tunnel to support the Thameslink programme (track and signalling, lineside infrastructure, overhead and third rail electrification and remote condition monitoring) will be completed during the period from January 2009 to December 2011.<sup>389</sup>
- 9.9. Trains currently run at approximately 30 minute intervals throughout the night from Sunday to Friday nights leaving a 4.5 hour period on Saturday nights with no trains running. However, the Thameslink franchise operator recognises the need to accommodate extended periods of access to this section of the railway. Preparatory works are being undertaken this year and work will start in earnest in January 2009. In the first 6 months of 2009 the Thameslink works would be concentrated at the stations rather than in the tunnel.<sup>390</sup>
- 9.10. Extended periods of train free access are being arranged for the three years from January 2009. As they are not all known yet it is not surprising that they are not mentioned in the Agreement between NR, the City and TPL. In 2009 there will be no trains after 22:30 until 04:30 every night of the week. In addition, there will be 7 No. 12 hour possessions (Saturday night into Sunday), 13 No. 27 hour possessions (Saturday night to Monday morning), 15 No. 52 hour possessions (All day Saturday and Sunday with additional time each end) a 75 hour possession at Easter and a 149 hour possession at Christmas. It is expected that similar possessions would be available in 2010 with slightly less in 2011. There would be no long possession at

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<sup>388</sup> CD8.41A Annex 5 O), p) & u), Mr Mitchell XE by SAVE Day 20

<sup>389</sup> CD8.19, CD8.41A Sect 4 & Annex 5 v)

<sup>390</sup> D8.41A Sect 5 & Annex 5 f), Mr Mitchell XE by EH Day 20

Christmas in 2011 as the Thameslink works would be complete. There is a reasonable likelihood of access for works to the tunnel roof structure in all these periods and NR would do its best to help. However, any unplanned works or overruns could lead to disruption.<sup>391</sup>

- 9.11. After December 2011 train services will resume operating in a similar way to currently and access will again be restricted to a maximum of 4.5 hours on a Saturday night. Significant possessions after 2011 would become harder to agree and would be likely to be centred on weekends and low commuting periods such as bank holidays and Christmas. Even these periods are expected to experience higher passenger numbers, as demand for 24 hour access to Luton and Gatwick airports increases, and so would also result in disruption to services.<sup>392</sup>
- 9.12. Additional access would not be impossible and extra possessions could be applied for, but the process normally requires an 18 month to 2 year lead in to allow passengers to be warned in adequate time. Theoretically the number of 52 hour possessions could be increased and Christmas 2011 could be used for a lengthy possession. Another option would be to have a lengthy possession in August 2011. Summer possessions are not unheard of abroad, but there could be a challenge to such a proposal. Although many people would be on holiday, rather than commuting, there are more tourists at that time. NR has tried hard not to close the railway for long periods, and would rather not take such options. The fact that the Thameslink works in the area, including the demolition of Blackfriars, will be carried out without a blockade indicates that closure is not a serious consideration. If work slipped this could cause problems. There will be three years disruption to upgrade the route and after this period disruption should be kept to a minimum. There is, therefore, an incentive to do any works prior to the end of 2011.<sup>393</sup>
- 9.13. There is currently an overlap of the OLE and third rail electrification systems which allows trains to switch from one system to the other at Farringdon. Trains that suffer a malfunction during changeover are sent along the Moorgate line to clear the way for the next southbound train. This would not be possible after the Moorgate line is removed in December 2009. Trains that suffer a malfunction during changeover after that date would have to be sent back north after passengers have disembarked. Farringdon is already a busy, and often congested, station. Therefore, as part of the Thameslink works the OLE system is to be extended to City Thameslink, which is a much less congested station, for passengers to disembark. For this reason it would not be operationally acceptable for the OLE to be removed beneath the site for any period longer than a possession.<sup>394</sup>
- 9.14. If the changeover point were moved to St Pancras there would be no gain as an attempt is being made to take it out of a 2 track railway. The railway is still 2 track at St Pancras and north of there the track splits so that two changeovers would be needed. As each would cost around £70-80 million there is not a good business case for this. In any event, it would not be

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<sup>391</sup> Mr Mitchell XE by City Day 20

<sup>392</sup> CD8.41A Sect 5 & Annex 5 f), h) & i), Mr Mitchell I/C Day 20

<sup>393</sup> Mr Mitchell XE by SAVE & EH Day 20

<sup>394</sup> CD8.41 Annex 5 d) & e)

technically possible to move the changeover to another location and still meet the current programme. The changeover must be moved south to City Thameslink. Changeovers at Farringdon could be extended, but the option of using the Moorgate line would have gone. Although there are only one or two changeover failures a year, safety would be compromised and that would not be a comfortable decision to make. If the station became congested, the Underground could run through Farringdon without stopping. It is accepted that failed trains are moved to Moorgate at present but closing Farringdon to the Underground trains would lead to disruption for passengers and move congestion onto the Underground.<sup>395</sup>

- 9.15. The current intention is to install the wires supported on gantries through the Snow Hill Tunnel in the latter part of 2009. Once the lines are energised any works to the tunnel lids would be more difficult, as the wires would be in the way. The power would also have to be disconnected before works could be carried out. Any unplanned disruption to services caused by overruns or infrastructure failure such as damage to the wires, that could not be rectified within a possession, would be likely to cause severe passenger disruption the following morning. Whilst NR would be flexible in where it worked, the OLE wires would have to be commenced by early October, and up and tested by the end of the year. Therefore, from an operational viewpoint, any works to the roof would be best carried out in the first half of 2009 when extended access would be available and before the OLE wires are erected and energised.<sup>396</sup>
- 9.16. The City has estimated that 'close down' and 'start up' procedures would mean deducting around 2 hours from each possession, removing and replacing the OLE wires would take a minimum of 6 hours and that the removal and replacement of the gantries and wires would take a minimum of 1.5 days. However, NR considers that 'close down' and 'start up' could be achieved in a total of 30 minutes, the wires would only take around 4 hours and the gantries and wires 8 hours to take down and replace. The shorter times would be due to some of the operations being carried out every night for three years leading to a 'slick' operation. In this type of situation the installation could also be modified to enable quicker work. The gantries would be at approximately 10 metre centres and if adjacent gantries had to be removed the limited space might mean it would take 8-12 hours. It is probably correct that there would be insufficient space for high level propping to be left in place and it is hard to imagine that any significant track level propping could be left in situ whilst trains were running.<sup>397</sup>
- 9.17. The result of this is that there would be likely to be only 1.5 hours of effective working time in a nightly possession, 7.5 hours in a 12 hour possession and 22.5 hours in a 27 hour period. Longer possessions would be less affected by time dismantling and erecting. If 1.5 days were necessary for propping that would leave only 14 effective working hours in a 50 hour possession. If propping were needed for concrete, such as a slab, to cure even a 5 day possession would not be a long time<sup>398</sup>

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<sup>395</sup> Mr Mitchell XE by SAVE & EH Day 20

<sup>396</sup> CD8.41A Sect 6 & Annex 5 c), j) & n)

<sup>397</sup> CLC/13 Paras 8, 9 & 10, Mr Mitchell I/C Day 20

<sup>398</sup> CLC/13/A, Mr Mitchell I/C Day 20



- 9.18. The Smithfield sidings are used to hold empty trains during the day as part of the daily scheduled timetable, as well as providing a means to clear the running lines as part of the recovery process when services are disrupted. This occurs 5-10 times a year. A 12-car and an 8-car train can be accommodated in the sidings, which are needed for the running of the daily train service, and would be no more available than the running lines. An empty train could physically be run to sidings elsewhere, but there are not many opportunities to the north and trains would have to go north of St Pancras. To the south, the bays at Blackfriars would be lost in 2009 and the nearest siding would be between Blackfriars and Cannon Street. The reduction in 'bolt holes' means that the Smithfield sidings would become more important. It is not clear in terms of timetabling that stabling an empty train elsewhere could be achieved. It is already difficult to recover from disruptions. The sidings are not likely to be fitted with OLE wires as access is from the south where the trains would have been running on the third rail system.<sup>399</sup>
- 9.19. If the TPL proposal is not approved, NR would work with the City to ensure that any repairs or maintenance work were undertaken in the first half of 2009 before any OLE installation. Work needed after that period would, if at all possible, be accommodated before the end of 2011.<sup>400</sup>
- 9.20. NR is not saying the tunnel lids need replacing, but it would prefer to see them replaced in the first half of 2009 as this would be likely to mean less maintenance in the future. However, it is accepted that there are other considerations. The provision of high quality, long design life and low maintenance slabs to the tunnel lids is important as unplanned works and overruns of planned possessions would almost inevitably be extremely inconvenient to passengers. Over 80,000 people travel on trains through this section of the network in the morning peak and a much greater number would be affected by the knock on effects of the unavailability of this section of the network. There is an opportunity to resolve the issue for the longer term and ensure the safety, maintainability and reliability of the railway passing beneath the proposed development.<sup>401</sup>
- 10.0 The Cases for Interested Persons
- 10.1. Patrick Streeter considers that even in their current state, the buildings on the application site lift the spirit. The City, which has stated that only rebuilding will be considered, is not only the local planning authority but also owns the buildings. At the last count 8 Members sat on both the City Lands and Planning Committees and it is therefore impossible for the City to separate the two functions. Moreover, commercial considerations are paramount to the City, which tries to maximise the value of its holdings. Although a scheme for the restoration of the building was put forward by Urban Space Management, the City refused to put it on the agenda for objective consideration. The disrepair of the tunnels under the site is the City's fault. It has known of the need to maintain them all along and should have set up a fund for repairs. However, it states that they are a charge on

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<sup>399</sup> CD8.41A Annex 5 b)

<sup>400</sup> CD8.41A Annex 5 l), Mr Mitchell XE by EH Day 20

<sup>401</sup> CD8.41A Sect 7 & Annex 5 m), CD8.19, Mr Mitchell XE by SAVE Day 20

the buildings. Allowing the buildings to decay to strengthen the case for demolition should not be allowed to prevail.<sup>402</sup>

- 10.2. The Greater London Assembly sponsors London TravelWatch, the operating name of the London Transport Users' Committee, the statutory body set up to represent the interests of transport users in London. The Snow Hill tunnel beneath the site carries extremely busy Thameslink passenger services. There are conflicting views about the need to renew some of the tunnel structure but if there is a need for renewal it should be done in a coordinated manner to avoid needless disruption for passengers.<sup>403</sup>
- 10.3. Michael Stewart was born in Farringdon Road, has a Smithfield background, and loves the buildings on the site. Modern buildings have a depressing symmetry with glass rectangles abounding. There were no architects and much more variety in medieval times. Even if there is a need to replace the tunnel lids, the railway only runs under about a third of the building. There is no need, therefore, to destroy the whole. The buildings were designed, and should remain, as a whole. It would be a good idea to have another market similar to Borough. There are enough tower blocks in the City and plenty of 60's buildings that could be demolished.<sup>404</sup>
- 10.4. Lucy Rogers, an artist, illustrator and resident of London feels strongly that the General Market Buildings are an asset. Conservation policies are an expression of the collective response to places that have character and history. Smithfield is the most eclectic part of the City and cannot be easily summarised. As part of the 2004 London Architecture Biennale, 5 architects with groups of students looked at the whole market complex. Three groups chose to retain all the market buildings. There has been no chance of a creative approach as the City has a non-participatory approach. The City has a lack of appreciation of the 'messy' character of London. Its unenlightened view goes hand in hand with the pure economics of large-scale office building. The reuse of the market would benefit local residents, particularly in the Barbican, and would be sustainable. It would create local employment, whereas a large office block would simply relocate an existing workforce. The engineers could work together to find a solution to repairing the tunnels and the City could take a different view. The fact that the City sees the buildings only in terms of land value is an example of how its duty as a planning authority is compromised.<sup>405</sup>
- 10.5. The sheer size of the elements in the proposed scheme is not echoed anywhere else in the locality. Surrounding buildings consist of juxtapositions of smaller elements. The scale of the 19<sup>th</sup> century engineering achievements they are meant to reflect are not visible in the surroundings. The trusses of the new building would be distracting at ground level. The 'cut out' circles would seem incongruous and conflict with the formal assembly of the neighbouring buildings, which is a characteristic of the Conservation Area. Every façade of the General Market Building has a different character and it was designed with care and flexibility. The

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<sup>402</sup> CD8.23, CD8.32

<sup>403</sup> CD8.17, CD8.39

<sup>404</sup> Verbal Evidence Day 19

<sup>405</sup> CD8.49

proposal is almost identical on all sides and would provide nothing unique. For the benefit of the Conservation Area, and London as a whole, the buildings should be retained.

- 10.6. Mr Ewing, on behalf of E@H Org, presented a series of photographs to demonstrate why the existing buildings are considered to make a positive contribution to the character and appearance of the Conservation Area and the setting of nearby listed buildings. The proposals are considered to be of poor quality, contrary to the requirement to promote good design, and would, therefore, neither preserve nor enhance the character and appearance of the Conservation Area, or the settings of nearby listed buildings. As the proposal would be contrary to the aims of Sections 16(2), 66(1) and 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* it should be rejected.<sup>406</sup>
- 10.7. The Smithfield Market Tenants' Association represents traders in the historic meat market. The market employs around 2,000 people with at least a further 5,000 jobs relying on it. Objectors to the proposals have muddied the waters, and sought to undermine the market, by suggesting that it would be possible to create galleries, restaurants and performance spaces once the butchers have gone. The Market Tenants are happy to work alongside commerce, but not uses that would interfere with their trade or business.
- 10.8. The market achieves the highest hygiene standards of almost any market in Europe. The idea that the General Market Building could be seamlessly transformed into a media space or a market with food is unbelievable. Food stalls bring public health issues and would lead to problems with the Health Inspectors, as well as traffic conflict. The Association would oppose any scheme, including the TPL proposal, if food stalls were proposed. It is understood that there would only be a small number of stalls in the TPL scheme and if any were to be food stalls they would be opposed but that would only be a stall or two and would be a 'neighbour' issue.
- 10.9. Members of the Association worked in the old General Market Building which was old, cold, draughty and leaky. That is why it was left for the market building that is now thriving and fully occupied. The proposals would dovetail with the working market and contribute to the regeneration of the area. An office building with retail shops on the ground floor would not cause a problem and the building would lead to the opening up of West Poultry Avenue that would enable the western part of the Poultry Market to be used and help with the traffic problems across the market.<sup>407</sup>
- 11.0 Consultation Responses and Written Representations
- 11.1. The City's Access Team welcomes the access statement and raises a few points of detail whilst the Environmental Health Officer suggests a number of conditions that should be attached to any permission. Thames Water requested a condition be attached to any permission requiring an impact study, as the water supply has insufficient capacity to meet additional demands. The Environment Agency has no objection in

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<sup>406</sup> CD8.1A & CD8.1B

<sup>407</sup> CD8.38A, CD8.38B & CD8.38C

principle, and suggests a number of conditions. No further comments arose from examination of the Supplementary ES.<sup>408</sup>

- 11.2. The basement of the General Market Building provides access to a construction site for the proposed Crossrail development. However, other than the need for the replacement or repair of the tunnel structures in time for construction to begin (currently expected to be in late 2010) Crossrail has no particular interest in the proposed development but suggests a condition to safeguard the access. Transport for London has reached agreement on the highway impact of the proposals and considers that a condition should be attached to any permission to deal with the issues.<sup>409</sup>
- 11.3. DTZ on behalf of E.ON UK plc, who operate a combined heat and power plant at 47-53 Charterhouse Street, originally objected to the proposal but, following modelling work reviewed by the Environment Agency that demonstrated there would be no material impact on the operation of the plant, the objection was withdrawn. Whilst the London Borough of Islington replied asking that a decision be deferred pending its formal comments, no other comments have been submitted.<sup>410</sup>
- 11.4. CABE has reviewed several iterations of the proposal. It considers that it is for others to decide whether a convincing case has been made for demolition, but notes that good quality new buildings can make a valid contribution to a Conservation Area. Whilst the basic principles of the scheme, use, massing, and general approach, are supported, it is considered that overall the scheme would benefit from a more rigorous approach. Simplification of the architectural language would lead to a higher quality, and ultimately richer, result.
- 11.5. The form of the Farringdon Street part of the scheme would sit more comfortably within the transitional context of the Market and Farringdon Street. The decision to express the structure is sound in principle and the height of the ring truss corresponds with the datum height of the existing buildings. The overall massing responds to the restrictions of the St Paul's Heights. The uses are supported and the section gives an opportunity for the retail spaces to become something special.
- 11.6. However, it is considered that the majority of pedestrians would walk along the existing streets rather than through the building. The combination of the large structural supports, service areas and the disengagement of the lower ground and ground floor from the pavement that follows the natural slope, could be hostile to pedestrians. The main concern is the variety of aesthetic approaches to the elements of the façade. There is simply too much going on. The Farringdon Street/West Smithfield corner, which is the most prominent, is the worst case scenario. Even if recent changes represent individual improvements, the architecture still does not come together successfully as a whole. The approach to the 25 Snow Hill/29 Smithfield Street part of the proposal is supported, but the choice of the

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<sup>408</sup> CD8.4, CD8.5, CD8.11, CD8.9, CD8.7, CD8.48

<sup>409</sup> CD8.6, CD8.16, CD8.21, CD8.29, CD8.20

<sup>410</sup> CD8.15, CD8.27, CD8.8, CD15.1 pages 13-19

interstitial louvered bronze glass would sit unhappily with the listed building and the immediate context.<sup>411</sup>

- 11.7. The Smithfield Conservation Area Advisory Committee considers that the proposal lacks the impact of earlier schemes and regrets the loss of the bold Farringdon Road frontage and the smooth roof form which would have had a greater affinity with the existing Smithfield Market buildings. The proposal for the retained Red House needs to be simplified to minimise the impact on the retained frontages.<sup>412</sup>
- 11.8. The Victorian Society considers that the General Market Buildings are integral to the character of Smithfield Market and, despite war damage, contribute positively to the character of the Conservation Area. Architecturally they are easily identifiable as part of the whole market complex. The articulation of the elevations and the materials used clearly indicate the relationship with the meat market and other buildings. The design of the replacement building for 43 Farringdon Street would be a striking departure from the scale and character of the Conservation Area. The Red House and Lavatory Block would be reduced to facades with a modern glass block rising above, and overwhelming, the Victorian elevations. The Smithfield Trust objects to the proposal as the proposal would shut off the panoramic view of the Conservation Area from Farringdon Road and would not preserve or enhance the character and appearance of the Conservation Area. The City Heritage Society considers that the Victorian buildings on the site are worthy of rehabilitation and that the proposed building would be totally unsuited to this area.<sup>413</sup>
- 11.9. Professor Dan Cruickshank, Hon Fellow RIBA is surprised that the General Market Building is not listed as part of what is the largest, and arguably most impressive, 19<sup>th</sup> century market complex in Europe. It makes a significant contribution to the character of the Conservation Area, due to its fine detail and elegant design. The proposed building is bland, over scaled, and of a crude design. It is simply too alien in its design and ambitions and would overstep all boundaries. It would contradict and destroy the spirit of Smithfield. The General Market Building must be retained to make a contribution to this special and historic quarter of London.<sup>414</sup>
- 11.10. Dr Simon Bradley, the editor of Pevsner Architectural Guides, comments on the interpretation by TPL's expert on the entry in the *Buildings of England: City of London* volume. The entries were written in 1996 when parts of the market building were still in use and the eastern market renovation was underway. Had the buildings been under threat, the need to protect them would have been stressed. The history and origins of the Phoenix column were not known about in the 1990s, and its American origin should not be taken as grounds for dismissing its significance. The description of the western market buildings should not be taken as

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<sup>411</sup> CD8.22

<sup>412</sup> CD8.3

<sup>413</sup> CD8.18, CD8.14, CD8.24

<sup>414</sup> CD8.33

dismissive just because the grander 1860s buildings come off better in the text. A qualitative difference is not the same as dismissal.<sup>415</sup>

- 11.11. The general thrust of comments at the Inquiry Stage by Dale Martin, Mark Shaw ARB, Sherif Sadek, Miss E A Dent, Lisa Jennings, Richard Freeland, Lansons Communications, Judith Miers, Clare Harris-Ward, Sir Nicholas Goodison, Phil and Val Sellars, R G H Chapman, High Cantlie FRICS, Geoffrey Collens and George Nicholson, and those made by interested persons at application stage, is that the existing buildings on the site make a positive contribution to the character and appearance of the Conservation Area. The proposed scheme would be out of character with its surroundings and would fundamentally compromise the value of the remaining buildings in the Conservation Area. It would neither preserve nor enhance the character or appearance of the Conservation Area and should not be allowed. The building should be offered for sale on the open market. Some consider that the buildings should be spot listed and that urgent maintenance works should be carried out as the buildings have been neglected. The neglect and the cost of repair should not be allowed to justify demolition. The market could play a role in the regeneration of the area, similar to Covent Garden and Borough.<sup>416</sup>
- 11.12. Rolf Munding is a Director of Smiths of Smithfield and has pursued possibilities for the site in the past to no avail. He would be interested in buying the buildings and bringing them back into use. Peter Murray Hon FRIBA, Peter Oborn RIBA, Laurie Chetwood RIBA and Oliver Richards RIBA of local firms support the proposal. They consider that the site at 43 Farringdon Street is one of the most complex in central London. Any new building would have to take account of views from many directions and be attentive to the scale of Horace Jones' market as well as the modern offices on Farringdon Road. The existing buildings are of questionable economic value, out of scale with their newer neighbours, and no longer complete the enfilade envisaged by Jones. The new building would successfully navigate the variety of levels and scales affecting the site. The expressed structure would reflect some of the structural complexities of spanning the railway and the three part façade would be a striking feature in Farringdon Street.<sup>417</sup>

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<sup>415</sup> CD8.28

<sup>416</sup> CD8.13, CD8.30, CD8.31, CD8.34, CD8.35, CD8.36, CD8.37, CD8.42, CD8.43, CD8.44, CD8.46, CD8.47, CD8.50, CD8.51 & CD8.52

<sup>417</sup> CD8.26, CD8.53

## Inspector's Conclusions

[The references in square brackets are to earlier paragraphs in this report]

### 12.1. Introduction

12.1.1. The existing buildings on the site, which lie within the Smithfield Conservation Area, sit partly above railway sidings and running lines that carry the Thameslink services between Blackfriars and Farringdon. As well as being the local planning authority, the City is also the freehold owner of the site and has a statutory duty to maintain the railway tunnel lids. The proposals are for the total demolition of the General Market Building, the replacement of the tunnel lids with a mixed use scheme above, a building within the retained 'rind' of the Annex Building, and the redevelopment and refurbishment of the listed Red House and the Lavatory Block. [5.1.1, 6.1.1, 7.1.1, 8.1.1]

12.1.2. The statutory duties set out in Sections 16(2), 66(1) and 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* require decision makers to have regard to the desirability of; firstly, preserving a listed building or its setting or any features of special architectural or historic interest which it possess; and secondly, preserving or enhancing the character or appearance of a Conservation Area. These duties are generally reflected in UDP Policies ENV 16 and ENV 11. Farrell and Partners produced a report for EH, *Smithfield – Farringdon: Reinforcing Urban Identity and Character*, that was published the same month that the applications were submitted. This sets out general principles to guide the regeneration of the area. Although the document calls for a shared vision, neither the City nor the GLA were consulted in its production. In my view, therefore, very little weight should be given to this publication. [5.2.10, 6.2.1, 7.2.14, 7.2.23]

### 12.2. Character & Appearance of the Surrounding Area including the Settings of Nearby Listed Buildings and Conservation Areas

#### *The Character and Appearance of the Conservation Area*

12.2.1. The Smithfield Conservation Area was designated by the GLC in 1986 because of intentions to "redevelop the area with large office buildings" and "in view of the City Corporation's known proposals for the area". The City's *Smithfield Conservation Area Character Summary* identifies three sub-areas. The first two are: the area around the former priory Church of St Bartholomew that has a tight grain and modest scale; and, St Bartholomew's Hospital that is characterised by a single use and buildings of a significant scale and grain. The third sub-area is the market complex. The original 'Smoothe Field' was created in the 12<sup>th</sup> century on high ground close to the River Fleet. Meat has been bought and sold there ever since making it one of the oldest markets in London. [5.2.7, 6.2.6, 7.2.13, 7.2.15, 8.2.1, 8.2.12]

12.2.2. Although the *Character Summary* states that the Conservation Area as a whole evolved gradually, the market saw 20 years of rapid and substantial change, including the building of Holborn Viaduct. The 1860 *Metropolitan Meat and Poultry Act* allowed the construction of new buildings at Smithfield. The first phase, by Sir Horace Jones the architect of Tower Bridge, was completed in 1868 and integrated the market with the railway and surrounding roads. The Poultry Market opened in 1875, but was destroyed

by fire in 1958 and replaced in 1962 by the current building. The General Market Building was added in 1883 and the Annex, completed in 1888, was under construction at the time of Jones' death. [5.2.2, 5.2.25, 6.2.7, 7.2.11, 7.2.16, 8.2.1, 8.2.16]

- 12.2.3. Smithfield is unusual in being such a large area devoted to market uses, and with many of its buildings by the same architect. The market complex as a whole has a footprint of some 4 hectares, and the frontage to Charterhouse Street is in the region of 400 metres long. The buildings on the application site make up about a quarter of the whole market which, in my view, can still be read as a whole, despite the replacement of the Poultry Market Building. Indeed, it is still possible to progress under cover along a central aisle from the Meat Market in the east to the General Market Building in the west and the General Market is linked to the Annex by another canopy. Market uses and associated trades also spilled out into the neighbouring buildings. [7.2.2, 7.2.3, 7.2.11, 8.2.12, 8.2.16, 8.2.17, 11.9]
- 12.2.4. I consider that whilst the buildings on the site were not part of Jones' original 1860s scheme, they are attached by canopies to, and form an integral part of, the linear sequence of market buildings. These include the Grade II Poultry Market immediately to the east and the Grade II\* Meat Market beyond that. The long blocks progressing down the hill are a feature of the Conservation Area and differ from the more modest development, generally 4-5 storeys high, and tighter grain of the medieval plots. However, in my view, although the market buildings are substantial, they are generally low rise and consistent with the scale of existing development. [5.2.2, 5.2.7, 6.2.6, 7.2.2, 7.2.12, 7.2.16]
- 12.2.5. The *Character Summary* notes that materials form an important part of the character and appearance of the Conservation Area. Notwithstanding the more modern Poultry Market, the market buildings have traditionally been built using brick, stone and metal whilst the more modest buildings are predominantly brick, render or Portland stone. The replaced Poultry Market uses different materials but follows the building line and shares a similar rhythm and scale. In my view, one of the predominant characteristics of the buildings in the area is the richness and variety of detail with pinnacles, turrets and finials that enliven the skyline. [6.2.7, 8.2.13, 8.2.18]
- 12.2.6. War damage, and a decline in the meat trade and other industries, led to partial dereliction in the 1960s and 70s but the emergence of creative industries and a bar, restaurant and café culture has created a mixed-use character over recent years. Many predominantly low-rise historic buildings have been re-used maintaining a human scale at street level. Large businesses are not amongst the uses identified in the *Character Summary*. Smithfield lies on the edge of the City and already has good public transport links that will be improved by the Thameslink and Crossrail projects increasing its attractiveness. [7.2.16, 7.2.17, 8.2.14, 8.2.19]
- 12.2.7. The *Character Summary* does not identify buildings that make a positive contribution to the character and appearance of the Conservation Area as it is considered that the tightly drawn Conservation Area boundary itself defines the important buildings. The UDP notes that the area is characterised "by its relatively small scale of building and its remarkable mixture of uses". [6.2.8, 7.2.13]



### *The Existing Buildings*

- 12.2.8. The General Market Building steps down to Farringdon Street, under which the River Fleet now runs, and is not particularly prominent in views from the east. The underlying railway lines and the surrounding Victorian street pattern helped to define its form. The building has a basement with a market hall above but, unlike the other market buildings, it has small scale shops facing outwards giving an active street frontage. Those who worked in the building considered it a more effective market space than that dictated by the 'nave and aisle' plan of the earlier market buildings. Although the façade to Farringdon Street is a separate structure from the rest of the building, it is simple and in scale with the other elevations. Pilasters, similar to those on the Grade II\* Meat Market, echo the rhythm of the other market buildings.<sup>[5.2.3, 6.2.6, 7.2.3, 8.2.2, 8.2.3, 8.2.5]</sup>
- 12.2.9. A tower at the south-west corner reflects the towers on the Meat Market, albeit that it has lost its original conical roof. The north-west tower was destroyed by bombing and replaced in 1953 with a more modest structure. The central dome was also replaced circa 1960 by a concrete dome that is low and not readily seen. In my view, the repairs are of their time and reflect the Grade II Meat Inspector's office at 79-83 Charterhouse Street. Rather than lessen the contribution of the building to the Conservation Area, I consider that they are a part of its character. The north and south elevations have the same rhythm as other market buildings with bays stepping up the slope to main entrances set back from the building line. An entrance arch reflects a similar feature on 25 Snow Hill.<sup>[5.2.3, 6.2.2, 8.2.5, 8.2.6, 8.2.7, 11.8]</sup>
- 12.2.10. The Phoenix column, a feature of the General Market Building, was patented in America. The columns consist of flanged segments bolted together to create longer, stronger, supports avoiding the defects found when casting longer columns. They may have been introduced here as Jones had difficulties with the iron founder. Such columns tended to be concealed and it is unclear how common or important their use was in the UK. However, EH did not consider the columns of sufficient interest to merit listing the building.<sup>[5.2.4, 8.2.4, 11.10]</sup>
- 12.2.11. Listing has been considered on a number of occasions but a Certificate of Immunity from Listing was issued in December 2005. However, the Secretary of State noted that the decision was a finely balanced one. I endorse the view that the building is "a landmark structure with some very good details" that "contributes positively to the setting of several nearby listed buildings, many of which are part of, or related to, the market complex". In my view, the building makes "a significant and positive contribution to the character and appearance of the Smithfield Conservation Area, and also to the adjacent Charterhouse Square Conservation Area".<sup>[5.2.5, 6.2.4, 7.2.5, 11.11, 11.12]</sup>
- 12.2.12. The canopy between the General Market and the Annex appears to have been added around 1900 and interferes with elements of the buildings. However, I consider it an important element as it is prominent in views along West Smithfield from inside and outside the Conservation Area, and visually links the main east-west procession of buildings with those to the south.<sup>[7.2.6]</sup>

- 12.2.13. The Annex Market was originally constructed as a fish market and details reflect that use. Its architectural style reflects the Grade II\* Meat Market. The bays repeat the rhythm found throughout the market and details echo those found on the Meat Market and General Market Buildings. The building is unlisted and has a Certificate of Immunity from Listing but, in my view, its characteristics and relationship with the market complex contribute to the townscape of the Conservation Area, and the setting of the listed Red House, which lies within the same triangular block. [5.2.6, 7.2.8, 8.2.8]
- 12.2.14. The Lavatory Block lies to the south of the Grade II listed Poultry Market and east of the Red House. It is a simple, red brick, single storey, triangular block that also has a Certificate of Immunity from Listing. However, I consider that together with the Annex and Red House it forms an integral part of the market complex. Due to the predominance of low rise buildings on adjacent streets, and their 19<sup>th</sup> century market architecture, the buildings sit comfortably in their surroundings. [5.2.6, 7.2.7, 7.2.10]
- 12.2.15. The Red House was listed Grade II in 2005 as “the earliest existing example of a purpose built powered cold store”. It forms a group with the adjoining Annex and its main elevation faces the triangular Lavatory Block, to which it is related. The building’s design, and use of materials, reflects Jones’ market buildings and contributes to their settings. Its use did not require windows, and this is expressed in the predominantly ‘blind’ windowless appearance. The building is in poor condition and is on EH’s Buildings at Risk Register. It has not been in use since around 1983 and although there are no major structural problems, the floors have been removed. The southern section of the interior is now a largely open space with a modern lightweight roof above a skeletal framework of columns and floor beams. Some of the cork insulation remains reflecting its original function. An application to de-list is outstanding, and the advice of EH is that the listing criteria are not met. [5.2.6, 6.2.5, 7.2.9, 8.2.9]
- 12.2.16. There is little dispute that the existing buildings make a positive contribution to the character and appearance of the Conservation Area, although there is a difference of opinion as to the degree of that contribution. The City’s assessment of the buildings notes that “The General Market and the Annex Market, with their imposing facades, form part of an outstanding complex of mid-Victorian market buildings”. All the buildings that would be affected by the proposals are generally similar to the other market buildings in terms of their materials, design and scale. The General Market Building’s scale and style relates to the Annex and Lavatory Block and contributes to the settings of the listed Red House and Poultry Market. Despite the topography and the more modern Poultry Market, I consider that the General Market is still discernable as part of the long, linked, linear run of the market buildings west from the Grade II\* Meat Market that characterise this sub-region of the Conservation Area. In my view, for the reasons set out above, all the buildings on the site make a strong positive contribution to the Conservation Area as a whole and to the market sub area in particular. Paragraph 4.27 of PPG15, reflected in UDP Policy ENV 11, indicates there is a presumption in favour of retaining such buildings. [5.2.1, 5.2.5, 6.2.2, 6.2.3, 6.2.8, 7.2.1, 7.2.4, 7.2.12, 8.2.11, 8.2.12, 10.1, 10.3, 10.4, 10.6]

### *The Wider Area*

- 12.2.17. The Charterhouse Square Conservation Area adjoins the northern boundary of the Smithfield Conservation Area. The buildings on the opposite side of Charterhouse Street to the General Market Building, including the former Port of London cold store at 47-49 and the Grade II former central cold store and adjacent warehouses, were related to the market and share its scale and quality. I consider that the market, and market related, buildings make positive contributions to each others settings, and to the character and appearance and settings of the Charterhouse Square and Smithfield Conservation Areas.[7.2.20]
- 12.2.18. The General Market Building's setting has changed over time. Victorian development in the Charterhouse Square Conservation Area to the east gives way to more recent substantial development on Farringdon Street to the west. Farringdon Street north of Holborn Viaduct is typical 'City fringe' with large scale 20<sup>th</sup> century buildings lining the busy street creating a 'canyon' effect. The post-war offices to the north and south of the General Market Building are specifically excluded from both the Smithfield and Charterhouse Square Conservation Areas. I consider that the contrasts in scale between old and new reflect the City's development and throw the distinctiveness of the historic area into greater relief. Indeed, a similar view is expressed in *Conservation Areas in the City of London: A General Introduction to their Character* which acknowledges that "Many of the City's conservation area boundaries are tightly and abruptly defined by the contrasting scale and forms of development.....". [5.2.8, 5.2.9, 5.2.25, 5.2.37, 7.2.18, 7.2.19]
- 12.2.19. In my view, the marked contrast between the General Market Building and the office blocks on Farringdon Street creates a gateway to the Conservation Area. The low height of the buildings and the long straight roads allow views out of the Conservation Area to modern development beyond and the canopy between the General Market Building and Annex is visible from the eastern end of the market complex. From Farringdon Street, the canopy frames a view into the market. The open view from Holborn Viaduct allows the General Market Building's response to the topography to be seen. I agree with EH's Inspector who, when considering the listing of the General Market Building, stated "This block is a pivotal link between the important nodal points in the historical make-up of the City, between Smithfield and Holborn..... The block thus plays a vital part in defining the edge of the Conservation Area and is to be greatly valued in these terms". [6.2.2, 6.2.3, 6.2.6, 7.2.4, 8.2.15, 8.2.17, 8.2.20]
- 12.2.20. The Hatton Garden Conservation Area lies to the north-west of the site on the opposite side of Farringdon Road. From its south-west corner there are views towards the General Market Building and Holborn Viaduct. The Newgate Street and Postman's Park Conservation Areas lie to the south of the Smithfield Conservation Area and, in my view, have their own distinct character and appearance.[7.2.21]

### *The Proposed Buildings*

- 12.2.21. KPF, the architects for the proposed scheme, have received many awards and have considerable experience of designing environmentally responsible

buildings in the City, and of working with heritage buildings and areas. Their standing was acknowledged by Sir Terry Farrell for EH. [5.2.11, 5.2.12]

- 12.2.22. The architect's appointment was for a redevelopment scheme, although refurbishment options were also considered. An urban analysis led to guiding principles for the design and interested parties, including the City, CABE, EH and the GLA, were consulted. The proposed development would comprise three blocks, 43 Farringdon Street, the Red House and Annex block and the small Lavatory Block which would be retained and renovated for retail use. [5.2.12, 5.2.13, 5.2.14, 5.2.15]
- 12.2.23. The main body of the building would be contained within an expressed steel structure bridging the railway deck. There would be three main parts, a glazed base with two storey retail units and a large open retail market area, a three storey steel truss structure containing office floorspace around an atrium, and a three storey roof on top of the truss set back from the street frontages. [5.2.16, 5.2.18]
- 12.2.24. All servicing would occur at basement level. The steel trusses would provide a column free zone around the perimeter at ground floor level where shops would line Farringdon Street and a market hall would face the Poultry market. Much of the façade would be active. There would be a double height entrance into the site at the corner of Farringdon Street and Charterhouse Street and the market space could be entered from three corners of the building. The exposed trusses that would wrap around the building would vary from three to five storeys deep and the top of the truss would define a wall to the street. It would be at a similar level to the parapet of the Port of London Authority building on Charterhouse Street, more than 20 metres below the top of Caxton House, and approximately 13.8 metres below the main parapet of Atlantic House, both of which are on Farringdon Street. The bays within the trusses would be infilled with stainless steel hexagonal screens. The layered facades would have an environmental as well as aesthetic function reducing heat gain. The upper floor offices would have an entrance at the south-west corner of the site. Access to the upper floors would be via lifts in the atrium. [5.2.15, 5.2.16, 5.2.17, 5.2.18, 6.2.9]
- 12.2.25. Above the truss the roof would be supported by a space frame and the glass façade would step back in a series of faceted planes. The roof would rise towards Farringdon Street and an atrium would allow daylight penetration into the building reducing the need for artificial light. [5.2.16, 5.2.18]
- 12.2.26. The scheme for 25 Snow Hill would retain the listed Red House and the Victorian 'rind' façade of the Annex Building. A new office building would be placed behind the retained facades and the Red House reflecting the fact that this triangular part of the site has always consisted of an assembly of buildings. The new building would be a seamless glass box with bronze 'micro-louvres' bonded between the sheets of glass to give shade. The vertical circulation would be enclosed in a solid bronze clad element. The new structure would be set back 7-8 metres from the facades, although the third floor wing would cantilever out 5 metres above the Red House. The new building would form a bronze coloured backdrop to the retained facades which, with some new openings, would be clearly visible. The Red House would be kept separate on plan. [5.2.15, 5.2.19, 5.2.21, 6.2.10]

12.2.27. The ground and first floors would have retail uses with a small amount of offices above. The office accommodation would be accessed through a glass pavilion between the Annex and Red House on West Smithfield where the document store and loading bay are at present. About half the building would sit above the railway tracks that would be straddled by a major transfer structure. [5.2.20]

*The Effects of the Proposals on the Conservation Area*

12.2.28. In Conservation Areas it is the area, rather than any individual building, that is to be preserved or enhanced and I accept that the tests set out in paragraph 3.19 of PPG15 should be applied with that in mind. Guidance on appraising new development in Conservation Areas is set out in *Guidance on the Management of Conservation Areas* and *Building in Context – New Development in Historic Areas* reflecting paragraph 4.18 of PPG 15 which states that “Special regard should be had for such matters as scale, height, form, massing, respect for the traditional pattern of frontages, vertical or horizontal emphasis and detailed design.” [5.2.23, 6.2.11, 7.2.22, 7.2.23, 8.2.17]

12.2.29. I accept that if a case can be made for the demolition of the General Market Building it would be consistent with planning policy to make better use of the site. I also accept that buildings outside the Conservation Area form part of the site’s context and should not be ignored. However, I do not consider that the offices outside the Conservation Area should be used as the main basis for defining the mass, bulk, height and architectural treatment of proposals within it. They were specifically excluded from the Conservation Area and the City’s *Guidance* indicates that changes in scale are characteristic of the City. In my opinion, the starting point for any design within the Conservation Area should be the qualities and characteristics that led to its designation. [5.2.24, 5.2.28, 5.2.37, 8.2.33]

12.2.30. The proposal would fill an entire street block, just as the market buildings do, maintaining the existing plot pattern of the area. It would also sit within the constraints of the St Paul’s Heights controls but respond to the office buildings by stepping up towards Farringdon Street. This would be similar to a sketch illustration in Sir Terry Farrell’s *Manifesto for London* published in the *Architectural Review*, albeit that the roof in the sketch was lower. The proposal would also be lower than the commercial buildings, but its apparent height would be affected by the fall in ground level towards Farringdon Street. Rather than a gradual transition, there would be a sudden increase in height and massing west of the Poultry Market as the shoulder height of the proposed building would be around 19.11 metres above pavement level compared with the perceived height of some 10.42 metres for the Poultry Market. [5.2.26, 5.2.28, 6.2.13, 7.2.30]

12.2.31. In my view, when approaching from either direction along Farringdon Street the proposal would strengthen the ‘canyon’ effect of the busy road. The contrast in scale at the edge of the Conservation Area would be removed, which would undermine the rationale for the current boundaries. Notwithstanding the replaced tower and dome, I do not consider that the scale of the General Market Building is a weak end to the run of market buildings. On the contrary, it signals the market complex. The increase in scale and the structural skeleton of the proposed building would undoubtedly make a positive urban statement but I consider that the site

would no longer be read as the 'head' of the market and a marker for the Conservation Area. Indeed, any real appreciation of the market complex from Farringdon Street would be lost, except from limited areas at the junctions with Charterhouse Street and West Smithfield, as demonstrated in TPL's photomontage views 7, 8, 10, 16, 18, 19, 21 and 22. In my opinion, the proposal ignores the lower height of buildings in the Conservation Area and the datum of the market buildings and takes its cues from the buildings outside the Conservation Area. [5.2.28, 5.2.39, 5.2.40, 5.2.41, 5.2.42, 6.2.13, 6.2.14, 7.2.25, 7.2.26, 8.2.24, 11.9]

12.2.32. The Conservation Area comprises many styles. Whilst the listed Poultry Market reinterprets a traditional market, using materials and aesthetics of its time, it has a similar scale and massing to the linked buildings on either side. It does not interrupt the group, but sits comfortably within the long linear run of market buildings. The proposal, on the other hand, would not be visually and functionally linked to the adjacent market buildings by canopies. Although the replacement building would have three main horizontal 'layers', I do not consider that the truss would link the building back to the Poultry Market, drawing the eye into the area, as the Poultry Market would only be visible in views along West Smithfield and Charterhouse Street. The angular composition of the roof would, in my view, draw attention to the increased height and massing of the building. It would interrupt, rather than add to, the sequence of development. [5.2.27, 7.2.26, 10.5, 11.9]

12.2.33. The setting of the Poultry Market is partly provided by the modestly scaled market buildings, and partly by the backdrop of larger commercial buildings. In my view, the increase in scale and bulk of the proposal would further tip the balance towards the latter, reducing the relationship the Poultry Market has to neighbouring market buildings. The market complex and Holborn Viaduct are impressive feats of Victorian engineering, and the Poultry Market is listed partly for the technical virtuosity of its shell dome. I accept that its strong form would not be compromised by the proposed development. However, these existing structures are discreetly engineered and the presence of the railway, and the significant alteration in ground level, is unnoticed by passers by. The expressed truss wrapping round the building is claimed to be a 'heroic' modern reflection of these engineering feats but, in my view, would be alien to the spirit of the surrounding Victorian architecture. [5.2.30, 5.2.46, 6.2.12, 6.2.21, 7.2.24, 8.2.31, 11.9]

12.2.34. The bays, and rich articulation, that characterise all the existing market buildings, including the Poultry Market, give them a fine grain and human scale, even though they are deep plan buildings. This would not be replicated in the proposed building. I consider that the three strong horizontal layers would make it appear massive and monolithic. The large structural 'V' braces on the exterior of the building would emphasise its deep plan depth and represent a departure from the architecture of Smithfield. [7.2.27, 7.2.28, 8.2.26, 8.2.32, 10.5]

12.2.35. I do not consider that the contemporary eclecticism would add to the character and appearance of the Conservation Area. In my view, the 'emmental' or 'gruyere' metal screens, which would create a degree of shading to some parts of the elevations, would refer to a minor detail of the Poultry Market and would not reflect in any meaningful way the use of metal

in the other market buildings. The existing market buildings use a palette of materials that gives consistency and variety to the street level experience. In my view, the proposed materials would draw attention to the proposal, rather than integrate it into the area. [5.2.31, 6.2.12, 7.2.28, 8.2.26, 8.2.32]

- 12.2.36. In my opinion, each component of the market complex contributes to the setting of the whole, and the linked sequence of buildings is a powerful feature of the Conservation Area. The removal of the canopy spanning West Poultry Avenue, listed by virtue of being attached to the Poultry Market, would open up a view of the historic cold store to the north but would sever the visual and functional link that extends from the Meat Market through the Poultry Market and General Market Buildings to the Annex. I note that whilst EH did not consider this contentious when it was consulted on the 2005 applications it now agrees with this view. [5.2.46, 6.2.19, 7.2.38]
- 12.2.37. The imposing Grade II\* listed Meat Market would be separated from the proposal by the Poultry Market. Its visual integrity and the presence of its towers as defining features would be maintained but its setting as a part of the whole complex would be detrimentally affected by the demolition of a part of the linked sequence of buildings. [5.2.47, 6.2.21]
- 12.2.38. The public entrance to the replacement building would be in the same corner as the entrance to the General Market Building and the proposed market hall could be entered from three corners. However, there would be little difference in character between the public and corporate entrances to the replacement building. In my opinion, the monolithic composition would suggest that the building was not publicly accessible and so would do little to draw people into the Smithfield area. I therefore agree with CABE which considered that "the majority of pedestrians will walk along the existing street structure rather than through the building". Indeed, there is no indication as to when the proposed ground floor would be open to the public. [5.2.27, 7.2.42, 8.2.25]
- 12.2.39. I accept that CABE sometimes appears at Inquiries, and specifically asks for planning permission to be refused, but that it has done neither in this case. I also note that TPL intends to continue dialogue with CABE which did not have the opportunity, as I had, to view large scale samples of materials. Although CABE's letter of 30 September 2007 supports some of the general principles of the proposal, I consider it highlights a number of important reservations about the scheme. I note that the GLA expressed a different opinion. Whilst I accept that large parts of the elevations would be active, helped by the time controlled pedestrianisation of part of West Smithfield, I agree with CABE's view that "The boxy expressed structure, 'gruyere' screen panels, regular glazed grid and stealth roof each have a different architectural approach which compete with each other for attention. There is simply too much going on, and we do not think that a successful balance between design thinking, structural expression and architectural language has been reached". [5.2.51, 5.2.52, 7.2.27, 8.2.29, 11.4, 11.5, 11.6]
- 12.2.40. In terms of the Annex, EH accepts that it is a matter of judgement as to whether the proposed works would amount to substantial demolition requiring consent, but in any event an application for consent has been made. [5.2.32, 7.2.31]

- 12.2.41. A route through the Annex Building between the existing carriageway entrances would be retained. However, the demolition of the roof over the market hall, albeit not prominent in views of the building, and the insertion of offices above the ground floor would remove any ability to appreciate the three dimensional form of the building from within its triangular site. This has to be balanced against the fact that the retail and office would be appropriate for the area and would bring the 'rind' of the Annex Building back into use, reintroducing activity to this part the Conservation Area. The facades and roofs over the perimeter ranges of the north and south elevations, which I consider are key features in the townscape, would be retained and the insertion of some additional glazing into existing blind openings would not, in my view, have any significant impact on the character of the Annex elevations. [5.2.32, 5.2.33, 7.2.32, 8.2.27]
- 12.2.42. A new modern structure would be inserted behind the facades. The scale of the intervention, which it is accepted is considerable, is necessary to spread the required quantum of development across the whole site. I consider that from the junction of Farringdon Street with West Smithfield, and from Snow Hill, the new building would be a prominent element behind the small scale of the retained frontage (see photomontages 08a, 06, 23a and 23). Indeed, it is accepted that the upper part of the extensions would appear somewhat bulky in relation to the scale and character of the retained facades. In my view, notwithstanding the height of surrounding buildings, the new insertion would dominate the retained buildings. Moreover, from Snow Hill in particular, the cantilever would appear as a clumsy incongruous element out of keeping with its surroundings. [5.2.32, 6.2.15, 6.2.17, 8.2.24, 11.8]
- 12.2.43. The new glass 'box' would contrast with the retained buildings, similar to the glass box on top of the Tate Modern. However, it would reflect the post war offices on Farringdon Street rather than the architecture of the Conservation Area. Whilst it might be innovative, I agree with CABE that the glass elevations of the proposed insertion, with interstitial bronze louvres, would sit unhappily with the ornamental red and white retained façades. (see photomontages 22 and 23). [5.2.33, 7.2.33, 7.2.34, 8.2.27, 11.6]
- 12.2.44. The Red House is listed for its historical and technical interest as a purpose built, steam driven, cold store. Its geometry and lack of openings present challenges to its re-use but the building has a robust character. Internally, although some cork wall insulation remains, the building is in a poor condition. The Secretary of State was aware of this when it was listed. Although the intention would be to conserve internal features where possible, the proposal would effectively gut the remaining part of the interior. [5.2.34]
- 12.2.45. External alterations would also be needed to facilitate the proposed retail use. It is stated that the blind elements on the upper southern return of the building would be left as such but existing blind openings and solid doors are shown on drawing A-204 Rev 01 to be opened up and glazed. In my view, this would completely change the character of the building, which was designed without large windows due to its function as a cold store, contrary to the advice in Annex C of PPG15. [5.2.34, 6.2.15, 7.2.35, 8.2.30]
- 12.2.46. The proposed new extension would have a different form and materials to the Red House, whose setting already includes some post war commercial



development. However, although the new glass box office intervention would be set back from the retained street facades, it would rise above and behind the listed building with a cantilever over the roof of the Red House. I do not consider that the degree of separation that would be achieved would be sufficient to prevent the new proposal dominating the listed building, contrary to advice in PPG15. [5.2.35, 6.2.16, 11.7, 11.8]

12.2.47. I consider that the removal of the single storey loading bay would be acceptable and the retention of the 'rind' of the Annex Building would maintain an element of market context to the Red House. However, the removal of the canopy across West Smithfield would remove the visual and functional link between the Red House and Annex and the long linear run of market buildings isolating them from the remaining market structures. The introduction of a view towards the gatehouse of the Viaduct would not, in my view, mitigate this loss. I conclude that the proposals would be detrimental to the character and setting of the listed Red House. [5.2.35, 5.2.43, 7.2.32, 7.2.36]

12.2.48. The works to the Lavatory Block are mainly limited to internal alterations. I do not consider that the opening up of external doors and windows would have any significant impact on the character and appearance of the Smithfield Conservation Area. Indeed, the building is in a poor condition and its renovation and re-use would enhance this part of the Conservation Area. Improvements to the public realm between the Red House and the Lavatory Block are welcomed in principle, but little detail is provided. [5.2.36, 7.2.37, 7.2.43, 11.8]

#### *The Effect on the Wider Area*

12.2.49. Numerous views have been used to assess the impact of the proposals. The scheme would not be seen from Greenwich Park and Blackheath Point, and there would be no significant impact on views from Primrose Hill and Parliament Hill as only part of the roof would be seen. When seen from St Paul's viewing gallery, the proposal would be barely visible in the middle distance behind St Sepulchre's Church. [5.2.37, 6.2.20]

12.2.50. The Charterhouse Square Conservation Area, to the north and east of the site, already includes modern development and busy roads. However, I consider that the long linear run of market buildings makes a significant contribution to its setting, not least as many of the buildings on the north side of Charterhouse Street, including the Grade II listed 51-53, 67-77 and 79-83 Charterhouse Street and the unlisted Port of London Authority cold store, have a visual, and former functional, relationship to the market. Each of the buildings contributes to the settings of the others as part of the overall complex. I accept that the cold stores nearest the site are architecturally robust, but the demolition of the General Market Building would, in my view, erode their market setting, and that of the Conservation Area. In long views from the Charterhouse Square Conservation Area along Charterhouse Street, the linear run of market buildings steps down to Farringdon Street with a backdrop of modern development. The proposal would close the view and, in my view, increase the looming presence of modern development to the slight detriment of the Charterhouse Square Conservation Area setting. [5.2.49, 5.2.50, 6.2.22, 7.2.40, 8.2.31]

- 12.2.51. The townscape presence of Holborn Viaduct has been increased by gatehouse reconstructions in recent years, although its setting is partly defined by post-war developments. Although not designed as an ensemble, the Viaduct has a visual relationship with the site. In my opinion, the view from Holborn Viaduct is one of a number of key views in the Conservation Area, as it signals the gateway to the Conservation Area. It allows the extent of the whole market complex, including the low copper clad dome of the Poultry Market to be appreciated. Indeed, English Heritage's Inspector when considering the listing of the buildings noted that "This block is a pivotal link between the important nodal points in the historical make-up of the City, between Smithfield and Holborn..... The block thus plays a vital part in defining the edge of the Conservation Area and is to be greatly valued in these terms". It is accepted that the proposal would lead to a loss of historical association. The new building at No 43 would block the view into the Conservation Area from the Viaduct harming the legibility of the area as demonstrated by TPL's photomontages 7 and 24. I do not consider that this would be mitigated to any significant extent by the quality of the proposed building. [5.2.48, 7.2.24, 7.2.39, 8.2.31]
- 12.2.52. The boundary of the Hatton Garden Conservation Area closest to the site is characterised by post-war development, to which the General Market Building provides the only relief. In my view, whilst the proposal would sit comfortably in the context of Farringdon Street, the loss of this relief would have a very slight detrimental impact on the setting of the Hatton Garden Conservation Area. The listed 25 and 27 Farringdon Road and 41 Farringdon Street are some distance from the site and their settings would not be materially affected. [5.2.25, 6.2.14, 7.2.29]
- 12.2.53. The Newgate Conservation Area is characterised by a number of larger scaled contemporary developments. It is accepted that from Snow Hill the existing contrast in scale would be replaced by the new intervention at No 25, and from some points by the replacement at No 43. In my view, they would erode the contrast in scale not 'fill an awkward gap'. I consider that the difference in scale would be emphasised by the fact that only the lower of the three elements of No 43 would relate to the principal storey of the Annex, and the expressed truss at No 43 would relate to the lower cornice of the Red House. The Port of London building, seen between the Red House and the Lavatory Block, would be dwarfed by the increase in scale. This would be offset to some extent by the refurbishment of the Annex elevations which would slightly enhance the setting of the Conservation Area. The listed Police Station at 4 Snow Hill is separated from the site by a 6 storey building and there would be no significant effect on its setting. [5.2.44, 5.2.45, 5.2.46, 5.2.50, 6.2.14, 6.2.22, 7.2.21, 8.2.21]
- 12.2.54. The special character of the area includes an impressive variety of uses with small scale retail scattered through the area. I consider that the proposal would introduce a bulky office building and new retail spaces that would be significantly larger than others in the area detracting from the special character. [6.2.18, 7.2.41, 8.2.14]

### *Conclusions*

- 12.2.55. The buildings on the site make a significant positive contribution to the character and appearance of the Smithfield Conservation Area, and to the

settings of the Charterhouse Square Conservation Area and nearby listed buildings and views out of the Hatton Garden Conservation Area. Demolition of the General Market Building, and the canopies that link it to the Poultry Market to the east and the Annex to the south, would significantly detract from the market complex as a whole. The Red House and Annex would be divorced from the remainder of the market buildings eroding the historical importance of the whole complex. There is little of the 1860s-70s either side of the listed Holborn Viaduct and the loss of the visual relationship between it and the market would also leave the Viaduct stranded in the midst of modern development. [5.2.42, 6.2.19, 7.2.4, 7.2.12, 7.2.29, 8.2.11, 8.2.30, 12.2.16, 12.2.19]

12.2.56. The proposed replacement building would take its cue from modern commercial buildings that were specifically excluded from the Conservation Areas. Whilst it would sit comfortably in the context of Farringdon Street, it would neither appear as the head of the market, nor signal the presence of the Conservation Area behind. The monolithic layered design and 'heroic' expressed structure would emphasise its increased height, mass and deep plan form detracting from the character and appearance of the Conservation Area. The modern intervention behind the Annex facades and the Red House would dominate the historic facades, and the cantilever above the listed building would appear as a clumsy, incongruous element out of keeping with its surroundings. Glazed openings in the blind elevations of the listed cold store would change the character of the building. The proposals would be detrimental to the character of the listed Red House, the character and appearance of the Smithfield Conservation Area and to the settings of nearby listed buildings and adjoining Conservation Areas. Indeed, the City accepts that the proposal would conflict with UDP Policy ENV 11 and I consider that it would also conflict with LP policies 4B.1, 4B.7, 4B.9, 4B.10, and 4B.11, and UDP Policies ENV1, ENV16 and ENV18. [12.2.31, 12.2.32, 12.2.33, 12.2.34, 12.2.37, 12.2.42, 12.2.45, 12.2.50, 12.2.51, 12.2.52, 12.2.53]

### 12.3. Viability

12.3.1. PPG15 gives little advice on assessing viability, but EH's *Enabling development and the conservation of heritage assets* does. Although this is not a case of enabling development, I consider that the basic principles set out in the document would still apply. The guidance advises the use of qualified and experienced professionals, and indicates the use of development appraisals. The only qualified valuers to give evidence represented TPL and the City, and a *Viability Report* accompanied the applications. [5.3.1, 6.3.1]

12.3.2. Valuation exercises carried out by TPL and the City have employed a standard methodology. Knight Frank, in assessing the viability report accompanying the 2004 applications on behalf of EH, noted the use of standard market practice and did not criticise the methodology. SAVE has also sought to apply standard valuation methods. However, the standard method is sensitive to a number of variables, few if any of which are agreed between the various experts. EH's guidance notes at paragraph 5.1.2 that "The appraisal process, however, is a matter of informed professional opinion. It is not an exact science." Paragraph 5.3.1 goes on to state "Development appraisals by their very nature are prone to inaccuracy,

because of the large number of variables". [5.3.1, 5.3.6, 5.3.7, 5.3.8, 5.3.9, 5.3.10, 5.3.11, 5.3.17, 6.3.3, 6.3.4, 6.3.5, 8.3.2, 8.3.3, 8.3.4]

- 12.3.3. Despite some differences in assumptions, the experts for TPL and the City both conclude that the proposal would be viable. Indeed, EH accepts that the proposal would be just viable at a June 2007 valuation date. However, since that date the 'credit crunch' has arrived. Practitioners indicate that values have dropped by approximately 10% since June and that yields could slip from 5% to 5.5%. Although TPL states that a sensitivity analysis with a 10% change in yields would still provide a profit of 20%, EH maintains that a slip of as little as 0.125% would take TPL's return below the 20-25% stated to be required. I accept that developers take a long term view over a cycle, and that there would still be funding for good quality schemes. However, terms would not be as favourable. In my view, the proposal would be borderline viable creating some doubt as to whether it would go ahead, even if permission and consents were granted. An indication of this is TPL's submission that a more significant contribution towards affordable housing would affect the viability of the scheme. [5.3.13, 5.8.2, 6.3.1, 7.3.3, 7.3.4]
- 12.3.4. In addition, TPL's proposals are based on a 60% pre-let some 4-5 years in advance of the scheme being completed. Submitted examples of long range pre-lets differ from this case as they relate to sites in the City, rather than on the fringe as here, were achieved in different market conditions, or in some cases were for very large floor areas that are rare making a pre-let more likely. Indeed, even TPL's expert accepted in his proof of evidence, and in cross examination, that it was unlikely that this would be achievable. This would cast further doubt on the scheme progressing. A further factor is the reduction in revenue caused by the obligation to pay ground rent. Whilst the actual figures are redacted in the Agreement between TPL and the City, a report to the City's committees states it would be a minimum of £545,000 but could range to in excess of £1 million at 2002 rental levels. [5.3.14, 6.3.6, 7.3.3, 7.3.5, 8.3.1]
- 12.3.5. Although SAVE suggests that there is ample office space, and therefore no need for the proposal, neither of the two targets relating to offices in the City's *Performance Indicators and Targets* SPG are currently being met. The proposal would not be available until after 2010 and therefore would not count towards one of them, but it would contribute towards 'maintaining the potential supply of office floorspace, that is permitted but not yet commenced, above 1 million m<sup>2</sup> gross'. Over 35% of the floorspace that would become available in 2008 has been pre-let. Beyond 2009 figures are less reliable and I accept that developers would react to market conditions. [5.3.13, 6.8.1, 8.3.8]
- 12.3.6. SAVE suggests that the replacement of the tunnel lid has more to do with the nature of the funding of the scheme and also considers that funding is not guaranteed. TPL's latest accounts indicate an operating loss of £1.7 million and a negative net worth of some £6.8 million. Although Bank of Scotland is a venture partner with TPL, I consider that it would attach significant importance to any valuation appraisal for the project. I therefore accept that there is no evidence of agreed funding. [7.3.2, 8.3.8, 8.3.9]
- 12.3.7. Turning to retention and re-use schemes, there is again disagreement on the correctness of the inputs, and there are a variety of outcomes from the

various valuation appraisals and illustrations carried out. The valuations are not helped by the fact that there is no definitive retention and re-use scheme to value. A re-use scheme might be better able to withstand the vagaries of the commercial property market, as initial expenditure would be less, phasing the works might allow cashflow to start from an earlier stage, and occupiers might want to participate in financing the scheme. Such a scheme might also be more flexible than trying to pre-let 60% to major tenants. Residential uses that have higher values could also be included. However, none of this is certain. In my view, Smithfield would be a more attractive location for a market than Greenwich, due to its accessibility and proximity to attractions such as St Paul's. However, it is an untried location and I do not, therefore, consider that it can be assumed that it would be more attractive as a location than Borough or Spitalfields. [5.3.10, 5.3.12, 6.3.3, 6.3.4, 6.3.5, 7.3.8, 7.3.9, 7.3.10, 7.3.11, 8.3.1, 8.3.2, 8.3.3, 8.3.4, 8.3.5, 8.3.6, 8.3.7]

- 12.3.8. All the professional valuers agree a retention scheme would not be viable. EH's witness is an expert in running markets, not valuations, but a market would only be a part of the use, even in a retention scheme. His illustrations are more like business proposals than valuations but, regardless of what is thought of the methodology, they appear to be as sensitive to slight variations in inputs as the valuation appraisals. I consider that from the various appraisals a re-use scheme would be slightly more borderline viable than redevelopment, but that the viability could be improved by alternative uses for the basement now that the NCP interest in the car park has been purchased by TPL. [5.3.2, 5.3.3, 6.3.1, 6.3.2, 7.3.7]
- 12.3.9. Knight Frank on behalf of EH analysed Grimley's viability assessment for the earlier applications and concluded that, given the cost of repair, economic viability was unsustainable for a retention scheme. EH was also advised that this would be the case even if the lids were excluded. Paragraph 3.19 i) of PPG15 indicates that where it is clear that a building has been deliberately neglected in the hope of obtaining consent for demolition less weight should be given to the costs of repair. In my view, the schedules of repairs carried out, and the evidence of the engineers representing TPL and the City, indicate that the buildings and the lids have been neglected. In any event, part of the tunnel lid is under the highway and the costs associated with that part should be excluded. I also consider that the on-going maintenance of the lids should be part of the running costs, if not a matter for the City as owner with a statutory responsibility to repair and maintain. In my view, these factors would also improve the viability of any re-use scheme. [5.4.6, 5.3.2, 5.3.10, 5.3.15, 6.3.1, 6.4.5, 8.3.2]
- 12.3.10. Whilst I do not consider that the £12 million paid for the car park can be compared with the £2.4 million, which is for income derived from the use as a car park, I accept that the world is full of 'special circumstances' which is why policy requires market testing. I do not consider that it would be misconceived to consider that there might be interest when valuers have not demonstrated viability. In my view, the valuations have concentrated on institutional investors who would only form part of the possible market but would want full warranties for the tunnel lids to protect their investment. Whilst in 2005 EH Officer's considered that market testing would be pointless, the LAC and Commission disagreed. I consider that market

testing would be the real test of viability for any retention and re-use scheme, but has not been carried out. [5.4.38, 5.3.4, 7.4.20, 7.3.1, 8.3.8]

- 12.3.11. I accept that there was no attempt to mislead the Inquiry over the purchase by TPL of NCP's interest in the basement car park. The purchase figure was included in the wealth of documents provided and, in any event, is not relevant to a valuation appraisal as it could include hope value. However, there is no explanation as to why the purchase was not made absolutely transparent. To the extent that other uses for the car park might not have been fully included in valuations of retention and re-use schemes, the effect would be to make them more viable. I do not consider that this would be particularly significant amongst the many other variables about which the experts disagree. [5.3.16, 7.3.6]
- 12.3.12. Whilst I appreciate the concerns that if the principle of demolition is confirmed there might be an application for a larger replacement building, each application should be considered on its own merits. [7.3.6, 8.4.3]

#### 12.4. Repair, Maintenance, and Retention of the Existing Structures

##### *Introduction*

- 12.4.1. The structures on the site can be divided into the buildings above ground, and the below ground substructure. The latter comprises the lid, or deck, over the railway lines and sidings that are at or near the original ground level some 5 metres below the current street level. The area beneath the lids has been divided into five: Area A is the railway lines beneath West Poultry Avenue and part of the General Market Building; Area B is the sidings; Area C is beneath West Smithfield; Area D is south of West Smithfield; and Area E is that below the buildings on Farringdon Street including the ramp to the basement and the City's salt store. [5.4.2]

##### *The Condition of the Structures*

- 12.4.2. PPG15 emphasises the importance of regular maintenance and repair, and paragraphs 3.37-38 indicate that local authorities are expected to deal with their own buildings in ways that would provide examples of good practice to other owners. However, the engineers for both TPL and the City accept that the General Market Building has suffered from neglect and a low level of maintenance for some years. In my view, schedules submitted by TPL and the City demonstrate exactly how little meaningful maintenance and repair has been undertaken. Survey reports on the General Market Building indicate that, due to the condition of the roof and gutters, it suffers from water penetration that has led to corrosion of the iron and steelwork and wet and dry rot in timbers. [5.4.6, 6.4.5, 7.4.2, 8.4.4, 11.11]
- 12.4.3. The buildings were declared surplus to requirements in 1999, but it appears that even before then only the bare minimum of maintenance was undertaken. The Tenants' Association described the building as "old, cold, draughty and leaky". I accept that the market is financed from the City's own funds, and not run as part of its local authority functions, but I do not consider that this justifies ignoring the advice in PPG15. Indeed, the neglect of the General Market Building contrasts sharply with the fact that the City spends around £10 million a year on its listed buildings and spent £70 million on refurbishing the Meat Market Building. Notwithstanding the

neglect, all the engineers consider that the building is basically sound. Its condition would not, in itself, justify demolition. [6.4.3, 8.4.4, 10.9]

- 12.4.4. Whilst some of the buildings have brick cellars and are independent of the railway structures, the rest derive support from the lids over the railway. The columns in the basement are not a continuation of columns at ground level and forces are therefore distributed in a complex way that is extremely difficult to model or predict. Indeed, brickwork was not removed to expose the ends of some beams showing severe corrosion because removing a part of the structure would increase loads on other parts in an unpredictable way. [5.4.3, 5.4.8, 5.4.9]
- 12.4.5. All parties consider that the tunnel lids urgently require either repair or replacement. The City has an obligation under the *Central Markets Act 1875* to repair the tunnel lids. A report by Atkins in 2003 recommended urgent action in the next financial year, and led to the closure of West Poultry Avenue. These findings were reiterated by Whitbybird in 2005 but no works have yet been carried out. I accept that there would be advantages in carrying out the works to the tunnel lids in conjunction with the Thameslink proposals. These emerged in the mid 1990s but have been delayed. However, despite the fact that the City has received revenue from the General Market Building over many years, there is little evidence of regular maintenance of the tunnel lids. Indeed, TPL's engineer accepted that the tunnels had also been neglected and that had they been maintained with proper investment they would not be in the condition that they are. [5.4.15, 6.4.4, 7.4.3, 7.4.4, 7.4.18, 8.4.5, 10.1]
- 12.4.6. NR confirmed that although the condition of the structure was a matter for the City, it was aware of its condition, which is not dissimilar to many other structures of the same age on the network. NR's prime concern is safety and if there was a safety issue it would step in. However, it is comfortable that the structure is safe as it currently stands, which in my view puts the engineering evidence into context. [7.4.4, 8.4.2, 8.4.5, 9.5]
- 12.4.7. Over recent years numerous reports on the tunnel lids have been produced following investigations of what are considered to be some of the worst areas. The latest findings agree with earlier reports, but provide a much fuller picture indicating that conditions have got worse since reports in 2002 and 2003. Although only a fraction of the total ironwork has been inspected, and there might be worse conditions elsewhere, I consider that the engineering judgement used to identify areas for investigation would have found most of the worst affected parts of the structure. The main concerns relate to Areas A and D over the running lines. Area B, the sidings, requires inspection, and possibly modest works, but no major works are suggested for the basement car park and salt store in Area E, and little concern has been expressed about Area C under West Smithfield. [5.4.12, 5.4.14, 5.4.18, 6.4.6, 6.4.7, 7.4.7]
- 12.4.8. In summary, the girders that support the tunnel lid have deteriorated due to steam engine exhaust gases and, more recently, from wet conditions due to failed waterproofing of the decks above. The main problems are rivet and girder web shear, with some instances of girder bending capacity. Samples indicate that the wrought iron is up to 6 times more brittle than the steel members. Rivets and bolts have been used interchangeably, although they

work in different ways, and many of the rivet and bolt heads are missing or severely corroded. There is also some evidence of unreliable welded repairs. Notwithstanding this, the girders do not show any visible signs of structural distress. However, there is uncertainty about the condition of some parts as composite action between the girders, associated jack arch masonry, and fill allows loads to be shared to some extent. Whilst this could divert load away from a deteriorated or damaged girder avoiding a critical situation, it could also mask a more dangerous scenario where a number of girders reach a critical situation together. [5.4.12, 5.4.13, 6.4.6]

- 12.4.9. Much has been made of a finite element analysis carried out on behalf of the City. However, this is a simple analysis that makes many assumptions, including treating the structure as if it were elastic when it is not. In my view, it has to be considered alongside all the other investigative findings, and its results treated with some caution. [5.4.16, 6.4.7, 7.4.6, 7.4.9]
- 12.4.10. The condition of the girders and lids could be improved by remedial works, but this would be difficult to carry out and would require propping from below that would have to be removed when the railway was operating. This would be less problematic in Area E away from the railway. Such works would be expected to have an effective life of many years. Indeed, work carried out in Area B over the sidings in the 1960s appears to be functioning satisfactorily over 40 years later. [6.4.8, 6.4.9]
- 12.4.11. Although the City's engineer indicated that increased use of the tunnel would lead to an increase in the risk of fire, the calculations are theoretical and, in any event, fire protection measures could be implemented during any works to the tunnel lids. Similarly whilst the possibility of stray electrical currents causing corrosion was mentioned it was accepted that this is only a problem in a fault condition. [6.4.14, 7.4.10]

#### *Scenarios for Retention and Replacement*

- 12.4.12. There are three engineering options: repair, strengthening and replacement. A design life of 120 years would be desirable with a minimum requirement for trackside access for maintenance. It is suggested that if West Poultry Avenue is to be reopened it should be strengthened to take the maximum abnormal vehicle size under Department of Transport standards. However, West Poultry Avenue is the City's responsibility as highway authority and any strengthening should, in my view, be carried out irrespective of any repair or redevelopment. Means exist to fund the strengthening, but West Poultry Avenue has been closed for several years without adversely affecting the operation of the market. [5.4.20, 7.4.22]
- 12.4.13. The engineering reports effectively suggest three repair options. A new structure beneath the decks would not be viable due to headroom requirements. A 'hanger' scheme similar to EH's original proposal would retain the old structure hung from new beams or overslab, but would still require periodic inspection and repair of the old structure, whilst TPL considers that a repair only option, as now suggested by EH, would be impractical and leave an element of uncertainty exposing the public to risks. I accept that there might come a time when the cost of repair becomes disproportionate and the lids have to be replaced and that some aspects of the repair options could exacerbate existing problems. [5.4.21, 5.4.26, 6.4.13]



- 12.4.14. However, in 2004 it was only the fact that investment advisers had stated that repair would not satisfy the criteria to create an institutional investment that prevented Alan Baxter Associates from recommending that “provided that local repair works were carried out, as well as continuing maintenance and other repairs in the future, the structures would be capable of continuing to support the loads currently applied to them”. Indeed, all the engineering experts agree that given sufficient time and money the lids could be repaired, although for reasons similar to that above they would not all advise repair. [7.4.5, 7.4.8]
- 12.4.15. A number of scenarios have been considered. Scenario 1 would only involve critical repairs and work to support new loading requirements and meet modern standards. Warranties would not be available for the lids which it is claimed would affect options for future use. Repairs would be complex and any additional repairs identified could lead to a programme over-run. There would also be a continuing monitoring and maintenance requirement. Whilst there might be an element of risk in this option, NR has not indicated whether or not it might be acceptable. [5.4.22, 6.4.10]
- 12.4.16. In Scenario 2, the buildings and West Poultry Avenue would be brought back into use and the lids replaced over the tracks and sidings in Areas A, B and D. Around a third of the General Market Building and Annex would have to be demolished and rebuilt in some form. Warranties would be available for repaired areas but not for Area E over the car park and salt store that would have an on-going monitoring and maintenance requirement. There would be greater certainty in terms of programme and costs, and a substantial period until the first maintenance of the replacement lids was needed. Scenario 3 is similar to Scenario 2 but with the replacement of the lids over Area E giving full warranties. This would not require any additional demolition as it would be technically feasible to prop from the car park, although not cost effective compared to other Scenarios. [5.4.23, 5.4.24, 6.4.11]
- 12.4.17. Scenario 4 is similar to the application proposals. All the lids would be replaced with a new development replacing the General Market Building. Full warranties would be available and risk, in terms of programme and cost, would be much reduced. [5.4.25, 6.4.12]
- 12.4.18. An important difference between the repair and replacement options is that the latter would provide a new, largely maintenance free solution, which repair would not. However, because there are other structures on the line of a similar age to the existing lids, the need for maintenance would not end. Works could be coordinated to coincide and so reduce the number of possessions necessary. [5.4.29, 7.4.15]
- 12.4.19. Events at Billingsgate and Kensington Underground Station where demolition was originally recommended but later found not to be necessary indicate that pessimistic engineering pronouncements do not always turn out to be correct. My experience, like that of Sir Terry Farrell, is that when taxed, engineers can often ‘sharpen their pencils’ and come up with a solution. [7.4.9, 8.2.22, 10.4]

#### *Timescales*

- 12.4.20. Trains currently run beneath the site at approximately 30 minute intervals throughout the night from Sunday to Friday with a period of 4.5 hours on

Saturday nights when access might be possible. Funding has recently been confirmed for the Thameslink project and extended periods of access will be provided when it starts in earnest in January 2009. In the first 6 months, the Thameslink works would be concentrated at the Stations and not in the tunnels creating a 'window of opportunity' when works to the tunnel lids could 'piggy back' on the Thameslink possessions of the track without additional disruption to the travelling public. Currently over 80,000 people travel on trains through this part of the network in the morning peak period and any problems very quickly escalate to affect a much larger number of passengers. [5.4.27, 9.7, 9.9, 9.10, 9.20]

- 12.4.21. Trains currently switch between third rail and OLE power supplies at Farringdon. Trains that malfunction are sent along the Moorgate line to clear the way. When the Moorgate line is removed in December 2009 this would not be possible and the changeover is to be moved south to City Thameslink requiring the OLE to be extended through the tunnel beneath the site before that date. Access to the tunnel lids would be more difficult and time consuming after installation of the OLE. [9.13, 9.15]
- 12.4.22. Possessions of the railway, even for short periods, are planned around 18 months in advance to allow measures to minimise disruption to be put in place. Possession planning for 2008 and 2009 is currently underway, and even the Thameslink programme has sought to keep possessions to a minimum. The application designs are well advanced in the NR approvals process and discussions have taken place about using the Thameslink possessions for carrying out the works to the tunnel lids. This has been done 'at risk' but no alternative has been pursued to cover the eventuality of permission and consent not being granted. There would be an obvious public interest in avoiding additional possessions if at all possible. However, this has to be weighed against other matters. [5.4.28, 5.4.31, 5.4.33, 9.10]
- 12.4.23. TPL and the City claim that the application scheme works to the tunnel lids could be carried out in the 'window of opportunity'. Hochtief identified time critical elements needing resolution in July 2007 and whilst site investigations are on-going little detail has been provided. However, on the evidence provided, I see no reason to doubt that the replacement of the tunnel lids proposed in the applications would have every prospect of completion in the 'window' if started promptly. [5.4.31, 7.4.14]
- 12.4.24. Although TPL maintains that the repair option would require additional possessions, the City's engineering expert accepts that the known defects could be completed within the available time, even allowing for the loss of 10% of possessions. However, this would require all NR approvals to be in place and a contractor ready to start on site on 1 July 2008. This would not be possible as the approvals process alone could take up to a year and only the application option of replacement has been pursued by the City and TPL. [5.4.30, 6.4.16]
- 12.4.25. In my view, whilst the application of engineering judgement in identifying areas for investigation would have found the worst defects, it is likely that further investigations would find additional works to be carried out requiring additional possessions. Whilst NR has tried to avoid long closures of the railway, and would rather not take such options, it accepted that possessions in addition to the Thameslink possessions would be possible.

NR hopes to speed up 'close down' and 'start up' procedures, and the time required for removing and replacing the OLE wires once they are installed, which would increase the effective working hours in each possession. However, time would still be short in anything less than a 50 hour possession. The number of full weekend possessions could be increased by 30 each year adding around 1500 hours of 54 hour possessions. It might be possible to have a longer closure in August when many people are on holiday and a long possession at Christmas 2011 could be included, although the Thameslink works would just have finished. A more radical consideration would be not to move the OLE/third rail changeover point to City Thameslink until a later date. Although this would inconvenience some passengers in the event of a failure, such an eventuality only occurs "once or twice a year". [5.4.12, 5.4.30, 5.4.32, 7.4.11, 7.4.12, 7.4.13, 9.12, 9.14, 9.16, 9.17, 9.19]

- 12.4.26. The City has a right to possessions, at £50 per hour, to maintain the lids. This rate does not apply to replacement and redevelopment, which would therefore benefit far more from utilising the Thameslink possessions. NR confirmed that, should the applications be refused, it would work with the City to ensure that any repairs or maintenance were undertaken before the OLE installation, or failing that by the end of 2011, if at all possible. It would be in everyone's interests to co-operate in ensuring possessions were made available before the end of 2011 when train services will resume operating in a similar way to current services with access restricted to a maximum of 4.5 hours on a Saturday night. As a last resort the Rail Regulator could intervene to ensure that possessions were made available in the public interest. [7.4.16, 9.11, 9.19, 10.2]

#### *The Case for Demolition*

- 12.4.27. Paragraph 4.27 of PPG15 indicates that proposals to demolish buildings that make a positive contribution to a Conservation Area should be assessed against the same broad criteria as listed buildings, as set out in paragraphs 3.16-3.19. The first criterion in paragraph 3.19 is essentially a viability test, which I have considered in Section 12.3 above. The proposal is borderline viable and dependant on a 60% pre-let. [5.4.34, 5.4.35, 7.4.17]
- 12.4.28. The second criterion in paragraph 3.19 relates to efforts to retain the building in use, including the offer of the freehold on the open market. Market use of the buildings ceased in 1999. Resources were focussed on the Meat Market and it is not contended that market use should have continued. The City cannot offer the unrestricted freehold on the open market, as required by PPG15, as it cannot divest itself of the statutory duty to repair and maintain the lids. However, whilst I appreciate the City's desire to achieve a long term solution for the site, a long term lease could have been offered complying with the spirit of PPG15. Indeed, it seems to me that the City's Development Agreement with TPL, which was not widely publicised when signed, effectively creates a leasehold interest in the site. [5.4.36, 6.4.17, 6.4.18, 6.4.20, 8.4.7, 11.11]
- 12.4.29. The principle of market testing is well established and I do not consider that a valuation exercise is a substitute for it. Neither do I accept that it would be unrealistic to expect a purchaser to be found if a leasehold interest in the site were offered on the market. There have been numerous unsolicited expressions of interest in the site, although it is not known whether they

were aware of all the restrictions. I accept that the City was undertaking surveys and that the Crossrail Safeguarding Directions were in existence but the expressions of interest, even those from known, respectable, established companies were not pursued by the City, which accepts that it kept them 'at arms length'. Institutions are only a part of the market and non-institutional investment companies could well be interested in the site. [5.4.35, 5.4.37, 6.4.19, 6.4.20, 7.4.19, 7.4.20, 8.4.6, 8.4.7, 8.4.8, 11.12]

- 12.4.30. I note that a report by EH Officers to the LAC in 2005, relating to earlier applications, considered that a reasonable case had been made for the demolition of the General Market Building that was not undermined by a lack of marketing. However, the LAC, and later the Commission, disagreed. Whilst they had a recommendation from EH's valuers they concluded, as I have, that a valuation exercise is not a substitute for market testing. EH maintains that view in relation to these applications. [5.4.38, 6.4.21]
- 12.4.31. Paragraph 3.17 of PPG15 refers to the possibility of preservation in some form of charitable or community ownership. It has been suggested that the condition of the buildings and the associated liabilities would make such interest unlikely. However, there has been no serious suggestion that there is a charity or community organisation that would be willing to take the buildings on. Whilst there is little evidence that any have been approached, none have come forward. [5.4.34, 6.4.22, 8.4.9]
- 12.4.32. The third criterion in paragraph 3.19 of PPG15 relates to the merits of alternative proposals for the site, and also to the very exceptional cases where the proposals would bring substantial benefits for the community. Paragraph 3.17 indicates that any benefits should be 'substantial' and should 'decisively' outweigh the loss resulting from demolition. In this case the benefits to the community arise predominantly from repair or replacement of the tunnel lids and minimising disruption to the travelling public. The condition of the lids is worse than previously thought but, in my view, that is due, at least in part, to neglect. In any event, the City has a statutory duty to repair the tunnel lids and therefore repair, or even replacement, would not in itself be a substantial benefit to the community as it would have to take place regardless. [5.4.39, 7.4.21, 12.4.5]
- 12.4.33. Replacement of the lids would lead to a reduced need for future maintenance of this particular structure, but there are other old structures on the route that would need future maintenance. Co-ordinating future maintenance would reduce disruption to the travelling public. The other major benefit would arise from 'piggy backing' any works on the Thameslink possessions reducing disruption to the public. By only progressing the application scheme TPL and the City have effectively restricted the full benefit of this to replacement of the lids, as other options would not be in a position to begin as early. A repair scheme could also have benefited, and even if all the repair works found to be necessary could not have been completed within the Thameslink 'window of opportunity', disruption would have been minimised. Indeed, any overrun on the replacement scheme, albeit less likely, would produce some additional disruption. [5.4.31, 5.4.32, 5.4.33, 7.4.15, 7.4.16]
- 12.4.34. Re-opening West Poultry Avenue has been suggested as a further benefit. However, the market has successfully operated for a number of years

without the road being open. Its repair is a matter for the City as highway authority and the costs and disruption should not, in my view, influence a decision on demolition of the General Market Building. Other environmental improvements in the area could be provided by any redevelopment or re-use of the site. Whilst there would be a benefit from reducing disruption to the public, this has to be balanced against the neglect of the structures, despite the statutory duty, and the failure to progress any alternative so that it could also 'piggy back' fully on the Thameslink possessions.<sup>[7.4.21, 7.4.22]</sup>

### *Conclusion*

12.4.35. Both the buildings and the lids are in a poor condition, due at least in part to neglect. Although the buildings could be repaired, all parties agree that works are urgently needed to the tunnel lids. However, NR states that the lids are similar in condition to others of a similar age elsewhere on the network which puts the engineering evidence into perspective. A number of scenarios have been examined. The engineers agree that, given the time and money, the lids could be repaired, albeit that repair would lead to a greater ongoing maintenance liability. Only the fact that advisors stated that repair would not meet institutional requirements for warranties led some engineering advisors not to recommend repair.<sup>[12.2.1-12.2.19]</sup>

12.4.36. The Thameslink project creates a 'window of opportunity' to carry out works with minimal additional disruption for the travelling public. Although the City's engineer accepts that the known repairs could be done in the Thameslink 'window' only the proposed replacement scheme has been progressed and so would be the only scheme able to take full advantage of the 'window'. As far as the PPG15 test for demolition are concerned, the site has not been offered for sale and unsolicited expressions of interest have not been pursued, only the Agreement with TPL. Without market testing it is impossible to know whether there would be any non-institutional investors interested in the site. The only benefit to the community not achievable by other schemes is the minimisation of disruption to the travelling public from the full utilization of the Thameslink 'window of opportunity'. I do not consider that the benefit to the public would outweigh the loss of buildings that make a significant positive contribution to the character and appearance of the Conservation Area and the setting of nearby listed buildings and, in any event, there is no acceptable scheme for redevelopment.<sup>[12.2.20-12.2.34]</sup>

## 12.5. Accessibility

12.5.1. The *Design Statement* submitted with the application includes an Access Statement at Section 7. The proposed buildings have been designed to provide a fully accessible and inclusive environment for everyone in society. Level access would be provided to all the buildings, and lifts would provide access to all floors. I therefore consider that the proposal would meet the aims of PPS1, UDP Policies STRAT 10E, and ENV 27 and LP Policies 3A.14 and 4B.5 in respect of accessibility.<sup>[5.5.2, 6.5.2]</sup>

## 12.6. Retail

12.6.1. The retail facilities would be largely aimed at meeting the needs of workers in the immediate vicinity. A *Retail Impact Assessment* was submitted with the application. TPL accepts that the site is not in an existing centre, nor

allocated for retail in the development plan, but the *Assessment* does not include a sequential approach. However, its conclusions are broadly accepted by the City.<sup>[5.6.1, 5.6.2, 5.6.3, 6.6.1, 6.6.2]</sup>

- 12.6.2. The justification for this is that the City's UDP indicates that the pattern of retailing in the City is different from the rest of London, as shoppers tend to be workers who have commuted in and therefore walk to shops. Moreover, historically the site has been an established retail location, albeit that these uses have almost ceased. In addition, LP Policies 3D.1 and 5B.2 and UDP Policy SHOP 3 encourage retail provision close to public transport interchanges, amongst other locations. The site is close to two major main line stations, two Underground stations, and a number of bus routes. The area is also identified as an AOI in the LP and lies within the CAZ. I therefore accept that a sequential approach is less applicable in this case.<sup>[6.6.3]</sup>
- 12.6.3. In any event, the *Assessment* considers two Scenarios, one taking account of existing retail uses and the other ignoring them. The impact of the scenarios would range between 1.4% and 4.7% on seven local centres that have been considered. These impacts are relatively small and would be offset by expenditure growth within a few years. There would, therefore, be no significant impact on any existing centre, in accordance with the aims of PPS6.<sup>[5.6.4, 6.6.2]</sup>
- 12.6.4. LP Policy 4B.1 and UDP Policy ECON 6 both require mixed use development that maintains the character of Smithfield. I accept that there is no scope for disaggregation and that the proportion and disposition of units has not been finalised. However, although retail provision would enhance the social and economic activity at street level, if large modern retail units were provided they might conflict with the local character of the area that derives from the plethora of small units, contrary to the aims of UDP Policies SHOP 1 and SHOP 4. The impact of this could be mitigated by careful design, and a suggested condition would give control over the appearance of new shopfronts.<sup>[5.6.1, 5.6.2, 5.6.3]</sup>
- 12.6.5. Although EH commented on the retail issues it accepted that they would not, in themselves, justify refusing the planning application. Moreover, retail floor space would be a major part of any re-use scheme such as EH promotes. I consider that the proposal would generally comply with the objectives of national and development plan retail policies and that where there is any conflict it would not be so great as to justify refusing the application.<sup>[5.6.5, 6.6.4, 7.6.1]</sup>
- 12.7. Transportation
- 12.7.1. The site has the highest possible PTAL ranking of 6a. It is well served by bus services but it is anticipated that nearly 90% of commuters would arrive by rail, with only approximately 5% using a car. There is a surplus of off-street parking in the area and a maximum of 10 parking spaces would be provided on site, including two for disabled drivers, in accordance with LP Policy 3C.22 and UDP Policies TRANS 18, TRANS 21 and Appendix 4. Cycle and motorcycle parking would also be provided in excess of the minimum required by the UDP.<sup>[5.7.1, 5.7.2, 6.7.1]</sup>

- 12.7.2. Vehicle movements in the area have been studied and consideration given to the operation of the market. West Poultry Avenue would be re-opened providing an additional route out of the market. The number of waiting bays used by traders would be maintained and although some would be relocated most would be closer to the market buildings. A Section 106 Agreement would ensure the operation of the market was not affected during demolition and construction, and would also require a Travel Plan. The only vehicular access to the site would be a ramp to the basement and all servicing would be from that level.<sup>[5.7.3, 6.7.3]</sup>
- 12.7.3. The Farringdon Street/Charterhouse Street junction would be re-signalled to include a pedestrian phase, and a time managed partial closure of West Smithfield would allow access to the market during its working hours, but provide a pedestrian friendly area during office hours. Part of Smithfield Street between the Red House and No 29 would be stopped up and used as a small pedestrian plaza and a wider footway would be provided in West Poultry Avenue.<sup>[5.7.2, 5.7.3, 6.7.2, 6.7.3]</sup>
- 12.7.4. The site falls within the Crossrail Safeguarding Direction. The basement has been designed to give access to the railway for maintenance and to comply with Crossrail requirements. Crossrail has no objection, subject to conditions. Additional passengers would use Farringdon Station and, although NR has been unable to identify any specific proposals for improvements, a contribution towards future upgrading of the station has been agreed.<sup>[5.7.4, 6.7.4]</sup>
- 12.7.5. The effect on Crossrail, Thameslink and the capacity of Farringdon Station have been considered and, in my view, the proposal would generally comply with the aims of PPS1, PPG13 and the relevant development plan transportation policies. <sup>[5.7.4]</sup>
- 12.8. Other Matters
- 12.8.1. Paragraphs 17 -19 of *The Planning System: General Principles* gives advice on prematurity. Although EH maintains that it would be premature to determine the applications in advance of a specific policy framework for the Smithfield/Farringdon area, there is no DPD in the course of preparation or under review, there is no DPD at consultation stage or approaching submission stage, and there is no DPD or SPD process that could be prejudiced by consideration of the proposals. I therefore consider that refusal on the grounds of prematurity would not be justified.<sup>[5.8.3, 6.8.4, 7.7.3]</sup>
- 12.8.2. The site lies within the CAZ and LP Policy 2A.3 and Map 2A.1 also identify the Farringdon/Smithfield area as an AOI. LP Policy 5B.5 indicates that in such areas development opportunities should be promoted through higher density redevelopment. However, although the General Market Building is the only unlisted building within both the AOI and the City, I do not consider that it must be redeveloped. There are other sites outside the City but within the AOI.<sup>[6.8.1, 6.8.2]</sup>
- 12.8.3. As the site is within the CAZ and involves an increase in office accommodation LP Policy 3B.4 requires a mix of uses, including housing, although it is recognised that exceptions might exist. I accept that the City is exceeding its annual target of 90 housing units, and that 48-50 of the minimum of 100 homes required in the period, which is likely to be

extended to 2026, have already been provided. However, LP Policies 3A.1, 3A.8, 5B.1 and 5C.1 all stress the importance of the maximum increase in housing provision and the *Sub-Regional Development Framework* sets a minimum figure for housing, unlike offices where the figure is only indicative. [6.8.2, 6.8.3, 7.7.4, 7.7.5]

- 12.8.4. The permitted exceptions to LP Policy 3B.4 are limited, and whilst they may apply to parts of the City, they would not apply to it all. I note that the Mayor did not consider the area to be one where housing would conflict with strategic policy objectives. Whilst he has accepted a mix of uses with no housing elsewhere, he expressed regret at the absence of housing on this site. The *Sub-Regional Development Framework* seeks affordable housing within the AOI. Although the Mayor considered that a more significant contribution could be made towards affordable housing, the contribution would be in accordance with the City's SPG on Planning Obligations. Indeed, I note that TPL maintains that any additional contribution would affect the viability of the scheme. [5.8.2, 7.7.5, 7.7.7]
- 12.8.5. UDP Policy ECON 8 requires regard to be had to the operational needs of the meat market. Whilst there might have been some complaints about noise from vehicles, this has not prevented the market from thriving. Evidence demonstrates that people wish to live in the area, and new housing could include acoustic insulation. Moreover, there is a wealth of services in the immediate vicinity including a Sainsburys, fresh meat and vegetable specialists, and 24 hour shopping. I do not, therefore, consider that the provision of housing would be incompatible with the continued operation of the meat market. It is accepted that it might be possible to get 20 small flats on the upper floors, although concern was expressed about the need for a second service core to provide access to them. In my view, if a site the size of this one could not provide space for residential accommodation, together with access to it, then it is difficult to envisage many sites doing so. [6.8.2, 6.8.3, 7.7.6, 7.7.7]
- 12.8.6. LP Policy 5B.3 seeks to protect clusters of specialist activity and, although Map 5B.2 is difficult to read, the application site appears to lie within areas shown as office renewal, CAZ and mixed uses with strong special uses character. UDP Policies ECON 6 encourages the maintenance of the varied and special character of Smithfield and has three requirements, the first of which is that the amount and proportion of non-B1 uses should be maintained. However, the large increase in B1 use would produce a corresponding reduction in the proportion of non-B1 uses, contrary to the aim of ECON 6. The proposal is primarily for a commercial Grade A office building, which in my view would be out of character with the small-scale uses in the Smithfield area that UDP Policy ECON 6 seeks to protect. [6.8.3, 7.7.4, 7.7.8, 7.7.9]
- 12.8.7. The *Sub Regional Development Framework for Central London* indicates that potential uplift to office capacity is a key issue and sets an indicative figure. I do not consider that the need for office space would override LP Policy 3B.4, as a large amount of new office space has been allowed in the AOI and there is no reason to think the indicative figure would not be reached by 2026 without this proposal. I accept that the City is not currently meeting either of its office floor space targets, but I do not consider that the provision of housing would prejudice the ability of the proposal to contribute



to economic growth. This area on the City fringes contributes to the City as a financial centre and World City by means other than the provision of conventional office space. [5.8.2, 6.8.1, 7.7.8]

- 12.8.8. Although EH's re-use scheme does not include housing, that is not an application for consideration. I conclude that the failure to provide a mix of uses, including housing, would be contrary to the objectives of LP Policies 3A.1, 3A.8, 3B.4 and 5B.1 and that the reduction in the proportion of non-B1 uses would be contrary to the aim of UDP Policy ECON 6. [5.8.2, 6.8.3, 7.7.4]
- 12.8.9. There is no legal requirement to obtain an independent review of an ES, although it may have been prudent to do so in this case due to the City's interest in the site. The obligation under the Directive and Regulations is for the main alternatives to be outlined, which the ES does. None of the case law referred to enlarges this requirement. Indeed, I requested at the PIM in December 2006 that all parties agree which scenarios should be considered, and the City asked EH to highlight any areas of concern in October 2007. EH did not respond to either request. Although other scenarios were identified at the Inquiry, a Supplementary ES including additional information on alternatives has been produced and publicised. Even if the Directive is construed in its broadest sense, as EH maintains it should be, I consider that the matter of alternatives is adequately dealt with. [5.8.5, 6.8.5, 7.7.11, 7.7.12]
- 12.8.10. LP Policy 4B.6 requires planning authorities to ensure that schemes have the highest standards of sustainable design and construction and a scheme of this size is required by LP Policy 4B.9 to adopt "exemplary standards". The site is in a highly sustainable location adjacent to Farringdon Station in a zone for intensification designated by the LP. The proposal would provide a mix of uses and attract a large number of people, the majority of whom are expected to use public transport to get there, in accordance with the aims of paragraphs 5 and 27 of PPS1. Although the proposal would not re-use the existing buildings, it would re-use the land more intensely which, in my view, would satisfy the objective of LP Policy 4B.6. [5.5.2, 6.5.1, 7.5.2]
- 12.8.11. In terms of energy, the provision of a large atrium would preclude the need to use artificial light all day. The perforated metal panels at No 43 and the interstitial louvres at No 25 would prevent a significant amount of heat gain by screening the glass walls, and I saw in other buildings by the architects that atriums need not necessarily lead to extensive heat gain. The buildings would also include much heat generating electrical equipment but in addition to the passive shading provided by the elevational materials and layered design, a heat recovery strategy would be deployed in both buildings. However, the data to assess the energy requirements of heating and cooling is limited. [5.5.1, 7.5.3, 7.5.4]
- 12.8.12. Whilst the Mayor is satisfied that the building would comply with the energy policies in the LP, I consider that compliance has not yet been demonstrated. Many of the decisions would be the subject of suggested conditions or a Section 106 Agreement. Interested persons or bodies would not have a right to participate at that stage which, in my view, would be inconsistent with the aims of the EIA Directive and Regulations. [5.8.4, 6.5.1, 7.5.3]

- 12.8.13. A paperchase does not constitute an ES. In my view, although many environmental implications are considered in the ES, not all the information is clear. A tri-generation CHP system would be investigated but is not currently considered appropriate. TPL's architect stated that photovoltaics would be provided but the areas do not correspond to those in the original ES which are identified as 'possible'. Photovoltaic cells could not be provided on the roof of 25 Snow Hill due to shading and a note to the Inquiry indicates that photovoltaics are not considered a viable technology for the roof of 43 Farringdon Street although this was followed by the Supplementary ES which seems to suggest that 1,000m<sup>2</sup> could be provided at No 43.<sup>[5.5.1, 5.8.4, 7.7.13]</sup>
- 12.8.14. It is not known how much energy would be generated on site or what mode of generation would be adopted, although a Section 106 Agreement would secure that a minimum of 10% of the energy used will be provided by onsite renewable energy technology. A biomass boiler using recycled wood chippings and providing base space heating and domestic hot water is stated to be a major factor in achieving the 10% target, but there is little information on what fuel is available from locally sustainable sources, what volumes would be required, or what emissions to air there would be and how they might be vented away.<sup>[5.5.1, 5.8.4, 6.5.1, 7.5.3]</sup>
- 12.8.15. The target of achieving an 'Excellent' BREEAM rating for the office elements would not remedy the lack of data, as it uses many criteria that do not relate to energy efficiency. Should the Secretary of State be minded to grant planning permission, I consider that additional information on energy usage and power provision should be requested under Regulation 19 of the *Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999*.<sup>[5.5.1, 5.8.4, 7.5.3]</sup>
- 12.8.16. In terms of mitigation, the Section 106 Agreement requires method statements to be submitted for both demolition and construction activities which would ensure mitigation for all operations on site. Contributions would be made towards improvements at Farringdon Station and highway and footway improvement works to mitigate against the impact of increased pedestrian activity in the wider area as a result of the development. Conditions would address mitigation of plant and other noise that might be generated, as well as fume extract. Archaeological investigation and recording would mitigate against the loss of any archaeological remains as a result of the development, and the submission of flood attenuation measures, as requested by the Environment Agency, would ensure that any increased risk of flooding was reduced.<sup>[11.1]</sup>
- 12.8.17. Although there was no signed Agreement between NR, TPL and the City by the time the Inquiry closed, NR indicated that an Agreement representing its best commercial judgement was expected to go to its Board. If signed, a copy would be sent to the Secretary of State. Even if the Agreement was not signed, I consider it unlikely that NR would seek to hold the City/TPL to ransom. NR has expressed support for a new tunnel lid and acknowledged its obligation to make access available. The City has a right under the *London Central Markets Acts* of 1875 and 1886 and an Agreement of 1880 to access for the maintenance of the tunnel lids. In the absence of an agreement to carry out repairs or replacement during scheduled possessions, access would cost the City £50 an hour but would cost NR far

more. Moreover, the consequences of seeking a financial ransom would be disruption to the operation of the railway, and possibly safety implications, which would be inconsistent with NR's public position.<sup>[6.8.7, 7.7.15, 9.4, 9.6]</sup>

12.8.18. The City's resolution on the applications was made in the absence of a formal response from EH, but informal comment had been made in letters dated 20 March and 5 April 2007 and EH appeared at the Inquiry. Similarly, whilst EH considers that the lack of a Statement of Community Involvement reflects a lack of consultation, the application was publicised and many interested persons appeared and made representations to the Inquiry. I therefore consider that the aims of PPS1 have been met and that no one has been disadvantaged. Whilst I appreciate the concerns of the Smithfield Market Tenants' Association to safeguard the Meat Market, there is no environmental health evidence that food stalls would cause a problem. I note the concerns of SAVE but the representations from some local architects do not, in my view, raise any new matters not already raised by TPL and the City.<sup>[5.8.1, 7.7.2, 7.7.14, 8.5.1, 10.8, 11.12]</sup>

## 12.9. Section 106 Agreement and Conditions

### *Section 106 Agreement*

12.9.1. The proposed Section 106 Agreement was first drafted in 2004, and it continued to be altered until almost the end of the Inquiry. Although it is stated that agreement has now been reached between TPL and the City, a signed Agreement was not submitted by the end of the Inquiry despite being requested by then at the start of the Inquiry almost three months earlier. Indeed, a witness for the City accepted that it would not be sensible to sign the Agreement as it then stood. I have considered the latest draft, dated 21 January 2008, and if the Secretary of State is minded to allow the applications and a signed Agreement has been submitted, it will need to be checked against that draft.<sup>[5.9.1, 8.6.1]</sup>

12.9.2. The Development Agreement and its Supplement, between the City and TPL, do not oblige TPL to carry out the railway lid works. The Section 106 Agreement seeks, amongst other things, to close this loophole. The intention is that the grant of conservation area consent would trigger, and secure, the railway structure works. However, the definition of Planning Permission in the Section 106 Agreement does not allow for any subsequent amendments. If there were any amendments, a new Agreement would be required to ensure the completion of the railway structure works. The Section 106 also requires a Bond, as suggested by SAVE, to ensure that funds are available to carry out the railway structure works should the need arise.<sup>[6.9.1, 6.9.2, 8.6.3]</sup>

12.9.3. In the latest draft of the Section 106 Agreement 'best endeavours' replaces 'reasonable endeavours', but it seems to me that the limitation to what is "in all the circumstances.....reasonable" effectively negates the change. I accept that the judgement in *IBM v Rockware* indicates that the courts have no difficulty understanding terms such as 'reasonable' and 'commercially prudent'. However, the limitation to what is "commercially prudent" seeks to address the situation where it would not be commercially prudent or reasonable to undertake the works. This, coupled with the fact that the proposal is subject to the limitation of a 60% pre-let, would in my view

defeat the purpose of the obligation. TPL's viability witness accepted there was unlikely to be such a pre-let so far in advance of completion. If that were the case then it would not be 'commercially prudent' to carry out the works and I consider that the courts would not enforce works in such a situation.<sup>[5.9.2, 7.8.1, 8.6.2, 8.6.5]</sup>

- 12.9.4. The City maintains that conservation area consent should be granted regardless of any planning permission. However, clause 3.1 of the Section 106 Agreement states that many of the terms and provisions of the Agreement would not have operative effect until planning permission, conservation area consent, and both listed building consents have been issued. I therefore consider that all four applications must effectively stand or fall together, or a different signed Section 106 Agreement provided. Even if the trigger was a Conservation Area Consent, the 'commercially prudent' rider would mean that works would still not be guaranteed.<sup>[7.8.3]</sup>
- 12.9.5. Moreover, although the completion of the railway structure works during the possessions for the Thameslink works is put forward as a major reason for allowing at least the conservation area consent, the S106 Agreement does not require them to be carried out during the likely possessions. TPL are only required to do the best they can. Although SAVE contends that it is not known what other consents are needed, in addition to the four applications subject of this Inquiry, NR's *Technical Approval of Design-Construction and Maintenance of Civil Engineering Infrastructure* sets out NR's approval processes.<sup>[5.9.3, 8.6.4]</sup>
- 12.9.6. The latest amendments in respect of energy efficiency and sustainability do not alter the fact that planning permission would have been granted before the data necessary to fully assess the matter was supplied. Interested persons would have no right to participate in the later decision on the deferred matter. In my view, notwithstanding any other considerations, this would be inconsistent with the aims of the EIA Directive and Regulations and is all the more important in this case as the City is the landowner as well as the planning authority.<sup>[7.8.2]</sup>
- 12.9.7. Contributions towards various townscape and traffic improvements would also be required by the S106 Agreement, as would a contribution in lieu of affordable housing on the site. A travel plan and a method statement for demolition would also be required, together with measures to safeguard the use of the City's Rock Salt Storage Facility and to monitor and mitigate any TV reception interference. Although all these matters arise from the proposed development and, in my view, pass the tests in Annex B5 of *Circular 05/2005: Planning Obligations*, the Section 106 Agreement would not, in my view, achieve its aim of requiring the tunnel lids to be replaced. Without such an Agreement I do not consider that the proposals would be acceptable, even if acceptable in other respects.
- 12.9.8. A separate Agreement between TPL, the City and NR was to be put to NR's Board for final approval about a month after the close of the Inquiry. A copy of this should also have been sent to the Secretary of State when executed and would address the concerns about NR holding the City and TPL to ransom.<sup>[5.9.1, 9.4]</sup>

*Conservation Area Consent Conditions*

- 12.9.9. A number of conditions have been agreed between the City and TPL in relation to the four applications, but not all are agreed by SAVE and EH. EH has suggested alternative conditions in relation to the conservation area consent and listed building consent applications. A number of the conditions reflect the fact that the railway structure works need to start as soon as possible to meet the Thameslink 'window of opportunity'. I have considered the latest version of conditions set out in CD3.5B together with EH suggestions in EH/17, EH/18 and EH/19.<sup>[6.9.3, 7.8.3]</sup>
- 12.9.10. Considering the conservation area consent for demolition of the General Market Building at 43 Farringdon Street and part redevelopment and part refurbishment of the building at 25 Snow Hill and 29 Smithfield Street, the parties have agreed that the normal time condition should be amended to two years from the date of consent. I agree this is necessary, as if demolition was not commenced in that time the railway lids could not be replaced within the Thameslink 'window of opportunity', the major public benefit prayed in aid of demolition. I do not consider that suggested condition 3 is necessary as this should be secured by the Bond now required by the S106 Agreement. Suggested condition 4 would ensure the archaeological and historic interest of the building and railway structures was recorded prior to demolition and should be attached.
- 12.9.11. Paragraph 4.29 of PPG15 indicates that a condition requiring a contract for the works of redevelopment would 'often be appropriate' to avoid unsightly gaps in the Conservation Area. Suggested condition 2 would require a contract to be let for the construction of the Railway Structure Replacement Works prior to demolition. However, if the grant of conservation area consent depended on a planning permission which was refused, the benefits to the public would be lost. The benefits would also be lost if a contract for a permitted redevelopment was required before demolition, as construction would not take place until a substantial pre-let was in place and there is insufficient time for that to happen before the 'window' closes. If the Secretary of State considers the public benefits to be so great that demolition should be allowed, I consider that the suggested condition, rather than the version suggested by EH, should be attached. To do otherwise would prevent the realisation of the public benefits on which demolition is predicated. I do not consider that it would be necessary to require an obligation to complete the Railway Structure Replacement Works as soon as reasonably practicable as this would also be covered by the Section 106 Agreement.<sup>[5.9.4, 5.9.5]</sup>

*Listed Building Consent Conditions for Dismantling the Canopy*

- 12.9.12. Suggested conditions 1, 2 and 3 are generally reflected in EH conditions SC3, SC17 and SC9. I consider the three suggested conditions should be attached to safeguard the Poultry Market that would remain after demolition of the canopy, although I consider that condition 3 should have the requirement for a method statement to be submitted included, as suggested by EH. I do not consider condition SC7 should be attached as this would effectively preclude the demolition of the General Market Building to enable the railway structure replacement works to be undertaken. Suggested

condition 4 is unnecessary as the drawing in question is merely a location plan and does not detail any works.

*Listed Building Consent Conditions for Works to the Red House*

- 12.9.13. Conditions 1, 7 and 8 are effectively reflected in EH conditions SC3, SC24 and SC25. Condition 3 is agreed by EH as is condition 5 although I do not consider that the words "in consultation with English Heritage" need to be, or should be, included in any condition. Conditions 5, 6 and SC21 all require various details to be submitted and could be amalgamated. Conditions 4 and SC9 both seek to ensure the safety and stability of the structure but requiring a method statement as suggested by EH would, in my view, give greater certainty and precision as to what should be done. Although not suggested by TPL and the City, I also consider that condition SC 22 requiring recording of the existing structure prior to refurbishment should be attached.
- 12.9.14. I consider that the wording of condition 2 needs to be amended to ensure that the full works of redevelopment are carried out, not just substantial works. The requirement should also be for a contract for the works to be let, rather than made. It is not part of the case made at the Inquiry that any demolition of the Red House is necessary to carry out the railway structure replacement works and I do not consider that any demolition of the Red House would be required to enable archaeological works to be carried out. These provisions in condition 2 should therefore be removed. In my opinion, the 8 suggested conditions, amended as set out above, together with condition SC22 should be attached to safeguard the architectural and historic importance of the Red House.

*Planning Permission Conditions*

- 12.9.15. In addition to the normal time condition 1, condition 1a would ensure that a contract for the railway structure replacement works was let before any works to the Annex Building commenced. However, condition 1b would not be necessary as security would be required by the Section 106 Agreement. Condition 2 would ensure the structural safety and stability of all the retained structures during development by reference to a method statement. Conditions 20, 21 and 22 would require archaeological investigations to be carried out and details of any foundations or piling to be submitted, and the approved details implemented, to safeguard any remains in advance of works in any part of the site. Condition 11 would require the provision of the market hall prior to the occupation of the offices ensuring the provision of retail facilities.
- 12.9.16. In terms of access and accessibility, conditions 6, 7, 8, 14, 15, 16, 17 and 18 should be attached to any permission. These would ensure level access, continuous surfaces and unobstructed footpaths. Parking would be restricted and provision made for disabled drivers whilst motor cycle and cycle parking and storage would be required, together with adjacent changing facilities. Although some areas of refuse storage are shown on the plans it is not clear that all areas of the building are provided for. Condition 4 would require details to be submitted whilst conditions 28 and 33 would ensure adequate headroom for access to the basement and require a servicing management plan to be submitted. Condition 24 would safeguard

access for the Crossrail works. The Building Regulations would ensure adequate provision for access into the buildings and suggested condition 19 would not therefore be necessary.<sup>[11.2]</sup>

12.9.17. Conditions 12 and 13 are necessary to ensure that plant does not cause undue noise and disturbance, whilst condition 25 would ensure adequate acoustic insulation between the retail and office areas. Restrictions on the opening hours of the A3/A4/A5 units in condition 27 would prevent them making any significant addition to noise levels, which have caused some complaints, whilst condition 26 would ensure adequate fume extraction from those units and the biomass boiler. Condition 23, requested by the Environment Agency, would prevent any increased risk of flooding and protect water quality.

12.9.18. The external appearance of the proposed buildings would be safeguarded by conditions 9 and 10, that would prevent clutter on the roofs and ensure cleaning and maintenance equipment was stowed in designed enclosures, and by condition 3 that would require the submission of a number of details. Condition 5 would provide for all existing parish markers and commemorative plaques to be taken down, stored, and reinstated on the new buildings. I consider that all the suggested conditions meet the tests set out in *Circular 11/95: The Use of Conditions in Planning Permissions* and so should be attached if the Secretary of State is minded to allow the application. The one exception is condition 32 requiring revised elevations. This would effectively change the application as it stands and should not be attached.<sup>[6.2.15]</sup>

12.9.19. The effect of the conditions, and a revised Section 106 Agreement, would be to ensure that no demolition took place unless the railway works were to be carried out and commit TPL to carrying out the railway works if conservation area consent is granted. It could be argued that it would be in TPL's best commercial interests to build any subsequent redevelopment scheme as quickly as possible once a sufficient pre-let was in place as it would have laid out tens of millions of pounds for the engineering works.<sup>[5.9.5]</sup>

## 13.0 Overall Conclusions and Recommendation

### 13.1 Overall Conclusions

13.1.1. The existing buildings on the site make a significant contribution, not only to the character and appearance of the Smithfield Conservation Area, but also the settings of adjoining Conservation Areas, notably the Charterhouse Square Conservation Area, and nearby listed buildings, including the Grade II\* Meat Market and Grade II Poultry Market. There is, therefore, a presumption in favour of retaining the buildings and paragraph 3.19 of PPG15 sets out a number of considerations to be addressed.<sup>[12.2.6, 12.2.55, 12.2.28]</sup>

13.1.2. The first criterion relates to viability and the cost of repair. The buildings and tunnel lids are in a poor condition, but this is due at least in part to neglect. Less weight should, therefore, be given to the costs of repair which would help the viability of any re-use scheme. Engineers agree that the buildings could be repaired. The tunnel lids need urgent attention but could also be repaired, given time and money, although this would not meet Institutional requirements for warranties. Whilst it is accepted that the

proposed scheme would have been viable at a June 2007 valuation date, the subsequent credit crunch would, in my view, make the viability of the proposed scheme borderline. In addition, the viability relies on a 60% pre-let of the proposal some 4-5 years in advance of its completion, which the applicant's valuer accepted is unlikely. [12.3.3, 12.3.4, 12.4.2, 12.4.3, 12.4.5, 12.4.35]

- 13.1.3. The second criterion concerns efforts to maintain the building in use. The building is no longer required for a meat market use and the City cannot offer an unrestricted freehold, as required by PPG15, due to its statutory duties to maintain the tunnel lids. However, the Agreement between the City and TPL effectively grants a leasehold interest. Such a leasehold interest has not been offered on the open market, despite numerous enquiries about the building. Indeed, the City admits it has kept people 'at arms length'. [12.4.3, 12.4.28, 12.4.29]
- 13.1.4. The third criterion refers to the merits of proposals and, exceptionally, any substantial benefits for the community. The proposed building would detract from the character and appearance of the Smithfield Conservation Area and undermine the rationale for drawing its boundaries. The proposal takes its cue from the large commercial buildings adjoining the Conservation Area, rather than the scale and character of the buildings within the Conservation Area. Moreover, the intervention behind the Annex 'rind' and Red House would dominate the retained elevations, contrary to advice in PPG15, and the cantilever over the Red House would be out of keeping and detract from the setting of the listed building. [12.2.55, 12.2.55, 12.4.30]
- 13.1.5. Many of the environmental benefits claimed for the proposals could be provided by any redevelopment or re-use scheme and their absence has not stopped the successful operation of the market over recent years. The main benefit would be minimising any disruption to the travelling public by 'piggy backing' any works to the tunnel lids on the Thameslink works and taking advantage of possessions of the railway already planned for that project. However, the extent of works necessary is due at least in part to the lack of maintenance over many years. Whilst any scheme could theoretically have taken advantage of these possessions, in practice only the proposed scheme could as no other proposal has been progressed through NR's approvals system. [12.4.33, 12.4.34]
- 13.1.6. I consider that allowing advantage to be gained from lack of maintenance would set an unfortunate precedent but that the benefits for the community that might be gained would not, in any event, outweigh the harm that would be caused to the character and appearance of the Conservation Area by the demolition of the General Market Building. [12.4.36]
- 13.1.7. In terms of accessibility and retail policy the proposals would generally satisfy the aims of LP and UDP Policies although if the retail units to be provided were large modern floor plates they could conflict with the character of the local area. The site would have the highest possible PTAL rating of 6a, the requirements of Crossrail would be safeguarded and contributions required by a Section 106 Agreement would help in upgrading Farringdon Station and providing other improvements for pedestrians. Other transportation objectives such as minimising car parking and providing cycle and motor cycle parking would be met. However, notwithstanding a contribution towards off-site affordable housing, the lack



of housing provision on-site would conflict with the aims of LP housing Policies and the increase in the proportion of non-B1 uses on the site would conflict with the aim of UDP Policy ECON 6. Whilst this might not in itself justify refusing the proposals it lends weight to my recommendation on heritage matters. [12.5.1, 12.6.4, 12.6.5, 12.7.1, 12.7.4, 12.8.4, 12.8.8]

13.1.8. The ES is unclear on what the energy requirement of the building might be, how it would be met and what the environmental impact of that might be. Details would be required by the Section 106 Agreement but would not be provided until after permission and consents had been granted. Interested persons would not have a right to comment at that stage, which in my opinion would be contrary to the aims of the EIA Directive and Regulations. This could be remedied by requesting additional information on these matters under Regulation 19 of the *Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999*. [12.8.11-15, 12.9.6]

### 13.2. Recommendation

13.2.1. I therefore recommend that planning permission, conservation area consent, and both applications for listed building consent, be refused.

13.2.2. If the Secretary of State disagrees with my recommendation, and is minded to allow all the proposals, a signed Section 106 Agreement should be required and the Conditions set out in Appendix 4 should be attached for the reasons given in Section 12.9 above.

13.2.3. Alternatively, if the Secretary of State agrees with my recommendation on the replacement building, but considers that the public benefit of any advantage gained by making use of the Thameslink 'window of opportunity' outweighs the loss of the General Market Building, then consent should be granted for Application B, in so far as it relates to the demolition of the building and other structures at No 43 only, and for Application D dismantling the canopy between the Poultry Market and No 43. A Section 106 Agreement should be required, amended to take effect with just the two consents rather than all 4 consents and permission, and the Conditions in Appendix 4 relating to the two applications to be granted should be attached for the reasons set out in Section 12.9 above.

*K D Barton*

INSPECTOR

## APPENDIX 1 – APPEARANCES

### FOR THORNFIELD PROPERTIES (LONDON) LIMITED

Christopher Katkowski QC  
Assisted by David Forsdick of  
Counsel

Instructed by Linklaters, One Silk Street, London  
EC2Y 8HQ

They called

Lee Polisano FAIA, RIBA President, Kohn Pedersen Fox Architects

Dr Scott Steedman  
FREng FICE Director of Group Strategy, High-Point Rendel,  
London

Jacob Kut MRICS Partner, GVA Grimley LLP

Dr Chris Miele MA, PhD,  
MRTPI, IHBC, FRHS, FSA Partner, Montagu Evans

Prof Robert Tavernor  
BA, DipArch (Dist), PhD,  
RIBA Professor of Architecture and Urban Design,  
London School of Economics

Alan Simmonds BSc  
FRICS Consultant, DP9 Planning Consultants, 100 Pall  
Mall, London SW1Y 5NQ

### FOR THE CITY OF LONDON CORPORATION:

William Hicks QC  
Assisted by Neil Cameron of  
Counsel

Instructed by Andrew Colvin, Comptroller and  
City Solicitor, City of London Corporation, PO Box  
270, Guildhall, London EC2P 2EJ

They called

Dr Stuart Matthews  
BEng, PhD, CEng, CSci,  
FICE, FStructE,  
MCIWEM Chief Engineer Construction, Building Research  
Establishment

William Killick BSc,  
FRICS, IRRV, MCI Arb Principal, William Killick & Co, 45 Charles Street,  
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Peter Bennett FRICS Deputy City Surveyor, City of London  
Corporation

Peter Wynne Rees BSc,  
BArch, BTP, RIBA,  
FRTPI, FRSA Chief Planning Officer, City of London  
Corporation

FOR ENGLISH HERITAGE:

Robert McCracken QC	Instructed by Michael Harlow, Legal Director, English Heritage, One Waterhouse Square, 138- 142 Holborn, London EC1N 2ST
He called	
Eric G Reynolds HFRIBA, MTS, FAU	Managing Director, Urban Space Management Limited
Sir Terry Farrell CBE, BArch(Hons) March, MCP, Hon DCL Hon D Arts, RIBA, Hon FRIAS, FAIA, MRTPI, FRSA, FCSD	Principal, Farrells
Roger Mascall BSc(Hons), DipBldgCons(RICS), MRTPI, IHBC	Associate Partner, DPP Planning Consultants
Mark Dodds BA(Hons) BTP MRTPI	Partner DPP Planning Consultants
David H Tomback FRICS	Development Economics Director, English Heritage
Brian Morton MBE, CEng, FICE, DipBldgCons, IHBC	Consultant, The Morton Partnership Limited

FOR SAVE BRITAIN'S HERITAGE:

David Cooper, Solicitor, David Smith of Counsel and Adam Wilkinson	Instructed by David Cooper & Co, Fleet House, 8- 12 New Bridge Street, London
They called	
Ian Stuart Lerner FNAEA, FICBA, FNARA	Ian Lerner & Co, 10 Eagle Court, London EC1M 5QD
Sophie Andreae IHBC	Architectural Historian
George Ferguson PPRIBA	Chairman, Acanthus Ferguson Mann Architects, 18 Great George Street, Bristol BS1 5RH
Dr Jennifer M Freeman Hon D Arts, DiplCons(AA), IHBC, FRSA, FSA	Director Historic Chapels Trust
Adam Wilkinson MA, MSc	Secretary, SAVE Britain's Heritage

FOR NETWORK RAIL:

Timothy Comyn of Counsel

Instructed by Network Rail

He called

Andy Mitchell BSc MBA

Major Programme Director , Thameslink Project,  
Network Rail

INTERESTED PERSONS:

Mr Streeter

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London TravelWatch

Mr Barnes Chief Executive, 6 Middle Street,  
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Mr Stewart

74 River Street, London EC1R 1XN

Lucy Rogers

75 Columbia Road, London E2 7RG

E@H Org

Mr Ewing 9c Lawn Road, London NW3 2XS

Smithfield Market Tenants  
Association

Mr Lawrence, Chairman, Charterhouse Street,  
London EC1A 9PQ

## APPENDIX 2 - DOCUMENTS

### Core Documents

- CD1.1 Planning Application Form dated 15 February 2007
- CD1.2 Conservation Area Consent Application Form dated 15 February 2007
- CD1.3 Listed Building Consent Application Forms dated 15 February 2007
- CD1.4 Planning Submission Drawings by KPF dated February 2007 (A3)
- CD1.4A Amended drawings dated 30 July 2007 and 28 September 2007
- CD1.5 Design and Access Statement by KPF dated February 2007 (A3)
- CD1.6 Retail Impact Assessment by GVA Grimley dated February 2007
- CD1.7 Railway Structures – Desk Study Assessment of Girder Capacity and Remedial works by Whitby Bird dated August 2005 (A3)
- CD1.8 43 Farringdon Street and Smithfield Poultry Market, Poultry Market Canopy Removal Report by Whitby Bird Engineers dated August 2005 (A3)
- CD1.9 Sustainable Design Strategy by WSP dated February 2007 (A3)
- CD1.10 Flood Risk Assessment by Environ dated February 2007
- CD1.11 Market Viability Report by Michael Felton Associates dated February 2007
- CD1.12 Updated Structural Assessment and Condition Report by Whitby Bird dated February 2007
- CD2.1 Environmental Statement (Volume 1) (including the Planning Statement at Chapter 6) by Environ dated February 2007 (A3)
- CD2.2 Environmental Statement (Volume 2) – Townscape and Visual Assessment by Professor Robert Tavernor Consultancy dated February 2007 (A3)
- CD2.3 Appendix 3.1 – Viability report by GVA Grimley as at December 2006
- CD2.4 Appendix 8.1 – Heritage Assessment by Montagu Evans dated February 2007 (A3)
- CD2.5 Appendix 8.2 – PPG 15 Justification Statement and Appendices by Montagu Evens dated February 2007
- CD2.6 Appendix 9.1 – Archaeological Impact Assessment by Museum of London Archaeology Service dated February 2007
- CD2.7 Appendix 12.1 – Transport Assessment by Colin Buchanan dated February 2007 (A3)
- CD2.8 Appendix 16.1 – Sunlight, Daylight and Overshadowing Report by Gordon Ingram Associates dated February 2007 (A3)
- CD2.9 Non-technical Summary (Volume 4) dated February 2007
- CD2.10 Environmental Statement (Volume 3) – Technical Appendices dated February 2007 and Whitbybird Desktop Site Appraisal Report
- CD3.1 Suggested Conditions Planning Application 07/00172/FULEIA
- CD3.2 Suggested Conditions Listed Building Consent Application (Canopy) 07/00168/LBC
- CD3.3 Suggested Conditions Listed Building Consent Application (The Red House) 07/00160/LBC
- CD3.4A Suggested Conditions Conservation Area Consent Application 07/00161/CAC
- CD3.4B Amended suggested conditions for Conservation Area Consent Application 07/00161/CAC
- CD3.5A Revised copy of suggested conditions for all applications
- CD3.5B CD3.5A with ‘Track Changes’
- CD4.1 Certificates of Immunity from Listing dated 15 December 2005 from Director of Planning and Historic Environment in respect of General Market Building, Lavatory Block, and former Fish Market
- CD4.2 Recommendations/Inspector’s Reports from English Heritage regarding the listing of the Former Fish Market, the General Market Building and the small lavatory block, all dated 20 September 2005
- CD4.3 Recommendations/Inspector’s Reports from English Heritage regarding the listing of the Former Fish Market, the General Market Building and the small lavatory block, all dated 25 May 2004. (Updated)

- CD4.4 Recommendations/Inspector's Reports from English Heritage regarding the listing of the Former Fish Market, the General Market Building and the small lavatory block, all dated 24 July 2003
- CD4.5 Recommendations/Inspector's Reports from English Heritage regarding the listing of the General Market building and annex market building dated 5 July 1999
- CD4.6 Application to de-list the Red House Cold Store dated 3 June 2005
- CD4.7 Supporting documentation in relation to application to de-list Red House (formerly Union Cold Store) by RPS Planning Transport and Environment dated May 2005
- CD4.8 Letter from head of Architecture and Historic Environment Division at Department for Culture, Media and Sport dated 3 March 2005 confirming Secretary of State's decision to list Red House Cold Store as Grade II listed building. Also attaches the amendment to Schedule of Planning (Listed Buildings and Conservation Area) Act 1990: 18<sup>th</sup> List of Buildings of Special Architectural or Historic Interest dated 3 March 2005: Listing of Red House
- CD4.9 English Heritage's recommendation to de-list the Red House dated 16 August 2006
- CD5.1 Summary Report on Necessary Repairs, Improvements and reinstatement Works by NPS Building Consultancy dated May 2007
- CD5.2 Report on the Inspection of Ferrous Beams by Sandberg Consulting Engineers dated 4 June 2007
- CD5.3 Existing Foundations Site Investigation Summary Report by Whitby Bird dated May 2007
- CD5.4 Replacement of tunnel lids and refurbishment of structure: Methodology report by Whitby Bird dated July 2007
- CD5.5 Smithfield – Fire in Mainline Railway Tunnels: Preliminary Findings by BRE dated April 2007
- CD5.6 Preliminary report on Condition of 43 Farringdon Street, 25 Snow Hill and 29 Smithfield Street by NPS Building Consultancy dated January 2007
- CD5.7 Health and Safety report prepared by MEL (Health and Safety) Consultants Limited dated February 2007
- CD5.8 Accessibility Assessment prepared by Penton Smart and Grimwade dated 31 January 2007
- CD5.9 Outline Fire Safety Strategy prepared by WSP Group dated 30 January 2007 (A3)
- CD5.10 Review of Building Regulations Compliance (undated)
- CD5.11 Engineering Report on Railway Structures by Alan Baxter & Associates dated May 2004 (A3)
- CD5.12 Snow Hill Feasibility Report by Hochtief UK Construction dated 17 July 2007
- CD5.13 Letter from the City of London dated 17 July 2007 regarding design loadings
- CD5.14 Smithfield Redevelopment: review of Structural Investigations, Surveys and Inspections of the Buildings and the Deck Structures by BRE dated August 2007
- CD5.15 Smithfield – Structural Analysis of Deck Structure within Area A (Part of Snow Hill Tunnel lid) by BRE dated August 2007
- CD5.16 Smithfield Redevelopment: Review of Structural Assessments of the Deck Structures over the Railway Areas and Adjacent Basement Areas by BRE dated September 2007
- CD5.17 Letter from City Surveyor re loadings for West Poultry Avenue
- CD6.1 Appendix 1.0 from the Design Statement by KPF dated August 2005 (A3)
- CD6.2 Valuation Report by GVA Grimley dated August 2005
- CD6.3 Urban Analysis Document by KPF dated August 2004 (A3)
- CD6.4 Heritage Assessment by Alan Baxter and Associates dated August 2005 (A3)
- CD7.1 CoL standard notification letter dated
- CD7.2 List of addresses notification letters were sent to
- CD7.3 Copy of Advertisement in Evening Standard dated 23 February 2007
- CD7.4 Public Notices displayed by CoL on 28 February 2007 and 5 October 2007
- CD7.5 Agreement between Thornfield and the City 24 December 2002
- CD7.6 Supplemental Agreement between Thornfield and the City 8 May 2007
- CD8.1A Letter from E@H Org dated 22 May 2007

- CD8.1B Bundle of Photographs submitted and spoken to by Mr Ewing on behalf of E@H Org on 10 January 2008
- CD8.2 Letters from English Heritage dated 20 March 2007
- CD8.3 Draft Minute from Conservation Area Advisory Committee Meeting dated 20 March 2007
- CD8.4 Letter from CoL Access Team dated 8 March 2007
- CD8.5 Letter from CoL Department of Environmental Services dated 16 March 2007
- CD8.6 Letter from Crossrail dated 6 March 2007
- CD8.7 Letter from Environment Agency dated 8 March 2007
- CD8.8 Letter from LB Islington dated 14 March 2007
- CD8.9 Letter from Thames Water dated 13 March 2007
- CD8.10 Letter from English Heritage dated 5 April 2007
- CD8.11 Email from Environmental Health Department dated 11 April 2007
- CD8.12 Letter from SAVE Britain's Heritage dated 18 March 2007
- CD8.13 Letter from Dale Martin dated 11 March 2007
- CD8.14 Letter from The Smithfield Trust dated 21 March 2007
- CD8.15 Letter from DTZ (on behalf of E.ON UK Plc) dated 19 March 2007
- CD8.16 Letter from Crossrail dated 11 July 2007
- CD8.17 Letter from London Travel Watch dated 16 July 2007
- CD8.18 Letter from the Victorian Society dated 23 August 2007
- CD8.19 Letter from Network Rail dated 24 October 2007
- CD8.20 Letter from Transport for London dated 8 October 2007
- CD8.21 Letter from Crossrail dated 15 October 2007
- CD8.22 Letter from CABE dated 3 September 2007
- CD8.23 Letter from Patrick Streeter dated 19 October 2007
- CD8.24 Letter from City Heritage Society dated 1 November 2007
- CD8.25 Letter from Network Rail dated 5 November 2007
- CD8.26 Letter from Mr Munding dated 2 November 2007
- CD8.27 Letter from DTZ withdrawing objection in respect of Citigen CHP Plant dated 6 November 2007
- CD8.28 Letter from Dr Simon Bradley dated 9 November 2007
- CD8.29 Letter from Crossrail dated 7 November 2007
- CD8.30 E-mail from Mark Shaw ARB dated 6 November 2007
- CD8.31 Letter from Sherif Sadek dated 17 November 2007
- CD8.32 Written Statement read to Inquiry by Mr Streeter
- CD8.33 Letter & amended letter from Dan Cruickshank dated 26 & 28 December 2007
- CD8.34 Letter from Miss E A Dent dated 29 December 2007
- CD8.35 Letter from Lisa Jennings dated 23 December 2007
- CD8.36 Letter from Richard Freeland dated 24 December 2007
- CD8.37 Written Representation from Lansons Communications (Lizzie Shaw)
- CD8.38A Letter from Smithfield Market Tenants' Association
- CD8.38B Statement on behalf of Smithfield Market Tenants' Association read at Inquiry on 17 January 2008
- CD8.38C Letter from Smithfield Market Tenants' Association dated 18 January 2008
- CD8.39 Statement from London TravelWatch plus two e-mails with responses from Network Rail and the City
- CD8.40 Letters from Bank of Scotland dated 8 and 10 January 2008

- CD8.41A Proof of Evidence from Network Rail (Andrew Mitchell)
- CD8.41B Supplementary Proof of Evidence from Andrew Mitchell
- CD8.42 Letter from Judith Miers dated 4 January 2008
- CD8.43 Letter from Clare Harris-Ward undated
- CD8.44 Letter from Sir Nicholas Goodison dated 5 January 2008
- CD8.45 Letter from WSP dated 3 January 2008
- CD8.46 Letter from Phil & Val Sellars dated 7 January 2008
- CD8.47 Letter from Mr R G H Chapman dated 8 January 2008
- CD8.48 Letter from the Environment Agency dated 10 January 2008
- CD8.49 Statement read by Lucy Rogers on 10 January 2008
- CD8.50 Letter from Hugh Cantlie dated 10 January 2008
- CD8.51 Letter from Geoffrey Collens dated 15 January 2008
- CD8.52 Letter from George Nicholson dated 10 January 2008
- CD8.53 E-mail from Pete Murray and others dated 24 January 2008
- CD9.1 Secretary of State's Call-in Letter dated 27 April 2007
- CD10.1 Letter sent to statutory parties and interested persons informing them of Call-in
- CD11.1 Not used
- CD12.1 Travelling Draft of Section 106 Agreement
- CD12.2 11 January 2008 draft of Section 106 Agreement
- CD12.3 16 January 2008 draft of Section 106 Agreement
- CD12.4 Further amendments to Section 106 Agreement
- CD12.5 18 January 2008 draft of Section 106 Agreement
- CD12.6 21 January 2008 draft of Section 106 Agreement
- CD13.1 Thornfield Properties (London) Ltd Statement of Case dated June 2007
- CD13.2 Corporation of London Statement of Case dated June 2007
- CD13.3 Save Britain's Heritage Statement of Case dated July 2007
- CD13.4 English Heritage Statement of Case June 2007
- CD14.1 Statement of common ground agreed by the Applicant and the City of London and dated 8 October 2007
- CD14.2 Statement of common ground agreed by SAVE
- CD14.3 English Heritage comments on the Statement of Common Ground
- CD15.1 Corporation of London Planning and Transportation Committee Report dated 23 April 2007
- CD16.1 The Planning System: General Principles dated January 2005
- CD16.2 PPS 1: Sustainable Development dated February 2005
- CD16.3 PPG 4: Industrial and Commercial Development and Small Firms dated November 1992
- CD16.4 PPS 6: Planning for Town Centres
- CD16.5 PPS 9: Biodiversity and Geological Conservation dated August 2005
- CD16.6 PPG 13: Transport dated March 2001
- CD16.7 PPG15: Planning and the Historic Environment dated September 1994
- CD16.8 PPG16: Archaeology and Planning dated November 1990
- CD16.9 PPS 22: renewable Energy dated August 2004
- CD16.10 PPG 24: Planning and Noise dated September 1994
- CD16.11 PPS 25: Flood Risk dated December 2006
- CD17.1 05/2005 – Planning Obligations (ODPM)
- CD17.2 01/01 – Heritage Applications



- CD17.3 11/95 – Planning Conditions
- CD18.1 Urban White Paper, Our Towns and Cities; The Future. Delivering an Urban Renaissance dated November 2000
- CD18.2 Sustainable Communities: Building for the Future dated February 2003
- CD19.1 London Plan dated February 2004
- CD19.2 The Mayor's Transport Strategy dated July 2001
- CD19.3 RPG3A: Supplementary Guidance for London on Protection of Strategic Views dated November 1991
- CD19.4 RPG3B: Strategic Planning Guidance for the River Thames dated February 1997
- CD19.5 London View Management Framework SPG (draft) dated March 2007
- CD19.6 London Plan Sub-Regional Development Framework, Central London dated May 2006
- CD19.7 Sub Regional Development Framework for East London dated May 2006
- CD19.8 The London Plan Housing Provision Targets, Waste and Minerals Alterations December 2006
- CD20.1 City of London UDP dated 2002
- CD20.2 Smithfield Conservation Area Character Summary dated 1996
- CD20.3 Conservation Areas in the City of London – A General Introduction to their Character dated 1994
- CD20.4 Newgate Conservation Area Character Summary dated 1999
- CD20.5 City of London Supplementary Planning Guidance – Planning Obligations dated 2004
- CD20.6 City of London Supplementary Planning Guidance – Performance Targets & Indicators dated 2002
- CD21.1 NOT USED
- CD21.2 LB Islington Conservation Area Design Guidelines for the Charterhouse Square Conservation Area dated January 2002
- CD22.1 Conservation Area Statement for Hatton Garden
- CD23.1 Commission Report regarding the General Market Building dated 7 December 2005
- CD23.2 London Advisory Committee Report regarding the General Market Building dated 18 November 2005
- CD23.3 Extracts from draft LAC minutes for 18 November 2005
- CD24.1 Western Buildings, London Central Markets, Smithfield – A Report by the Historical Research and Conservation Support London Team of English Heritage dated June 2003
- CD24.2 Guidance on Conservation Area Appraisals dated February 2006
- CD24.3 Guidance on the Management of Conservation Areas dated February 2006
- CD24.4 Changing London – An Historic City for a Modern World (undated)
- CD24.5 Changing London Issue 7 – London's Markets (undated) (A3)
- CD24.6 Conservation Area Appraisals – Defining the special architecture or historic interest of Conservation Areas (undated)
- CD24.7 Conservation Principles for the Sustainable Management of the Historic Environment dated February 2006
- CD24.8 London's Heritage – Research Study Conducted for English Heritage dated August 2002
- CD24.9 Moving Towards Excellence in Urban Design and Conservation (undated)
- CD24.10 Smithfield, Farringdon: Reinforcing Urban Identity and Character by Farrells dated February 2007 (A3)
- CD24.11 Policy Statement and Practical Guide to Assessment: Enabling Development and the Conservation of Heritage Assets dated June 2001
- CD24.12 Power of Place, The Future of the Historic Environment dated 2000
- CD24.13 Climate Change and the Historic Environment dated January 2006
- CD24.14 Heritage Works: The use of Historic Buildings in Regeneration (undated)
- CD24.15 Managing Local Authority Heritage Assets dated June 2003

- CD24.16 Regeneration and the Historic Environment dated January 2005
- CD25.1 Don't Butcher Smithfield – The Threat to Britain's Finest Group of Market Buildings by Save Britain's Heritage dated February 2004
- CD25.2 Letter from Mrs Cook to SAVE dated 21 June 2005
- CD25.3 Letter from Mrs Cook to Lord McIntosh dated 12 August 2004
- CD25.4 Letter from Mrs Cook to Lord McIntosh dated 16 November 2004
- CD25.5 Letter from Mrs Cook to Chris Smith (DCMS) dated 15 September 2005
- CD25.6 Letter from Mrs Cook to Claire Vickers (DCMS) dated 6 February 2007
- CD25.7 Letter from Mrs Cook to Clare Vickers (DCMS) dated 27 February 2007
- CD25.8 Letter from Mrs Cook to SAVE dated 6 August 2007
- CD26.1 By design: urban design in the planning system – towards better practice dated May 2000
- CD26.2 Building in Context: New Development in Historic Areas dated 1 January 2002 (A3)
- CD26.3 Letter from CABE dated 20 May 2004
- CD26.4 Letter from CABE dated 7 September 2004
- CD26.5 Letter from CABE dated 12 March 2007
- CD26.6 Letter from CABE dated 3 September 2007
- CD26.7 CABE Review, Design Development by KPF dated 2 August 2007 (A3)
- CD27.1 GLA Stage 1 Report dated 23 May 2007
- CD27.2 WSP Buildings Ltd – Response to GLA Stage 1 Report dated September 2007
- CD28.1 First National Survey of Retail Markets by NABMA dated April 2005
- CD28.2 Retail Markets – Present Status Future Prospects (undated)
- CD28.3 Review of London Wholesale Markets by Nicholas Saphir dated 24 October 2002
- CD28.4 The Red House, Smithfield: Analysis of Historical Significance by RPS Outerspace in association with Dr David Evans (undated) (A3)
- CD28.5 Secretary of State's response to UNESCO World Heritage Committee dated March 2007
- CD28.6 Review of a Viability Study prepared on behalf of English Heritage by Knight Frank dated 16 November 2004
- CD28.7 Supplementary Report to Review of a Viability Study prepared by Knight Frank dated 11 February 2005
- CD28.8 Oxford Modern – A Guide to Recent Architecture
- CD28.9 Extracts from London 1: The City of London, S Bradley and N Pevsner dated 1999
- CD28.10 Description of Listed Buildings in vicinity (eg Holborn Viaduct, Red House Poultry, Meat Market, Cold Stores etc)
- CD28.11 The Future of Rail dated July 2004
- CD28.12 The Historic Environment: A Force for our Future by DCMS dated December 2001
- CD28.13 Guidance on Transport Assessment dated 7 March 2007
- CD28.14 Urban Design Compendium (2 Vols)
- CD29.1 Extracts from the Town and Country Planning Act 1990
- CD29.2 Extracts from the London Central Markets Act 1886
- CD29.3 Extracts from the Central London Markets Act 1875
- CD29.4 Extracts from Planning (Listed Building and Conservation Areas) Act 1990
- CD29.5 Extracts from Planning and Compulsory Purchase Act 2004
- CD29.6 NOT USED
- CD29.7 The Shimizu Judgement
- CD29.8 Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999

## Thornfield Properties (London) Limited's Documents

TPL/1	Statement of Case
TPL/2	Opening Submissions
TPL/3/A	Proof of Evidence of Lee Polisano (A3)
TPL/3/B	Summary of Proof of Evidence of Lee Polisano
TPL/3/C	Appendix 1 to the Proof of Evidence of Lee Polisano
TPL/3/D	Appendix 2 to the Proof of Evidence of Lee Polisano
TPL/3/E	Appendix 3 to the Proof of Evidence of Lee Polisano
TPL/3/F	Appendix 4 to the Proof of Evidence of Lee Polisano (A3)
TPL/3/G	Appendix 5 to the Proof of Evidence of Lee Polisano
TPL/3/H	Rebuttal Proof of Evidence of Lee Polisano
TPL/3/J	Cross Reference from slides to Hard Copy Evidence and additional sketches in slide show
TPL/4/A	Proof of Evidence of Dr Scott Steedman
TPL/4/B	Summary of Proof of Evidence of Dr Scott Steedman
TPL/4/C	Rebuttal Proof of Evidence of Dr Scott Steedman
TPL/4/D	Further Rebuttal Proof of Evidence of Dr Scott Steedman
TPL/4/E	Key Points of Dr Scott Steedman's Proof of Evidence
TPL/4/F	Thumbnail slides accompanying Key Points
TPL/4/G	Letter from Mark Whitby to Network Rail dated 6 February 2007
TPL/4/H	Network Rail Programme for Works as currently understood
TPL/4/I	Drawing illustrating difference in areas for works between Dr Steedman and Mr Morton
TPL/4/J	Statement in response to Mr Morton's new evidence
TPL/5/A	Proof of Evidence of Jacob Kut
TPL/5/B	Summary of Proof of Evidence of Jacob Kut
TPL/5/C	Appendices to Jacob Kut's Proof of Evidence
TPL/5/D	Rebuttal Proof of Evidence of Jacob Kut
TPL/5/E	Appendices to the Rebuttal Proof of Evidence of Jacob Kut
TPL/5/F	Key Points of Jacob Kuts Evidence
TPL/5/G	Update to Rebuttal Table Para 2.38 Para 8
TPL/5/H	Costings for West Market Buildings produced by Mr Morton but submitted by Mr Kuts
TPL/5/I	Draft JGK Reworked ER Scheme with method and cost corrections
TPL/5/J	Draft JGK assessment of EH8C Scenario 2D
TPL/5/K	Overnight changes to documents provided 7 November Issues 86, 87 & 88
TPL/5/L	Issue 86 6 November 2007
TPL/5/M	Response to English Heritage's comments on NPSBC's summary of repairs
TPL/5/N	Davis Langdon comments on Mr Morton's Hanger Scheme Costs
TPL/5/O	Adjustments to DLE Estimate 81 based on comments on NPS Survey
TPL/5/P	Strategic Post Planning Programme
TPL/5/Q	Response to Matters from Cross-Examination
TPL/5/R	Outputs on EGR 1, 2 & 3
TPL/5/S	Agreed Notes of Meetings
TPL/5/T	Bundle of letters between English Heritage and Knight Frank
TPL/5/U	E-mails between Mark Grant and Jacob Kut

TPL/5/V	Further Rebuttal Proof of Jacob Kut
TPL/5/W	Comparisons of Mr Learner's and Mr Kuts inputs to viability appraisals
TPL/5/X	Letter from Thornfield's Group Finance Director dated 9 January 2008
TPL/5/Y	Correspondence requesting information from SAVE on viability evidence
TPL/5/Z	September 2007 rental growth forecasts submitted by Mr Kut
TPL/5/AA	Note re NCP Transaction
TPL/5/BB	Unsigned copy of Sale Agreement between Thornfield and National Car Parks including Annex A Appraisal Summary
TPL/5/CC	2006 Confidentiality Agreement between National Car Parks Limited and GVA Grimley LLP
TPL/6/A	Proof of Evidence of Dr Chris Miele
TPL/6/B	Summary of Proof of Evidence of Dr Chris Miele
TPL/6/C	Rebuttal Proof of Evidence of Dr Chris Miele
TPL/6/D	Appendices to the Rebuttal Proof of Evidence of Dr Chris Miele
TPL/6/E	Errata sheet to Dr Miele's documents
TPL/6/F	Key Points of Dr Miele's Evidence
TPL/6/G	Thumbnail slides accompanying Key Points
TPL/6/H	Note to Inquiry on ABA & RPS Reports by Dr Chris Miele
TPL/6/I	Enlargement of part of Architectural Review article
TPL/7/A	Proof of Evidence of Professor Robert Tavernor
TPL/7/B	Summary of Proof of Evidence of Professor Robert Tavernor
TPL/7/C	Appendices to Professor Robert Tavernor's Proof of Evidence (A3)
TPL/7/D	Rebuttal Proof of Evidence of Robert Tavernor
TPL/7/E	Thumbnails of slide presentation
TPL/7/F	Evidence in Chief of Professor Tavernor
TPL/7/G	Note to Inquiry re Accuracy of View 22A in TPL/7/C
TPL/8/B	Written Statement of Malcolm Buchanan
TPL/9/A	Proof of Evidence of Alan Simmonds
TPL/9/B	Summary of Proof of Evidence of Alan Simmonds
TPL/9/C	Rebuttal Proof of Evidence of Alan Simmonds
TPL/9/D	Key Points of Evidence of Alan Simmonds
TPL/10	Note to Inquiry re Environmental Statement
TPL/11	Response to EH/9
TPL/12	Judgement referred to in Response to EH/9
TPL/13	Schedule of maintenance since Agreement between Thornfield and the City December 2002
TPL/14	Note of meeting held Friday 9 November 2007
TPL/15	Chronology on Evolution of scenarios and English Heritage input
TPL/16	Technical Approval of Design-Construction and maintenance of Civil Engineering Infrastructure NR/SP/CIV/003 (formerly RT/CE/S/003)
TPL/17	Note on the possible use of photovoltaics in the proposed development
TPL/18	Supplementary Environmental Statement
TPL/19	Agreement (unsigned) between Network Rail/City/Thornfield re Tunnel Works
TPL/20	Summary of Proposed Section 106 Agreement
TPL/21	2 November 2007 Debenture between Thornfield and Bank of Scotland plc
TPL/22	Closing Submissions and copies of legal judgement relied on

## City of London Corporation's Documents

CLC/1	Statement of Case
CLC/2	Opening Submissions
CLC/3/A	Proof of Evidence of Peter Wynne Rees
CLC/3/B	Appendices to Proof of Evidence of Peter Wynne Rees
CLC/3/C	Errata to the Proof of Evidence of Peter Wynne Rees
CLC/3/D	Extract from The London Plan Further Alterations Public Consultation Chapter 5 – 5B North London
CLC/4/A	Proof of Evidence of Dr Stuart Matthews
CLC/4/B	Appendices to Proof of Evidence of Dr Stuart Matthews
CLC/4/C	Rebuttal Proof of Evidence of Dr Stuart Matthews
CLC/4/D	Fig SLM4 Cross-section showing nominal details of a possible high level support grillage system and seating assembly in Area A
CLC/4/E	Estimate of railway possession time required
CLC/4/F	WS Atkins Principal Inspection Report on Snow Hill Tunnel beneath Annexe Market June 2000
CLC/4/G	Supplementary Information by Dr Stuart Matthews arising from Cross-examination by English Heritage
CLC/4/H	Meeting Notes of Stuart Matthews
CLC/5/A	Proof of Evidence of William Killick
CLC/5/B	Appendices to Proof of Evidence of William Killick
CLC/5/C	Rebuttal Proof of Evidence of William Killick
CLC/5/D	Viability Illustrations
CLC/6	Response to English Heritage Document EH9
CLC/7	Direction re City of London UDP Policies
CLC/8	Maintenance Schedule to December 2002
CLC/9	Agreement dated 18 November 1880
CLC/10/A	Chronology of Matters Affecting the Management of the Site
CLC/10/B	Appendices to the Chronology of Matters Affecting the Management of the Site
CLC/10/C	Expressions of Interest in the General Market Building made to the City of London Corporation
CLC/10/D	Note of Peter Bennett to Accompany Chronology
CLC/10/E	Bundle of letters between Allsops & City re valuations
CLC/10/F	Series of e-mails preceding items 63 & 64 in CLC/10/F
CLC/10/G	Report to Committee seeking authority to enter into Supplemental Agreement with Thornfield
CLC/10/H	First Note in Response to Points Arising from Peter Bennett's Evidence
CLC/10/I	Second Note in Response to Points Arising from Peter Bennett's Evidence
CLC/11	Publicity for Supplementary Environmental Statement
CLC/12	Extract from City of London Local Development Scheme July 2007
CLC/13	Further questions of clarification for Network Rail
CLC/13/A	Amended table to CLC/13 to reflect Network Rail evidence on possessions
CLC/14	City Office Market Overview
CLC/15/A	City's Energy Code of Practice Vol 1
CLC/15/B	City's Energy Code of Practice Vol 2
CLC/16	Certificate of Interest in the site
CLC/17	Closing submissions and copies of legal judgements relied on

## English Heritage's Documents

EH/1	Statement of Case
EH/2	Opening Submissions
EH/3/A	Proof of Evidence of Mr Eric Reynolds (USM)
EH/3/B	Appendices to Proof of Evidence for Mr Eric Reynolds (USM)
EH/3/C	Appendices EGR 1 to Proof of Evidence for Mr Eric Reynolds
EH/3/D	Appendices EGR 7 to Proof of Evidence for Mr Eric Reynolds (A3)
EH/3/E	Viability note relating to EH/8/C
EH/3/F	Scenario 2D Costs Summary
EH/3/G	Cashflow summary sheets of Illustrations 1-3 (A3)
EH/3/H	Key Points of Eric Reynolds Evidence
EH/3/I	Thumbnails of images to support Mr Reynolds Key Points
EH/3/J	Property details submitted by Mr Reynolds
EH/3/K	Plans showing Indicative Uses for Western Market Buildings
EH/3/L	E-mails between Eric Reynolds and Richard Horner
EH/3/M	Financial Statements relating to Greenwich Market
EH/3/N	Note re discussion between John Burton and Mark Bolton re Spitalfields
EH/3/O	Note re discussion between John Burton and Nick Coombs re Greenwich Market
EH/3/P	E-mail from Mask to Eric Reynolds
EH/3/Q	E-mail from Hammersons to Eric Reynolds re Spitalfields rents
EH/3/R	Comparables spreadsheet
EH/3/S	Appendix EGR7 IRR Greenwich Illustration
EH/3/T	Calculations by Mr Reynolds using CLC/5/D
EH/3/U	Mr Reynolds letter of appointment dated 9 November 2006
EH/3/V	Note from Mr Reynolds in response to Note on NCP transaction
EH/4/A	Proof of Evidence of Sir Terry Farrell
EH/4/B	Appendices to Proof of Evidence for Sir Terry Farrell
EH/4/C	Key Points of Sir Terry Farrell's Evidence
EH/4/D	Sketches produced by Sir Terry Farrell
EH/5/A	Proof of Evidence of Roger Mascall (DPP)
EH/5/B	Appendices to Proof of Evidence for Roger Mascall (DPP)
EH/5/C	Extract from PPG15 Justification and Planning Statement May 2004
EH/5/D	Extract from PPG15 Justification and Planning Statement August 2005
EH/5/E	Extract from Victorian Architecture by Robert Furneaux Jordan
EH/5/F	Key Points of Mr Mascall's Evidence
EH/5/G	English Heritage's comments on applications on sites to the north and south of the Inquiry site
EH/6/A	Proof of Evidence of Mark Dodds (DPP)
EH/6/B	Appendices to Proof of Evidence for Mark Dodds (DPP)
EH/6/C	Key Points of Mr Dodds Evidence
EH/6/D	Extract from City of London LDF Core Strategy Preferred Options April 2007
EH/6/E	Local Amenities Plan
EH/6/F	Property Particulars

EH/7/A	Proof of Evidence of David Tomback (EH)
EH/7/B	Appendices to Proof of Evidence for David Tomback (EH)
EH/7/C	Supplementary Statement of David Tomback
EH/7/D	Appendices to Supplementary Statement of David Tomback
EH/7/E	Letter from Matterhorn Capital to Mr Tomback
EH/7/F	Key Points of Mr Tomback's Evidence
EH/7/G	Extract from The Times 21 December 2007
EH/7/H	Extracts from Magazines and Newspapers submitted by Mr Tomback
EH/7/I	Note from Mr Tomback in response to note on NCP transaction
EH/8/A	Proof of Evidence of Brian Morton
EH/8/B	Appendices to Proof of Evidence for Brian Morton
EH/8/C	Drawings submitted by Mr Morton
EH/8/D	Comments on Scenario 2D BAM 20-24 & Scenario 2E BAM 25-29 (EH/8/C)
EH/8/E	Extracts from The Steel Construction Institute's Appraisal of Existing Iron and Steel Structures and Design Manual for Roads and Bridges
EH/8/F	Extract from Mitchell's Building Series: Materials
EH/8/G	Extract from Fairbairn's On The Application of Cast and Wrought Iron To Building Purposes
EH/8/H	Mr Morton's responses to queries by the City of London
EH/8/I	Key Points of Mr Morton's Evidence
EH/8/J	Notes of a meeting with Network Rail 2 November 2007
EH/8/K	Description of proposals to reduce extent of demolition related to works to the lid (deck) structures
EH/8/L	Extent of repair option works
EH/8/M	Assessment of jack arches, metal arch plates and associated tie in metal beam bridge decks. Current Information Sheet No 22 Network Rail, February 2001
EH/8/N	E-mails received by Mr Morton in relation to the structural condition of the decks
EH/8/O	Test results commissioned by Mr Morton
EH/8/P	Extract from How Structures Fail Why Buildings Fall Down, Matthys Levy and Mario Salvadori
EH/8/Q	E-mail re Professional Indemnity Insurance
EH/8/R	Mr Morton's Outstanding Matters
EH/8/S	Response to further evidence of Dr Steedman (TPL/4/J)
EH/9	Submissions in response to ID6
EH/10	Copies of Judgements referred to in EH/9
EH/11	Final Comments in relation to ID6
EH/12	Dearle and Henderson Report October 2007
EH/13	English Heritage comments on NPS Summary of Necessary Repairs
EH/14	Third Written note re Environmental Impact Assessment
EH/15	Bundle of e-mails between English Heritage and the Smithfield Market Tenants' Association
EH/16	Note re Office/refurbishment costs
EH/17	Suggested conditions relating to the canopy demolition listed building consent
EH/18	Suggested conditions relating to the Red House listed buildings consent
EH/19	Suggested conditions relating to the Conservation Area Consent
EH/20	Response to Bath House site planning application
EH/21	Land Registry search relating to NGL520180
EH/22	Land Registry search relating to LN253002
EH/23	Closing Submissions on behalf of English Heritage and copies of judgements relied on.

## SAVE Britain's Heritage's Documents

SBH/1	Statement of Case
SBH/2	Opening Submissions
SBH/3/A	Proof of Evidence of Dr Jennifer Freeman
SBH/3/B	Summary of Proof of Evidence of Dr Jennifer Freeman
SBH/3/C	Publication entitled "Don't Butcher Smithfield"
SBH/3/D	Annexes to Dr Jennifer Freeman
SBH/3/E	Additional Annexes to Dr Jennifer Freeman's Proof of Evidence
SBH/4/A	Proof of Evidence of Sophie Andreae
SBH/4/B	Appendices to Proof of Evidence of Sophie Andreae
SBH/5/A	Proof of Evidence of Adam Wilkinson
SBH/5/B	Summary of Proof of Evidence of Adam Wilkinson
SBH/5/C	Appendices to Proof of Evidence of Adam Wilkinson
SBH/5/D	E-mail from Prof Curl to Adam Wilkinson dated 8 November 2007
SBH/6/A	Proof of Evidence of George Ferguson
SBH/7/A	Proof of Evidence of Ian Learner
SBH/7/B	Additional Statement of Ian Learner
SBH/7/C	Extract from Evening Standard 8 January 2008
SBH/7/D	Schedules of Comparables
SBH/7/E	Letter re Instruction in relation to Bath House
SBH/8	Submissions on rights to cross-examine and request for Network Rail to attend the Inquiry
SBH/9	SAVE letter to Peter Bennett dated 29 March 2004
SBH/10	Closing Submissions on behalf of SAVE
SBH/11	SAVE comments on CD8.53 received during SAVE's closing but before other closing submissions

## Inspector's Documents

ID/1	PIM Agenda
ID/2	Advice on Document Preparation and Numbering
ID/3	PIM Notes
ID/4	Ruling on Inquiry Procedure
ID/5	Additional Note Following Change in Application
ID/6	Further Pre-Inquiry Note
ID/7	Ruling on English Heritage's request to cross-examine Mr Felton and Mr Hicks
ID/8	Ruling on English Heritage request that Mr Felton and Mr Hicks be compelled to attend the hearing
ID/9	Letter requesting Network Rail attend the Inquiry
ID/10	E-mail and itinerary for visit to meat market, site, and surrounding area 16 January 2008
ID/11	E-mail and itinerary for visit to Oxford buildings 18 January 2008
ID/12	E-mail and itinerary for visit to London buildings 23 January 2008
ID/13	Maps indicating viewpoints for markets site visits 26 & 27 January 2008



### APPENDIX 3 – SCHEDULE OF SITE VISITS

11 March 2007	Snowhill Tunnels and Sidings	Accompanied
16 January 2008	Buildings on the application site and tour of the surrounding area	Accompanied
18 January 2008	Rothermere American Institute and Ruth Deech Building St Anne's College Oxford	Accompanied
23 January 2008	Thames Court, Billingsgate Market, Unilever Building and Fabric Night Club 77a Charterhouse Street	Accompanied
26 January 2008	Borough Market and surroundings	Unaccompanied
27 January 2008	Greenwich, Camden and Spitalfields Markets and surroundings	Unaccompanied

## APPENDIX 4 – SCHEDULE OF CONDITIONS TO BE ATTACHED SHOULD PLANNING PERMISSION BE GRANTED

### Application for Conservation Area Consent (ref. 07/00161/CAC).

- 1) The works hereby permitted must be begun before the expiration of two years from the date of this consent.
- 2) The works of demolition hereby authorised shall not be carried out before a contract for the design and construction of the Railway Structure Replacement Works has been let. For the purposes of this condition 'Railway Structure Replacement Works' means the replacement of the beams, brick arches and other elements forming the deck structures over the Thameslink railway in Areas A, B and D shown on the Railway Structures Replacement Works Plan annexed hereto with new beams and deck structures constructed on new foundations as required with all necessary consents and approvals.
- 3) The demolition works hereby permitted shall not commence until the developer has secured the implementation of a programme of building recording, to include the former railway structures, in accordance with a method statement which has been submitted to, and approved in writing by, the Local Planning Authority.

### Application for Listed Building Consent (Canopy) (ref. 07/00168/LBC).

- 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
- 2) All new external and internal works and finishes and works of making good to the retained fabric of the Poultry Market, shall match the existing adjacent work with regard to the methods used and to material, colour, texture and profile, unless shown otherwise on the drawings or other documentation hereby approved or required by any condition(s) attached to this consent.
- 3) The demolition hereby authorised shall not commence until structural engineers drawings and/or a method statement, indicating the proposed method of ensuring the safety and stability of the building fabric to be retained throughout the period of demolition, has been submitted to, and approved in writing by, the Local Planning Authority. The demolition shall be carried out in accordance with the approved drawings/method statement.

### Application for Listed Building Consent (Red House) (ref. 07/00160/LBC)

- 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
- 2) No part of the building shall be demolished before a contract or series of contracts for the carrying out of the works of redevelopment have been made and planning permission has been granted for the development for which the contract(s) provide.

- 3) All new external and internal works and finishes and works of making good to the retained fabric, shall match the existing adjacent work with regard to the methods used and to material, colour, texture and profile, unless shown otherwise on the drawings or other documentation hereby approved or required by any condition(s) attached to this consent.
- 4) The works hereby permitted shall not commence until the developer has secured the implementation of a programme of building recording in accordance with a method statement which has been submitted to, and approved in writing by, the Local Planning Authority.
- 5) The demolition hereby authorised shall not commence until structural engineers drawings and/or a method statement, indicating the proposed method of ensuring the safety and stability of the building fabric of the Red House, 1A Smithfield Street to be retained throughout the period of demolition, has been submitted to, and approved in writing by, the Local Planning Authority. The demolition shall be carried out in accordance with the approved drawings/method statement.
- 6) No alterations shall be made to the exterior of the building until a schedule of works including a photographic record and detailed drawings (to a scale of 1:20 and 1:10 as appropriate) of the following have been submitted to, and approved in writing by, the Local Planning Authority:
  - a) Any new or replacement doors, windows and parapets;
  - b) New roof structures, coverings and rooflights;
  - c) New floor structures and finishes, including mezzanines, balustrades and floor edges where visible;
  - d) Details of the interiors including new internal finishes to existing and retained floors, walls and ceilings; and
  - e) New lifts and stairs and their enclosures.

Such works shall be undertaken in accordance with the approved drawings.

- 7) No cleaning of masonry, other than a gentle surface clean using nebulous water spray, is authorised by this consent without the prior approval of details by the Local Planning Authority. Proposals shall be submitted to, and approved in writing by, the Local Planning Authority before any other cleaning is undertaken and that cleaning shall be carried out in accordance with the approved proposals.
- 8) No re-pointing to external surfaces is authorised by this consent without the prior approval of details. Proposals shall be submitted to, and approved in writing by, the Local Planning Authority before any re-pointing is undertaken and the work shall be carried out in accordance with the approved proposals.

#### Application for Planning Permission (ref. 07/00172/FULEIA)

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

- 2) The development hereby permitted in respect of the Annex Market at 25 Snow Hill shall not commence until a contract has been let for the design and construction of the Railway Structure Replacement Works has been let. For the purposes of this condition 'Railway Structure Replacement Works' means the replacement of the beams, brick arches and other elements forming the deck structures over the Thameslink railway in Areas A, B and D shown on the Railway Structures Replacement Works Plan annexed hereto with new beams and deck structures constructed on new foundations as required with all necessary consents and approvals.
- 3) No demolition hereby authorised shall commence until structural engineers drawings and/or a method statement, indicating the proposed method of ensuring the safety and stability of the building fabric of the Annex Building, Red House and Lavatory Block to be retained has been submitted to, and approved in writing by, the Local Planning Authority. The demolition shall be carried out in accordance with the approved drawings/method statement.
- 4) Before any works hereby permitted, other than the Railway Structure Replacement Works, are begun additional details and information in respect of the following shall be submitted to and approved in writing by, the Local Planning Authority:
  - (a) Design of elevations and roofs including particulars and samples of the materials to be used on all external surfaces of the buildings;
  - (b) Details of the junctions between the new construction and the retained fabric of the Annex Market and Red House;
  - (c) Details of soffits, hand rails and balustrades;
  - (d) Details of the integration of window cleaning equipment and the garaging thereof, plant, flues, fire escapes and other excrescences at roof level;
  - (e) Details of the proposed new facades including typical details of the fenestration and entrances;
  - (f) Details of the ground floor office and retail entrances including gates;
  - (g) Details of typical bays of the development;
  - (h) Details of external surfaces within the site boundary including hard and soft landscaping;
  - (i) Details of ventilation, and air-conditioning for the A1, A3, A4, and A5 uses;
  - (j) Detailed drawings of roof structure including soffits;
  - (k) Lighting to the buildings, facades and market area;
  - (l) Shopfronts, including the glazed screen to the market area; and
  - (m) The interior fit out of the Market Area.
- 5) Refuse storage and collection facilities shall:
  - (a) be provided within the curtilage of the premises to serve all uses in the buildings in accordance with details which must be submitted to

and approved in writing by the Local Planning Authority prior to the uses commencing; and

- (b) thereafter be retained throughout the life of the buildings.
- 6) All Parish Markers and commemorative plaques on the existing building shall be carefully removed prior to demolition commencing, stored for the duration of building works and reinstated on the new building in accordance with detailed specifications which shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the works affected thereby.
  - 7) The threshold of all vehicular access points shall be at the same level as the rear of the adjoining footway.
  - 8) Prior to the occupation of any part of the buildings, the land between the existing building lines and the face of the proposed new buildings shall be brought up to street level, paved and drained in accordance with details to be submitted to and approved in writing by the Local Planning Authority and shall not be fenced or otherwise enclosed or obstructed.
  - 9) No doors or gates shall open over the public footway and any so shown on the approved drawings shall be amended in accordance with revised drawings to be submitted to and approved by the Local Planning Authority.
  - 10) There must be no roof structures outside the roof planes except as may be approved in writing by the Local Planning Authority.
  - 11) At all times when not being used for cleaning or maintenance the window cleaning gantries, cradles and other similar equipment shall be garaged within the enclosures shown on the approved drawings.
  - 12) Prior to the occupation of the office accommodation hereby approved the area shown for retail purposes and the Market (Urban Hall) on the approved plans shall be constructed to shell and core and retained thereafter.
  - 13) The level of noise emitted from any new plant shall be lower than the existing background level by at least 10 L pa. Noise levels shall be determined at one metre from the window of the nearest noise sensitive premises. The measurements and assessments shall be made in accordance with B.S. 4142. The background noise level shall be expressed as the lowest LA90 (10 minutes) during which plant is or may be in operation. A report demonstrating compliance with this condition must be submitted to and approved in writing by the Local Planning Authority before the plant hereby approved comes into operation.
  - 14) Before any new plant is used on the premises it shall be mounted in a way which will minimise transmission of structure borne sound, in accordance with a scheme to be agreed in writing with the Local Planning Authority.
  - 15) Car parking provision within the development shall not exceed 1 space per 1500 sq.m of floorspace (max 30 spaces).
  - 16) 3 of the car parking spaces referred to in condition 15 shall be suitable for use by people with disabilities and shall be provided on the premises in accordance with details to be submitted to and approved in writing by the Local Planning Authority before any works affected thereby are begun,

- and shall be retained throughout the life of the buildings and be readily available for use by disabled occupiers and visitors.
- 17) A minimum of one motor cycle parking space per 750 sq.m. of floorspace (60 spaces) shall be provided and maintained on the site throughout the life of the buildings.
  - 18) Permanently installed pedal cycle racks shall be provided and maintained on the site throughout the life of the buildings sufficient to accommodate a minimum of one pedal cycle per 250 sq.m. of floorspace (minimum 180 spaces) and revised details shall be submitted to and be approved by the Local Planning Authority.
  - 19) Changing facilities and showers shall be provided adjacent to the bicycle parking areas and maintained throughout the life of the building for the use of occupiers of the building.
  - 20) No development on any part of the site thereby affected shall take place until the developer has secured the implementation of a programme of archaeological work in respect of the part of the site thereby affected. The archaeological works are to be carried out in accordance with a written scheme or schemes of investigation which have been submitted to, and approved in writing by, the Local Planning Authority. This shall include details of any temporary works which may have an impact on the archaeology of the site.
  - 21) Before any development hereby permitted on any part of the site thereby affected are begun, details of the foundations and piling configuration in respect of the part of the site thereby affected, to include a detailed design and method statement, shall be submitted to, and approved in writing by, the Local Planning Authority. Such details are to show the preservation of surviving archaeological remains which are to remain in situ.
  - 22) The construction of the site foundations on any part of the site thereby affected shall be carried out in accordance with details submitted to, and approved in writing by, the Local Planning Authority before any part of the development thereby affected commences.
  - 23) No development shall take place until details of the proposed flood attenuation measures have been submitted to, and approved in writing by, the Local Planning Authority.
  - 24) Access through the basement of the development, for Crossrail construction vehicles to and from the basement of Caxton House (1/2 Farringdon Road) from West Smithfield Street level, should be provided at all times during the construction of Crossrail, both during and after construction of the development hereby permitted.
  - 25) Before any development hereby permitted, other than the Railway Structure Replacement Works, is begun, a scheme in the form of an acoustic report compiled by a qualified specialist shall be submitted to and approved in writing by the Local Planning Authority. This should specify the materials and constructional methods to be used to demonstrate that there is adequate sound proofing to both airborne and structure borne noise transmission between the Class A use and the surrounding offices.
  - 26) Before any development hereby permitted, other than the Railway Structure Replacement Works, is begun, a scheme shall be submitted to

and approved in writing by the Local Planning Authority which specifies the fume extract arrangements, materials and construction methods to be used to avoid noise and/or odour penetration to the upper floors from Class A use. The details approved must be implemented before Class A use takes place.

- 27) Any Class A3/A4/A5 use in the retail units hereby permitted shall not be open to customers other than between 07:00 hours and a time 30 minutes after the approved liquor licence.
- 28) A clear unobstructed minimum headroom of 5m must be maintained for the life of the building in the refuse skip collection area as shown on the approved drawings and a clear unobstructed headroom of 4.75m must be provided and maintained over the remaining areas and accessways.
- 29) Details of a Servicing Management Plan demonstrating the arrangements for control of the arrival and departure of vehicles servicing the premises shall be submitted to, and approved in writing by, the Local Planning Authority prior to the occupation of the development hereby permitted. The building facilities shall thereafter be operated in accordance with the approved Servicing Management Plan (or any amended Servicing Management Plan that may be approved from time to time by the Local Planning Authority) for the life of the building.

## APPENDIX 5 – GLOSSARY

AOI	Area for Intensification
CABE	Commission for Architecture and the Built Environment
CAZ	Central Activities Zone
CLC	City of London Corporation
DPD	Development Plan Document
EH	English Heritage
ES	Environmental Statement
FOC	Freight Operating Companies
GLA	Greater London Authority
LAC	London Advisory Committee
LDS	Local Development Scheme
LP	The London Plan 2004
NCP	National Car Park
NR	Network Rail
OLE	Overhead Line Electrification
PIM	Pre-Inquiry Meeting
PPG13	Planning Policy Guidance Note 13: Transport
PPG15	Planning Policy Guidance Note 15: Planning and the Historic Environment
PPS1	Planning Policy Statement 1: Delivering Sustainable Development
PPS6	Planning Policy Statement 6: Planning for Town Centres
PTAL	Public Transport Accessibility Level
SAVE	Save Britain's Heritage
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
TfL	Transport for London
TOC	Train Operating Companies
TPL	Thornfield Properties (London) Limited
UDP	City of London Unitary Development Plan 2002