



Department for  
Communities and  
Local Government

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Our Ref: APP/N5660/V/13/2205181  
APP/N5660/V/13/2205182  
APP/N5660/V/13/2205183  
APP/N5660/V/13/2205185  
Your Ref: C2/DUCROZVI/MG/4127998

5 June 2014

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
PLANNING (LISTED BUILDING AND CONSERVATION AREAS) ACT 1990  
APPLICATIONS BY BRAEBURN ESTATES LIMITED PARTNERSHIP AND  
SHELL PETROLEUM COMPANY LIMITED  
AT THE SHELL CENTRE, YORK ROAD, LONDON  
APPLICATION REFERENCES 12/04708/FUL, 12/04699/FUL, 12/04701/LB AND  
12/04702/CON**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Braithwaite BSc(Arch) BArch (Hons) RIBA MRTPI, who held a public local inquiry which sat for 11 days between 21 November and 12 December 2013 into your client's applications in relation to the Shell Centre, York Road, London as follows:

**Application A** (APP/N5660/V/13/2205181): a planning application for the part demolition of Shell Centre comprising Hungerford, York and Chicheley wings, upper level walkway, removal of raised podium deck, associated structures and associated site clearance to enable a mixed use development of 8 buildings ranging from 5 to 37 storeys in height and 4 basement levels to provide up to 218,147m<sup>2</sup> of floorspace (GIA), comprising offices (B1), residential (C3) (up to 877 units), retail (A1-A5), leisure (D2) and community/leisure uses (D1/D2), parking and servicing space, hard and soft landscaping together with the provision of a new public square, highway and landscaping works to Belvedere Road, Chicheley Street and York Road, modifications to York Road Underground station, 2 link bridges from new buildings to the existing Shell Centre Tower, reconfiguration of York Road footbridge if retained, creation of new vehicular

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access and other associated works, in accordance with application reference 12/04708/FUL dated 13 December 2012;

**Application B** (APP/N5660/V/13/2205182): a planning application for external alterations to Shell [Centre] Tower to integrate the building with redevelopment works on the Shell Centre site following demolition of existing wings, works to include recladding exposed elements of building façade and integration of two new link bridges and associated development in accordance with application reference 12/04699/FUL dated 13 December 2012;

**Application C** (APP/N5660/V/13/2205183): an application for listed building consent for the dismantling and removal of Grade II listed Franta Belsky fountain from existing Shell Centre courtyard and the temporary safe storage and resiting of the fountain to new location in accordance with application reference 12/04701/LB dated 13 December 2012;

**Application D** (APP/N5660/V/13/2205185): an application for conservation area consent for the part demolition of Shell Centre comprising Hungerford, York and Chicheley wings, upper level walkway, removal of raised podium deck, associated structures and associated site clearance in accordance with application reference 12/04702/CON dated 13 December 2012.

2. On 3 September 2013 the Secretary of State directed, in pursuance of section 77 of the Town and Country Planning Act 1990, that the applications be referred to him instead of being dealt with by the relevant planning authority, the London Borough of Lambeth (the Council).

### **Inspector's recommendation and summary of the decision**

3. The Inspector recommended that: planning permission is granted for Applications A and B, subject to conditions; listed building consent is granted for Application C, subject to conditions; and conservation area consent is granted for Application D, subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with his recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural Matters**

4. In reaching this position the Secretary of State has taken into account the Environmental Statement which was submitted (IR1.5) and the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The Secretary of State is content that the Environmental Statement complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the applications.

### **Matters arising after the close of the inquiry**

5. The Secretary of State wrote on 20 March 2014 to the main inquiry parties, inviting comment on the implications of the recent Court of Appeal decision in *Barnwell Manor Wind Energy Limited v East Northamptonshire District Council*

and others [2014] EWCA Civ 137 for this case; and on the Planning Guidance which was published on 6 March 2014. The responses received were circulated to the main parties for further comment on 11 April 2014. In coming to his decision on the applications before him the Secretary of State has taken into account the representations received in this respect which are listed at Annex E to this letter.

6. The Secretary of State is also in receipt of the correspondence listed at Annex F which was either received following the close of the inquiry or otherwise not seen by the Inspector. He has carefully considered this correspondence but is satisfied that it does not raise any new issues which affect his decision. Copies of the representations referred to in paragraphs 5 and 6 above are not enclosed but may be obtained on written request to the address at the foot of the first page of this letter.

### **Policy considerations**

7. In deciding the planning applications, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case, the development plan comprises the 2011 London Plan as amended by the Revised Early Minor Alterations published in October 2013 (the LP), the 2011 Lambeth Development Framework Core Strategy (the CS) and saved policies of the 2007 Lambeth Unitary Development Plan (the UDP). The Secretary of State considers that the development plan policies most relevant are those identified by the Inspector at IR7.4-7.14.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework), the Planning Guidance, the Community Infrastructure Levy (CIL) regulations and the supplementary planning and other guidance identified by the Inspector at IR8.1-8.15. The Secretary of State is aware that the Mayor published for consultation draft Further Alterations to the London Plan in January 2014 and also that the Council submitted the Lambeth Local Plan Proposed Submission for examination in March 2014. Prior to their respective independent examinations the Secretary of State gives no more than limited weight to these documents.
10. In accordance with sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LB Act), the Secretary of State has paid special regard to the desirability of preserving those listed structures potentially affected by the applications before him or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas, as required by section 72(1) of the LB Act.

### **Main issues**

11. The Secretary of State considers that the main issues in this case are those identified by the Inspector at IR16.1.

The extent to which the proposed development is consistent with Government policies requiring good design

12. The Secretary of State agrees with the Inspector's reasoning and conclusions on design issues at IR16.2-16.33. Like the Inspector he considers that the proposed redevelopment would redress the current impermeability of the site (IR16.11), and also that the principle of including tall buildings in the proposed development accords with policies set out in the LP, the CS and UDP and the Waterloo Opportunity Area Planning Framework (WOAPF) (IR16.8). He also shares the Inspector's view (IR16.18) that the proposed development would be high quality design and in this respect accords with LP policy 7.6, CS policy S9, saved UDP policy 40 and the Waterloo Area Supplementary Planning Document (WASPD).
13. Like the Inspector (IR16.30) the Secretary of State is also satisfied that the proposed development, in layout, scale and form, is appropriate in context, particularly in the context of its proximity to Waterloo Station, which affords uses on the site high public transport accessibility and in this respect it accords with LP policy 2.13, CS policies S9 and PN1, and saved UDP policies 31 and 40, and with guidance in the WASPD and the WOAPF.
14. In conclusion on design the Secretary of State agrees with the Inspector (IR16.33) that the proposed development constitutes high quality and therefore good design, and would make the Waterloo Area better for people, including current and future residents, workers and visitors and that the development thus accords with paragraph 56 and Section 7 of the Framework.

The extent to which the proposed development is consistent with Government policies in planning for the conserving and enhancing of the historic environment including the impact on the Palace of Westminster, Westminster Abbey and St Margaret's Church World Heritage Site (WWHS)

15. The Secretary of State agrees with the Inspector's reasoning and conclusions on the historic environment at IR16.34-16.59. With regards the Franta Belsky Fountain, the subject of Application C, the Secretary of State notes the Inspector's comments at IR16.34 and shares his view that its relocation within the public realm of the proposed redevelopment scheme would enhance its heritage significance.
16. The Secretary of State agrees with the Inspector that, taking into account views within and from outside the area around the Shell Centre, the proposed development would not harm the setting of any listed building on the south bank of the river and that the proposals accord with LP policy 7.8 and UDP policy 45 in this respect (IR16.44). He also agrees that the tops of the proposed buildings, alongside the Shell Tower, would be visible in views from the Blue Bridge in St James' Park, but would be outside and would not harm the settings of the WWHS, the St James' Park Registered Park and Garden, the several Conservation Areas on the north bank of the river, or the many listed buildings within these designated areas and that the proposed development accords with LP policies 7.8 and 7.10 in this respect (IR16.52).

17. As to the South Bank Conservation Area (SBCA), the Secretary of State shares the Inspector's conclusion that the proposed development would change, but would not harm, its character and appearance and that it accords with LP policy 7.8 and saved UDP policy 47 (IR16.56). He agrees that the conclusions reached on the historic merit of the Wing buildings and on the quality and effect of the proposed development on the character and appearance of the SBCA result in a conclusion that Application D should be approved, if Application A is approved (IR16.57).
18. The Secretary of State also agrees with the Inspector that the proposed development would not intrude into any appreciation of the Victory Arch, and that no harm would be caused to the character or appearance of either the Roupell Street Conservation Area or the neighbouring Waterloo Conservation Area (IR16.58).
19. In overall conclusion on the historic environment, the Secretary of State agrees with the Inspector (IR16.59) that the proposed development is of the highest quality and would cause no harm to any heritage asset; is consistent with Government policies in planning for the conservation and enhancement of the historic environment; and accords with paragraph 132 and Section 12 of the Framework. The Secretary of State has come to his conclusions on the historic environment giving considerable importance and weight to his duties in the LB Act as set out in paragraph 10 above.

#### Other matters of importance

##### *Affordable Housing*

20. The Secretary of State agrees with the Inspector's reasoning and conclusions in respect of affordable housing at IR16.60-16.67. Like the Inspector he considers that the proposed development, on the basis of the viability assessment, maximises affordable housing provision and therefore accords with LP policy 3.11; and that the applicants have submitted independently validated evidence of viability and the proposed development thus accords with LP policy 3.12 and, in this regard, CS policy S2 (IR16.66). The Secretary of State further agrees that the development does not include 40% affordable housing and therefore in this regard, does not comply with CS policy S2; but that the applicants are committed through the Section 106 agreement to review viability as the scheme proceeds and if it improves to give an internal rate of return of 20%, to provide up to 40% affordable housing and thus comply with CS policy S2 (IR16.66).

##### *Residential Amenity – Sunlight and Daylight*

21. Having had regard to the Inspector's comments at IR16.68-16.78, the Secretary of State shares his conclusion that the proposed development would cause harm to the amenities of residents of the Whitehouse Apartments and County Hall North Block, that the harm would be less than substantial, and that the proposed development does not accord with, in particular, saved UDP policy 33 (IR16.79).

### *Residential Amenity – Traffic and Noise*

22. The Secretary of State agrees with the Inspector's reasoning and conclusions in respect of traffic and noise set out at IR16.80-16.83. Like the Inspector (IR16.82) he considers that the only realistic option is to combine access to the site on Chicheley Street and he notes that Council officers in addition to Transport for London are satisfied with the proposals (IR16.82). The Secretary of State also notes that an assessment of the potential for greater noise levels on surrounding roads concluded that there would be, in simple terms, an increase of less than 1dBA, and he shares the Inspector's view that the proposed development in this regard would not conflict with plan policies that seek to protect residential amenity (IR16.83).

### *Open Space*

23. Having had regard to the Inspector's comments at IR16.84-16.86, the Secretary of State shares his conclusion at IR16.87 that the quality and full accessibility of the open space that would be provided within the development outweighs the greater amount but poor quality of open space currently provided and that the proposed development in this regard does not conflict with paragraph 74 of the Framework or with the spirit of LP policy 7.18 and CS policy S5.

### *Children's Play Space*

24. For the reasons given at IR16.88-16.90 the Secretary of State agrees with the Inspector's conclusion (IR16.91) that the proposed development, with regard to the provision of children's play space, generally accords with the Play and Informal Recreation Supplementary Planning Guidance and with the spirit of LP policy 3.6 and saved UDP policies 33 and 50.

### *Design Standards*

25. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR16.92-16.95 in respect of design standards. He agrees that the proposed development meets the plan-led need for housing and for affordable housing, particularly in sustainable locations, and would be of exemplary design quality; and that in these circumstances minor departure from some Housing Supplementary Planning Guidance baseline standards is acceptable and is not a reason to withhold planning permission (IR16.95).

### *Office Floor Space*

26. For the reasons given by the Inspector at IR16.96-16.98, the Secretary of State agrees with his assessment that the Shell Centre site, if the proposed development is implemented, would accommodate about 2,000 more office workers than when the Shell Buildings were fully occupied (IR16.99).

### *Other matters*

27. The Secretary of State agrees with the Inspector's conclusions on those issues identified at IR16.100.

### The extent to which the proposed development is consistent with the development plan for the area

28. The Secretary of State agrees with the Inspector's conclusion (IR16.101) that the proposed development is consistent with the policies identified in Section 7 of the IR (although IR16.101 in error refers to Section 6 of the IR) except for saved UDP policy 33 because the development would cause harm to the amenities of residents of the Whitehouse Apartments and County Hall North Block (IR16.101).

### Conditions

29. The Secretary of State has considered the proposed conditions in Schedules 1 – 4 of the IR, the Inspector's comments at IR15.1-15.5, national policy set out in paragraphs 203 and 206 of the Framework and the Planning Guidance. He is satisfied that the proposed conditions are necessary and meet the other tests identified at paragraph 206 of the Framework.

### Obligation

30. The Secretary of State has had regard to signed and dated section 106 legal agreement submitted by the applicant, the Inspector's comments at IR15.6-15.7, national policy set out at paragraphs 203-205 of the Framework, the planning guidance and the CIL regulations. He agrees with the Inspector for the reasons given (IR15.7) that the legal agreement complies with regulation 22 of the CIL regulations 2010 and that weight needs to be attached to it.

### Overall Conclusions

31. The Secretary of State agrees with the Inspector's overall conclusions at IR16.102-16.112. He agrees that there is robust up-to-date plan-led support, from the LP through the CS to the WOAPF and even the WASPD, for the erection of tall buildings on the site and that the master plan accords with strategic and local policy to increase office space in the Central Activities Zone and to plan for a mix of uses including housing (IR16.102). Like the Inspector the Secretary of State also concludes that the sub-division of the site would significantly improve permeability through the site most importantly from Waterloo Station to Queen's Walk (IR16.103); that the architecture of the proposed development would be varied but consistently high quality (IR16.104); and that the proposed development would enhance its surroundings and the character of the South Bank (IR16.104). After careful consideration, the Secretary of State agrees that the proposed development would not be harmful to the setting or outstanding universal value of the WWHS (IR16.105) and he has found at paragraph 19 above that there would be no harm to any other heritage asset.

32. The Secretary of State shares the Inspector's conclusions that the development maximises affordable housing provision; that the quality and full accessibility of the open space that would be provided outweighs that greater amount but poor quality of open space currently provided; that there is adequate provision for on-site or off-site play space for children; and that there would not be departures from design standards to any significant degree (IR16.107). He agrees that there

would be a reduction in sunlight and daylight in nearby residential buildings, that the harm would be less than substantial, and must be balanced against the benefits of the scheme (IR16.108). Like the Inspector (IR16.109) the Secretary of State concludes that the harm identified in this case is outweighed by the benefits of the proposed development, which are significant, including the construction of 877 apartments of which 98 would be affordable dwellings and the provision of office space for about 2,000 office workers. In overall conclusion in respect of Applications A and B, the Secretary of State, like the Inspector (IR16.110), sees the proposed development as successfully optimising the potential for the provision of jobs and homes on a site that is highly accessible by public transport, and also agrees (IR16.112) that the proposed development and associated works comply with the development plan as a whole and should be approved.

33. In respect of Application C, the Secretary of State concludes that its relocation would enhance the historic significance of the Franta Belsky Fountain. He also concludes that Application D should be approved, taking into account the effect of the proposals on the character and appearance of the South Bank Conservation Area.

### **Formal Decision**

34. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby grants your client's applications in relation to the Shell Centre, York Road, London as follows:

**Application A** (APP/N5660/V/13/2205181): a planning application for the part demolition of Shell Centre comprising Hungerford, York and Chicheley wings, upper level walkway, removal of raised podium deck, associated structures and associated site clearance to enable a mixed use development of 8 buildings ranging from 5 to 37 storeys in height and 4 basement levels to provide up to 218,147m<sup>2</sup> of floorspace (GIA), comprising offices (B1), residential (C3) (up to 877 units), retail (A1-A5), leisure (D2) and community/leisure uses (D1/D2), parking and servicing space, hard and soft landscaping together with the provision of a new public square, highway and landscaping works to Belvedere Road, Chicheley Street and York Road, modifications to York Road Underground station, 2 link bridges from new buildings to the existing Shell Centre Tower, reconfiguration of York Road footbridge if retained, creation of new vehicular access and other associated works, in accordance with application reference 12/04708/FUL dated 13 December 2012 subject to the conditions at Annex A of this letter;

**Application B** (APP/N5660/V/13/2205182): a planning application for external alterations to Shell [Centre] Tower to integrate the building with redevelopment works on the Shell Centre site following demolition of existing wings, works to include recladding exposed elements of building façade and integration of two new link bridges and associated development in accordance with application reference 12/04699/FUL dated 13 December 2012 subject to the conditions at Annex B of this letter;



**Application C** (APP/N5660/V/13/2205183): an application for listed building consent for the dismantling and removal of Grade II listed Franta Belsky fountain from existing Shell Centre courtyard and the temporary safe storage and resiting of the fountain to new location in accordance with application reference 12/04701/LB dated 13 December 2012 subject to the conditions at Annex C of this letter;

**Application D** (APP/N5660/V/13/2205185): an application for conservation area consent for the part demolition of Shell Centre comprising Hungerford, York and Chicheley wings, upper level walkway, removal of raised podium deck, associated structures and associated site clearance in accordance with application reference 12/04702/CON dated 13 December 2012 subject to the conditions at Annex D of this letter.

35. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
36. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990 and section 8 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
37. This letter serves as the Secretary of State's statement under regulation 24(2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

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

38. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
39. A copy of this letter has been sent to the London Borough of Lambeth, the Greater London Authority, Westminster City Council, Riverside Communities Limited and the Twentieth Century Society. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**James Henderson**

Authorised by Secretary of State to sign in that behalf

## **Annex A – Conditions for Application A reference 12/04708/FUL**

1. The development hereby permitted shall begin not later than three years from the date of this decision.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed below, other than where those details are altered pursuant to the requirements of conditions of this planning permission.

11016\_C645\_B2\_P\_B3\_002 Rev 01, 11016\_C645\_B2\_P\_B1M\_002 Rev 01, 11016\_C645\_B2\_P\_B1\_002 Rev 01, 11016\_C645\_B2\_P\_B2\_002 Rev 01, 11016\_B1\_P\_00\_C645\_001 Rev 00, 11016\_B1\_P\_01\_C645\_001 Rev 00, 11016\_B1\_P\_02\_C645\_001 Rev 00, 11016\_B1\_P\_03\_C645\_001 Rev 00, 11016\_B1\_P\_04\_C645\_001 Rev 00, 11016\_B1\_P\_05\_C645\_001 Rev 00, 11016\_B1\_P\_06\_C645\_001 Rev 00, 11016\_B1\_P\_07\_C645\_001 Rev 00, 11016\_B1\_P\_08\_C645\_001 Rev 00, 11016\_B1\_P\_09\_C645\_001 Rev 00, 11016\_B1\_P\_10\_C645\_001 Rev 00, 11016\_B1\_P\_11\_C645\_001 Rev 00, 11016\_B1\_P\_RF\_C645\_001 Rev 00, 11016\_B1\_E\_E\_C645\_001 Rev 00, 11016\_B1\_E\_N\_C645\_001 Rev 00, 11016\_B1\_E\_S\_C645\_001 Rev 00, 11016\_B1\_E\_W\_C645\_001 Rev 00, 2104\_C645\_B2\_P\_00\_001 Rev 00, 2104\_C645\_B2\_P\_04\_001 Rev 00, 2104\_C645\_B2\_P\_08\_001 Rev 00, 2104\_C645\_B2\_P\_12\_001 Rev 00, 2104\_C645\_B2\_P\_16\_001 Rev 00, 2104\_C645\_B2\_E\_N\_001 Rev 00, 2104\_C645\_B2\_E\_S\_001 Rev 00, 403\_B3\_P\_00\_C645\_501 Rev 01, 403\_B3\_P\_00\_C645\_502 Rev 01, 403\_B3\_P\_02\_C645\_501 Rev 01, 403\_B3\_P\_08\_C645\_501 Rev 01, 403\_B3\_P\_14\_C645\_501 Rev 01, 403\_B3\_P\_20\_C645\_501 Rev 01, 403\_B3\_P\_26\_C645\_501 Rev 01, 403\_B3\_P\_29\_C645\_501 Rev 01, 403\_B3\_E\_N\_C645\_501 Rev 01, 403\_B3\_E\_N\_C645\_502 Rev 01, 403\_B3\_E\_S\_C645\_501 Rev 01, 403\_B3\_E\_S\_C645\_502 Rev 01, 11016 B4A\_P\_00\_C645\_001 Rev 01, 11016 B4A\_P\_33\_C645\_001 Rev 01, 11016 B4A\_E\_AL\_C645\_001 Rev 01, 11016 B4B\_P\_00\_C645\_001 Rev 01, 11016 B4B\_P\_17\_C645\_001 Rev 01, 11016 B4B\_E\_AL\_C645\_001 Rev 01, 453\_B5\_P\_00\_C645\_001 Rev 00, 453\_B5\_P\_02\_C645\_001 Rev 00, 453\_B5\_P\_12\_C645\_001 Rev 00, 453\_B5\_E\_EN\_C645\_001 Rev 00, 453\_B5\_E\_WS\_C645\_001 Rev 00, 12013 B6+7\_P\_00\_05\_C645\_001 Rev 00, 12013 B6+7\_P\_06\_13\_C645\_001 Rev 00, 12013 B6+7\_P\_14\_Roof\_C645\_001 Rev 00, 12013 B6+7\_P\_E\_N+S\_C645\_001 Rev 00, 12013 B6+7\_P\_E\_E+W\_C645\_001 Rev 00, 11016 MP\_P\_00\_C645\_001 Rev 01, 11016 MP\_P\_01\_C645\_001 Rev 01, 11016 MP\_P\_00\_C645\_002 Rev 01, 11016 MP\_P\_01\_C645\_002 Rev 01, 11016\_BO\_P\_00\_G710\_001 Rev 01, 11016\_BO\_P\_00\_G710\_002 Rev 01, 11016\_BO\_P\_RF\_G710\_001 Rev 01, 11016\_BO\_P\_RF\_G710\_002 Rev 01, 11016\_BO\_P\_00\_G710\_012 Rev 01, 11016\_BO\_P\_00\_G710\_013 Rev 01, 10073\_003A Rev 01, 10073\_003B Rev 01, MP\_P\_00\_JA12\_001 Rev 00, MP\_P\_01\_JA12\_001 Rev 00, MP\_P\_TY\_JA12\_001 Rev 00, MP\_P\_RF\_JA12\_001 Rev 00, MP\_P\_B1\_JA12\_001 Rev 00, MP\_P\_B1M\_JA12\_001 Rev 00, MP\_P\_B2\_JA12\_001 Rev 00, MP\_P\_B3\_JA12\_001 Rev 00, MP\_E\_E\_JA12\_001 Rev 00, MP\_E\_N\_JA12\_001 Rev 00, MP\_E\_S\_JA12\_001 Rev 00, MP\_E\_W\_JA12\_001 Rev 00, MP\_S\_AA\_JA12\_001 Rev 00, MP\_S\_BB\_JA12\_001 Rev 00.

3. The first element of the development (excluding demolition) shall comprise Building 1 and Basement works as defined on drawings 11016 MP\_P\_00\_C645\_002 Rev 01, 11016 \_C645\_B2\_P\_B1\_002 Rev 01, 11016 \_C645\_B2\_P\_B1M\_002 Rev 01, 11016 \_C645\_B2\_P\_B2\_002 Rev 01 and 11016 \_C645\_B2\_P\_B3\_002 Rev 01. Prior to the commencement of the remainder of the development, a Construction Sequencing Plan shall be submitted to and approved in writing by the local planning authority. The Construction Sequencing Plan shall include details of the sequence of the construction of the proposed buildings, landscaping and any works to the York Road Footbridge (as shown on drawings 11016 MP\_P\_00\_C645\_002 Rev 01, 11016\_B0\_P\_00\_G710\_001 Rev 01 and 11016\_B0\_P\_00\_G710\_002 Rev 01).

4. Demolition works shall not commence until a Demolition Method Statement has been submitted to and approved in writing by the local planning authority. The Demolition Method Statement shall include details of consultation with neighbours regarding: the timing and coordination of works; the notification of neighbours with regard to specific works; advance notification of road closures; access, parking, servicing, deliveries, and storage; dust mitigation; measures to prevent the deposit of mud and debris on the public highway; loading, off-loading, parking and turning of vehicles within the site; and other measures to mitigate the impact of demolition upon the amenity of the area and the function and safety of the highway network. The approved Demolition Method Statement shall be implemented and adhered to during the demolition process.

5. Development shall not commence (other than demolition) until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Construction Method Statement shall include details regarding: consultation with neighbours regarding the timing and coordination of works; the notification of neighbours with regard to specific works; advance notification of road closures; access, parking, servicing, deliveries, and storage; dust mitigation; measures to prevent the deposit of mud and debris on the public highway; loading, off-loading, parking and turning of vehicles within the site; and other measures to mitigate the impact of construction upon the amenity of the area and the function and safety of the highway network. The approved Construction Method Statement shall be implemented and adhered to during the construction process.

6. Demolition works shall not commence until the developer has agreed with the local planning authority, in consultation with LUL, the extent of the existing site areas to be demolished that would impact on LUL's assets. Structural demolition works within those agreed areas and all other development hereby permitted shall not be commenced (other than the demolition works that would not impact on LUL's assets) until a detailed Design and Method Statement for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), has been submitted to and approved in writing by the local planning authority in consultation with London Underground. The Statement shall:

a) provide details on all structures referred to above;

- b) demonstrate how the development works would accommodate the location of the existing London Underground structures and tunnels;
- c) demonstrate how the development works would accommodate ground movement arising from the construction thereof; and
- d) set out mitigation measures against the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The approved Design and Method Statement shall be implemented and adhered to during the construction process.

7. Demolition works shall not be carried out in the bird nesting season (March to July inclusive) unless all trees, scrub and buildings have been searched for the presence of nesting birds. If any are found the nests shall be protected until such time as the young have fledged and left the nest. The protection details shall be submitted to and approved in writing by the local planning authority prior to the commencement of demolition works on the relevant part of the development.

8. Development shall not commence (excluding demolition) until load take-down input to the pile load design calculations of each building has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

9. Development shall not commence (excluding demolition) until details of items 'a to l' below (where relevant) have been submitted to and approved in writing by the local planning authority for the following: (i) each building (above ground, excluding the building core); (ii) the basement; and (iii) the public realm (as shown on drawings 11016 MP\_P\_00\_C645\_002, 11016 \_C645\_B2\_P\_B1\_002 Rev 01, 11016 \_C645\_B2\_P\_B1M\_002 Rev 01, 11016 \_C645\_B2\_P\_B2\_002 Rev 01, 11016 \_C645\_B2\_P\_B3\_002 Rev 01 and 11016\_B0\_P\_00\_G710\_001 Rev 01 and 11016\_B0\_P\_00\_G710\_002 Rev 01). The development shall be carried out in accordance with the approved details.

- a. A sample of external materials;
- b. Mock up panels of typical elevations for each building and window bays;
- c. Façade design and detailing at 1:20 and 1:5 scale to include (where relevant) details of the precast concrete, reveal depth, glass, mullion, transom, fins and their supporting structure, opening windows (or equivalent), the integration of the façade cleaning rails and any external louvres, illustrating the different conditions over the building;
- d. Location and dimension details of all external pillars;
- e. Details of building soffits;
- f. Full ground and first floor detailed elevation drawings of the buildings including details of entrance doors, canopies, fire escapes and service doors;
- g. Details of basement ventilation strategy;
- h. Finishing details to all external pillars;

- i. Details of louvres, PV panels, façade cleaning equipment, plant and machinery and other structures at roof level (including screening);
- j. Detailed design of canopy between Buildings 1, 2 and Shell Tower;
- k. Detailed design of the bridge links between Building 1 and the Shell Tower;
- l. Details of screening between building 5 and the railway viaduct for the purpose of wind mitigation.

10. Development shall not commence of any building hereby permitted until a detailed signage/advertisement strategy for that building has been submitted to and approved in writing by the Local Planning Authority (buildings as shown on drawing 11016 MP\_P\_00\_C645\_002). All signage/advertisement to be fixed to each building shall be in accordance with the approved strategy for that building.

11. Development shall not commence of any building hereby permitted until details of a lighting strategy for lighting to be fixed to that building has been submitted to and approved in writing by the local planning authority. The approved lighting strategy shall be implemented before the relevant building is first occupied, or in accordance with a timetable approved in writing by the local planning authority, and shall be retained thereafter for the duration of the development.

12. No plumbing or pipes, other than rainwater pipes, shall be fixed to the external faces of buildings or associated structures.

13. Development shall not commence on any building hereby permitted (as shown on drawing 11016 MP\_P\_00\_C645\_002 Rev 01) until a landscaping scheme for the site of that building, including hard and soft landscaping, street furniture, lighting not fixed to buildings and an implementation programme, has been submitted to and approved in writing by the local planning authority. Soft landscaping details shall include trees and shrubs to be planted showing numbers, species and type of stock, areas to be grass seeded or turfed, and planter profiles. Hard landscaping details shall include all ground surfaces, seating, lighting of all external public areas, refuse disposal points, designated smoking areas, secure and covered cycle stands, bollards, vehicle crossovers/access points, ramps or stairs plus wheel chair access, play equipment for the areas either side of Building 4B, finished ground levels and site topographical levels. The development shall be carried out in accordance with the approved landscaping scheme. The landscaping shall be maintained for a period of ten years including the replacement of any plants/trees that die, or are severely damaged, seriously diseased, or removed, upkeep of ground surfaces and hard landscaping features, and the removal of graffiti/chewing gum.

14. Development shall not commence until details of the dismantling/removal, storage and reinstatement, within the application site, of the following artefacts

and art works has been submitted to and approved in writing by the local planning authority:

- a. The Motor Cyclist Statue (presently in the courtyard);
- b. Aumonier's 'sphere' (presently on Belvedere Road);
- c. The two carved Portland stone shells (presently flanking the high level footbridge entrance on York Road);
- d. The bronze Shell cartouche (presently marking the secondary entrance to Belvedere Road);
- e. The shell embellished lead-work (presently on the Chicheley Street podium canopies).

The artefacts and art works shall be reinstated on site in accordance with the approved details.

15. Development shall not commence until the interior of the basement theatre and the interior of the swimming pool have been recorded (photographically and with measured drawings) prior to dismantling. The records made shall be deposited in the London Historic Monuments Record. The decorative elements of the interiors shall, if feasible, be salvaged and re-used on or off site or offered to relevant archives or museums.

16. No trees other than those identified to be removed in the Arboricultural Development Statement (CBA 10073 V3) by CBA Trees dated March 2013, shall be felled, pruned, uprooted, damaged or otherwise disturbed without the prior written approval of the local planning authority.

17. Development shall not commence until all tree protection measures and arboricultural method statements, as set out in the Arboricultural Development Statement (CBA 10073 V3) by CBA Trees dated March 2013, have been implemented. The tree protection measures and arboricultural method statements shall remain in place for the duration of the construction works.

18. All arboricultural site monitoring, site supervision and subsequent record keeping of all tree protection measures shall be carried out in accordance with the details contained in the Arboricultural Development Statement (CBA 10073 V3) by CBA Trees dated March 2013.

19. Development shall not commence until a drawing showing service and drainage routes outside tree root protection areas has been submitted to and approved in writing with the local planning authority. The development shall be carried out in accordance with the approved drawing.

20. Above ground building works shall not commence on any residential building shown on drawing 11016 MP\_P\_00\_C645\_002 Rev 01 until details of sound insulation for the residential units in that building have been submitted to and approved in writing by the local planning authority. The insulation shall be designed to meet the following standards:

- for living rooms, 35 dB(A) LAeq 16 hour between 0700 and 2300 hours;
- for bedrooms, 30 dB(A) LAeq 8 hour between 2300 and 0700 hours; and
- 45 dB(A) max for any individual noise event (measured with F time weighting) between 2300 and 0700 hrs.

The development shall be carried out in accordance with the approved details.

21. Amplified sound, speech or music (excluding voice alarm systems for fire alarm and evacuation purposes) associated with any non-residential use hereby permitted shall not be audible above background noise levels when measured outside the nearest residential property.

22. Development shall not commence of any building hereby permitted (as shown on drawing 11016 MP\_P\_00\_C645\_002 Rev 01) or of works to the basement (as shown on drawings 11016 \_C645\_B2\_P\_B1\_002 Rev 01, 11016\_C645\_B2\_P\_B1M\_002 Rev 01, 11016 \_C645\_B2\_P\_B2\_002 Rev 01 and 11016 \_C645\_B2\_P\_B3\_002 Rev 01) until details of internal and external plant equipment and trunking, including building services plant, ventilation and filtration equipment and commercial kitchen exhaust ducting/ventilation to terminate at roof level, have been submitted to and approved in writing by the local planning authority. All flues, ducting and other equipment shall be installed in accordance with the approved details prior to the relevant use commencing on site and shall thereafter be maintained in accordance with the manufacturers' instructions.

23. Noise from any mechanical equipment or building services plant shall not exceed the background noise level when measured outside the window of the nearest noise sensitive or residential property, when measured as a L90 dB(A) 1 hour event.

24. Development shall not commence of any building hereby permitted (as shown on drawing 11016 MP\_P\_00\_C645\_002 Rev 01) or of public realm works (as shown on drawings 11016\_BO\_P\_00\_G710\_001 Rev 01 and 11016\_BO\_P\_00\_G710\_002 Rev 01) until a crime prevention strategy has been submitted to and approved in writing by the local planning authority in consultation with the Police. The strategy shall demonstrate how the development makes reasonable endeavours to meet 'Secured by Design' standards and shall include details of the following:

1. Secured by Design physical protection measures to be incorporated in both the commercial and residential units;
2. External & courtyard communal lighting to BS 5489;
3. Full audio-visual access control measures in all units;
4. Monitored alarm facilities in commercial units;
5. Closed Circuit TV;
6. Lockable robust security rated doors to plant rooms;
7. Lockable bin stores;
8. Lockable cycle stores;
9. Security rated doors and windows to each unit;
10. Lighting to a minimum of 0.25 uniformity.

The development shall be carried out in accordance with the approved details.

25. Before any building hereby permitted is first occupied an Evacuation Plan, including details of safe access from the basement levels of the development to an upper level and a flood warning system, shall be submitted to and approved in writing by the local planning authority. The approved Evacuation Plan shall be implemented before occupation of the relevant building and shall remain in place thereafter.

26. Before any building hereby permitted is first occupied a Delivery and Servicing Management Plan shall be submitted to and approved in writing by the local planning authority. The approved plan shall be implemented before any uses in the relevant building are commenced and shall be adhered to thereafter.

27. Development shall not commence (excluding demolition) until details of a parking scheme for the office, retail and residential accommodation, garaging, manoeuvring, and the loading and unloading of vehicles, have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the relevant building is occupied and the areas shall not thereafter be used for any other purpose or obstructed in any way.

28. Before any building hereby permitted is first occupied cycle parking for that building (as shown on drawings 11016\_C645\_B2\_P\_B1\_002 Rev 01, 11016\_C645\_B2\_P\_B1M\_002 Rev 01, 11016\_C645\_B2\_P\_B2\_002 Rev 01 and 11016\_C645\_B2\_P\_B3\_002 Rev 01) shall be completed and brought into use and shall not thereafter be used for any purpose other than cycle parking.



29. No doors or gates (other than for means of escape) shall open over or across footways, carriageways and public rights of way.

30. Development shall not commence (excluding demolition) until impact studies for existing water supply infrastructure have been submitted to and approved in writing by the local planning authority. The studies shall determine the magnitude of any new additional capacity required in the system, a suitable connection point and measures for overcoming impact on the water supply infrastructure. The development shall be carried out in accordance with the approved impact studies.

31. Development shall not commence (other than demolition) until a drainage strategy, detailing any on and/or off-site drainage works, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved strategy.

32. Before any building hereby permitted is first occupied a Waste Management Strategy shall be submitted to and approved in writing by the local planning authority. The approved strategy shall be implemented before any uses in the relevant building are commenced and shall be adhered to thereafter.

33. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) by URS (dated September 2012) and in accordance with the mitigation measures and timetable detailed in it.

34. Impact piling shall not commence until a piling method statement has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. The statement shall include details of the type of piling to be undertaken and the methodology by which the piling shall be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure and a programme for the works. All piling shall be carried out in accordance with the approved method statement.

35. Development shall not commence (other than demolition) until a surface water drainage scheme for the site, based on sustainable drainage principles where possible, and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall seek to implement a Sustainable Drainage System (SuDS) hierarchy to achieve reductions in surface water run-off rates to greenfield run-off rates or, as a minimum, to 50% of existing rates, and shall detail measures to prevent

infiltration of surface water into the ground. The development shall be carried out in accordance with the approved surface water drainage scheme.

36. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out on that part of the site until a remediation strategy, detailing how the contamination shall be dealt with, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved remediation strategy.

37. The Class A4 use hereby permitted shall only be carried out between the hours of 1100 to 2300 hours Monday to Wednesday, 1100 to 2400 hours Thursday to Saturday and 1000 to 2200 hours on Sundays and Public Holidays.

38. The Class A3 use hereby permitted shall only be carried out between the hours of 0630 to 2300 hours Monday to Wednesday, 0630 to 2400 hours Thursday to Saturday and 1000 to 2200 hours on Sundays and Public Holidays.

39. The Class A1 and A2 uses hereby permitted shall only be carried out between the hours of 0630 to 2200 hours on Mondays to Fridays, 0700 to 2200 hours on Saturdays and 1000 to 1800 on Sundays and Public Holidays.

40. The Class A5 uses hereby permitted shall not be carried out other than in the ground floor units of Buildings 1, 6 and 7 and shall only be carried out between the hours of 0730 to 2300 hours on Mondays to Fridays, 0800 to 2400 hours on Saturdays, and 1000 to 2200 on Sundays and Public Holidays.

41. The Class A2 use hereby permitted shall not be operated as a betting office.

42. The Class D1 use hereby permitted shall not be operated as a place of worship or church hall.

43. The Class D2 use hereby permitted shall not be operated as a bingo hall or casino.

44. Before any building hereby permitted is first occupied (as shown on drawing 11016 MP\_P\_00\_C645\_002 Rev 01) evidence (e.g. photographs, installation contracts and as-built certificates under the Standard Assessment Procedure and National Calculation Method) shall be submitted to and approved in writing by the local planning authority to show that the development has been constructed in accordance with the approved energy strategy.

45. Development shall not commence of any building to have a green roof until details of the green roof for that building, compliant with GRO Green Roof Code 2011, have been submitted to and approved in writing by the local planning authority. The development of that building shall be carried out in accordance with the approved details and the installed green roof shall be retained and maintained thereafter.

46. For each residential building hereby permitted a design stage assessment report prepared by an accredited Code for Sustainable Homes assessor and summary score sheets under the Code for Sustainable Homes (or any equivalent standard that replaces this), to show that a Level 4 rating shall be achieved, shall be submitted to BRE for their approval. The BRE Design Stage Level 4 Certificate subsequently received shall be submitted to the local planning authority no later than three months before construction of the residential building (other than below ground and building core works) is commenced.

47. Before any residential building hereby permitted is first occupied a post construction report prepared by an accredited Code for Sustainable Homes assessor and summary score sheets under the Code for Sustainable Homes (or such equivalent standard that replaces this), to show that a Level 4 rating has been achieved, shall be submitted to BRE for their approval. The BRE Post Construction Stage Level 4 Certificate subsequently received shall be submitted to the local planning authority.

48. For each office building hereby permitted a design stage assessment report prepared by an accredited BREEAM assessor and summary score sheets under the BREEAM (or any equivalent standard that replaces this), to show that an Excellent rating shall be achieved, shall be submitted to BRE for their approval. The BRE Design Stage BREEAM Excellent rating Certificate subsequently received shall be submitted to the local planning authority no later than three months before construction of the office building (other than below ground and building core works) is commenced.

49. Before any office building hereby permitted is first occupied a post construction report prepared by an accredited BREEAM assessor and summary score sheets under the BREEAM (or such equivalent standard that replaces this),

to show that an Excellent rating has been achieved, shall be submitted to BRE for their approval. The BRE Post Construction Stage Excellent rating Certificate subsequently received shall be submitted to the local planning authority.

50. For each building hereby permitted containing retail floor space a design stage assessment report prepared by an accredited BREEAM assessor and summary score sheets under the BREEAM (or any equivalent standard that replaces this), to show that a Very Good rating shall be achieved, shall be submitted to BRE for their approval. The BRE Design Stage BREEAM Very Good rating Certificate subsequently received shall be submitted to the local planning authority no later than three months before construction of the building (other than below ground and building core works) is commenced.

51. Before any retail unit hereby permitted is first occupied a post construction report prepared by an accredited BREEAM assessor and summary score sheets under the BREEAM (or such equivalent standard that replaces this), to show that a Very Good rating has been achieved, shall be submitted to BRE for their approval. The BRE Post Construction Stage Very Good rating Certificate subsequently received shall be submitted to the local planning authority.

52. The residential units hereby permitted shall be built to 'Lifetime Homes' standards and 10% of residential units shall be designed to be wheelchair accessible, or easily adaptable for residents who become wheelchair users.

53. At least 20% of the vehicular parking spaces shall be provided with electrical charging points for electric vehicles.

Reason: To encourage the uptake of electric vehicles.

54. Before any retail unit hereby permitted is occupied a Retail Vacancy Strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall include details of how units shall be let or made available for use, the categories and types of potential use, and the vacancy period that would trigger the strategy coming into effect. The retail units shall be managed in accordance with the approved strategy.

55. No building hereby permitted shall be occupied until a Travel Plan for that building has been submitted to and approved in writing by the local planning authority. The approved plan shall be implemented before any uses in the relevant building are commenced and shall be adhered to thereafter.

56. No development shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:

- An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
- Information on environmental management;
- A description of management responsibilities;
- A description of the demolition and construction programme, highlighting the various stages and context of the whole project;
- Site working hours;
- Detailed Site logistics arrangements;
- Temporary works requirements;
- Communication procedures with the LBL and local community regarding key construction issues – newsletters, fliers etc.;
- Established environmental monitoring and control measures with respect to:
  - Air Quality;
  - Noise and Vibration;
  - Water;
  - Fuel and Chemicals;
  - Waste Management;
  - Worksite Housekeeping;
  - Electricity and Lighting;
  - Traffic Management and Site Access;
  - Operations Likely to Result in Disturbance;
  - Site Layout Arrangements with respect to temporary works, plans for storage, accommodation, vehicular movement, delivery and access;
  - Materials;
  - Contaminated Land;
  - Ecology;
  - Vermin Control;
  - Public Relations – procedures ensuring that communication is maintained with the LBL and the community and also provisions for affected parties to register complaints and a means of replying to these complaints;
  - An overview of environmental incidents;
  - A description of relevant documentation and records;

- Environmental inspections and reviews; and
- Housekeeping and general site management, materials storage and handling, waste management, recycling and disposal.

The approved CEMP shall be adhered to throughout the construction period.

57. Development shall not commence (excluding demolition) until a site hoarding strategy has been submitted to and approved in writing by the local planning authority. The strategy shall include a plan showing the location of site hoarding, a strategy for continual displays on the site hoardings surrounding the site showing the history of the site and the surrounding area, and details of engagement with the local community and local schools in relation to the displays on the site hoardings. The approved strategy shall be adhered to throughout the construction period.

## **Annex B – Conditions for Application B reference 12/04699/FUL**

1. The development hereby permitted shall begin not later than three years from the date of this decision.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed below:

1106 ST\_P\_00\_C645\_001 Rev 00, 1106 ST\_P\_00\_JA12\_001 Rev 00, 1106 ST\_E\_N\_C645\_001 Rev 00, 1106 ST\_E\_E\_C645\_001 Rev 00, 1106\_ST\_E\_S\_C645\_001 Rev 00, and 1106 ST\_E\_W\_C645\_001 Rev 00.

## **Annex C - Conditions for Application C reference 12/04701/LB**

1. The works hereby authorised shall begin not later than three years from the date of this consent.
2. The works hereby permitted shall be carried out in accordance with plan nos. 11016 MP\_P\_00\_C645\_003 Rev 00 and 11016 MP\_P\_00\_C645\_004 Rev 00.
3. Prior to the removal of the fountain details outlining the following shall be submitted to and approved in writing by the local planning authority.
  - Moving, storage and re-erection method statements.
  - Detailed drawings at 1:20 scale showing the design of the basin, pool, water supply, drainage etc..
  - Samples of the materials of the basin, pool and water supply.

The works shall be carried out in accordance with the approval details.



## **Annex D - Conditions for Application D reference 12/04702/CON**

1. The works hereby authorised shall begin not later than three years from the date of this consent.
2. Following demolition of existing structures the relevant resultant debris shall be removed from the site and the ground works shall be made good in accordance with details to be submitted to and approved in writing by the local planning authority and shall thereafter be maintained until such time as building works commence in accordance with planning permission ref. 12/04708/FUL.
3. The part of the existing footbridge over York Road within the South Bank Conservation Area shall not be demolished before a contract for the construction of Building 3 as approved by planning permission ref. 12/04708/FUL has been made.

## **Annex E**

### **Representations received in response to the Secretary of State's letter of 20 March 2014 and the email of 11 April 2014**

<b>Correspondent</b>	<b>Date of letter</b>
Robin and Andrea Dahlberg	3 April 2014
English Heritage	4 April 2014
Twentieth Century Society	7 April 2014
Greater London Authority	10 April 2014
City of Westminster	10 April 2014
Hogan Lovells, on behalf of the applicant	10 April 2014
London Borough of Lambeth	10 April 2014
Riverside Communities Ltd	10 April 2014
Hogan Lovells, on behalf of the applicant	22 April 2014
London Borough of Lambeth	22 April 2014

## **Annex F**

### **Other representations received after the inquiry closed**

<b>Correspondent</b>	<b>Date of letter</b>
Laura Sandys MP	20 November 2013
Boris Johnson, Mayor of London	14 January 2014
Amiel Ziv	5 March 2014
Raewyn Sprinz	2 April 2014
Geoff & Val Walker	3 April 2014
Tim Hollins	3 April 2014
Michael Rubenstein	3 April 2014
Annegret O'Dwyer	3 April 2014
Nadhim Zahawi MP	15 May 2014

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

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 4 March 2014

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

LONDON BOROUGH OF LAMBETH

APPLICATIONS

by

BRAEBURN ESTATES LIMITED PARTNERSHIP

and

SHELL PETROLEUM COMPANY LIMITED

Inquiry opened on 21 November 2013

Shell Centre, York Road, London

File Refs: APP/N5660/V/13/2205181, 2205182, 2205183 and 2205185

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## TABLE OF CONTENTS

1.	Preliminary Matters	2
2.	The Application Site	3
3.	The Application Site's Surroundings	4
4.	The Application Site's Historical Context	6
5.	The Application Site's Planning History	7
6.	The Proposed Development	8
7.	Statutory Requirements and Planning Policy	11
8.	Supplementary Planning and Other Guidance	14
9.	The Case for Braeburn Estates Limited Partnership and Shell Petroleum Company Limited	17
10.	The Case for the London Borough of Lambeth and the Greater London Authority	41
11.	The Case for Westminster City Council	52
12.	The Case for Riverside Communities Limited	57
13.	The Case for the Twentieth Century Society	68
14.	Cases made by Interested Parties at the Inquiry	72
14A.	Summary of Written Representations	77
15.	Conditions and Legal Obligations	82
16.	Inspector's Conclusions	84
17.	Recommendations	104
	<b>Appendix 1 – Appearances at the Inquiry</b>	<b>105</b>
	<b>Appendix 2 – Inquiry Documents</b>	<b>107</b>
	<b>Appendix 3 – Inquiry Core Documents</b>	<b>109</b>
	<b>Appendix 4 – Environmental Statement Documents</b>	<b>112</b>
	<b>Schedule 1 – Conditions for Application A No. 12/04708/FUL</b>	<b>114</b>
	<b>Schedule 2 – Conditions for Application B No. 12/04699/FUL</b>	<b>127</b>
	<b>Schedule 3 – Conditions for Application C No. 12/04701/LB</b>	<b>128</b>
	<b>Schedule 4 – Conditions for Application D No. 12/04702/CON</b>	<b>129</b>

## **ABBREVIATIONS USED IN THIS REPORT**

Braeburn	Braeburn Estates Limited Partnership
BCS	Belvedere Court Scheme
BRE	British Research Establishment
CAZ	Central Activities Zone
CS	Lambeth Development Framework Core Strategy
ES	Environmental Statement
FCO	Foreign and Commonwealth Office
GLA	Greater London Authority
GTB	Guidance on Tall Buildings
HSPG	Housing Supplementary Planning Guidance
IRR	Internal Rate of Return
LBL	London Borough of Lambeth
LDC	Certificate of Lawful Development
LHS	London Housing Strategy
LP	The London Plan
LVMF	London View Management Framework
LWHS	London's World Heritage Sites – Guidance on Settings
MDO	Major Development Opportunity
MOL	Metropolitan Open Land
MVSPD	Metropolitan Views Draft Supplementary Planning Document
NPPF	National Planning Policy Framework
NPPG	Draft National Planning Policy Guidance
LOSS	Lambeth Open Space Strategy
PIRSPG	Play and Informal Recreation Supplementary Planning Guidance
RCA	Riverside Character Area
RCL	Riverside Communities Limited
RPCA	Royal Parks Conservation Area
RPG	Registered Park and Garden
RSCA	Roupell Street Conservation Area
Shell	Shell Petroleum Company Limited
SBCA	South Bank Conservation Area
SBCAS	South Bank Conservation Area Statement
SoCG	Statement of Common Ground
SPG	Supplementary Planning Guidance
TfL	Transport for London
TCS	20 <sup>th</sup> Century Society
TVIA	Townscape and Visual Impact Assessment
UDP	Lambeth Unitary Development Plan
WAPSCA	Westminster Abbey and Parliament Square Conservation Area
WASPD	Waterloo Area Supplementary Planning Document
WCA	Waterloo Conservation Area
WCC	Westminster City Council
WWHS	The Palace of Westminster, Westminster Abbey and St Margaret's Church World Heritage Site
WOA	Waterloo Opportunity Area
WOAPF	Waterloo Opportunity Area Planning Framework

### **Application A Ref: APP/N5660/V/13/2205181**

#### **Shell International Petroleum Co Ltd, Shell Centre, York Road, London**

- The application was 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 3 September 2013.
- The application is made by Braeburn Estates Limited Partnership and Shell Petroleum Company Limited to the London Borough of Lambeth.
- The planning application Ref 12/04708/FUL is dated 13 December 2012.
- The development proposed is part demolition of Shell Centre comprising Hungerford, York and Chicheley wings, upper level walkway, removal of raised podium deck, associated structures and associated site clearance to enable a mixed use development of 8 buildings ranging from 5 to 37 storeys in height and 4 basement levels to provide up to 218,147m<sup>2</sup> of floorspace (GIA), comprising offices (B1), residential (C3) (up to 877 units), retail (A1-A5), leisure (D2) and community/leisure uses (D1/D2), parking and servicing space, hard and soft landscaping together with the provision of a new public square, highway and landscaping works to Belvedere Road, Chicheley Street and York Road, modifications to York Road Underground station, 2 link bridges from new buildings to the existing Shell Centre Tower, reconfiguration of York Road footbridge if retained, creation of new vehicular access and other associated works.
- The reason given for making the direction was the proposal and three associated proposals concern matters that are of substantial regional and national controversy.
- 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 his consideration of the application and the three associated applications: the extent to which the proposed development is consistent with Government policies in requiring good design, planning for the conservation and enhancement of the historic environment including the impact on the Westminster World Heritage Site, and the development plan for the area, and any other issues the Inspector considers appropriate.

**Summary of Recommendation: The application be approved.**

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### **Application B Ref: APP/N5660/V/13/2205182**

#### **Shell International Petroleum Co Ltd, Shell Centre, York Road, London**

- The application was 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 3 September 2013.
- The application is made by Braeburn Estates Limited Partnership and Shell Petroleum Company Limited to the London Borough of Lambeth.
- The planning application Ref 12/04699/FUL is dated 13 December 2012.
- The development proposed is external alterations to Shell [Centre] Tower to integrate the building with redevelopment works on the Shell Centre site following demolition of existing wings, works to include recladding exposed elements of building façade and integration of two new link bridges and associated development.

**Summary of Recommendation: The application be approved.**

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### **File C Ref: APP/N5660/V/13/2205183**

#### **Shell International Petroleum Co Ltd, Shell Centre, York Road, London**

- The application was 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 3 September 2013.
- The application is made by Braeburn Estates Limited Partnership and Shell Petroleum Company Limited to the London Borough of Lambeth.
- The listed building consent application Ref 12/04701/LB is dated 13 December 2012.
- The works proposed are the dismantling and removal of Grade II listed Franta Belsky fountain from existing Shell Centre courtyard and the temporary safe storage and resiting of the fountain to new location.

**Summary of Recommendation: The application be approved.**

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## **Application D Ref: APP/N5660/V/13/2205185**

### **Shell International Petroleum Co Ltd, Shell Centre, York Road, London**

- The application was 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 3 September 2013.
- The application is made by Braeburn Estates Limited Partnership and Shell Petroleum Company Limited to the London Borough of Lambeth.
- The conservation area consent application Ref 12/04702/CON is dated 13 December 2012.
- The development proposed is part demolition of Shell Centre comprising Hungerford, York and Chicheley wings, upper level walkway, removal of raised podium deck, associated structures and associated site clearance.

### **Summary of Recommendation: The application be approved.**

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## **1. PRELIMINARY MATTERS**

### Inquiry and Site Visits

1.1. The Inquiry sat for eleven days on 21-22 and 25-29 November and 9, 10 and 12 December 2013.

1.2. The Applicants, Braeburn Estates Limited Partnership (Braeburn) and Shell Petroleum Company Limited (Shell) presented a combined case. The London Borough of Lambeth (LBL) and the Greater London Authority (GLA), who support the applications, also presented a combined case.

1.3. Westminster City Council (WCC) and Riverside Communities Limited (RCL) were granted Rule 6 status and presented separate cases at the Inquiry. The 20<sup>th</sup> Century Society (TCS), who oppose the applications, did not seek Rule 6 status but their representative was permitted to cross-examine witnesses supporting the applications and made opening and closing statements.

1.4. I carried out an accompanied visit of the site and its surroundings on Wednesday 11 December 2013, which included an extensive walking tour. The tour included crossing the River Thames on Vauxhall Bridge, Lambeth Bridge, Westminster Bridge, Waterloo Bridge and Blackfriars Bridge, and the Jubilee Footbridge on the south side of the Hungerford Bridge. The tour also passed along the Victoria Embankment and through St James's Park, to take in the view from the Blue Bridge towards Horse Guards and the Foreign and Commonwealth Office, and through Parliament Square, to take in the view between Portcullis House and the Houses of Parliament, of County Hall, the London Eye and the Shell Tower.

### Environmental Impact Assessment

1.5. The main development, Application A, falls within the scope of Paragraph 10 of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The planning applications were accompanied by a comprehensive Environmental Statement (ES) and a non-technical summary (see Appendix 4 for ES document list).

### Statement of Common Ground

1.6. The Statement of Common Ground (SoCG) and its Appendices are not Inquiry or Core Documents. They are, however, listed under Other Documents in Appendix 2 to this Report (CD OD1/OD2). It is not a true Statement of Common Ground because those who have presented evidence opposing the applications did not contribute to its preparation.

## **2. THE APPLICATION SITE**

2.1 The roughly rectangular flat site is about 3.5 hectares and is on the south bank of the River Thames (see Appendix 1 of CD OD2 for a location plan). It is occupied by the Shell Centre, a group of buildings that are the headquarters of Shell Petroleum Company Limited. The Shell Tower, on the west side of the site, is 28 storeys high and is currently occupied by Shell office workers. The Tower is not part of the site. Attached to the east elevation of the tower are three unoccupied connected wings around a courtyard. These wings, rising up to 11 storeys, are known as the Chicheley, York and Hungerford Wings and are, respectively, on the south, east and north sides of the courtyard. The courtyard is open on its west side.

2.2 The site includes part of Belvedere Road to the west, Chicheley Street to the south, and part of York Road to the east. To the north of the site is a railway viaduct leading to Hungerford Bridge. Passing diagonally underneath the viaduct, from the north-east corner of the site, is Sutton Walk, a pedestrian walkway that is within the site. Between Chicheley Street and Chicheley Wing and the Shell Tower, with frontages to Belvedere Road, Chicheley Street and York Road, is a raised 'podium' across which there is pedestrian access between the three roads. Below the podium, extending under the Shell Tower and the three Wings, are a four level car park of 320 spaces, private facilities for Shell staff, and space for plant equipment.

2.3 The podium is mostly hard surfaced and contains four single storey pavilion structures, which provide ventilation and access to the underground car park and other basement areas, and a Police support office. There is no designated or recorded public right of way across the podium. Passing through the York Wing is an above ground pedestrian walkway that crosses above York Road and extends over the courtyard. At the west end of the elevated walkway are steps down to the pavement to Belvedere Road, and there are steps down to the west pavement on York Road. The walkway, where it extends beyond York Wing and at the bottom of the steps down to Belvedere Road, has been closed off to public access since 2006.

2.4 Part of the ground floor of the York Wing is an entrance to Waterloo Underground Station. From the entrance and ticket office escalators lead to a pedestrian tunnel under York Road which connects to the passageways of Waterloo Underground Station.

### **3. THE APPLICATION SITE'S SURROUNDINGS**

3.1 To the south of the site is the North Block of the former County Hall. This building is in retail/pub/restaurant use at ground floor level with apartments in the six upper floors. To the west of the site, between Belvedere Road and the River Thames, is Jubilee Gardens. The gardens have recently been re-landscaped and are designated as Metropolitan Open Land (MOL). To the east of the site is Elizabeth House, three linked buildings constructed in the 1960's that are 16, 10 and 7 storeys. The upper office floors of the buildings are mainly vacant whilst the ground floors are in mixed use. To the north of the site is the railway viaduct which carries railway lines between Charing Cross Station and Waterloo East Station.

3.2 Beyond the railway viaduct to the north of the site are the Whitehouse Apartments; a building that was originally the 'downstream' building of the Shell Centre but is now 359 apartments. Beyond Elizabeth House to the east of the site is the former Waterloo International Station which stands alongside Waterloo Station; a major transport hub for rail, bus and underground services. To the south of Jubilee Gardens is County Hall Riverside Building, formerly the home of the Greater London Council, and on the riverbank, between the gardens and County Hall, is the London Eye. To the north of the railway viaduct and to the west of Whitehouse Apartments is the South Bank Centre, which principally comprises the Royal Festival Hall, the Queen Elizabeth Hall and the Hayward Gallery. To the north of the South Bank Centre is the Royal National Theatre.

#### Hungerford Car Park

3.3 To the west of the site and between Jubilee Gardens and the railway viaduct is Hungerford Car Park. This area is partly MOL and partly a service area for the South Bank Centre. On 22 November 2013 Braeburn entered into a legal agreement with the South Bank Centre for the purchase of a long leasehold interest in Hungerford Car Park; subject to the grant of planning permission for the redevelopment of the Shell Centre. If acquired Braeburn will landscape the car park at its own cost and will then donate the area to the Jubilee Gardens Trust. Amongst other provisions the agreement also preserves the ability of the British Film Institute to pursue the construction of an international film centre on part of the car park, or of the South Bank Centre to pursue the construction of a cultural building of their own, subject to the grant of planning permission.

#### Elizabeth House

3.4 On 6 November 2012 LBL resolved to grant planning permission (Appl. No. 12/01327/FUL) for the redevelopment of the Elizabeth House site. The application is for the demolition of the existing buildings and the construction of two buildings with a maximum height of 125.90 metres. The redevelopment scheme does not include the retention of the existing footbridge that crosses York Road to the Shell Centre. The Secretary of State was advised by civil servants that the impact of the Elizabeth House proposals should be called-in for examination at a public inquiry. The Secretary of State's decision not to call-in the application is now the subject of a judicial review which has yet to be determined.

3.5 The Elizabeth House site was the subject of the refusal of planning permission (07/02628/FUL) by the Secretary of State in October 2009 (Appeal Ref.

APP/N5660/V/08/1203387). The development (CD G3/G4) comprises three buildings of 22, 27 and 33 storeys. This development is known as the 'Three Sisters'.

Other permitted schemes in the area

3.6 Doon Street (CD G1) – Planning permission (05/03498/FUL) was granted by the Secretary of State in August 2008 for a 43 storey tower on a site bounded by Doon Street, Cornwall Road and Upper Ground to the north-east of the Shell Centre site and to the rear of the Royal National Theatre. The development comprises 329 residential units, a multi-purpose community sports centre and swimming pool, and Class A1-A4 uses. The development has yet to be commenced though the Applicants maintain that the permission has been implemented and therefore remains extant.

3.7 Blackfriars Road (CD G5) – Planning permissions (06-AP-2117 and 07-AP-0301) were granted by the Secretary of State in March 2009 (Appeal Refs. APP/A5840/V/08/1202839 and APP/A5840/V/08/12033024) for two sites on Blackfriars Road in the London Borough of Southwark. The development at 1 Blackfriars Road is for a 51 storey tower comprising a hotel, residential apartments and Class A uses. The development at 20 Blackfriars Road is for a 23 storey office building and a 42 storey residential building. The two sites are to the east of the Shell Centre site and to the south of Blackfriars Bridge.

#### **4. THE APPLICATION SITE'S HISTORICAL CONTEXT**

4.1 The Shell Centre building has defied listing on four occasions but is a locally listed building and is located, as is the whole of the application site, within the South Bank Conservation Area (SBCA). Designed principally by Sir Howard Robertson and built in 1958-62 the Shell Centre was, on completion, the largest air-conditioned office building in Europe, and the main tower, at 28 storeys, was the tallest building in London. The complex was innovative for several reasons, including the extensive range of staff recreation and sports facilities mainly within the basement. Within the site and a feature of the courtyard is the Franta Belsky Fountain, a Grade II listed building. Other artworks within the courtyard are a Siegfried Charouz sculpture of a motor cyclist and a sphere sculpture by Eric Aumonier.

4.2 The SBCA is on the south bank of the River Thames. From the Victoria Embankment on the north bank of the river the Shell Tower, given its height, is a prominent feature of the SBCA and is viewed beyond Jubilee Gardens either alongside or through the London Eye. Other principal buildings and structures within the SBCA are the buildings of the South Bank Centre, the Royal National Theatre, County Hall, the ITV Tower, Westminster Bridge and Waterloo Bridge. The buildings are mostly a post-war mix of object buildings that are public, cultural or commercial, single use buildings. The buildings within the SBCA are linked, alongside the river, by a wide pedestrian thoroughfare known as the Queen's Walk.

4.3 Listed buildings of significance with the SBCA are the Royal National Theatre (Grade II\*), the Royal Festival Hall (Grade I), and the County Hall Riverside Building (Grade II\*). The SBCA is bounded, to the north-east of Waterloo Station and beyond Waterloo Road, by two adjoining Conservation Areas; Roupell Street Conservation Area (RSCA) and Waterloo Conservation Area (WCA). The RSCA is mainly three streets, Roupell Street, Theed Street and Whittlesey Street, of, predominantly, early 19<sup>th</sup> century terraced housing. The WCA is mostly 19<sup>th</sup> and early 20<sup>th</sup> century development of varied architectural styles and a mix of land uses.

4.4 Westminster Bridge and Waterloo Bridge, to the south and north of the London Eye respectively, are both Grade II\* listed buildings. On the west bank of the River Thames, opposite the London Eye, is Whitehall Conservation Area and beyond is St James's Park, which is a Grade I Registered Park and Garden (RPG) and part of the Royal Parks Conservation Area (RPCA). Two significant buildings within the Whitehall Conservation Area are Horse Guards and the Foreign and Commonwealth Office (FCO), both Grade I listed buildings. The latter building is prominent in views east from St James's Park and, in particular, from the Blue Bridge that crosses the lake in the park. The top of the London Eye and the top of the Shell Tower are visible above the FCO.

4.5 To the south of the Whitehall Conservation Area is the Westminster Abbey and Parliament Square Conservation Area (WAPSCA) which includes many listed buildings such as the Houses of Parliament and the Palace of Westminster (both Grade I). Parliament Square is a Grade II RPG and part of the WAPSCA is designated as The Palace of Westminster, Westminster Abbey and St Margaret's Church World Heritage Site (WWHS). The WWHS Management Plan states, amongst other things, that "...views from the WWHS...to Lambeth are dominated by the tree lined Embankment and three particular and distinctly individual buildings: County Hall, the complex forming the St Thomas' Hospital and Lambeth Palace", and that "...development beyond the WWHS boundary of a large scale may pose risks to its outstanding universal value".

## **5. THE APPLICATION SITE'S PLANNING HISTORY**

5.1. The site has an extensive planning (Appendix 2 of CD OD2). The only development that is significant to the development that is the subject of this report is a past planned scheme, the Belvedere Court Scheme (BCS). The BCS was granted planning permission and listed building and conservation area consent on 7 April 2004 by the then First Secretary of State.

5.2. On 3 November 2009 LBL granted a Certificate of Lawful Development (LDC), under application number 09/02868/LDCE, for the construction of a foundation slab in accordance with the planning permission for the BCS. The LDC confirmed that the foundation slab had been lawfully constructed and that, therefore, the BCS planning permission, reference number 01/02543/FUL, has been implemented. The BCS planning permission therefore remains extant.

5.3. On 29 April 2010 the conservation area and listed building consents for the BCS were renewed by LBL for a period of three years. These consents have subsequently lapsed but LBL confirmed at the Inquiry that they would grant renewal of the consents if the necessary applications were made to them.

5.4. The BCS includes the demolition of existing structures and the construction of a new office building above the podium. The new office building with retail and leisure uses at ground floor level would stand alongside the Shell Tower and the three Wings that would be retained as the UK headquarters of Shell. The office building would have nine floors of offices above a ground floor of Class A1, A2 and B1 uses and a two storey plant room at roof level. The overall height of the building would be about 50 metres and the building would be serviced from an enclosed service area on its south side, off Chicheley Street. The York Road elevation of the building would be divided into three blocks projecting over a recessed ground floor and the Shell Centre would have been altered at ground floor level around the courtyard to provide Class A1, A2 and A3 uses. The bridge across York Road would be retained and the courtyard would be opened up to create a pedestrian route between York Road and Belvedere Road.

## 6. THE PROPOSED DEVELOPMENT

The main planning application – Ref 12/04708/FUL

6.1. The main application is for the redevelopment of the Shell Centre site following the demolition of the three Wings and other structures. The scheme would comprise eight new buildings accommodating, principally, office, residential and retail uses alongside the retained Shell Tower. The existing basement would be reconfigured to provide retail, leisure and community leisure uses, parking, servicing, plant and associated infrastructure. There would be 270 parking spaces and access to the basement would be via a ramp down from an access off Chicheley Street.

6.2. Office accommodation would be about 76,000 square metres, residential accommodation would be about 110,000 square metres and retail accommodation, principally at ground level, would be about 5,900 square metres. The residential accommodation would provide 877 apartments of which 98 would be affordable units for rent (52 extra care units and 46 intermediate units). The development would include highway works and public realm improvements along York Road, Chicheley Street and Belvedere Road and upgraded crossings of York Road.

6.3. The redevelopment scheme has been masterplanned by the architectural practice Squire and Partners, who have also designed three of the proposed eight buildings (Buildings 1, 4A and 4B). Four other architectural practices have designed the other five buildings; KPF (Building 2), Patel Taylor (Building 3), Stanton Williams (Building 5) and GRID (Buildings 6 and 7). The scheme includes enclosed walkways above ground level between the Shell Tower and Buildings 1 and 2, and several pedestrian routes through the site some of which would converge at a public square.

6.4. The following paragraphs are a summary of the components of the proposed redevelopment scheme.

6.5. Building 1 – This building has been pre-let to Shell and would have large trading floors suitable for their business purposes, would be at the south-east corner of the site, and would comprise 12 floors (61.695 metres high) of mainly office space (32,446 square metres) with retail uses (1,671 square metres) at ground floor level. Retail areas would principally face onto York Road whilst the ground floor lobby for upper floor office space would be in the northern part of the building with access from York Road and a pedestrian route through the site. The vehicular entrance to basement areas, for servicing and parking, would be in the south elevation of the building to Chicheley Street.

6.6. Building 2 – This building would be to the north of Building 1 and would have a frontage to York Road. It would have 17 floors (84.5 metres high) with 16 floors of office space (36,619 square metres) above retail uses (826 square metres) at ground floor level. Retail uses would be at the south-east corner of the building, with access from York Road, and around the west end of the building, with access from pedestrian routes through the site.

6.7. Building 3 – This building (109.5 metres high) would be to the north of Building 2 and the major part of its ground floor would be a remodelled entrance and ticket hall for the London Underground. The minor part of the ground floor, around the west and east ends of the building, would be retail units. Above ground floor level there would be 31 floors of apartments. The 301 apartments would include all of the affordable units to be provided on-site and the first floor of the building would provide accommodation for extra care communal and staff facilities (see later).

6.8. Building 4A – This square building would be to the north of Building 3 and close to Sutton Walk that passes under the railway viaduct to the north of the site. It would have 37 floors (126.945 metres high) of 212 private apartments above a ground floor apartment lobby and a retail unit (115 square metres). The lowest three floors of the building would be recessed to create a colonnade around the north and east sides of the building. The north face of the building would be close to a protrusion of the viaduct on top of which is a redundant signal box. The Applicants are in negotiations with Network Rail for the purchase of this part of the viaduct so that the protrusion could be demolished. The proposed development, however, is not dependant on successful completion of the negotiations.

6.9. Building 4B – This building, similarly square and a pair with Building 4A, would be to the west of its twin. It would have 30 floors (104.545 metres high) of 158 private apartments above a ground floor apartment lobby and a retail unit (150 square metres). The lowest three floors of the building would be recessed to create a colonnade along the north side of the building.

6.10. Building 5 – This building would have a frontage to Belvedere Road and would be to the north of the Shell Tower and south of the railway viaduct. It would have 15 floors (56.378 metres high) of 108 private apartments above ground floor retail units (1,335 square metres). The central part of the ground floor of the rectangular building would be the entrance lobby for the private apartments with access from Belvedere Road and a planned public square.

6.11. Buildings 6 and 7 – These buildings are considered together because they would have a nine storey link between them. Building 6 would have 21 floors (75.975 metres high) of 67 private apartments above a ground floor retail unit (66 square metres) and an entrance lobby to the apartments. Building 7 would have 11 floors (43.475 metres high) of 31 private apartments above ground floor retail floorspace (403 square metres) and an annex to the entrance lobby in Building 6. The linked buildings would be at the south-west corner of the site with frontages to Chicheley Street and Belvedere Road.

6.12. Basement – The redevelopment scheme would utilise the existing basement. It would be extended slightly in the northeast corner of the site to accommodate the cores of Buildings 3 and 4A. The basement would be reconfigured (the existing facilities would be removed) and would be comprised of two main sections; a north section with two levels and a south section with the same two levels plus a third level and a mezzanine level. The ramped access off Chicheley Street would lead to a central loading bay and waste storage and collection areas. A number of areas of retail and leisure floorspace would be in the upper basement level, including an area for leisure use under the public square, accessed from Building 5 and ancillary retail areas under Buildings 1 and 7. An area for leisure/community uses would also be located under Buildings 1, 6 and 7 and accessed from Building 1. The lower two main levels would be mainly for car and cycle parking. There would be parking for 270 cars (including 92 disabled spaces), 1,777 bicycles, and 50 motorcycles.

6.13. Public Realm Works – Apart from the pedestrian routes through the site between the buildings there would be two public spaces. The first would be at the entrance to the site for pedestrians crossing York Road from Waterloo Station before proceeding through the site to Jubilee Gardens and beyond, or along Sutton Walk under the viaduct to Concert Hall Approach leading to the South Bank Centre. The second and main public space would be within the site and would be bounded by Buildings 2, 3, 4B and 5. The space would be about 32 metres wide and 58 metres long and would be mainly hard landscaped and used for, amongst other things,



outdoor seating associated with retail uses. Spaces between Buildings 4A and 4B and between Buildings 4B and 5 would be used for semi-private outdoor amenity space for residents of the three buildings. Landscaping of all public areas and details of public realm works would be the subjects of conditions.

6.14. Highway Works – Existing parking and waiting areas on Belvedere Road and Chicheley Street would be retained whilst the former road would, within the site, become a shared surface space with informal pedestrian crossings. Also accommodated on Belvedere Road would be a southbound bus stop and provision for Duck Tours parking, both relocated from Chicheley Street. The carriageway of this street would be narrowed to provide wider footpaths and an off-street service vehicle waiting and rejection area would be located adjacent to the ramped access to the basement. Existing crossings of York Road would be improved at the junction with Chicheley Street and close to Sutton Walk to improve pedestrian links between Waterloo Station and Queen’s Walk. Highway works would be the subject of a Section 278 Agreement between the developers and the highway authorities.

6.15. York Road Footbridge – The application includes two alternative sets of drawings to take account of the uncertainty about the possible future redevelopment of the Elizabeth House site and therefore the future existence of the footbridge. Option 1 is a scheme with the footbridge retained (the ‘with pedestrian bridge’ option) and Option 2 is a scheme with the footbridge omitted (the ‘without pedestrian bridge’ option). The alternative options affect the configuration of Building 3 at its south-east corner and of the crossing of York Road at the north-east corner of the site. The options have a minor effect on the retail floor area in Building 3.

6.16. Off-site affordable housing – Off-site affordable housing is not included in the application but is part of the development which seeks to deliver, overall, 20% affordable housing. The Applicants have negotiated with LBL for the use of the Ethelred Nursery Site on Lollard Street for the construction of 90 dwellings; a minimum of 70 of which would be social rented affordable dwellings. This matter is covered by a Section 106 Agreement (CD BE20).

The secondary planning application – Ref 12/04699/FUL

6.17. The proposed external alterations to the Shell Tower include making good to its elevations after the Wings have been demolished, works to link the Tower with proposed Buildings 1 and 2 via enclosed walkways, and minor reconfiguration works at ground level to enable access from the public realm on the east side of the Tower.

The listed building consent application

6.18. The application seeks consent, as was granted in the BCS, for the removal of the Franta Belsky fountain from the Shell Centre courtyard and for its temporary storage and resiting in a new location. This new location is intended to be in the amenity area between Buildings 4B and 5.

The conservation area consent application – Ref 12/04702/CON

6.19. The application seeks consent for the demolition of the three Wing buildings, the podium deck, other structures on the site, and the elevated walkway that passes through the site before descending to the pavement to Belvedere Road. If the Elizabeth House development scheme does not proceed and the footbridge crossing of York Road is retained the steps down from the footbridge to the pavement to York Road would also be demolished and replaced by steps down between Buildings 2 and 3.

## **7. STATUTORY REQUIREMENTS AND THE DEVELOPMENT PLAN**

### Statutory Requirements

7.1. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be paid to the desirability of preserving the settings of listed buildings, and Section 72(1) of the same Act requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

7.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### The Development Plan

7.3. The Development Plan comprises the London Plan (LP), the Lambeth Development Framework Core Strategy (CS), and saved policies of the Lambeth Unitary Development Plan (UDP). The CS (CD B2) was adopted in January 2011 and the UDP (CD B3) was adopted in 2007. Revised early minor alterations to the LP (CD C2.9) were published in October 2013 and have been adopted as formal alterations to the LP. The relevant LP policies mentioned below include, if necessary, the minor alterations made to them and only the relevant parts of each policy are mentioned.

#### The London Plan (LP)

7.4. The LP identifies the Shell Centre site to be in the Central Activities Zone (CAZ). LP policy 2.10 'Central Activities Zone – Strategic Priorities' generally seeks the promotion of the roles of the CAZ and the enhancement of its distinctive environment and heritage, and LP policy 2.11 'Central Activities Zone – Strategic Functions' seeks to ensure that development proposals increase office floorspace within the CAZ and include a mix of uses including housing, and seeks solutions to constraints imposed by heritage designations including through high quality design to complement these designations. The LP also places the Shell Centre in an Opportunity Area and LP policy 2.13 'Opportunity Areas and Intensification Areas' requires that a development proposal within an opportunity area optimises residential and non-residential output and densities and contains a mix of uses.

7.5. LP policy 3.3 'Increasing Housing Supply' recognises the pressing need for more homes in London, and LP policy 3.4 'Optimising Housing Potential' requires development to optimise housing output within densities given in Table 3.2 but the text to the policy does state that "It is not appropriate to apply Table 3.2 mechanistically". LP policy 3.5 'Quality and Design of Housing Development' requires that housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment, and that the design of all new housing developments should enhance the quality of local places, taking into account physical context and local character. LP policy 3.7 'Large Residential Developments' states that proposals for such developments including complimentary non-residential uses are encouraged in areas of high public transport accessibility.

7.6. LP policy 3.11 'Affordable Housing Targets' seeks to maximise affordable housing provision and LP policy 3.12 'Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes' seeks the maximum reasonable amount of affordable housing having regard to the need to encourage rather than restrain residential development and the need to promote mixed and balanced communities.

LP policy 3.12 also states that negotiations on sites should take account of their individual circumstances, including development viability, and provisions for re-appraising the viability of schemes, and that affordable housing should normally be provided on-site but that in exceptional cases it may be provided off-site.

7.7. LP policy 4.3 'Mixed Use Development and Offices' states that within the CAZ increases in office floorspace should provide for a mix of uses including housing. LP policy 7.5 'Public Realm' states that development should make the public realm comprehensible at a human scale and that landscape treatment should be of the highest quality. LP policy 7.6 'Architecture' requires architecture to incorporate the highest quality materials and design appropriate to its context and that buildings should be of the highest architectural quality.

7.8. LP policy 7.7 'Location and Design of Tall and Large Buildings', in terms of strategy, states that tall buildings should be part of a plan-led approach, should not have an unacceptable harmful impact on their surroundings, should generally be limited to sites in the CAZ, should relate well to the urban grain and public realm, particularly at street level, should incorporate the highest standards of architecture and materials, should have ground floor activities that provide a positive relationship to the surrounding streets, and should make a significant contribution to local regeneration. This policy also requires that Boroughs should consider which areas are appropriate, sensitive or inappropriate for tall buildings and identify them in their Local Development Frameworks.

7.9. LP policy 7.8 'Heritage Assets and Archaeology' requires development affecting heritage assets and their settings to conserve their significance by being sympathetic to their form, scale, materials and architectural detailing, and LP policy 7.10 states that development should not cause adverse effect on the WWHS and its setting and, in particular, it should not compromise a viewer's ability to appreciate its outstanding universal value, integrity, authenticity or significance. LP policy 7.11 establishes a list of strategic views in the city and states that development will be assessed for its impact on designated views if it falls within the foreground, middle ground or background of any views.

#### The Lambeth Development Framework Core Strategy (CS)

7.10. The CS (CD B2) describes Waterloo as a focus for growth and development and states that growth in housing and jobs will mainly be focussed on the Opportunity Areas, as identified in the LP. CS policy S2 'Housing' seeks to meet the housing needs of the LBL and seeks the provision of 40% affordable housing, where no public subsidy is available, on sites of at least 0.1 hectares and, where relevant, to independently validated evidence of viability. CS policy S9 'Quality of the Built Environment' seeks the highest quality of design in all new buildings and improvements to the quality of the public realm, and supports tall buildings where they are an appropriate development form for the area, particularly where this contributes to area regeneration and local distinctiveness and makes the most efficient use of land.

7.11. CS policy PN1 'Waterloo' promotes Waterloo as a key part of Central London and supports development and uses of an appropriate scale and form to reinforce the distinct identity of the four character areas, respecting strategic views, local contextual considerations including heritage assets, and ensuring that design quality is worthy of a World City. Diagram 1 that follows policy PN1 places the Shell Centre site in the Riverside Character Area (RCA).

## The Lambeth Unitary Development Plan (UDP)

7.12. The UDP (CD B3) identifies a number of Major Development Opportunities (MDO) and MDO93 is the Shell Centre site. The supporting text states that the Council will promote the contribution this site can make to permeability and pedestrian linkages. UDP policy 21 'Location and Loss of Offices' states that in considering large scale office development regard will be had to the design requirements of occupiers requiring large footplate buildings. UDP policy 31 'Streets, Character and Layout' states that development should maximise pedestrian accessibility, buildings should address streets with their frontages and entrances, and that development should respond to the architectural character of the area.

7.13. UDP policy 33 states that development should be of high quality design and contribute positively to the surrounding area, and that the primary consideration in determining the appropriate density and scale of new residential development will be achieving an appropriate urban design which makes efficient use of land and meets the amenity needs of existing and potential residents. On this matter the policy states that development should have an acceptable impact on levels of daylight and sunlight and should, where appropriate, have sufficient outdoor amenity space. The policy refers to Table 10 which indicates that density achieved through a design-led approach on the Shell Centre site could, because it is in the CAZ, be in the range 650-1100 habitable rooms per hectare.

7.14. UDP policy 40 'Tall Buildings' states that a tall building should be of the highest architectural quality, should enhance the skyline through profile and use of materials, and should create pedestrian friendly places and address streets with active ground floor uses. UDP policy 41 'Views' states that permission will not be granted for developments which detract from important views, backdrops or settings of listed buildings, conservation areas, historic parks and gardens, and the Thames, its embankments and bridges. UDP policy 43 'The River Thames Policy Area – Urban Design' continues the theme of requiring the protection of the architectural and historic character of the area. UDP policy 45 'Listed Buildings' and policy 47 'Conservation Areas' reiterate the requirements of Sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **8. SUPPLEMENTARY PLANNING AND OTHER GUIDANCE**

### Waterloo Area Supplementary Planning Document (WASPD)

8.1. The WASPD (CD C1.1) identifies the Shell Centre site as a development opportunity for 'mixed use development with potential to improve pedestrian links and public realm' and, at Figure 11, places the Shell Centre within those 'areas sensitive to tall buildings' as opposed to the areas where tall buildings would be inappropriate. The RCA, at paragraph 3.53, is regarded to be an area 'generally considered inappropriate' for tall buildings, those over 25 metres high, but high quality design may justify development proposals stepping up behind Belvedere Road/Upper Ground where there are already set piece buildings. York Road, at paragraph 5.15, is identified to be 'an unpleasant environment' and proposals for 'the Shell Centre should upgrade this street.

8.2. Section 7.2 of the WASPD considers the Shell Centre which, it is stated, represents one of the borough's largest development opportunities. The development principles for the site set out in this section require the preservation of the settings of listed buildings and the character and appearance of the SBCA, the retention of the Shell Tower as a London landmark, and the improvement of permeability and pedestrian linkages through the site. They also indicate that development should scale down from tall buildings at the station to the riverside, that the perceived canyon-like character to York Road should be addressed, that a view of the London Eye from York Road should be retained, and that the public realm at the north-east corner of the site and the three roads around the site should be improved.

### Waterloo Opportunity Area Planning Framework (WOAPF)

8.3. In the WOAPF (CD C2.1) it is stated that "As seen in Figure 15, there is a clear characterisation of Waterloo. The Riverside (largely the SBCA) is characterised by a layer of set-piece administrative and cultural buildings set against the river...There is a second layer behind the Riverside buildings which is punctuated by tall buildings such as the Shell Tower...This forms a commercial spine" and "The combination of Riverside set-piece buildings and commercial spine behind characterises views of Waterloo from the north bank of the river, including the 'River Prospects' identified in the London View Management Framework".

8.4. The tall building strategy in the WOAPF identifies two broad areas that are considered to be suitable for tall buildings; above and around Waterloo Station and on the commercial spine behind the Riverside buildings. This conclusion is reached because, amongst other things, it is an Opportunity Area, Waterloo Station is a transport interchange, tall buildings could act as catalysts that unlock the development potential in and around Waterloo Station, and it forms part of a plan led approach. Figure 50 in the WOAPF is a 'concept illustration indicating option for clustering new (tall) buildings above and around the station'. The illustration, of a model, shows many tall buildings 'above and around the station' alongside the existing Shell Centre buildings and the Belvedere Court Scheme (BCS).

### London's World Heritage Sites – Guidance on Settings (LWHS)

8.5. The LWHS (CD C2.3) establishes the principle of designating buffer zones around the capital's world heritage sites which "...should include the immediate setting of the site, important views and other areas or attributes..." of each site. The LWHS does not designate such a zone for the WWHS. However, the LWHS does recognise that views into and out of any world heritage site can contribute to its

setting and to its outstanding universal value. Reference is made in the LWHS to the London View Management Framework (LVMF) SPG.

#### London View Management Framework (LVMF)

8.6. The LVMF (CD C2.4) establishes strategic views that include significant buildings and urban landscapes that define London at a strategic level and states that "A planning application for a proposal that could affect a designated view should be accompanied by an analysis that explains, evaluates and justifies any visual impact on the view". The assessment is required to be part of a Townscape and Visual Impact Assessment (TVIA) which should identify the relevant designated views and the location of any assessment points from which the assessment will be undertaken, include a description of the view, and describe the proposed development and its effect on the designated view.

8.7. The designated views relevant to the applications are:

- 15 River Prospect: Waterloo Bridge
- 17 River Prospect: Golden Jubilee/Hungerford Footbridges
- 18 River Prospect: Westminster Bridge
- 20 River Prospect: Victoria Embankment between Waterloo and Westminster Bridge
- 26 Townscape View: St James's Park to Horse Guards Road
- 27 Townscape View: Parliament Square to Palace of Westminster

8.8. The upstream panoramic views from viewing locations 15A.1 and 15A.2 on Waterloo Bridge include, to the left, the Royal Festival Hall with the Shell Tower in the background. The LVMF, at paragraph 256, identifies that "New clusters of tall buildings may emerge within the Waterloo...Opportunity Area" and that "...it is important that further proposals are designed to relate to and strengthen the composition of the emerging cluster there".

8.9. The Shell Tower is in the panoramic view from viewing locations 17A.1 and 17A.2 on the upstream Jubilee footbridge. The LVMF, at paragraph 304 and with regard to development in the background, states that "There are opportunities for additional development in the background if it is of a high quality, and if it makes a contribution to the existing characteristics and composition of the view. In particular, proposals for tall buildings in the Waterloo Opportunity Area (WOA) should be designed to relate to and strengthen the composition of the group of buildings in the middle ground on the South Bank without...harming the setting of the Royal Festival Hall or the National Theatre".

8.10. The view downstream from the west end of Westminster Bridge is towards the Lambeth bank, from viewing location 18B.1, "...where the London Eye, County Hall and the Shell Centre are prominent...These buildings and structures create an ensemble...with...the Shell Centre being the only significant element in the background". The LVMF, at paragraph 326, states that "New tall buildings at the WOA should contribute to the development of a legible cluster that respects the prominence of County Hall, and does not diminish its role in establishing a horizontally oriented riverfront composition. These buildings should be of the highest design quality, respect the historic environment and should...enhance the juxtaposition between the vertical London Eye and the horizontal County Hall".

8.11. The view across the river from viewing location 20A.1, between the Westminster and Hungerford Bridges, and from viewing location 20B.1, between

Waterloo and Hungerford Bridge, include the Shell Tower behind riverside buildings including County Hall and the Royal Festival Hall. The LVMF, at paragraph 352, states that "...new development, including within the WOA, may become visible in the background of this view. Such development may be acceptable if it is sensitively designed, respects the heritage assets in this view and their settings and does not compromise or dominate the composition of the landmark buildings that characterise the South Bank".

8.12. Viewing location 26A.1 is on the east side of the Blue Bridge which crosses the lake in St James's Park. The view, from paragraph 427 of the LVMF, "...derives its character from the high quality landscaped setting of St James's Park. The foreground and middle ground are dominated by the lake and surrounding...parkland. Buildings are seen in two groups between trees either side of Duck Island. There is also a fountain...that provides a secondary focus to the view". In this view the Shell Tower and the London Eye appear above the roofline of the Foreign and Commonwealth Office (FCO) and "The buildings in the view are consistent in their use of Portland stone, with the exception of the London Eye...".

8.13. In Parliament Square, from viewing locations 27A.1 and 27A.2, "The strong vertical form of the Clock Tower (Big Ben) creates a dramatic focus to the view and leads the eye to the finer scale detailing of the Houses of Parliament...To the north of the Palace of Westminster Portcullis House...frames a sky gap...and...In the background...County Hall completes the visual enclosure to the Square". The LVMF, at paragraph 445, states that "Any developments within the WOA, visible between the central fleche of County Hall and Portcullis House should be sensitively designed and be of the highest architectural quality; reflecting the fact that it will itself form part of the setting of the WWHS".

#### Metropolitan Views Draft Supplementary Planning Document (MVSPD)

8.14. The MVSPD has been prepared by WCC to identify and describe important metropolitan views and local views in, and of, Westminster. View 37 is of the Houses of Parliament from viewing areas in the north-west corner of Parliament Square.

#### Guidance on Tall Buildings (GTB)

8.15. This joint publication by the Commission for Architecture and the Built Environment (CABE) and English Heritage strongly endorses a plan-led approach to tall buildings and recommends that local planning authorities should identify appropriate locations for tall buildings in their development plan documents. The guidance states, amongst other things, that major building projects offer opportunities to enrich the public realm and that, to be acceptable, any new tall building should be of excellent design quality in its own right, should enhance the qualities of its immediate location and wider setting, and should produce more benefits than costs to the lives of those affected by it.

## 9. THE CASE FOR BRAEBURN AND SHELL

*The material points of the case made by the Applicants are:*

### Introduction

9.1. The proposals are of strategic importance to the UK and to the London economy, and to the supply of new office space and new housing and affordable housing in London and Lambeth. The benefits they would bring include:

- A scheme of the highest architectural quality, sympathetically master planned by Squire and Partners and designed by Squire and Partners and five other leading architectural practices;
- The retention of Shell's HQ (and the circa 4,000 jobs associated with it) in London;
- A major contribution to the regeneration of the Waterloo area, reversing three decades of declining office employment and creating a further 1,975 jobs;
- 947 private homes including 168 affordable homes (including 52 much needed extra care units for elderly and disabled people), with more affordable housing up to a policy compliant 40% to be provided if the viability of the scheme improves;
- Six new or improved publicly accessible routes through the site from Waterloo to the River, a new public square plus a new Underground station entrance;
- An extensive package of Section 106 benefits including financial contributions of £10.3m, funding for significant public realm and transport improvements around the site, health, education and play space, and commitments to a local employment scheme, local apprentices and construction training.

9.2. The scheme has been arrived at following extensive public consultation, and has been welcomed by LBL and the Mayor of London, and supported by many local stakeholders and groups. In short, it is an outstanding scheme which is fully in accordance with both the development plan and national policy, and which fully responds to the opportunity presented by this unique site.

### The Shell Centre

9.3. Built in the early 1960s specifically to unite staff from a number of separate offices at one central location, the Shell Centre has been Shell International Petroleum's UK headquarters for just over 50 years. Since its construction, it has become a familiar part of the South Bank, largely due to the prominence of the Shell Tower. Over time, however, the original design has become unsuitable for Shell's business needs. In 1996, the downstream building was sold and converted into the residential units now known as the Whitehouse Apartments. More recently, the Wing buildings have been decommissioned and Shell staff have been relocated to alternative premises in the City. The loss of Shell staff to this area has been part of a wider loss of employment, which policy is now seeking to reverse.

9.4. Nevertheless, Shell regards the South Bank as its natural home in London, and wants to return here. However, for this to happen, there will need to be a significant new building which provides modern, flexible open plan office space with



large floor plates and trading floors. Given the size of the Shell Centre site and its proximity to the major transport hub for rail, bus and underground services at Waterloo Station, Shell's desire to redevelop the site gives rise to a much wider opportunity to bring about a step-change in the regeneration of the South Bank. The scale of this opportunity has been recognised by both the GLA and the LBL, in their development plans and supplementary planning guidance.

#### Policy for development

9.5. Any assessment of the design of the scheme and its impact on heritage assets has to be rooted in a clear understanding of the development plan's expectations for the Shell Centre. In this regard, there are two overarching points.

9.6. The first overarching point is that the Waterloo area in general, and the Shell Centre site in particular, are identified in the adopted development plan as a strategically important location where the intensification of development is not only appropriate, but is positively required in order to maintain London's status as "one of the world's most attractive and competitive business locations". In particular, the site lies within the CAZ where LP policies 2.10 and 2.11 promote new office space for "the strategically important financial and business services", and encourage the London Boroughs to bring forward development frameworks for the opportunity and intensification areas to "benefit local communities as well as high quality, strategic development capacity."

9.7. The site also lies within the WOA, where LP policy 2.13 (CD B.1) supports wider regeneration and seeks to optimise residential and non-residential output and densities. Annex 1 of the LP describes the strategic policy direction for the WOA as providing "opportunities for the intensification of commercial, residential and cultural facilities associated with a major transport hub, a major office location and a Strategic Cultural Area". The significance of the LP Opportunity Areas has been underlined in the recent consultation draft of the London Housing Strategy (CD C2.11), which talks of "...maximising the value of..." the Opportunity Areas and observing that "...the Opportunity Areas represent the greatest chance to build high density housing on existing brownfield sites..." and that it would "...be a hugely wasted opportunity to bring these sites forward at less than optimal capacity due to a lack of collective foresight and upfront investment".

9.8. The Shell Centre site is MDO93 on LBL's Local Development Framework Proposals Map. In this regard, the "guiding spatial approach" of the CS (CD B.2) includes a "focus for growth and development on Waterloo and Vauxhall" which "...present the most significant potential for commercial development and jobs growth in the borough, alongside their potential to provide new housing", while policy PN1 identifies the need to "support and enhance Waterloo as a key part of Central London and its economy", inter alia by "maximising the area's potential for the full range of Central London and town centre activities". In similar vein, the WASPD (CD C1.1) describes Waterloo as "one of the borough's largest development opportunities".

9.9. The importance of these aspirations is only heightened by the fact that, since the closure of the Greater London Council in 1986, thousands of jobs have been lost from the Waterloo area. This has had a significant and detrimental impact on the local economy. Notwithstanding the scale of the opportunity, the South Bank has to date underperformed when compared with other locations and there is a pressing need to reverse this trend. The LP (CD B1) makes clear that it is not appropriate to apply the density matrix mechanistically, and schemes now being approved regularly exceed the density guidelines.

9.10. The second overarching point is that, when seeking to exploit those opportunities, both the development plan and supplementary planning guidance recognise that, subject to the design satisfactorily addressing views and the setting of heritage assets, the Shell Centre site is a suitable location for tall buildings.

9.11. LP policy 7.7 (CD B1) states that tall buildings are appropriate in the CAZ and Opportunity Areas. The WOAPF (CD C2.1) states that tall buildings are considered to be suitable “above and around Waterloo Station” and “on the commercial spine behind the Riverside buildings”. As WCC accept, the Shell Centre site falls into both categories. Figure 50 in the WOAPF clearly shows the part of the Shell Centre site which would have been occupied by the BCS as part of the option for clustering new buildings “above and around the station”. The WOAPF identifies the “commercial spine” as a “second layer set behind the layer of administrative and cultural buildings set against the river which is punctuated by tall buildings such as the Shell Centre tower, King’s Reach Tower and the ITV Tower”. It is clear from this that the Shell Centre site forms part of the “commercial spine”. Moreover, the WOAPF observes that it is “logical ... that this pattern of development is continued”.

9.12. The WOAPF (CD C2.1) goes on to observe that the “highest buildings should be located around the station area with a falling away in height towards the river”, and that “the tallest buildings could be placed along the northern section of the edge adjacent to York Road and above the station itself”. If the tallest buildings are to be placed on the opposite side of York Road to the Shell Centre site, then the only location in which buildings could “fall away in height towards the river” is across the Shell Centre site itself. In this regard, Figure 49 of the WOAPF shows the Shell Tower as an existing tall building which “relates closely to the cluster”.

9.13. CS policy PN1(c) (CD B2) identifies Waterloo station and the adjoining area as having been “identified as providing appropriate potential for a loose cluster of tall buildings providing a focal point on the skyline in line with its wider strategic London-wide role”, and again states that “development should scale down from the station to the River Thames”. Most recently, Figure 11 of the WASPD (CD C1.1) clearly shows the site as lying within the “area sensitive to tall buildings”. Objectors to the Scheme draw attention to the statement that “tall buildings are likely to be most appropriate in the Railway Character Area” but neglect the later statement in the same paragraph that “High quality design may justify development proposals stepping up behind Upper Ground/Belvedere Road where there are already set piece buildings”.

9.14. There is remarkable consistency across the development plan, the WOAPF (CD C2.1) and the WASPD (CD C1.1). All of them have expressly taken into account the fact that there are heritage assets which could be affected by development on the site. Notwithstanding this, they consistently identify the Shell Centre site as lying within a “commercial spine”, or “second layer” of the RCA, in which tall buildings will be appropriate providing they are well-designed and step down in height towards the river. Moreover, they also anticipate that there will be taller development behind the Shell Centre site, within the Railway Character Area.

9.15. In summary, the Shell Centre is a site of which great things are expected. Those expectations will not be met without transformational change, which will bring with it a significant intensification in development on the site. Moreover, this is not simply a question of extracting more from the Shell Centre site than currently exists. Subject to the requirements of good design and the need to have special regard to the desirability of preserving or enhancing heritage assets and their settings, there is a clear policy imperative to maximise the Shell Centre site’s potential.

### The proposed development

9.16. The applications have been brought forward with the aim of fulfilling LBL's aspirations for the site, and to provide facilities on the site which would enable Shell to consolidate its staff in a single location, thus securing its future on the South Bank. The detailed proposals have been developed pursuant to a master plan based on pre-application discussions with LBL and consultation involving over 1000 people and more than 70 organised meetings over more than a year.

9.17. RCL have complained about the consultation. However, as Mrs Thaine accepted in cross-examination, her complaint was not that there had not been communication or consultation with the local residents (in fact, she accepted that there had, if anything, been "consultation overload"), but that the Applicant had not taken on board enough of the residents' comments. In fact, some very substantial changes were made in direct response to the public consultation exercise. The master planning and design process has from the very outset taken account of the site's heritage context. The need for the development to respect the setting and significance of these heritage assets has been carefully considered at every stage.

9.18. Together, the eight proposed new buildings and the associated development would provide:

- A total of 877 residential units, including 98 on-site affordable homes, and a further 70 units of affordable housing off-site at Lollard Street;
- More than 76,000 square metres of modern, purpose-built office floor space, an increase (above grade) of about 24,000 square metres compared to the existing provision;
- Around 5,900 square metres of retail floor space and 2,557 square metres of leisure and community uses;
- A new and improved ticket hall for Waterloo Underground Station;
- Significantly improved pedestrian crossings on York Road, together with landscaping to improve its visual amenity, significant enhancements to the existing pedestrian routes through Chicheley Street and Sutton Walk, and the creation of four new routes from Waterloo Station to the River;
- New public realm (including a new public square) to which the listed Franta Belsky Fountain and two other notable pieces of sculpture, Charoux's Motorcyclist and the Aumonier Sphere, will be relocated;
- Improvements to Belvedere Road (new pedestrian crossings, new surfaces, new taxi rank, improved coach parking bays) and Chicheley Street (wider pedestrian footway, resurfacing of carriageway and footway).

9.19. The development will make an important contribution to fulfilment of policy for the provision of more housing, and more affordable housing in particular. Housing targets in London generally and in the WOAPF (CD C2.1) area are minima, not maxima, because of the desperate need for new homes. The development also has significant economic and employment benefits. To begin with, there will be very substantial permanent employment gains as a result of the new floor space. Both RCL and WCC have taken issue with the Applicant's argument that the development will result in an increase in the amount of office floor space. However, this argument now focuses on the treatment of the existing basement areas and there does not appear to be any dispute that the development will result in an increase of some 24,372 square metres in the amount of above-ground office floor space.

9.20. If the development is permitted, it is envisaged that there will be employment for 5920 office workers, and some 345 jobs in leisure and retail, not to mention jobs associated with the new housing. On any analysis, that is a highly significant benefit. There will be further gains in construction. The total development costs will be approximately £1.2billion excluding financing costs. The developers have made a commitment to target 10% of this expenditure for local companies, and indeed have already set up a project, the South London Procurement Network, to help local small companies prepare for these contracts.

9.21. At the request of local community groups, LBL and the Mayor of London, the developers have pursued an agreement to purchase Hungerford Car Park and to landscape it. The grant of permission for the Shell Centre development is the opportunity to satisfy this aspiration and is an example of how the regeneration of a site can be the catalyst for unlocking wider regeneration benefits.

9.22. Overall, re-development of the site is a unique opportunity to further the regeneration of the South Bank and revitalise the Waterloo area. The proposed development grasps that opportunity, and will fully realise the site's potential.

#### The extent to which the development is consistent with policy requiring good design

9.23. The proposed development achieves not just good, but world class design and optimises the contribution that this exceptional site can make to its immediate environment and to its setting in London. The proposed new buildings have been designed by leading international architects. Although individually distinctive, they form part of a recognisable "family" in which the use of materials and rich detailing reflects the surrounding architecture and the history of the site. The development has a number of key components;

- Stepping up from south to north to lessen the impact on both neighbouring land uses and the WWHS;
- Introducing lower buildings on Jubilee Gardens with taller elements rising behind;
- Designing the tall buildings to be slender, with differing heights to create an animated skyline;
- Setting the tall buildings back from the river to maintain the prominence of the existing Shell Tower.

The overall development will be an elegant composition that will enhance the setting of the existing Tower, and will enrich the wider urban environment. The tallest new buildings have been designed with a profile and materials that complement the heritage assets in views such as from the Blue Bridge and Horse Guards.

9.24. The eight buildings will define new pedestrian routes with built edges to both sides. With frontages enlivened by retail floor space, the proposals will transform the public realm within and around the site and the quality of connectivity across it, providing legible, safe, secure, attractive and publicly accessible routes from York Road to Jubilee Gardens, the London Eye and the River Thames. The introduction of a number of buildings along the York Road frontage will add grain and rhythm to the street scene. The proposals meet the seven "objectives of urban design" set out in By Design (CD C3.4), and satisfy the CABE GTB (CD G9).

9.25. In terms of the guidance in paragraph 58 of the NPPF, the development will:

- Function well and add to the overall quality of the area;

- Establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- Optimise the potential of the site to accommodate development, creating an appropriate mix of uses (including public space);
- Respond to local character and history, reflecting the identity of local surroundings and materials;
- Create safe and accessible environments;
- Be visually attractive as a result of good architecture and appropriate landscaping.

9.26. A recurring policy theme is the need to increase the permeability of the site, improving the connections between Waterloo Station and the river. With four new and two improved pedestrian routes linking York Road to Belvedere Road, the development conspicuously achieves this. One of the development principles identified in the WASPD (CD C1.1) is the need to address the “perceived canyon-like character to York Road”. It is clear that this is talking about the existing perception, caused by the walls of development where the wings of the Shell Centre face Elizabeth House. An obvious response to this is to break up any new development on the Shell Centre site into a series of buildings at right angles to York Road, with gaps in between. That is exactly what the proposed development does. The fact that there are tall buildings flanking the routes through the site will not detract from the feeling of openness and accessibility felt by pedestrians.

9.27. The route alongside the railway viaduct has been provided at the specific request of the GLA. The opportunity will be lost if it is not provided now but there is no need for this route to replicate the width of Sutton Walk. Instead, the opportunity has been taken to create a more interesting, quirky route where people can meander or stop for coffee. The route between buildings 3 and 4A is the principal route to the proposed new public square. The fact that those wishing to go on to Jubilee Gardens will have to zig-zag along their route is not unusual in an urban environment, and the layout of the public square has been planned to facilitate this. The route between Buildings 2 and 3 is essential if the existing footbridge over York Road is to be retained; the bridge is a direct route from Waterloo Station to Jubilee Gardens.

9.28. As the predicted flows demonstrate, the route between Buildings 1 and 2 will be less used. This route is a main entrance into Shell’s proposed new office building. The new routes are generous thoroughfares and will be complemented by Chicheley Street, which will have an improved environment for pedestrians. This is an eminently permeable scheme. With retail frontages and cafés spilling out onto the pavements, the public square will be a lively, interesting environment in its own right. The passage of people through it will simply bring added life, as well as custom for the shops and cafes. The benign wind conditions in the public square, along with views out of the square and reflective sunlight, will support the lively environment of the square. The communal gardens either side of Building 4B will provide a further valuable amenity, as well as playable space.

9.29. Overall, the design of the scheme is of the highest quality, fully worthy of this unique London site.

The extent to which the development is consistent with policy for conserving and enhancing the historic environment including the WWHS

9.30. The proposed development would directly affect the Shell Centre building, the SBCA, and the Franta Belsky Fountain.

### The Shell Centre Building

9.31. Although it is locally listed, the Shell Centre is a non-designated heritage asset within the meaning of the NPPF. English Heritage has on four occasions concluded that it is of “limited architectural interest” and does not justify inclusion on the statutory list. In its most recent assessment (on 18 November 2013) English Heritage commented that the Shell Centre is “bulky and unimaginative, a version of earlier Swedish blocks on a more massive scale, and lacking the elegance and refinement of other large commercial development of the time”. Though the SBCAS (CD E17) identifies the whole of the Shell Centre as making a “positive contribution” to the character and appearance of the SBCA we contend that it is the Shell Tower which gives the complex its landmark status, and that the bland and monolithic wings are of very limited interest.

9.32. Applying the criteria set out in English Heritage’s guidance for assessing the value of unlisted buildings:

- The Shell Centre was designed by a well-known architect, but is widely accepted as not being a successful example of his work.
- The Tower has landmark qualities, but the lower wings, which are standard mid-rise offices, do not.
- Aside from the fact that it shares in the use of Portland stone, the Shell Centre does not reflect other elements in the SBCA in terms of age, style, materials, form, or other characteristics.
- Far from contributing to the significance of the SBCA, the wings screen views of much of the South Bank from York Road, as well as the River Thames from the northern part of York Road.
- The Shell Tower is a well-known and recognisable feature, but the remainder of the complex contributes little to the quality of the area. The open areas on the site are underused and of limited quality.
- The Shell Centre has no significant historic association with other historic assets and does not contribute to the character or appearance of the SBCA.

9.33. For all these reasons, the wing buildings make, at best, a neutral contribution to the character and appearance of the SBCA. Their demolition would therefore not be harmful. However, if we are wrong about this, we invite the Secretary of State to conclude that any harm which might be caused would be less than substantial. We set out elsewhere the great public benefits of the proposed development, which far outweigh that harm. It should be noted, furthermore, that it is common ground between the Applicants, LBL and the GLA that it would not be possible to realise the full potential of the Shell site without demolition of the wings.

### The South Bank Conservation Area

9.34. If the demolition of the wings of the Shell Centre is acceptable, the remaining issue for the character and appearance of the SBCA is the impact of the proposed new buildings. The proposed master plan will:

- Create new areas of public realm with a distinctive sense of place;
- Enhance connectivity within the SBCA and between Waterloo Station and the riverside; and
- Generate activity that is complementary to the cultural and leisure uses along the river front.

9.35. The massing of the development has been carefully considered in the light of the nature of development surrounding the site, the character and appearance of the SBCA, and the aspiration for tall buildings in the area. The taller elements take the form of slender towers and are clustered towards the north-east corner of the site, away from the river edge and close to the main entrance to Waterloo Station. Generally, the new tall buildings that are proposed are visible from locations where the existing Shell Tower is visible, and not from places where it is not. The varied height of the new buildings provides visual interest on the skyline and expresses the plan form of the development. This is particularly evident in views from the north bank with the taller elements seen to the east, set behind the existing Shell Tower. The proposed buildings on either side of the Shell Tower ensure that the Tower remains the dominant element in these views.

9.36. The new buildings on Belvedere Road continue the building line of the Shell Tower and provide a built edge and enhanced sense of enclosure to the road. They address Jubilee Gardens and the River Thames positively. The appointment of a number of different architectural practices for different buildings, and the high quality of the designs that they have developed, have provided a grain and subtle variety to the development that will enhance and make a positive contribution to the character and appearance of the SBCA. The improvement of public access across the site, between Waterloo Station and the South Bank Centre, including the improved entrance to Waterloo Underground Station, will greatly improve access to the South Bank. The new facilities at ground floor level in the redevelopment proposals will complement the existing South Bank Centre facilities.

9.37. Overall, the redevelopment of the site will make a positive contribution to local character and distinctiveness and will be an enhancement of the SBCA.

#### The Franta Belsky Fountain

9.38. The Franta Belsky Fountain will be dismantled and relocated within the public realm which would be created as part of the redevelopment proposals. No party has raised any objections to the relocation of the fountain.

#### The setting of heritage assets outside the site : preliminary observations

9.39. When considering the setting of heritage assets, all views of the asset are potentially important. However, in a world city with as much heritage as London, it is neither realistic nor reasonable to expect that all existing views will remain unchanged. Such an approach is wrong because it commits the fundamental mistake of assuming that change is necessarily harmful, and it would completely stifle London's ability to change or adapt to meet modern needs.

9.40. The NPPF explicitly recognises that the setting of a heritage asset is "not fixed and may change as the asset and its surroundings evolve". The same point is in the GTB (CD G9) and the LWHS (CD C2.3). In view of its own Guidance, it is not surprising that English Heritage's representations accept that change is inevitable. In other words, the question is not whether change should be prevented, but how it should be managed. As the LVMF (CD C2.4) observes "...while it is neither desirable nor necessary to preserve in stasis every aspect of a Designated View, changes to them should be managed in a way that does not harm the composition of the view or key elements of its character".

9.41. In order to manage change, it is necessary to understand not only which views of a heritage asset are the most important, but also what is important about them. The LVMF (CD C2.4) is instructive and is rooted in LP policy 7.11 (CD B1) which requires the designation of strategic views which "are seen from places that

are publicly accessible and well used" and "include significant buildings or urban landscapes that help to define London at a strategic level".

#### Westminster World Heritage Site (WWHS)

9.42. WCC and English Heritage agree that the harm to the WWHS and its heritage assets would be less than substantial. Even this goes too far. The most important, strategic views of the WWHS are those identified in the LVMF (CD C2.4), which gives specific advice on how those views should be managed. In the context of LVMF Viewpoints 27A.1, 27A.2, 27B.1 and 27B.2, the LVMF advises that:

*443 Any development that appears in the interval between the Clock Tower and Portcullis House should not cause adverse impact to the World Heritage Site and should not compromise a viewer's ability to appreciate the Outstanding Universal Value of the World Heritage Site. It is of critical importance that the palace of Westminster should continue to be clearly seen against clear sky.*

*444 The roofline of the former County Hall and its central fleche form an important part of the visual enclosure of Parliament Square and the contrast between this horizontal form and the rich texture and strong verticals of the Clock Tower ensures that one of London's most iconic emblems can be instantly recognised and appreciated. To ensure this effect, development that would be visible between the Clock Tower and the central fleche of County Hall should be refused.*

*445 Any developments within the Waterloo Opportunity Area ... visible between the central fleche of County hall and Portcullis House should be sensitively designed and be of the highest architectural quality, reflecting the fact that it will itself form part of the setting of the World Heritage Site, while signifying positively the continuing development of the capital.*

9.43. It is clear from this that the LVMF (CD C2.4) expressly contemplates that there will be development within the Waterloo Opportunity Area (WOA) which is visible in the gap between Portcullis House and the Elizabeth Tower. The only locational constraint which the LVMF imposes on this is that development should not appear to the right of the fleche over County Hall and the LVMF does not expect or require development within the WOAPF to play a submissive or recessive role in the view: rather, it should "signify positively the continuing development of the capital".

9.44. The development would not be visible in two viewpoints (27B.1 and 27B.2), would be imperceptible in viewpoint 27A.1, and would only be visible to a minor degree in viewpoint 27A.2. Any views of it would be next to Portcullis House, and well to the left of the fleche over County Hall, where the LVMF explicitly contemplates that sensitively designed development can take place.

9.45. It is significant that objectors including Mr Tamplin and the 20th Century Society (TWS) as well as Mr Ayton for WCC suggested that the impact of the development would be comparable with that of the "Three Sisters" proposal. That development simply cannot be compared with the development proposed on the Shell Centre site. The impact of the "Three Sisters" from what is now LVMF viewpoint 27A.1 would have been catastrophic, in contrast to the proposed development, which can hardly be seen.

9.46. Turning from the LVMF to other views which have been identified as being important by WCC: the MVSPD (CD C2.5) shows the "viewing area" to be in the north-west corner of Parliament Square. The only "Metropolitan View" identified in WCC's "Conservation Area Audit and Management Proposals for Westminster Abbey and Parliament Square" (CD E24) is also from the north-western side of the Square.



The local views identified in the WHS Management Plan (CD E26) are again all from the northern side of the Square. In these views, the development will not be seen.

9.47. WCC has raised concerns about the impact of the development on other views, such as those from outside Westminster Abbey. However, by definition these views - which are not identified in any planning policy or published guidance for managing the heritage assets - must be less important than the strategic views identified in the LVMF (CD C2.4) or in the MVSPD. Indeed, this appears to have been the view of WCC when it was consulted on the scoping of the ES.

9.48. As to the actual impact of the development, beyond observing that it will be seen in the gap, WCC's evidence does little to explain why this is harmful. Further, as has been pointed out, the views from within Parliament Square are dynamic ones which change as the viewer moves around the space. Just as it is possible to find locations from which the development would seem to approach the Elizabeth Tower in the view, so too there are places where Portcullis House is seen hard up against the Elizabeth Tower and there is no gap to fill. Nobody suggests that this renders Portcullis House harmful to the setting of the WWHS.

9.49. Moreover, as we have already observed, the LVMF expressly contemplates and permits views of development to the left of the County Hall fleche, when seen from the LVMF viewing points. It is an inevitable consequence of this that development which meets the LVMF guidance and appears over the roof of County Hall to the left of the fleche will become more visible as one moves eastwards away from the LVMF viewing point towards Westminster Abbey. That is proved by the fact that the development, which is scarcely perceptible in any of the LVMF views, would be visible from the south east side of Parliament Square. WCC's evidence would effectively preclude any development in the WOA which might be seen over the roof of County Hall from any viewpoint in Parliament Square.

9.50. The development would not adversely affect the setting of the Elizabeth Tower, nor would it detract from the Outstanding Universal Value of the WWHS. There would be no harm to the WWHS or any of the heritage assets within it. No wonder that while expressing concern about some developments on the South Bank, UNESCO has not expressed concern about the proposed development.

### St James's Park

9.51. The view from the Blue Bridge is identified as a "Townscape" view in the LVMF. LP policy 7.12 (CD B1) requires that townscape and linear views should be managed so that the ability to see specific buildings, or groups of buildings, in conjunction with the surrounding environment, including distant buildings within views, is preserved. Townscape views are not protected silhouettes which must be left unaltered. Nor is there anything in the LVMF's specific guidance to justify a different conclusion in the case of the view from the Blue Bridge.

9.52. Hence, the LVMF advises that:

*428 The juxtaposition of the landscaped elements in the foreground and middle ground, and the two groups of important civic buildings, including Horse Guards and Whitehall Court to the left, and the Foreign and Commonwealth office to the right, enable the viewer to appreciate that this is an historic parkland in an important city location. It is essentially a picturesque view dominated by landscape that defines the two distinct groups of buildings, each with different characteristics. The left hand group includes a skyline of spires and pinnacles, while the right hand group is one of more strongly geometric forms. The buildings in the view are consistent in their use*

*of Portland stone, with the exception of the London Eye, which stands at 135 metres ... is made of steel, is visually permeable and is useful for orientation purposes.*

*429 The view is enjoyed from every part of the bridge, although a special axis exists from its southern end towards Horse Guards, when in line with the fountain ... Within the two groups of buildings no single building commands a focus, rather the two groups work together as a layering of architectural detailing against the skyline ... the Foreign and Commonwealth office is seen to the right of centre. The Shell Tower and London Eye are seen on the margins of the view and are of a larger scale.*

*431 Development in the background of this view should be of a scale, mass or form that does not dominate, overpower or compete with either of the existing two groups of built form or the landscape elements between and either side of them. The way it is lit should not detract from night-time views. Any building proposals that will be visible in the background should relate to one or the other of the existing groups and must be of exceptional design quality, in particular with regard to their roofline, materials, shape and silhouette. New buildings should appear as part of the existing groups of buildings, buildings that appear above the central part of Duck Island would damage the viewer's ability to see these groups of buildings in conjunction with the landscaped foreground and should be refused.*

9.53. Both WCC and EH were consulted on this text and the amendments they requested were accepted. A number of important points emerge from this:

- The view is essentially a picturesque view dominated by landscape;
- The buildings in the view play an important part in reminding the viewer that this is an historic parkland in an important city location;
- No single building dominates, rather there is a "layering of architectural detailing" which includes the London Eye, the Shell Tower and the Shard;
- The use of Portland stone is a unifying feature in the architecture of the buildings which are currently visible;
- New buildings are permissible, provided they appear as part of the existing groups of buildings.

9.54. The proposed development is entirely consistent with the LVMF guidance. Buildings 4A and 4B would not appear over Duck Island, but would relate to the existing right hand group of buildings. They would add another layer to the history, but their geometric form and choice of materials and the fact that they lie some 800m behind the FCO tower ensure that they will not detract from this feature. The intervening presence of the London Eye means it will always be clear that the new buildings comprise a different development, some distance behind the FCO.

9.55. The development would not appear taller than the FCO, nor would the light framework at the top of the proposed buildings compete with the solidity of the FCO. The proposed development is fully in accordance with the LVMF guidance on managing views from the Blue Bridge, and would cause no harm to this view.

#### FCO – setting of the listed building

9.56. English Heritage has sought to distinguish the impact of the development on the view from the Blue Bridge from its impact on the setting of the FCO as a listed building. This argument is misconceived. It is clear from paragraphs 56, 58, 69 and 74 of the LVMF that the setting of historic and cultural landmarks (including listed buildings such as the FCO) has been a key consideration in the designation of views and the guidance for their management. Addressing the relationship between the

impact on the view from the Blue Bridge and the impact on the setting of the RPCA and of listed buildings such as the FCO, the Inspector at the Blackfriars Inquiry concluded that "...the considerations are exactly the same".

9.57. The compliance of the development proposals with the guidance in the LVMF provides a strong indication that the impact of the development on the setting of heritage assets has been taken into account and is consistent with planning policy. Of course, there are other views of the FCO which also need to be taken into account. However, as soon as one moves away from the precise point on the Blue bridge from which the LVMF view is taken, other buildings such as the Shell Tower come more clearly into view in any event, and the Shell Tower appears to touch the FCO. This simply illustrates the point that these are kinetic views, which change constantly as the viewer moves through the landscape.

#### Horse Guards – the setting of the listed building

9.58. The existing views from Horse Guards already represent a number of layers of history, and a number of different uses (in other words, not just those connected with the State), in which the former War Office, the Ministry of Defence, Whitehall Court, the London Eye and the Shell Tower can all be seen. Building 4A will rise just above the roofline of Horse Guards and will simply add another layer to the history. Furthermore, contrary to the view expressed by English Heritage, the proposed development, Building 4A in particular, will not compromise the "symmetry" in this view because there is none.

9.59. Insofar as it will be visible at all, the development will be harmonious with those already present in the view, in both form and materials. There will be no harm to the view of Horse Guards but if harm will be caused it could not, on any sensible definition, be described as "substantial".

#### Royal Festival Hall and other heritage assets

9.60. The Royal Festival Hall is a robust and distinctive building. The site sits one block back from the river's edge, with the result that the Royal Festival Hall maintains its prominence in views across and along the river corridor. In views from Waterloo Bridge and the north bank of the river, the Festival Hall is already seen against the backdrop of other buildings such as the Hungerford Wing of the Shell Building. In these views the curved form of the main roof of the Festival Hall continues to be a dominant feature which sets it apart from the buildings behind it. Substantial change to this existing backdrop would occur in any viable redevelopment scenario for the Shell Centre site. The replacement of the wings with buildings of higher quality will not harm the significance of the Royal Festival Hall.

9.61. Objectors have compared the impact of the development on the Royal Festival Hall with other proposals. Mr Ayton relied on the conclusion of the Doon Street Inspector that that proposal would have an adverse impact on the Festival Hall. However, Mr Ayton did not produce any material on which the Secretary of State in this case can compare the impact of the scheme with that of the Doon Street development. Mr Tamplin sought on behalf of the TWS to compare the impact of the development with that of the Three Sisters proposal for the Elizabeth House site. However, we do have images of that development, which show its impact on the South Bank generally and the Royal Festival Hall in particular, and it is plain that no meaningful comparison can be made.

9.62. Finally, so far as the Royal Festival Hall is concerned, it is significant that the South Bank Centre did not object to the development, a point which the

Secretary of State considered to be of significance when dealing with the Doon Street proposals. Indeed, the South Bank Centre's support for the development is so strong that its Chief Executive gave evidence to this Inquiry.

9.63. TWS and Mr Tamplin raise concerns about the effect of the development on other heritage assets, including the Royal National Theatre, County Hall, the RSCA and the WCA. The development would not harm these heritage assets.

9.64. Objectors to the development are far from unanimous in their opinions. English Heritage does not support Mr Tamplin's criticisms of the effect of the development on the Royal National Theatre and Waterloo Bridge. Again, although the TWS assert that the scheme will have a "catastrophic" effect on County Hall and Westminster Bridge, not only is the development's effect on these assets of no concern to English Heritage, but also was of no concern to Mr Tamplin. Finally, although Mr Tamplin raised in cross examination issues about the effect of the development on the setting of Victory Arch and the WCS and the RSCA, not only is there no mention of such impacts in his written proof, but also English Heritage specifically state in their written representations that the development's impact on the WCA and the RSCA is acceptable.

#### Conclusions on Heritage Assets

9.65. The proposed development will preserve and enhance the character and appearance of the SBCA, the setting of the WWHS, St James's Park, Horse Guards, the RFH and all the other heritage assets.

#### The extent to which the development is consistent with the development plan

9.66. The development is consistent with the LP, the UDP and the CS;

- It is common ground between the Applicant, LBL and the GLA that the principle of the development is acceptable, and that this proposed major mixed use development represents appropriate development within the CAZ, the WOA and Strategic Cultural Area, and is a Major Development Opportunity (MDO) identified in the UDP.
- The site's location within the CAZ and the WOA means that the site is suitable for the highest residential density levels. The density proposed is consistent with the LP requirement to optimise housing output, and will make a significant contribution to LBL's housing needs.
- With an approximately 50:50 split between office and residential floor space this is a genuine mixed use development.
- The development provides the maximum level of affordable housing possible, entirely in accordance with relevant policies.
- The development complies with the LP and UDP policies relating to heritage.
- The development offers significant transportation benefits, including the improved ticket hall for the Waterloo Underground Station and improvements to Chicheley Street and Belvedere Road including relocating and extending the existing taxi rank and reducing service access points.
- The development is acceptable in its impact on residential amenity and in the amenity it will offer to those who will live within it.
- The development conforms closely to both the GLA's and LBL's supplementary planning standards.

9.67. Tall buildings are, in principle, entirely appropriate on the site in the light of the development plan and the WOAPF (CD C2.1) and WASPD (CD C1.1). Further, the WASPD provides specific development principles for the site. The development clearly complies with those principles. In particular;

- The development preserves and enhances and makes a positive contribution to the character and appearance of the SBCA.
- The setting of the Royal Festival Hall is conserved and enhanced.
- The Shell Tower retains its pre-eminence.
- A suitable location has been found for the listed fountain.
- Publicly accessible open space is provided and financial contributions will and have been made to improve existing open space in the area;
- The development will frame and enhance the setting of Jubilee Gardens.
- The development will improve permeability and linkages through the site.
- Pedestrian routes are provided which form part of a direct connection between Waterloo Station and the riverside.
- The development complies with guidance which requires it to relate positively to the Shell Tower.
- The development complies with that part of the guidance requiring development to scale down from “tall buildings at the station to the riverside”.
- The development will not create an “overall wall effect” and the “perceived canyon-like character to York Road” will be addressed. The development comprises tall, slender, discrete buildings, which will be perceived as such, so that there will be no wall effect. Further, the character of York Road will be greatly improved. The site will have a highly varied, lively frontage to York Road with openings at various locations.
- The proposed development complies with guidance on land use, transport, and public realm.

9.68. In summary, the proposed development is in accordance with the relevant policies and guidance in the WASPD.

### Open Space

9.69. The development’s contribution in terms of open space is nothing short of excellent. There will be 10,979 square metres of publicly accessible open space on the site. This public realm will be of excellent quality, providing a variety of spaces and thoroughfares, and will be used for a multiplicity of purposes. Furthermore the public will have the right to access that space, guaranteed by the Section 106 Agreement. This contrasts markedly with the present situation. The public currently has no right to use any of the spaces on the site. By permission, the public is able to use a much smaller area, principally the podium and associated areas. The quality of experience offered by the podium is poor, it is not fit for purpose in meeting modern accessibility requirements and the open space within the development will be of far greater quality. Furthermore, the public will, crucially, have the right to use it.

9.70. In these circumstances it is hard to understand how an objection could be made to the proposals on open space grounds. However, RCL have persisted in its objection and Mr Turner made many citations of the policies, and suggested that the

scheme is not in compliance with those policies. However, none of the relevant policies forbids loss of open space in all circumstances, even if the space currently on the site can be said to fall within that definition, having regard to the lack of any right of public access, the fact that the courtyard is boarded up, and that the podium has planning permission for re-development and has not been designated as open space in the UDP. Policies in the development plan and national guidance require consideration of whether any loss would be replaced by equivalent or better provision; paragraph 74 of the NPPF for example.

9.71. In accordance with the NPPF, the public value of the spaces on the site as existing, and as proposed, is highly relevant. There is no right of access to the courtyard and it cannot be seen, because it is boarded up. It cannot, realistically, be said to be open space at all, within the meaning of that term as defined in the NPPF. In relation to the podium, it is true as RCL have said that in the BCS decision the Secretary of State considered that the podium was of public value, so that it fell within the definition of open space. However, he considered it was of such "very limited public value" that it was appropriate to grant planning permission for its development. The fact that the podium is a development site benefiting from a planning permission is specifically recognised in the UDP and, for that reason, the podium is not designated as open space in the UDP.

9.72. This position has been recently confirmed in the WASPD (CD C1.1); Figure 15 of which identifies parks, metropolitan open land, historic parks and gardens and "other public open spaces" which qualify for protection under paragraph 53. The podium site is not indicated to be open space in Figure 15. In the circumstances, consideration of the open space provided by the scheme should start from the point that there is no policy requirement to retain or replace the podium. Further, beyond the open space provided as part of the development there will be substantial financial contributions to open space within the area. These are:

- The £1.5 m contribution made in association with the BCS and accepted by the Council as being taken into account in any future development;
- A children and young people's play space contribution of £162,678;
- A revenue contribution of £60,000 per annum for 10 years, which is to be spent on the annual maintenance of Jubilee Gardens;
- A landscaping contribution of £117,277.66, which is to be spent on the maintenance of the public realm within the local area.

9.73. Overall, therefore, it is impossible to see how objection could be taken to the scheme on open space grounds, having regard to;

- The lack of public value of the spaces presently on the site;
- The fact that the public has no right of access to any of those spaces;
- The quality and area of the proposed public realm;
- The fact that the public will have the right of access to that public realm;
- The additional financial contributions towards open space in the area.

9.74. Further, we have already referred to the Applicant's contractual commitment to extending Jubilee Gardens into the Hungerford Car Park site. That will bring very substantial open space benefits to the community.

## Residential amenity

9.75. The principal concerns raised in relation to residential amenity relate to the impact of the scheme on sunlight and daylight, both in terms of existing dwellings and the amenity of future occupants of the proposed new dwellings within the development. In addition, RCL contend that the proposed new access to the car park and service area will cause noise disturbance to existing residents.

### Impact on existing housing; sunlight and daylight

9.76. Chapter 9 of the ES provides a detailed assessment of the impact of the proposals on sunlight and daylight. This work was independently reviewed by BRE, instructed on behalf of the Council. In terms of the impacts on surrounding properties, it is accepted that there are some properties in the Whitehouse Apartments and County Hall North Block where the BRE Guidelines for Sunlight and Daylight will not be met. However, that does not mean that they will be unacceptably affected.

### Daylight

9.77. Daylight is analysed in terms of its effect on existing properties on two main measures; VSC (Vertical Sky Component) and NSL (No Sky Line). VSC is an analysis of daylight at the face of a particular window. NSL is an analysis of the distribution of daylight at the working plane of a room. When dealing with the effect of new development on existing properties, the BRE Guidelines (CD G7) say that daylight is likely to be adversely affected if either the VSC measured at the centre of an existing window is less than 27%, and less than 0.8 times its former value (the VSC test), or the area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value (the NSL test).

9.78. Firstly, the BRE Guidelines (CD G7) are precisely that, guidelines. They are not mandatory, and the introduction to them states that they “should not be seen as an instrument of planning policy”. The introduction therefore recognises that the guidelines have to be interpreted flexibly, and explicitly states that “in an area with modern high rise buildings a higher degree of obstruction may be unavoidable if new developments are to match the heights and proportions of existing buildings”.

9.79. Secondly, the BRE Guidelines (CD G7) nowhere state that infringement of one or other of the VSC or NSL “tests” means that daylighting to a property is unacceptably affected. In particular, the statement in the BRE Guidelines that daylighting is likely to be significantly affected if either the VSC or NSL test is infringed takes no account of the situation where although the VSC test is infringed in respect of a window, the room lit by that window is also lit by other windows. The BRE Guidelines clearly acknowledge that the existence of other windows is an important factor. That is clear from Appendix I to the Guidelines, which states that where the loss of skylight does not meet the “guidelines in this book”, the impact is assessed for Environmental Assessment Purposes as minor, moderate or major adverse, and that one of the factors tending towards a minor adverse impact is where “an affected room has other sources of skylight...”. This is no more than common sense if interest is in the amenity of the residents of that room.

9.80. Thirdly, the BRE Guidelines (CD G7) accept that in situations such as that of County Hall North Block, where an existing building faces an undeveloped area where development may reasonably be expected, the impact of a new development may properly be compared with a “mirror image” of the existing building. This comparison is referred to in the BRE Guidelines at appendix F, and the propriety of

applying it to the County Hall North Block in the present case is accepted by Dr Littlefair, a Principal Lighting Consultant at BRE.

9.81. Within the Whitehouse Apartments 209 (or 73%) of the 285 windows assessed will still satisfy the VSC window face daylight test; while 190 (or 93%) of the 205 rooms analysed will satisfy BRE Guidance for daylight distribution (NSL). Of the 15 rooms which do not meet the NSL guidelines, 9 are located more than 90 metres from the proposed development and already have very limited sky visibility due to their relationship with Whitehouse east block. All of these windows will continue to satisfy the VSC test. For the 76 windows that do not meet the VSC test, the alteration in the daylight at the face of 20 of these windows as a result of the scheme is only slightly higher than the BRE limit of 20%. In his independent review of the ES, Dr Littlefair observed that these losses “could be considered marginal”.

9.82. Of the remaining 56 windows in the Whitehouse East Block, 50 serve rooms which continue to satisfy the NSL test and the distribution of daylight remains acceptable. They will not be unacceptably affected. This should not be surprising. Where rooms are served by more than one window the relevance of these other windows is only a matter of common sense and is referred to in the BRE Guidelines. Further, the conclusion that these rooms will not be unacceptably affected is not contradicted by Dr Littlefair’s report. That report rightly draws attention to the provision in the Guidelines referring to adverse effect if either the VSC or NSL test is infringed. The report did not go on to deal with whether the effect would be acceptable or not, having regard in particular to the presence of other windows.

9.83. The six rooms within Whitehouse East which do not satisfy either the VSC or NSL test are four kitchens and two second bedrooms within separate apartments. They would retain a reasonable level of light for an urban environment. It should be borne in mind that a VSC of around 17%, which four of the rooms will have, has the potential to provide good daylighting, according to the BRE Guidelines. The remaining two rooms are kitchens, which are likely to be too small for dining.

9.84. The magnitude of the impacts on daylight in the County Hall apartments is mostly a consequence of the fact that the northern elevation faces the currently undeveloped part of the Shell Centre site, and therefore benefits from an unusually high level of daylight amenity for a central urban environment. In those circumstances, the BRE Guidance recognises that it would be appropriate to consider the acceptability of a proposal by reference to the impact of a mirror-image scheme. Adopting this approach:

- In terms of VSC and NSL, almost all of the County Hall northern elevation windows from the 1st to 4th floor (inclusive) would enjoy better light with the proposed development than with a mirror image scheme;
- In the 5th floor and above, the proposed development would have a greater impact on VSC than a mirror-image, but all these windows would retain good daylight, at between 25 and 31% VSC.

9.85. In these circumstances, based on the mirror image approach accepted by Dr Littlefair, the daylight impact on the County Hall North apartments is acceptable.

### Sunlight

9.86. 215 (85%) of the 254 windows within Whitehouse Apartments will satisfy BRE Guidelines in relation to sunlight. Of the 39 windows that will lose more than 20% of their sunlight for some part of the year:



- 21 serve bedrooms, which the BRE considers less important, and which Dr Littlefair's review states "would not be considered an issue";
- The remaining 18 (which serve living rooms) will retain very good sunlight. The main impact in these windows will be in the winter months, when the BRE Guidelines recognise that it can be very difficult to achieve the winter sunlight guidance figures. Even during the winter these windows will retain some sunlight.

9.87. Sunlight is agreed not to be a factor at County Hall because the relevant façade faces north.

#### Daylight and sunlight overall

9.88. In summary, the effect of the proposals would be entirely acceptable in terms of daylight and sunlight.

#### Impact of noise on existing housing

9.89. The highway implications of the proposed new access from Chicheley Street were assessed as part of the ES. Although Mrs Thaine for RCL describes it as a "residential street" Chicheley Street is already much more than that, and accommodates not only traffic associated with the County Hall residents, but also service vehicles, buses and coaches. The assessment demonstrates that the resulting noise levels on surrounding roads would increase by less than 1 dBA, and would therefore have a negligible effect on any of the surrounding receptors. This assessment has been accepted by Lambeth's Officers, and there is no technical or expert evidence before this Inquiry to contradict it.

#### Amenity of future residents – sunlight and daylight

9.90. A number of the new residential units will not meet BRE guidelines but this is not unusual for a high density urban development and the BRE Guidelines accept that different standards may be appropriate in an area with modern high rise buildings. The same consideration must logically apply to an area where there is a policy expectation of high rise buildings and intensification of development. In London generally there is a need for intensification of development having regard, in particular, to the need for sites to realise their full potential, particularly in the Opportunity Areas.

9.91. The use of bay windows, full height glazing, and the location of living rooms where possible on the corners of the proposed buildings will maximise the amount of light within habitable rooms and provide views out. In other respects, the residential units will meet or exceed local authority standards. Furthermore, the only requirements of planning policy are the Good Practice Standards in the Mayor's Housing SPG (CD C2.6); in relation to the proportion of glazing to habitable rooms and a requirement that all homes should provide for direct sunlight to enter at least one habitable room for part of the day. RCL particularly complain about the standard of daylighting to the extra care apartments. The architects have confirmed that the standards are fully met in relation to that accommodation.

9.92. The best evidence of the quality of the proposed affordable housing, including the extra care units, comes from Network Housing Group, one of LBL's preferred Registered Providers of affordable housing, and an organisation which has considerable experience in the area. As its letter of 23 October 2013 confirms, Network Housing Group considers that "the scheme will deliver affordable housing of

an exceptionally high quality". Finally, so far as the private housing units are concerned, potential owners can choose whether or not to buy and Mr Turner's insistence that these units will sell for high sums is inconsistent with an allegation that the accommodation will be of poor quality.

#### Amenity of future residents – open space

9.93. The site's requirement for private amenity space is 8820 square metres. 5249 square metres is provided on the site as balconies, winter gardens or shared amenity space. Further, quite apart from the communal gardens and other public realm, there are the substantial financial contributions will be made to off-site open space, play space and landscaping. The Mayor's Housing SPG (CD C2.6) accepts financial provision in lieu of on-site provision.

9.94. The policy requirements for children's open space provision are set out in the Mayor's PIRSPG (CD C2.7). In short, the requirement is for 400 square metres of play space on site for children under the age of 5, 180 square metres off-site play space for children between the ages of 5 and 11, and a further 100 square metres off-site for children aged 12 and over. These requirements need to be read together with the guidance in the PIRSPG, which states that "In London, where space is at a particular premium, public space, streets, pavements, walkways and various forms of public open space have the potential to be treated as incidental play spaces".

9.95. The development makes on site provision for play space for children under 5 year olds in precisely this way with some 719 square metres of space within the communal gardens between Buildings 4A and 4B, and between Buildings 4B and 5. Mr Turner accepted that the area available within the communal gardens would satisfy the policy requirement, but questioned the extent to which they would in fact be usable. We make the following points in reply:

- Mr Turner's concern appears to relate to the extent to which the communal gardens would contain "playable features". However, if this is a point of concern it can be addressed by condition;
- Mr Turner suggests that spaces such as the public square will be hostile and unattractive to children. But this is not the experience elsewhere such as More London where communal spaces are used in precisely this way;
- While there is no proposal for formal, dedicated play space within the development, the site is within close walking distance of the excellent children's play space at Jubilee Gardens.

9.96. In terms of play space for children between 5 and 11 years Jubilee Gardens provides appropriate play space in accordance with the PIRSPG (CD C2.7). Finally, in relation to children of 12 years or more, the site is within walking distance of Archbishop's Park. This park is suitable and has recently been improved. It is convenient and within 800 metres of the site. Substantial financial contributions will be made under the Section 106 agreement to off-site open space, landscaping, and children's play space.

#### Transport and highways

9.97. RCL has raised a number of detailed concerns about the highway implications of the proposed development. These relate to the impacts on Chicheley Street in terms of congestion, the adequacy of the provision for pedestrians on Chicheley Street, and the consequences of locating the access to the basement car-park and service area on Chicheley Street. The transport and highway proposals

have been the subject of detailed discussion between the Applicant's highway consultants, LBL and Transport for London (TfL), and both LBL and TfL are satisfied.

9.98. Although Mrs Thaine describes existing conditions as "chaotic", Chicheley Street is in fact relatively lightly trafficked, accommodating some 350 and 419 vehicles in the AM and PM peak hours, against a theoretical capacity of 3600 two way movements. Most of the existing problems on Chicheley Street are caused by the presence of the bus stop, Duck Tours stand and taxi rank, and the interaction of vehicles seeking to pull into or out these with other traffic, rather than the actual number of vehicles using the road. It is this problem which the development addresses by narrowing the carriageway to 9 metres and relocating the bus stop, Duck Tours stand and taxi rank to Belvedere Road. The development thus allows unimpeded access for vehicles seeking to gain access to County Hall, and will do the same for residents and service vehicles seeking access to the Shell Centre.

9.99. With the proposed and other cumulative developments, peak flows are expected to increase to 428 and 460 vehicles respectively. These numbers are still fewer than would be the case if the existing Shell Centre buildings were fully occupied. With the proposed improvements to the flow of traffic on Chicheley Street, there is no reason why they cannot be accommodated.

9.100. Concerns about the adequacy of Chicheley Street for pedestrians is in large part driven by the belief that all the pedestrians who currently use the podium would in future be diverted to Chicheley Street. However, the number of pedestrians currently using the podium is a function of the fact that this is currently the most direct route from the front entrance of Waterloo train station (and the York Road exit from the underground) to the London Eye. This would change with the introduction of new connections from York Road to Jubilee Gardens and the London Eye. While there would still be an increase in the number of pedestrians using Chicheley Street, the majority of those who use the podium would use other routes through the site.

9.101. In addition, the development would significantly widen the pavements on both sides of Chicheley Street. While the pavement on the Shell Centre side of the road would narrow to 4.5m in the vicinity of the service entrance, the existing entrance and exit from the basement car park already cross the footpath on this side of the road, and the proposed new pavement would still be wider than the existing 3.9 metres. The full 12.7m width would still be available to pedestrians when no service vehicle was passing through security clearance.

9.102. Concerns about the implications of the service access for pedestrian safety are difficult to understand in the light of RCL's preference for retaining the existing service access to the Shell Centre on York Road. This entrance is right next to the pedestrian crossing of York Road near to Sutton Walk, which is already a significant pedestrian route between the Shell Centre, the Riverbank and the London Eye, and Waterloo Station. If the Elizabeth House proposals proceed and the footbridge is removed it will only become more so. Relocating the basement service entrance to Chicheley Street is entirely logical if the concern is to reduce potential conflicts between pedestrians and service vehicles.

#### Access to the basement car park and servicing area

9.103. The decision to locate the vehicular access to the proposed basement car park and servicing area was arrived at having regard to a number of factors:

- TfL has strongly encouraged the closure of the existing service access on York Road.

- The existing car park to the Shell Centre is already accessed from Chicheley Street, as would be the car park and ground level service yard approved under the BCS consent.
- Locating the entrance on Belvedere Road would significantly compromise public realm objectives for improving links between the Shell Centre site and Queen's Walk.

9.104. The service access off Chicheley Street has been carefully designed to ensure that vehicles will not have to queue or wait on the carriageway. Service vehicles that have been turned away by security will be able to leave without reversing onto the highway. The analysis of vehicle and pedestrian movements does not suggest that there would be any unacceptable conflicts.

9.105. RCL's objections to the highway implications of the development focus on a particular aspect of the proposed new infrastructure, namely Chicheley Street. Consideration of these arguments should not lose sight of the fact that the scheme would bring forward a comprehensive highway and public realm scheme to improve the surrounding highways, create new pedestrian routes and improve public transport. The benefits associated with this include:

- A new, improved ticket hall for the London Underground;
- New, generous pedestrian crossings over York Road;
- The creation of new pedestrian routes through the site;
- The provision of 1700 cycle parking spaces and an additional Barclays Cycle Hire station in the avenue leading to the London Eye;
- Resurfacing of Sutton Walk and improvements to its lighting;
- Upgrading of existing bus stops and shelters adjacent to the site to current accessible bus stop standards;
- The relaying of Belvedere Road between Chicheley Street and the railway viaduct as a raised surface with footway level pedestrian crossing points;
- Improvements to Chicheley Street.

9.106. The development would have no adverse effects on highways or transportation, but would bring significant benefits.

#### Affordable housing

9.107. Relevant development plan policies on affordable housing are:

- LP policy 3.12 (CD B1) states that "the maximum reasonable amount of affordable housing should be sought" and that "negotiations on sites should take account of their individual circumstances, including development viability, the availability of subsidy, the implications of phased development including provisions for re-appraising the viability of schemes prior to implementation";
- CS policy S2 (CD B2) states that, where no public subsidy is available, 40 percent of housing should be affordable, subject (where relevant) to independently validated evidence of viability.

9.108. The specific references to scheme viability in both these documents are important for their consistency with the NPPF, paragraph 173 of which states that "to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing...should, when taking account of the

normal cost of development and mitigation, provide competitive returns to a willing landowner and willing developer to enable the development to be deliverable”.

9.109. LBL’s requirement to provide 40% affordable housing is subject to viability. In the present case, the viability of the development was the subject of an assessment which was reported to the Council, and independently validated by BNP Paribas. As the BNP Paribas report confirms, at present day values the viability of the development would not support any affordable housing. Notwithstanding this, the Applicant has undertaken to provide a total of 168 affordable housing units (98 on site and a further 70 units off-site). This is 20% of the residential units proposed.

9.110. The on-site provision includes 52 units which would be provided as “extra care units”, specifically designed for elderly local residents, supported by a range of on-site facilities including communal living and dining spaces and activity areas. The extra care units are welcomed by the Council and the importance of such accommodation has recently been emphasised in the consultation draft of the Revised London Housing Strategy, which identifies a projected increase of almost two thirds in the number of people over 64 by 2036. The extra care units within the development will be a model of their kind with multiple benefits not only for the residents but also for the Council’s housing and social services teams.

9.111. In order to address concerns about the delivery of the off-site units, the Applicant has actively pursued proposals for the provision of these units on the Lollard Street site. A planning application for Lollard Street is expected to be submitted imminently. Schedule 2 of the Section 106 Agreement provides a “cascade” in the event that Lollard Street does not come forward. In that event, the developers are obliged to seek an alternative site on which the off-site affordable housing can be provided, and if no such site can be found, or that a site cannot be found for the whole of the envisaged number of such units, the developer is to pay a commuted sum. If no off-site affordable housing is to be provided, the commuted sum is £22,708,734.

9.112. In addition, and notwithstanding the fact that there is no policy requirement to provide a review mechanism, the Applicant has committed itself to a review under the terms of which, if development viability improves, it would be bound to make a financial contribution of up to £24,480,000 towards the provision of additional affordable housing units. This figure has been calculated on the basis that it is the amount which would enable delivery of additional homes required to take the development to the full 40% sought by CS policy S2 (CD B2). This figure has been independently validated by BNP Paribas.

9.113. Further, whereas the LP anticipates that any review mechanism would only operate prior to implementation, the review mechanism in this case engages part way through the development, once 70% of the market units have been sold. At that stage, if the viability threshold is crossed, it operates not merely to provide a 40% affordable proportion of the housing units remaining to be developed, but 40% of the whole residential development, including residential units which were sold at values which would not have supported any affordable housing contribution at all.

9.114. RCL have argued that the affordable housing provision required by policy should not be assessed by reference to the proposed numbers of units, but by reference to habitable rooms. However, assessment of the requirement by reference to habitable rooms was required by UDP policy 16, which was not saved after 2010. Further, LBL’s Draft Local Plan requires assessment by reference to the number of residential units. In any event, this point is academic, given that the provision of any affordable housing is not viable.

9.115. RCL argue that there is no evidence to justify the provision of less than 40% affordable housing. The BNP Paribas report sets out the key figures on which the viability assessment was based, and is patently evidence of what CS policy S2 requires; namely that the assessment has been independently validated. They also argue that the average sales per square foot achievable for the private residential units will be greater than the £1275 per square foot assessed by the Applicants, and the £1330 per square foot used by BNP Paribas as a sensitivity test. In support of their case RCL rely on a Knight Frank/Savills PowerPoint presentation, prepared at much the same time as the BNP Paribas Report, which forecasts an average sales price for the residential units of £1641 per square foot, as against the £1330 figure used by BNP Paribas. However, this was a presentation to investors dealing with possible future prices, whereas the viability assessment was based on present day values. Such an approach, to take current sales values, is advocated in the NPPG.

9.116. When he came to give evidence, Mr Turner, for RCL, also relied on average sales prices per square foot given by the Moliar data base for Neo Bankside and One Tower Bridge. However, the fact that Mr Turner gave no prior notice of the production of this material gave the Applicant no time to verify these figures. Further, and in any event, the Applicant's assessment of the sales price is supported by another recent document submitted by Mr Turner, namely a report by Jones Lang Lassalle, quoting average sales prices per square foot of £1100 for "Central South", the area in which the Site falls.

9.117. In any event, the debate about current sales prices matters little, because:

- The existence of the review mechanism, which begins to apply when average sales prices per square foot reach £2117, at which stage the IRR will attain the 20% agreed by BNP Paribas to be appropriate for the scheme.
- The fact that even on Mr Turner's figures, sales prices per square foot would still be well below the review threshold of £2117.

9.118. Mr Turner took issue with the 20% IRR accepted by BNP Paribas. This criticism takes no account of the fact that what amounts to an acceptable IRR will vary according to the risks associated with the project. Unlike BNP Paribas, Mr Turner has no particular expertise in this area on which to base his view that 20% is too high. 20% is not unusual for a project of this scale and complexity. Mr Turner questioned that an IRR of 20% would be reached only once average sales values reached £2117. The basis for this was a set of calculations based on the IRRs quoted by BNP Paribas as arising at average sales values per square foot of £1275 and £1330 respectively. Mr Turner's calculations purported to show that an IRR of 20% would be reached before sales values reached £2117. However, his calculations fail to prove his proposition, because;

- He assumed the net internal saleable area of the dwellings to be 77,110 square metres, whereas the area agreed by LBL and Applicants and contained in the final version of the Section 106 agreement is 749,672 square feet (69,644 square metres). This will reduce the value of the housing on the site by around 10%;
- His calculations took no account of the fact that the IRR assessments set out in the BNP Paribas report were carried out on a different basis from what would be used when deciding whether the IRR of the scheme had reached 20%, so to trigger the review mechanism. The appraisals considered in the BNP Paribas report did not include the costs of delivering the off-site affordable housing, or the Section 106 payments, or an allowance for construction cost inflation.

9.119. Finally, Mr Turner criticised the fact that 70 of the proposed affordable units will be provided off-site. Because of the high opportunity costs associated with on-site affordable housing in this case, off-site provision enables delivery of a far higher number of units – some 8 units for every one that could be provided on site. For off-site affordable housing to be chosen because it enables provision of more housing is entirely in accordance with the development plan. Further, and in any event, provision of affordable housing at Lollard Street will enable the construction of family houses with gardens, which is a housing type much needed in the Borough.

9.120. The affordable housing offered by the development goes well beyond anything required by policy, and should be welcomed. The Applicants are taking a substantial risk, by agreeing to provide 20% affordable housing in any event, even when the scheme does not provide the developer's return accepted as appropriate by the Council's advisers, and by agreeing (though policy imposes no obligation to do so) to a review mechanism which, provided viability improves, will bring about a total provision of 40% affordable housing. This approach should be commended. The acceptance of the Applicants' offer by the Council's consultants, who have an expertise in this area unmatched by Mr Turner, should be given great weight.

### Conclusions

9.121. In conclusion, the development represents an exceptional design for this important and unique site. The development provides multiple public benefits, including huge regeneration benefits, in retaining Shell on the site and in greatly enhancing the contribution the site makes to London's townscape and public realm, as well as providing much needed housing and employment floor space. Its effect on designated heritage assets is entirely acceptable, and it complies with the relevant policies of the development plan and supplementary planning guidance. As well as being of itself greatly beneficial, it can be expected that the development will be a catalyst for further much needed regeneration in the area.

## 10. THE CASE FOR LBL AND THE GLA

*The material points of the case made by the London Borough of Lambeth and the Greater London Authority are:*

### The Context

10.1. The Waterloo area of Lambeth has undergone something of a transformation during the last few decades. The success of the South Bank Centre as a cultural hub is undoubtedly positive. This positive is however counterbalanced by substantial and conspicuous negatives and these provide a basic context for consideration of the present proposals.

10.2. First, there is the economic context. Since the abolition of the GLC about 7,000 jobs have been lost from the Waterloo area at a time when employment within the part of neighbouring Southwark, between Blackfriars Bridge and Tower Bridge, has grown substantially. Moreover, that part of Lambeth within the SE1 postcode area has lost over the last 20 years two million square feet of office space equating to around 12,000 jobs. Several anchor employers have left the Waterloo area. Shell itself occupies the eponymous Centre, as it exists now, only in part, as a result of substantial inadequacies in the existing floorspace within the wings. All of these factors fall to be considered in the context of Lambeth being the 14<sup>th</sup> most deprived Borough in England and Wales.

10.3. Second, there is the social context, and in particular housing. A pressing need to deliver, and deliver fast, new homes in London has been accepted by all principal parties to the Inquiry. The Mayor's recently published draft Housing Strategy identifies the "massive shortage of good quality homes that are affordable" as "perhaps the gravest crisis the city faces". The Mayor has set out the ambitious target of building at least 42,000 new homes per year for 10 years. On a more local level Bishop's Ward is projected to see a 42% population growth between 2012 and 2031, as compared to a 16% growth for the Borough as a whole. The general need for housing aside, the need for affordable homes at both a strategic and local level is equally pressing, as all participants at the Inquiry rightly acknowledge.

10.4. Third, there is the environmental context, more specifically townscape. Waterloo Station is one of the busiest, if not the busiest, railway terminus in Europe. It is the point of entry into the capital for a large number of workers and visitors. Yet the environment with which those leaving the station are met is in many respects bleak and forbidding, particularly within York Road. Equally, those seeking to access the internationally important cultural attractions of the South Bank are compelled to negotiate circuitous routes around and beneath buildings. The current built environment, of which the Shell Wings form a part, is currently not fit for purpose.

10.5. There is therefore a clear imperative to reverse the economic misfortunes of the Waterloo area and to deliver new jobs, as well as embracing opportunities which have the potential to contribute to the strategic and local need for new homes and to improve the urban environment. This imperative provides the basic context in which these applications for transformative development fall to be considered.

### The Strategic and Local Planning Policy Context

10.6. At a strategic level, the Mayor has identified within London various "opportunity areas". Waterloo is one. These opportunity areas are identified in the LP as "... the capital's reservoir of brownfield land with significant capacity to



accommodate new housing, commercial and other development linked to existing or potential improvements to public transport accessibility". The Waterloo Opportunity Area (WOA) is identified as providing "opportunities for intensification of commercial, residential and cultural facilities associated with a major transport hub, a major office location and a Strategic Cultural Area". The Mayor considers that the WOA has an indicative employment capacity of 15,000 and is capable of delivering a minimum of 10,000 new homes. The proposed development, which would deliver many new homes and new jobs, will generate a substantial contribution to meeting the Mayor's objectives for the WOA.

10.7. Moreover, by reference to LP policy 2.13 (CD B1), the proposals will:

- support the strategic policy direction for the WOA;
- optimise residential and non-residential output and densities, provide necessary social and other infrastructure to sustain growth and contain a mix of uses;
- contribute to meeting the minimum guidelines for housing and indicative estimates for employment capacity set out in the LP;
- realise the scope for intensification associated with the existing substantial public transport hub at Waterloo Station; and
- support wider regeneration (including improvements to environmental quality) and integration with the surrounding area.

10.8. The requirements for development within Opportunity Areas in general, as identified by the Mayor in LP policy 2.13, as well as for the Waterloo OA in particular, are fully met, as the GLA's support for the development demonstrates. It is notable in this context that in his recently published draft Housing Strategy (CD C2.11), the Mayor places rapid development of Opportunity Areas at the forefront of his strategy to meet his ambitious target to deliver 42,000 new homes per annum.

10.9. The application site is located within the CAZ whose "unique international, national and London wide role the Major seeks to enhance and promote" including as "the globally iconic core of one of the world's most attractive and competitive business locations" (LP policy 2.10). In the CAZ, through LP policy 2.11, the Mayor seeks to "ensure that development proposals increase office floorspace...include a mix of uses including housing" and to "enhance the environment of strategic cultural areas along the South Bank". The proposals meet these objectives.

10.10. Moreover, the Mayor seeks, through LP policy 3.4 to "optimise housing potential". The proposals meet this important policy objective. The density range accompanying LP policy 3.4 is "not to be applied mechanistically". The context of the application site, a central London location with excellent public transport accessibility, is such that development at a density higher than the indicative range set out in the LP is entirely appropriate and consistent with the LP.

10.11. The strategic policies that apply to the Shell Centre are reflected at local level. The Shell Centre site is identified as an MDO within the saved policies of LBL's UDP (CD B3) where improved permeability and pedestrian linkages will be promoted. CS policy PN1 (CD B2) includes the objective of "supporting and enhancing Waterloo as a key part of Central London and Lambeth and its economy" including as "a major location for offices" and as a "mixed residential area". The development will advance this objective as well as meeting the objectives of CS policy PN1 including through:

- sustainable development of jobs and homes, including affordable homes;

- maximising Waterloo's potential for a full range of uses to enable the area to compete for inward investment with other parts of central London;
- securing development of an appropriate scale and form including contributing to the loose cluster of tall buildings to provide a focal point at Waterloo Station and its immediately adjoining area; and
- achieving improvements in the public realm, permeability and linkages throughout the area particularly to the Riverside.

10.12. In summary, the proposed development meets the strategic objectives of the LP for this site and translates those objectives into a successful high quality development which delivers homes, jobs and substantial environmental enhancement, all of which is much needed in an area whose opportunities have not thus far been realised, and indeed have suffered something of an economic decline. The principle of the development is entirely acceptable, therefore, and meets development plan objectives at all levels.

The extent to which the development is consistent with policy requiring good design

10.13. The evidence given to the inquiry by Mr. Squire, the lead architect for the scheme, demonstrates the considerable care and skill which has been brought to the overall master-planning and detailed design of the scheme. Mr. Squire's evidence has demonstrated that the scheme has been very much design led and has developed from a clear understanding of the historic and townscape context of the site and its surroundings. The buildings have been individually designed by a range of internationally renowned architectural practices, so creating individuality but without compromising the cohesiveness of the development when read as a whole.

10.14. The approach to the layout and design of the scheme has been fully assessed and, where necessary, challenged, by local authority officers, as is encouraged by paragraph 62 of the NPPF. The result of this evolutionary process is that the proposal now has the full support in terms of its layout and design (and generally) of both LBL and the GLA. Moreover, the scheme was offered for a national design review. The response of CABE is generally positive and supportive. CABE "...applaud(s) the design approach to the individual buildings and admire(s) the skill and expertise with which they were conceived".

10.15. It is notable that other than in terms of height, in particular of Buildings 4A and 4B, and rather more mutedly to scale and mass, no material criticism has been leveled at the detailed architectural design of the proposed development. It is conspicuous that WCC offer no objection to design beyond issues of height and bulk. The objection from English Heritage extends to height, scale and mass only. The TWS has heritage concerns but these do not extend to a criticism of the detailed architectural design.

10.16. The issue of height is narrowly focused on Buildings 4A and 4B and, with regard to height as an element of design, it is important to understand the policy context and the aspirations and expectations for the site and for the Waterloo area in general. The objectives for the WOA include the optimisation of residential and non-residential output and for "intensification of commercial and residential ... facilities associated with a major transport hub (and) major office location". These policy objectives of themselves provide a strong indicator that tall buildings are required and are appropriate in this location.

10.17. Moreover, the WOA objectives are advanced at strategic level through the WOAPF (CD C2.1) and by LBL in its WASPD (CD C1.1). Both provide guidance on the

acceptability of tall buildings in the Waterloo area in general and on the Shell Centre site in particular. This guidance could not be any clearer and the considerable energy expended by Mr. Ayton of WCC, by Mr. Tamplin and by others at the Inquiry to find ambiguity where none exists should be discounted.

10.18. The WOAPF advises that tall buildings are suitable “above and around Waterloo Station” and “on the commercial spine behind the Riverside buildings”. The application site falls within both of these areas. The site forms part of the “commercial spine behind the Riverside buildings”. This is a matter of simple geography and is put beyond doubt by the penultimate paragraph of page 109 in the WOAPF. The same approach is reflected in the WASPD. Paragraph 3.41 and Figure 11 of that document together make plain that the application site falls within an area “sensitive to tall buildings”, that is where “there is potential to build taller buildings subject to the design of the proposals satisfactorily addressing views and the setting of heritage assets”.

10.19. That the application site is located within the Riverside Character Area (RCA) does not in any way negate the support in principle for tall buildings on the application site, as is clear from paragraph 3.52 of the WASPD where it is advised that within the RCA, “high quality design may justify development proposals stepping up behind Upper Ground/Belvedere Road where there are already set piece buildings”. LP policy 7.7 (CD B1) advises that the introduction of tall buildings should be “part of a plan-led approach to changing or developing an area by the identification of appropriate, sensitive and inappropriate locations”. The WOAPF and the WASPD provide this plan led approach, with which the development is consistent.

10.20. Moreover, in terms of detail, the criteria in LP policy 7.7 are met because:

- the application site is within an Opportunity Area and the CAZ with excellent public transport access;
- the area and its character has been stated in supplementary planning documents at strategic and local level to be appropriate for tall buildings;
- the development relates well to its surroundings, urban grain and public realm not least at street level;
- the composition improves legibility and creates a sense of place;
- the development achieves the highest standard in terms of architecture and materials, including in terms of sustainability, and construction methods;
- the development introduces ground floor activities;
- the development substantially improves permeability through the site, its surroundings and to the wider area generally; and
- the development makes a significant contribution to overall regeneration.

10.21. Policy issues aside, the inherent planning harm that is said will be caused by the introduction of tall buildings on the application site is concentrated upon the perceived effect on heritage assets. Notably it is not said that the introduction of tall buildings here is inherently inconsistent with prevailing townscape character. That this is the case is perhaps not surprising given the precedent already set by the Shell Tower and other existing and consented tall buildings within the WOA and close to it.

10.22. With regard to the relationship of tall buildings on the application site to those capable of being introduced, consistent with policy, above Waterloo Station, the proposal meets the Mayor’s guidance within the WOAPF that “buildings could be placed at varying heights to make a cluster at this location”. However, “the highest

buildings should be located around the station area with a falling away in height towards the river and other parts of Waterloo". The tallest buildings proposed are "around the station area" and the proposed composition demonstrably provides a "falling away in height towards the river". The guidance contained in the WASPD (CD C1.1) should be read consistently with that in the WOAPF (CD C2.1). The relationship in height of Building 4A to that proposed at Elizabeth House is so close that it cannot reasonably be said to offend this design guidance.

10.23. In terms of development at the Shell Centre, the WASPD sets out "development principles". The principles concerning issues of layout and design are met fully, in particular because:

- the pre-eminence of the Shell Tower will be retained;
- high quality open space will be provided and contributions made to open space within the wider area;
- the development substantially improves the setting of Jubilee Gardens and of Chicheley Street;
- permeability and pedestrian linkages through the site will be substantially improved to provide direct connections between Waterloo Station and the South Bank and between the station and the London Eye;
- development relates positively to the Shell Tower and will contribute to the scaling down of tall buildings to the Riverside;
- the development will avoid creation of "an overall wall effect" and overcome the "perceived canyon-like character to York road";
- an appropriate mix of uses including employment and housing are provided with the introduction of ground floor level active uses;
- improvements will be secured to Belvedere road, York Road and Chicheley Street, whilst retaining a view of the London Eye from York Road.

10.24. Turning to the NPPF the proposed development will:

- function well and add to the quality, indeed will amount to a positive enhancement, of the area;
- establish a strong sense of place, using streetscape and buildings to create attractive comfortable places in which to live, work and visit;
- optimise the potential of the site and, in doing so, create and sustain a wide and appropriate mix of uses;
- respond to local character and history and reflect local identity and materials;
- create safe and accessible environments; and
- create a visually excellent development through high quality architecture and landscape design.

10.25. In townscape and design terms the environment presented by the existing Shell Centre Wings is uninviting, indeed forbidding, particularly when experienced by those leaving Waterloo Station and passing along York Road. The wing structure as a whole is a formidable barrier to movement and in particular to accessibility to the South Bank. The application scheme represents a high quality opportunity to secure that improvement. The development achieves excellence in terms of its design and as such is considered by LBL and by the GLA to represent the quality of design and

place making which the Secretary of State seeks to achieve through the application of his policies in the NPPF.

The extent to which the development is consistent with policy for conserving and enhancing the historic environment including the WWHS

10.26. It is important to consider certain issues of context arising from the development plan. First, the application site is located within an Opportunity Area where development should be optimised. As such, the status quo is not an option, nor therefore is the continuation of the existing relationship of the site to heritage assets in the surrounding and wider area. Planning policy provides for the area to change and as such its relationship to heritage assets within and outside the area must also change. Secondly, within the WOA in general and on the application site in particular, tall buildings are considered to be acceptable in principle. Such buildings are likely to generate an impact on the heritage assets and their settings.

10.27. Thirdly, the LVMF (CD C2.4) recognises the likelihood of development coming forward at Waterloo and the approach is one of managing, rather than resisting, the change to the protected views and the setting of heritage assets in those views. Fourthly, within the CAZ, the policy is to “seek solutions to constraints on office provision and other commercial development imposed by heritage designations without compromising local environmental quality, including through high quality design to complement these designations”. As such, the development plan recognises that heritage designations should not be viewed as a constraint and that new development can be introduced; especially that of high quality design.

10.28. Direct physical impact on designated heritage assets is limited to the relocation of the listed Franta Belsky fountain, a grade II listed building. No-one has commented adversely on the proposals for the fountain. Listed building consent should be granted for its relocation.

10.29. The Shell Centre itself is not statutorily listed. Indeed, English Heritage has recently confirmed that it does not consider the Shell Centre worthy of listing given the absence of any special architectural interest and given its diminished interior. It is a locally listed building and one identified as contributing to the SBCA in which it is located. As such, the Shell Centre is a heritage asset but not a designated one. The wings, which are to be demolished, are acknowledged by LBL to contribute some value as part of a greater whole where that whole is a single self-contained composition. However, the Tower will remain, as will the Whitehouse apartments, thereby retaining the principal components of the overall composition.

10.30. The Podium was not intended, within the original 1953 plan for the South Bank, to be an open area. The removal and development of the podium was considered by the Secretary of State to be acceptable when granting planning permission for the BCS. English Heritage does not object to the demolition of the wings or to the removal of the podium, nor does the Mayor of London. Mr. Tamplin does not object in principle to the removal of the wings and podium if replaced with an acceptable form of development. Overall, LBL considers that there would be some harm generated by the demolition of elements of the non-designated asset but that, in accordance with NPPF paragraph 135, when balanced against the quality of the scheme and its benefits this harm is considered to be acceptable.

Westminster World Heritage Site (WWHS)

10.31. Mr Ayton, for WCC, agreed that the proposed development will not have any significant impact on any LVMF views (i.e. views 27A.1 and 27A.2). It is also

notable in this context that the LVMF (CD C2.4) itself envisages that development may be introduced within the gap between the Elizabeth Tower and Portcullis House, in particular, as a result of development within the WOA. The Mayor also advises that development at Waterloo between the central fleche of County Hall and the Elizabeth Tower is acceptable if sensitively designed and of the highest architectural quality. Mr Ayton also accepts that there would be no adverse impact on the views identified in the MVSPD (CD C2.5) and that there would be no impact on views identified in WCC's Conservation Audit for Westminster Abbey and Parliament Square (CD E24) or in the Westminster WHS Management Plan (CD E26). It is significant, as Mr. Ayton accepts, that there would be no impact on views from Parliament Square or the WWHS that are identified as important in planning documents.

10.32. The proposed development will be seen in the gap between the Elizabeth Tower and Portcullis House from some viewpoints on the south side of Parliament Square. However, as from elsewhere, these views are kinetic. By moving slightly one way or the other, the extent of the development in the view is materially reduced. No harm arises from the development from these locations. If some harm does arise this is mitigated by the fact that the proposed development does not connect with the Elizabeth Tower and a clear skyline around this important building is maintained. Overall the impact on the setting of the WWHS as is perceived in views within the WWHS, to the setting of the Palace of Westminster, and in views from and within the WAPSCA, is not considered by LBL to be substantially adverse. In accordance with NPPF paragraph 134, the impact, such as it is, is outweighed by the public benefit that the redevelopment proposal represents.

#### FCO and Horse Guards

10.33. The focus of impact on these heritage assets has been in the views towards them from the Blue Bridge within St. James's Park. Once again, the LVMF (CD C2.4) provides a useful context in this respect. The LVMF recognises that the Whitehall buildings, including the FCO and Horse Guards, comprise "a historic parkland in an important city location". Moreover, the LVMF acknowledges the likelihood of new development being introduced into the backdrop to the FCO and seeks to control, rather than preclude, that development. Such development should "be of a scale, mass and form that does not dominate, overpower or compete" with the group of buildings on Whitehall. Moreover, new development should be of "exceptional design quality" and "appear as part of the existing group".

10.34. The proposed development and in particular Building 4A will amply respect these parameters and will be perceived as part of the existing group of buildings set in the backdrop of the view of the FCO when viewed from St. James's Park. The materials to be used, in particular Portland stone, will respect this view further. The GLA is satisfied that the development, to the extent that it is seen from St. James's Park and the setting of the FCO, will be acceptable. No substantial harm will arise to either the protected view or to the setting of the FCO or indeed to the RPCA.

10.35. With regard to Horse Guards and the grouping of listed buildings of which it forms a part, these buildings are already viewed against the backdrop of other buildings, forming a layering effect. The uppermost storeys of Building 4A will form a further layer in this view. Through the use of Portland stone and the delicate tracery of the building, the GLA and LBL consider that the introduction will positively contribute to the setting of Horse Guards. It is of note that Mr. Ayton for WCC accepted that there would be no substantial harm to Horse Guards.

## Other heritage assets

10.36. The GLA and LBL are satisfied that no harm will be caused to the Royal National Theatre, to Waterloo Bridge or to County Hall. It is of note that English Heritage concurs with this view. LBL are also satisfied that any limited adverse effect on the setting of the Royal Festival Hall which results from the demolition of the Shell Wings is offset by the design quality, form and appearance of the new development. In essence, the setting of the Festival Hall is changed but not harmed.

10.37. The development is most closely read in the context of the Royal Festival Hall when viewed from Waterloo Bridge and in particular in LVMF views 14A.1 and 14A.2. In these views, the Mayor notes the likelihood of change arising from “new clusters of tall buildings within the Waterloo ... Opportunity Area” without adverse comment. A change to the setting of the Royal Festival Hall is acknowledged.

10.38. The loss of the wing buildings is not considered to be likely to cause substantial harm since the Shell Centre is a secondary element in the SBCA with the primary contributors being the landmark arts, leisure and cultural buildings along the river frontage. Moreover, the new buildings proposed, flanking the retained Shell Tower, will give rise to a harmonious rather than jarring, discordant impact on the character and appearance of the SBCA. No harm will therefore arise. Similarly, no harm is considered to arise to the WCA or to the RSCA where substantial buildings outside the designated areas already form part of their established setting.

10.39. For most heritage assets no harm would arise. Where such harm is considered to arise the harm is not substantial and, given that the site is in an Opportunity Area and the substantial benefits which the development will deliver, the level of harm is considered acceptable and should not lead to refusal of planning permission and associated consents for the scheme.

## The extent to which the development is consistent with the development plan

10.40. The principle of substantial redevelopment, such as is proposed, within an Opportunity Area and within the CAZ is clearly acceptable. The proposed development manifestly meets and considerably advances the policy objectives which apply to these designations. The form of development and its design, including its height, conforms with detailed guidance set out for the WOA within supplementary planning documents and more generally within the development plan. It is a development of the highest quality in terms of layout and design.

10.41. Some impact on heritage assets from policy compliant development is inevitable and that impact is acceptable. The heritage policies of the development plan and the approach advised for such matters within the NPPF are met.

10.42. The proposal accords with the development plan and substantially advances the plan’s objectives for regenerative and sustainable development. The benefits of the development, which are many, amount to strong material considerations which reinforce the development plan-led presumption in favour of the development.

## Affordable housing

10.43. LP policy 3.12 (CD B1) requires, in the context of residential and mixed use development, that the maximum reasonable amount of affordable housing should be sought having regard to the individual circumstances of the proposed site, including viability. The same requirement is included in CS policy S2(c) (CD B2) that requires 40% affordable housing where (as is the case here) no public subsidy is available subject “where relevant, to independently validate evidence of viability”.

10.44. The proposed development and the affordable housing offered has been the subject of independent viability assessment, by BNP Paribas, a consultancy with considerable experience in examining development viability appraisals. The advice given to LBL, following proper scrutiny of the Applicant's case and following sensitivity testing, was that "based on current costs and values, we consider that the proposed delivery of 20% affordable housing (through a combination of on-site and off-site delivery) is the maximum that the site can viably provide".

10.45. Moreover, this is a conservative assessment given that the viability appraisal omits the cost of delivering the off-site affordable housing, Section 106 payments and the delivery of the Hungerford Car Park improvements. The BNP Paribas report fulfils the requirements of planning policy in that it comprises an independent validation of the viability of the scheme and its capacity to deliver more affordable housing that is presently proposed. LBL and the GLA had, and continue to have, no reason to question the advice that has been received from BNP Paribas.

10.46. No alternative viability appraisal has been put forward either by RCL or any other party opposed to the scheme. There is no reason therefore not to accept the affordable housing provision that is proposed as amounting to the maximum reasonable amount of affordable housing that the scheme is capable of yielding. Plainly, any uplift in value will be captured by the review mechanism provided for within the planning obligation as required by LBL's WASPD (CD C1.1).

10.47. RCL advance two principal points. First, it is claimed that the value attributed to residential floorspace within the Applicant's case and in the BNP Paribas review is too low. RCL rely on the Jones Laing Lasalle (JLL) publication of October 2013. This point is plainly wrong. The values fall squarely within the range of values achieved at JLL's South Central Zone. Moreover, and in any event, any future uplift in sales values will be captured by the review mechanism. Secondly, RCL question the off-site affordable housing proposed at Lollard Street and suggest that such provision is contrary to policy. RCL's position in this respect is predicated upon a misunderstanding of LP and local policy. The LP, at paragraph 3.74, expressly envisages off-site provision of affordable housing to "secure a higher level of provision" and "better address priority needs especially for affordable family housing". Similar provision is made in LBL's emerging local plan at draft policy H2.

10.48. The Applicants have explained that provision of an element of affordable housing at Lollard Street, 70 affordable units, would yield overall a considerably greater quantity of such housing than if it was delivered on the application site itself as well as allowing provision of much needed family homes with gardens. As such, the policy basis for provision of an element of affordable housing off-site is met.

#### Sunlight and daylight

10.49. The relevant policy for daylight is in the Mayor's Housing SPG (CD C2.6) that includes good practice standards. These good practice standards are generally but not fully met. However, as is made clear in the Mayor's SPG, departure from a good practice standard is "unlikely to justify refusal of planning permission" and does not do so in this case. So far as Building 3 is concerned, which was the focus of this issue at the Inquiry, the building will include much needed extra care units for the elderly. Network Housing Group is confident that the "scheme will deliver affordable housing of an exceptionally high quality". Moreover, any concerns as to the level of daylight enjoyed by the proposed extra care units in Building 3 must be seen in the context of the exceptional facilities to be offered and its location close to a major public transport interchange and to the facilities offered by the South Bank. The quality of proposed accommodation is considered entirely acceptable.



10.50. With regard to impact in terms of daylight and sunlight on existing residents, a full assessment of these impacts has been carried out by the Applicants, as set out in the ES. As advised by UDP paragraph 4.14.10 "regard has been had" to the BRE guide to good practice in carrying out this assessment. It is important also to recognise that the BRE guide is indeed a guide and is not "an instrument of planning policy" as indeed is acknowledged in the introduction to the document itself.

10.51. Two principal matters are at issue. First, the impact on County Hall North. The existing residential units here enjoy an unusually high level of light for a Central London environment by reason of the presence of the undeveloped podium site to the north. In such circumstances the BRE advises that a mirror image analysis is carried out; an approach that Dr Littlefair has advised was in principle acceptable in this case. When adopting such an approach the principally affected windows in County Hall North (levels 1 to 4) will enjoy a better level of light with the proposed development than with the mirror image scheme. When considered in this way, the impact of the proposal should be considered acceptable.

10.52. The second issue concerns impact on the Whitehouse Apartments. Applying the BRE guide to establish the visual sky component ("VSC") at individual windows suggests an impact that is not a fair one since many rooms have other windows which allow light into a room and which are not affected in the same way, as, it is understood, was apparent from the inspection of the interior of Dr. Golding's Whitehouse apartment at the site visit. The BRE guide advises that in terms of the overall assessment regard should be had to the light received through those other windows. When considered overall, there will plainly be some impact on the daylight enjoyed by neighbouring occupiers as a result of the proposed development.

10.53. That some impact will arise in the context of a major development proposed within in Opportunity Area is all but inevitable as indeed was recognised and acknowledged in the LBL officer's report to its Planning Applications Committee. Indeed, the BRE guide advises that an impact on existing residents should be considered as minor where only a small number of windows are affected, where the loss of light is only marginally outside the guidelines or where an affected room has other sources of light. The impact is considered to be acceptable.

#### Public realm

10.54. The proposed development has been designed to overcome the barrier effect of the existing Shell Wings and to increase the permeability of the site and linkage through the Shell Centre to the riverside attractions beyond. Such enhancements are directly in accordance with local policy and in particular CS policy PN1(g) (CD B2) and the development principles for the Shell Centre as set out in the WASPD (CD C1.1).

10.55. The proposed public square is a generous and considered space intended for mixed use, as is entirely normal in an urban environment. Appropriate landscaping, both hard and soft, will be secured by condition. The microclimate within the public realm has been assessed and found to be acceptable. In terms of public realm the site also benefits from its proximity to Jubilee Gardens, access to which will be facilitated by the proposed routes through the development, which provide a modern and superbly landscaped space for use by residents and workers.

10.56. Overall the proposed development is considered to be highly successful in terms of the quality of the public realm that is provided.

### Other issues

10.57. Concern is raised as to the loss of the podium and of the Shell courtyard. In terms of the latter, the courtyard has long since been closed to public access. As such there is no public benefit presented by this space. Nor are there any meaningful public views into the space. Shell, as landowner, was entitled to close the courtyard to the public and there is no indication that its decision to do so will be reversed. On any sensible basis the courtyard cannot function as public open space nor can it be regarded as such.

10.58. The podium remains open and accessible. However, there is an extant planning permission for development of the podium as part of the BCS and in granting permission the Secretary of State considered that the recreational value of the podium was limited. Moreover, and importantly, the Inspector who examined the UDP concluded that the podium should not be identified as open space. In light of that conclusion, it would be unrealistic to regard the podium as subject to policies which are protective of open space. It is considered that the much improved public realm which the proposal will deliver more than compensates for the loss of any residual public benefit which is offered by the podium now.

10.59. Mr Turner raises a concern as to the extent of children's play space to be provided within the proposed development. The relevant approach is set out in the PIRSPG (CD C2.7). The main focus of concern relates to provision for children under five years of age. The proposed development is expected to yield 40 children under the age of five and this figure is not disputed. It is also not in dispute that, in accordance with the PIRSPG, 400 square metres of on-site playable space is required. Such a level of provision is more than adequately provided within the communal gardens to be provided within the development, which of themselves yield 719 square metres of open space. The communal areas meet the requirement for playable space set out in the PIRSPD. The provision of particular play equipment in these communal spaces can be secured as necessary by planning condition.

10.60. Moreover, residents and children will have access to the proposed public realm that, as a shared space, is also available for play in precisely the same way that the successful shared space at More London is used now. Also, Jubilee Gardens, with its modern and well-appointed play area, is easily and safely accessible for those occupying the development. As such, provision is adequately made for children under the age of five. No sustained criticism is made of the proposed provision for older children who are principally catered for in the large areas of open space at Jubilee Gardens, at Archbishop's Park and at other open space within the area, in accordance with the PIRSPG. The route from the development to these existing open spaces is straightforward and safe.

10.61. RCL raise issues as to the quality and operation of the vehicular and pedestrian realm at York Road and Chicheley Street. Operationally the arrangements have been found to be acceptable by TfL and by Lambeth Transport. In design terms, both York Road, Chicheley Street and Belvedere Road will undergo substantial enhancement through improved public realm, shared surfaces and planting so as to accord fully with the public realm improvements identified in the WASPD.

### Conclusion

10.62. LBL and the GLA consider that the proposed development is one which will bring significant enhancement and significant public benefit. Any planning harm which may arise is far outweighed by the quality of the scheme and the advantages which it would present.

## 11. THE CASE FOR WESTMINSTER CITY COUNCIL

*The material points of the case made by Westminster City Council are:*

11.1. The main issue for WCC is the height of the proposed buildings and the consequential impact on the quality of the historic environment. WCC is not opposed to large scale redevelopment in Waterloo. However, it objects to very tall buildings which have harmful impacts on views and the settings of heritage assets of the greatest importance and significance. These include the WWHS, Grade 1 and 2\* listed buildings, a Grade 1 RPG and several of WCC's Conservation Areas.

11.2. The potential for tall buildings to have such impacts is widely recognised in the LP (CD B1) and the UDP (CD B3). Both plans make frequent references to the need for tall building proposals to avoid harm to heritage assets. In the foreword to the LVMF (CD C2.4) the Mayor of London recognises this in stating:

*"High quality, well-designed and thoughtfully located new buildings can add to our enjoyment of our city. They can help grow our economy, add vitality to our streets and complement our existing historic buildings, places and parks...it is important that we find a way of ensuring that new development fits with our built heritage so that London continues to be a desirable place to live, work and do business".*

11.3. WCC's primary concern is the height of the proposed towers, and it is Buildings 4A and 4B that have the greatest harmful impact. WCC accepts that if this is the case then that harm has to be weighed against any benefits the proposals provide. However, it is apparent that some of the benefits are not quite what they are said to be. There are serious questions about the claims that the proposals provide more B1 office floor space and that they generate more employment.

### The Harm Caused

11.4. There has been debate about whether the harm caused is substantial and this is largely a matter of judgement. In this case WCC says that the development causes harm (substantial or not) to heritage assets of the highest order. Paragraph 132 of the NPPF, which makes clear that the weight to be given to these matters depends on the significance of the heritage assets affected, states:

*"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification".*

### St James's Park

11.5. WCC considers that the proposals cause most harm to the view from the Blue Bridge in St James's Park, LVMF View 26. This view has one viewing point, approximately half way along the Blue Bridge. This is a very highly and consistently valued view. It is beautiful and picturesque, and is one of the nation's greatest heritage assets. It is famous amongst Londoners and tourists from all over the world. They queue up to take pictures of this view. It includes some of the most important historic buildings in London, listed Grade 1. The park itself is a Grade 1 RPG. This view is very sensitive to change, and it has remained relatively unchanged for 100 years.

11.6. The LVMF (CD C2.4) seeks to protect this view. It says:

*"The juxtaposition of the landscaped elements in the foreground and middle ground, and the two groups of important civic buildings, including Horse Guards and Whitehall Court to the left, and the FCO..., the London Eye and the Shell Centre to the right, enable the viewer to appreciate that this is an historic parkland in an important city location. It is essentially a picturesque view dominated by landscape that defines the two distinct groups of buildings, each with different characteristics".*

11.7. The FCO is a very important element of the right hand side of the view. There are other, less significant, buildings in this part of the view. The Shell Tower is largely hidden in the LVMF view because it is behind the FCO tower. It does appear in the views as one moves north but it is barely visible in the view that the LVMF seeks to protect. The London Eye is a relatively new addition to the view. As the Inspector at the Doon Street Inquiry stated, the London Eye is of 'unique design and visual permeability'. He considered that the Eye 'does not feature prominently in views along the lake'. This is surely the correct approach to be taken.

11.8. The Shard is also visible but it is a long way in the distance and its slender profile means that it causes no harm to the view. The current proposals have a much greater impact on the view than the Shard does. This is a distinction made by the Inspector when comparing the impacts of the Doon Street tower and the Shard, which had not been built at that time. Other permissions exist for other towers but none will have the impact of either the Doon Street tower or the current proposals.

11.9. Buildings 4A and 4B will appear to the left of the tower of the FCO. The top of Building 4A appears at a similar level to the top of the FCO tower. This is a significant intrusion into the LVMF view. The towers will be highly visible to anyone standing on the bridge looking eastwards.

11.10. The impact means that the FCO tower will not be seen against the sky in the way it is at present. The proposed Buildings compete with and distract ones attention from the FCO tower. The tower is a very significant part of the architectural composition of the FCO and it was designed as a skyline feature, to be seen from St James's Park against clear sky. It makes a major contribution to its special interest when viewed from the park. The proposed Buildings would have a detrimental impact on the setting of the tower and they upset the delicate balance of landscape and buildings, as identified in the LVMF. English Heritage share WCC's view that the impact is unacceptably harmful.

#### Horse Guards

11.11. This is a very important historic view although not included in the LVMF. It is included in WCC's MVSPD (CD C2.5). All of the buildings in the middle ground of the view are listed, and of the highest grades. There are two unlisted buildings in the background to the view. These are the Shell Tower and the London Eye. The top of the Shell Tower is not always visible because, depending on the viewpoint, it can be hidden behind the Ministry of Defence. The top of Building 4A would appear above the skyline and harms the historic composition and the settings of the listed buildings in the view. WCC considers the tower to be intrusive and harmful, and considers that the presence of the London Eye and the Shell Tower do not justify further intrusions in the view.

#### Westminster World Heritage Site

11.12. The harm to the WWHS is less than that caused to St James's Park. But there is some harm to the views of Elizabeth Tower and the 'gap' between the Tower

and Portcullis House in the views from the south side of Parliament Square. These views are important, although they have not been identified specifically in any published document. There are a multitude of good views of the WWHS from Parliament Square. This was recognised by the Inspector at the Elizabeth House Inquiry. She recognised the importance of views not protected by planning policy and guidance. The views from the south side of Parliament Square are the same views that are affected by the currently proposed Elizabeth House redevelopment.

11.13. The Shell proposals will appear in the gap between Elizabeth Tower and Portcullis House. The degree to which they are visible varies as one moves along the south side of Parliament Square. The proposed buildings will partially infill the gap, reducing the amount of visible sky, and this will change the setting of the Elizabeth Tower, but not in a positive way. They will detract from the Elizabeth Tower. They cannot be said to preserve or enhance the settings of Elizabeth Tower or the WWHS.

11.14. WCC is not alone in stating that the proposed development would cause harm to the setting of the WWHS. English Heritage agrees. Even LBL says that some harm will be caused.

#### Riverside Views

11.15. The impacts of the proposed buildings on some of these views are similar to that of the impact of the Elizabeth House towers rejected by the Secretary of State. It is indisputable that the form and design of the current proposals is very different. The proposed buildings are vertically proportioned towers. The Elizabeth House scheme included horizontally proportioned, twisted slab blocks. But the heights of the buildings in both schemes are broadly similar. The Shell proposals are closer to the Royal Festival Hall and Building 4A is taller than the Elizabeth House blocks. The proposed buildings would dominate the setting of the Royal Festival Hall.

#### The Policy Context

11.16. There are a number of relevant policy documents. The LP (CD B1), the UDP (CD B3) and the CS (CD B2) all refer to the need to avoid harm to views and the settings of heritage assets. These policies are in accordance with the NPPF. WCC considers that the proposals are contrary to these general policies because they cause harm, as set out above. The WOAPF (CD C2.1) and the WASPD (CD 1.1) give more specific advice on new development in Waterloo.

11.17. The WOAPF was the local planning document discussed at the Doon Street Inquiry. The Inspector considered that the WOAPF in so far as it promoted the development of tall buildings in what is referred to as the 'commercial spine', which includes the Shell site, needed further work 'before it can become a respectable planning and urban design objective'. The WASPD is the most up to date policy document dealing with the future of Waterloo.

11.18. CS policy PN1(c) divides the Waterloo area into carefully defined sub-areas. The site lies within the RCA, which is adjacent to the Railway Character Area, which includes Waterloo Station. The WASPD encourages or envisages the tallest buildings in Waterloo to be in the Railway Character Area. The WASPD says that tall buildings in the RCA are 'generally considered inappropriate'. It goes on to say that 'high quality design may justify development proposals stepping up behind Upper Ground/Belvedere Road where there are already set piece buildings'.

11.19. WCC has no objection to buildings over 25 metres high if they do no harm to views and settings of heritage assets. However, proposed Buildings 4A and 4B are very tall buildings, and they are harmful. At 127 metres and 111 metres

respectively, they are more than four times the minimum height of what constitutes a tall building. The proposed buildings are clearly contrary to the WASPD.

11.20. There have been many references to the quality of the proposed buildings and claims that they are world class. High quality design is a requirement of LP policy 7.7 (e) which states that all tall buildings should be of the highest quality, because of their very significant visibility and impact. WCC rejects the argument that world class architecture can overcome any level of harm affecting whatever context the proposed building would be seen in. The fact that the buildings are well designed does not overcome the harm they cause to views and the settings of heritage assets.

11.21. CS policy PN1(c) also encourages the creation of a 'loose cluster' of tall buildings in the Waterloo area as a whole. This is consistent with the existing character of the RCA in which the site lies. The RCA Audit and the WASPD describes the SBCA as being characterised by horizontally proportioned buildings and punctuated with (a few) tall buildings. However, the current proposals do not even create a loose cluster on the site. They create a tight cluster. The buildings are so close together that in most views there are no apparent gaps between them.

11.22. Not only are the buildings excessively tall, they constitute over development. They exceed the maximum residential density range set out in the UDP and the LP. Whilst both plans allow for development exceeding the stated maximum, it is clear that this should be exceptional, and there is a need to comply with other policies. UDP policy 33 states "In all cases... development should not unacceptably overbear surrounding development or harm residential amenity. For development affecting conservation areas or listed buildings (or their setting), protecting or enhancing their character and appearance takes precedence".

### The Benefits

11.23. WCC considers that the proposals cause harm and, therefore, are not in accordance with the NPPF, and a judgement has to be made on whether or not the harm is outweighed by the benefits of the proposals. Given the degree of harm identified, the benefits would have to be substantial to outweigh that harm.

11.24. One of the benefits of the proposals is claimed to be the generation of new jobs, largely by providing new office (B1) floor space. Provision of new office floor space in the WOA is a key objective of the LP, the CS and the UDP. This is because there is a positive relationship between the amount of office floor space and employment levels. However, if the total amount of office floor space is being reduced, as it is, it is difficult to see how it can be argued, with reference to adopted planning policy, that more jobs will be provided. It is clear that the assessment of this part of the proposals by LBL and the GLA is fundamentally flawed.

11.25. The UDP states that Gross Floor Areas (GFA) are to be used in assessments of land use policy compliance and GFA is defined in the Glossary as :

"The floor area of a building measured on the overall dimensions of each floor including the thickness of internal and external walls, stairs, lift shafts, corridors, halls and basements. Parking and loading areas (including those underground) are generally excluded".

However, this definition has been ignored by LBL, the GLA and the Applicants developers in their assessments.

11.26. LBL have stated that the proposed increase in office floor space is 28,000 square metres. LBL say that, as a result of this increase, 2000 extra jobs will be created. The figure of 28,000 square metres is the result of a calculation that

includes the existing Shell tower. The inclusion of the existing Shell Tower in this calculation is simply wrong. The building is outside of the application site and is wholly irrelevant to the calculation. Even if it had been correct to include it, LBL only included it in the proposed figures, not the existing. If Lambeth had excluded the existing Shell Tower from the proposed floor space figures they would have got a negative result, a loss of some 6,500 square metres. The conclusion to be drawn from this is that, if the proposals result in a loss of office floor space, the scheme cannot result in an increase in office based employment.

11.27. GLA officers advised the Mayor in their stage one report (CD F1.1) that there was a loss of 6,500 square metres of office floor space. This is correct; it is consistent with the information included in the planning application. The GLA report advised the Mayor that, even though there was a loss of office floor space, the proposals would create 2000 more jobs. The GLA offer no evidence of how this figure was derived, although it is similar to the one produced by the developers in their planning application. However, in their evidence to the Inquiry the GLA have changed their figures. They now say there is an increase of 28,000 square metres. When asked how they arrived at this figure, the GLA stated that they copied Lambeth's figure, which, as WCC has shown, is fundamentally flawed and incorrect.

11.28. The Applicants have produced an entirely different way of assessing the floor space figures. Their argument is that there are large areas in the basement which should be excluded in the calculation because they are unusable for office purposes. They argue that their proposal creates more floor space above grade (at ground floor level and above) than exists at the moment. This approach is only correct if all of the 38,000 square metres of existing floor space below ground can be ignored. Again, it is simply wrong to take this approach. This floor space is office space. It may be ancillary office space, but it forms part of the gross office floor space, and, for the purposes of planning policy, it is measured as office space. There is no logic to the claim that this floor space makes no contribution to employment.

11.29. The proposals with respect to office space are contrary to the LP, the CS, the UDP and to Supplementary Planning Documents.

### Conclusions

11.30. The impacts of tall buildings on views from the City of Westminster have been tested at four major Public Inquiries in recent years; Vauxhall, Doon Street, Blackfriars Road (Nos. 1 and 20) and Elizabeth House. In three of these cases the Inspector recommended to the Secretary of State that planning permission should be refused because of the harmful impact on views, including those from Parliament Square and St James's Park. The current proposals for the Shell site raise very similar issues to those considered at the previous Inquiries.

11.31. WCC is not opposed to the principle of tall buildings in Waterloo. It is, however, opposed to the tall buildings proposed on the Shell site, because of their impacts. It is possible for the site to be developed with tall buildings which do not have the same harmful impacts. Rejection of this scheme would not mean that the LBL's aim of regeneration in Waterloo, with a loose cluster of tall buildings, could not be achieved by other proposals.

11.32. The proposals cause harm to some of the nation's most important heritage assets. This harm has to be weighed against any benefits of the proposals. However, some of the benefits do not amount to what the Applicants, the LBL and the GLA say they do.

## 12. THE CASE FOR RIVERSIDE COMMUNITIES LIMITED

*The material points of the case made by Riverside Communities Limited are:*

12.1. This development comprehensively fails to meet the development plan because the Applicants have fundamentally misunderstood planning policy, which has led to this inappropriate and harmful development coming forward. This was demonstrated at the Inquiry by the architect, Michael Squire, who during his examination in chief several times said that proposals sought to meet the policy aspiration set out in the WOAPF (CD C2.1) to maximise development.

12.2. It is certainly the case that the WOAPF does seek to maximise development. One of the objectives of the Waterloo Vision and Strategic Objectives, set out on page 81 of the WOAPF, is to "maximise development potential". This echoes the policy for opportunity areas set out in the LP of 2004 and 2008. However, in the current LP (CD B1) there is a fundamental change which seems to have passed the Applicants by. LP policy 3.4 refers to 'optimising' housing output for different types of location rather than 'maximising' output. The reasons for this policy change are:

- some developments have been brought forward which do not adequately respect local context;
- some developments have not adequately reflected other policy objectives (in terms of dwelling mix, for example); and,
- some densities have simply been above the relevant guidelines without considering fully the implications for wider policy objectives.

12.3. Paragraph 1.3.1 of the Mayor's LHS states "One of the new themes of the 2011 LP is recognition that while the best use should be made of development opportunities, proper account must be taken of the range of factors which have to be addressed to "optimise" rather than...maximising housing potential". The need to optimise rather than maximise is cited in LP policies 7.6 and 2.13. 'Optimisation' can be defined, as set out in paragraph 1.3.1 of the LHS, as 'developing land to the fullest amount consistent with all relevant planning objectives'.

12.4. The LP (CD B1) is also clear in which planning objectives should be taken particular account of when meeting the policy on optimisation. Paragraph 3.28 of the LP states that "local context, design and transport capacity are particularly important, as well as social infrastructure (policy 3.16), open space (policy 7.17) and play (policy 3.6)". To assist developers in the design process density ranges for development are set out under LP policy 3.4. The Mayor explains the relationship and the application of the density ranges to the policy of optimisation in paragraph 1.3.7 of the LHS:

*"That is not to say that density in its own right is no longer a Mayoral concern - it is, but it is only one among a much wider range of amenity, transport and social policies to manage development in ways to secure sufficient numbers and types of home in a high quality environment while respecting local character. Thus, the London Plan includes a density matrix as only one part of a wider policy to optimise development on sites in different settings, with different levels of public transport and accommodating homes of different sizes – the density ranges are sufficiently wide to accommodate the spectrum of policy considerations which must be taken into account when optimising development at a particular location. Development at densities outside these ranges will require particularly clear demonstration of exceptional circumstances".*



12.5. The density of the proposed development is outside the range in the table set out in the LP. There is specific guidance for applications outside the ranges set out in paragraph 1.3.41 of the LHS:

*"Where proposals are made for developments above the relevant density range they must be tested rigorously, taking particular account not just of factors covered by Policy 3.4 but also other policies which are relevant to exceptionally high density development...It is particularly important to take account of its impact in terms of massing, scale and character in relation to nearby uses – design should be exemplary...As the Outer London Commission notes, "exceptions to the (density) ranges should be just that...and must be justified robustly".*

12.6. The nearby use in this proposal is housing and therefore the impact of the proposal on residential amenity has to be taken into account. The LP demonstrates clearly that for developments to meet the requirements of the plan at this level of density they must be tested rigorously against policies concerning social infrastructure, open space, child's play, amenity, and the design and quality standards set out in the LHS.

### Open Space

12.7. RCL have taken a policy led approach to open space. The Town and Country Planning Act 1990 defines open spaces as "...any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground". The NPPF defines open space as "All open space of public value, including not just land, but areas of water...which offer important opportunities for sport and recreation and can act as a visual amenity". The LP also defines open space as "All land in London that is predominantly undeveloped other than by buildings or structures that are ancillary to the Open Space use. The definition covers a broad range of types of open space within London, whether in public or private ownership and whether public access is unrestricted, limited or restricted".

12.8. The key question for this planning application is whether the podium and the courtyard of the current Shell Centre site are open spaces. Clearly they meet the definition of Open Spaces under the Act, having been laid out as public gardens; LBL's evidence to the BCS Inquiry was that the Podium was laid out as a garden. The Inspector for the BSC did not agree with the Council and did not see the podium as open space. However, the Secretary of State found that his Inspector had erred and regarded the space as open space under the terms of the Act.

12.9. The courtyard is more difficult. The courtyard meets the definition of open space under the Act. It will have been noted on the site visit that it was clearly laid out as an open public amenity space. There are two statues, benches, and a square. When built the courtyard was intended to be open to the public and could clearly be viewed and accessed from York Road, Belvedere Road and the Podium. Today, Shell has decided to close off public access by erecting a series of hoardings and allowing the space to seriously deteriorate in terms of quality. This causes difficulty in terms of the definition set out in the NPPF which calls for open space of public value.

12.10. However, the courtyard still meets the definition of open space under the LP and the CS. This is because both relevant policies state that open space should be considered open space, whether in public or private ownership and whether public access is unrestricted, limited or restricted. The Early Minor Alterations to the LP (CD C2.9) do not alter the definition of open space in the LP.

12.11. The Applicants have argued that neither the courtyard nor the podium could be considered open space as they are not designated as open space. There is

no policy support for open space to only be considered open space if it is designated. In particular the Applicants rely on the Lambeth Local Development Framework Proposals Map. The Applicants also refer to the Inspector's UDP report which recommended the podium be deleted from the proposals map. Although this was the case in 2007, UDP policy 50 does not require open spaces to be included in the proposals map to be protected. The definition, contained under the text at paragraph 4.17.5, is 'All land use that is predominantly undeveloped other than by buildings or structures which are ancillary to the open space use, whether in public or private ownership and whether public access is unrestricted, limited or restricted'.

12.12. Our case is that both the podium and the courtyard are open space in planning policy terms and there are numerous protections in place for open space. Paragraph 74 of the NPPF states that "Existing open space...should not be built on unless (amongst other things) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality...". The LP puts protecting open space at the heart of the growth agenda of the Plan by stating that "The Mayor will seek to manage growth to ensure it takes place in the most sustainable way possible...without encroaching on...London's...open spaces...". This approach is reiterated in LP policy 1.1 and in LP policy 2.10 which seeks to protect small open spaces of special importance in the CAZ.

12.13. The Mayor has also identified the improvement of access to open spaces as being part of the way to addressing health problems and health inequalities in the capital. LP policy 3.2 is clear that planning decisions should address health inequalities and LP policy 3.16 defines open space "in all its forms" as an important part of the social infrastructure of the city and states that proposals which result in a loss of open space should be resisted. CS policy S5 and UDP policy 50 carry forward, at the local policy level, the theme of protection for open spaces.

12.14. RCL accept that there will be new open space provided on the site. The central square is open space, as are the pocket gardens. The proposed central square is 2106 square metres and the pocket gardens are 719 square metres. Together they comprise 2825 square metres of open space. The podium is 4354 square metres and the courtyard is 3266 square metres. Together they comprise 7620 square metres of open space. Therefore there would be a net loss of 4695 square metres of open space. Even if the courtyard is not considered to be open space there would still be a net loss of 1,529 square metres of open space.

12.15. The Applicants have stated that they believed all the publicly accessible areas of the site could be considered open space. This is an absurd argument and contrary to the argument advanced earlier in the Inquiry. The plan provided by the Applicants at the Inquiry (BE8) shows that publicly accessible areas of the proposals include Sutton Walk, which is a covered passageway, the pavement on York Road, the pavement on Chicheley Street, the pavement in-front of the Shell Tower, the passageways underneath buildings 4a and 4b, and the passageways between the buildings on the site. These areas cannot be considered to be open space.

12.16. This definition of open space is contrary to the Act and would mean that there is no deficiency of open space anywhere in the country. Returning to NPPF paragraph 74 the applicant has not provided an assessment of existing open space but has instead provided an assessment of 'publicly accessible space', has not provided an assessment which clearly shows existing open space as surplus to requirements, has not provided an assessment of proposed open space, and has not demonstrated that the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity in a suitable location.

12.17. The issue of quality cannot be easily separated from that of quantity. While the proposed public square and gardens may be of a higher quality than the existing spaces, their limited size relative to the scale of the development, their limited aspect in terms of views and poor daylight and sunlight, and the number of people and multifunctional uses expected of them, are collectively likely to result in open spaces of relatively poor quality. The requirements of the development plan are clearly not met by the proposed development.

#### Children's Play Space

12.18. The proposed development is deficient in terms of children's playspace provision, and fails to meet the standards of high quality design required by a scheme of such density. LP policy 3.6 (CD B1) seeks to ensure that developments that include housing make provision for informal play and recreation normally on-site based on the anticipated child population generated by the scheme. The PIRSPG (CD C2.7) advises that the provision of play areas for pre-school and junior children will be sought, where appropriate, in residential developments of over 10 units, in line with the provisions of UDP policy 50 (CD B3), which states that play areas should be enclosed and appropriate play equipment installed.

12.19. The PIRSPG states that the benchmark standard of a minimum of 10 square metres dedicated playspace per child should be applied to establish the quantitative requirements for play space provision arising from new developments. The Mayor will expect provision to be made on-site in new developments and regeneration schemes in accordance with LP policy 3.6, and play provision must therefore be considered at an early stage in the preparation of development proposals and masterplans for all sites with child occupancy in excess of ten children.

12.20. The Applicants estimate that up to 68 children could live in the scheme. Using the PIRSPG guidance, this would generate a minimum dedicated play space requirement of 680 square metres. In addition to the standard of 10 square metres per child, the PIRSPG advises that account should be taken of the location of existing play facilities, in terms of identifying whether play provision should be on or off-site. In accordance with the above, the PIRSPG states that whilst the expectation should be for on-site play facilities, off-site play provision may be acceptable where it can be demonstrated that there are planning constraints, and that it fully satisfies the needs of the development whilst continuing to meet the needs of existing residents.

12.21. The PIRSPG goes on to give benchmark standards in terms of different age brackets in determining whether there is accessibility to existing play provision. The guidance gives maximum walking distances of 100 metres for under 5s, 400 metres for 5-11 year olds and 800 metres for 12 plus. It is noted that the calculation should be made from 'front door' to the playspace, and that it will be necessary to identify any barriers to children accessing those areas, such as roads, within the recommended distance and to make allowance for these in assessing access to existing facilities. In setting out how they meet these tests, the Applicants' Planning Statement refers to the 719 square metres of 'communal gardens' and the public square (2,106 square metres), but does not detail how these requirements are met.

12.22. Volume 10 of the Design & Access Statement (and its amendments in the Addendum) reveals that the application provides no dedicated play spaces. Indeed, it boldly states that "Play facilities will not be segregated and fenced off, instead playful offers will be threaded throughout the scheme". These "playful offers" would be located within the 719m<sup>2</sup> of communal gardens which are set out in two areas adjacent to the residential towers. These are areas of public realm directly outside the entrance to the residential towers. These will be used by millions of people

crossing the site, thousands of workers arriving and departing from their workplace on the site, and any number of others. The communal gardens are unfenced and entirely open to the public. The detailed description of them in the Design and Access Statement doesn't mention play uses or equipment. They are clearly not dedicated playspace, but the GLA suggest that they are 'incidental playspace'. They do not in any way meet the definition of incidental playspace set out in the PIRSPG.

12.23. The public square is 2,106 square metres of multifunctional space, which is responsible for addressing the amenity space needs generated by a 877 apartment development and offices for several thousand workers. It contains trees, planting, a major water feature, café spill out areas, spaces for relaxation, flexible spaces for performance and events, bespoke seating features, and even the opportunity to involve an artist, but in the description of the space provided in the Design and Access Statement there is no mention of playspace, dedicated or undedicated, fenced or unfenced. The Applicants propose that children between 5 and 11 can play in the dedicated children's playspace of Jubilee Gardens, which we consider a credible proposition; the only credible one regarding play space.

12.24. The Applicants propose that for children over 11 Archbishop's Park would suffice, which the applicant claims is within 600 metres along a safe route along Belvedere Rd and Westminster Bridge. But they have simply not measured from 'door to door'. The distance is, in fact, over 900 metres, beyond the maximum of 800 metres set out in the PIRSPG. The PIRSPG requires justification as to why provision cannot be delivered on-site. The Applicants provide no justification for the on-site shortfall other than making the claim that the standards set in the PIRSPG are extraordinarily difficult to achieve, and that a financial contribution towards new or improved off-site facilities should be acceptable.

12.25. Whilst the site is constrained, the pressure placed upon the site by the quantum of housing when taken with the flaws in the design result in a scheme that significantly falls short of the minimum standards of playspace. The development relies upon Section 106 payments to mitigate against these fundamental flaws. The scheme would not provide a suitable play provision for its future occupiers and is therefore contrary to UDP policies 33 and 50 and LP policy 3.6.

### Design Standards

12.26. The HSPG (CD C2.6) sets standards for high quality design in London. They are London's design codes and they are the means by which the quality of housing developments is tested. Baseline standard 1.1.1 requires design that responds to physical context, including the character and legibility of the area and the local pattern of building, public space, landscape and topography. The development introduces what Mr Black calls a "fairly tight" cluster of tall buildings on the site. This contrasts with the WASPD (CD C1.1) which calls for a loose cluster around the station. The area is described as being punctuated by tall buildings, which is clearly not something which reflects a tight cluster.

12.27. Baseline standard 1.2.1 requires development to comply with the borough's open space strategy. The Lambeth Open Space Strategy (LOSS) was published in 2013. A key strategy conclusion of the LOSS (CD C3.6) is to retain, as a priority, all existing green space. The reference to 'green space' is confusing as it is not set out in policy, but the podium is listed as existing open space in a table of green spaces in the LOSS. Standard 1.2.3 sets out criteria for new open spaces which include, amongst other things, that open space should be designed to take advantage of direct sunlight. The Applicants have admitted that there would be limited sunlight to the new public square. This admission falls short of the truth.

12.28. The BRE report states that the amount of direct sunlight an open space receives should be tested. Paragraph 3.3.7 of the guidance states "As a check, it is recommended that at least half of the amenity areas listed above should receive at least two hours of sunlight on 21 March". The BRE tested the new proposed central square for this development and found that only 0.3% of the square would receive at least 2 hours of sunlight on 21 March.

12.29. Baseline standard 1.2.2, which deals with children's playspace, states that developments should make appropriate provision for children's play space in accordance with the PIRSPG (CD C2.7). The proposals do not meet the requirements of the PIRSPG and therefore cannot meet this baseline standard. Partial compliance only is claimed for baseline standards 4.7.1, 4.10.1 and 4.10.3 and, with regard to baseline standard 5.1.1 'Privacy' full compliance is claimed but only by reference to application documents. With regard to privacy there must be problems between Buildings 3, 4A and 4B in view of the limited distances between them.

12.30. It is claimed that there is no direct overlooking between apartments in Buildings 6 and 7, but not much is said about the others. Because of light problems Buildings 4A and 4B have floor to ceiling fenestration, which will also impact privacy. LBL claims there will be overlooking but does not raise an objection. Baseline standard 5.2.1 states that single aspect north facing dwellings exposed to excessive noise levels should be avoided. Building 4A contains 21 single aspect flats facing north towards the railway viaduct and Building 4B has 15. That is a total of 36 flats which do not meet the standard.

12.31. 22% of apartments do not meet baseline standard 3.2.1, which seeks to limit the number of apartments accessed from a single core, 5% of apartments do not meet baseline standard 4.4.1, which sets minimum floor areas for combined living areas, and 32 bedrooms in Building 3 fail to meet baseline standard 4.5.1, which sets minimum floor areas for bedrooms. In total this constitutes 272 breaches of good practice baseline standards. Baseline standard 5.5.1, which is only partially complied with, requires glazing to habitable rooms to be no less than 20% of the room floor area. But the standard is there to exceed the minima in the Code for Sustainable Homes, which is a standard which is even higher than the British Standard. 27.4% of rooms will not meet the British Standard in their current condition, and 33% if the Elizabeth House development is built.

12.32. Baseline standard 5.5.2 requires all homes to have sunlight in one habitable room each day but 27.4% of habitable rooms do not meet this standard. In this regard, the BRE report states that with the Elizabeth House development built 44% of living rooms will not meet the BRE minimum recommendations for sunlight. The HSPG states, in paragraph 2.1.13, that "Failure to meet one standard would not necessarily lead to an issue of compliance with the LP but a combination of failures would cause concern. In most cases departures from the baseline standards would require a clear and robust justification". The justification has not been clear or robust. They are a product of density which is the choice of the developer.

### Amenity

12.33. The HSPG (CD C2.6) states that where proposals are above the density range set out in the LP particular care must be taken on the impact of scale and massing on neighbouring land use. UDP policy 33 (CD B3) states that "Development should protect the residential amenity of existing and future residents by...(amongst other things)...not having an acceptable impact on levels of...daylight and sunlight", and refers to the BRE guidance to measure the effect of a new building on its surroundings. UDP policy 40 states that "The amenities...of surrounding sites and

buildings should not be impaired..." and LP policy 7.7 (CD B1) states that tall buildings should not affect their surroundings adversely in terms of overshadowing.

12.34. The BRE guidance gives no standards for deciding whether or not the loss of light to a building is unacceptable or acceptable. The purpose of the BRE guidance is to help decision makers understand what the impact on a building is in order to allow them to make a fair judgement on the acceptability of the impact. The BRE guidance provides tests to determine at what point a loss of daylight caused by a new development becomes noticeable. There are two main tests; the Vertical Sky Component (VSL) test looks at the amount of light entering a window and the No Sky Line (NSL) test looks at the distribution of light around the room.

12.35. The Applicants, the LBL and the GLA have all made a serious mistake by not applying the guidance correctly, and in some cases completely misrepresenting the guidance. The most significant problem is the use of the NSL test and the VSC test combined instead of using them as two discrete tests. The effect of this is to underestimate the impact of the scheme. Windows where there will be a noticeable deterioration in daylight amenity are not counted, or not adequately taken account of. The author of the BRE guidance, himself, looked at the scheme and told the LBL and the Applicants that it was not appropriate to conclude that only windows where both the NSL and the VSC tests were failed were impacted.

12.36. Despite the clear guidance from the best authority available on this issue the Applicants have stated that "...the Vertical Sky Component test is too simplistic a method alone to explain what is happening within the room behind the window. Hence why the daylight and sunlight chapter of the Environmental Statement concludes that the effect of the development proposals on the Shell Centre site upon these rooms and windows when considering both the VSC and NSL daylight analysis tests is negligible". They have also inferred that where there are two windows lighting a room the BRE guide does not provide an adequate measure of daylight. This however, ignores the fact that the BRE guidance deals specifically with this scenario at paragraph 2.2.7, where it is stated that "If a room has two or more windows of equal size, the mean of their VSCs may be taken".

12.37. The BRE guidance does not state that the NSL test needs to be applied in conjunction with the VSC test. The facts are set out clearly in the report on the ES by Dr Littlefair of the BRE. Its conclusions are that at the Whitehouse Apartments 76 windows breach the BRE guidelines on VSC out of 285 tested and that 15 rooms would breach the NSL test. Dr Littlefair concludes that this is a moderate to major adverse impact for the whole building. For County Hall North Block 104 out of 175 windows would not meet the VSC test and 34 out of 155 rooms would not meet the NSL test. Dr Littlefair concludes that with 60.5% of windows and 25% of rooms not meeting the BRE guidelines for VSC and NSL respectively, this is a significant impact.

12.38. Even if the Applicants were to accept that there was a significant impact on County Hall North Block they argue that the residents of this building should not have an expectation of continuing good daylight to their homes given that it is in an urban area opposite undeveloped land. The Applicants refer to comparison with a mirror image scheme, which is one method described in the BRE guidance of determining alternative target values for testing the impact on daylight and sunlight. Little weight should be placed on this comparison. Results from a mirror image test were included in the original ES and were analysed by the BRE who said that the test had been incorrectly applied and the conclusions should be entirely discounted.

12.39. The Applicants then performed the mirror image test a second time, but the results were never given to the BRE and have not been independently verified.

The result of this is that the LBL Planning Applications Committee (PAC) report (CD F2.1), which is the only place we find a description of the revised results of the mirror image scheme and the BCS, contain a couple of fatal errors. Comparative testing is a technique referred to in Appendix F of the BRE Guidance. This sets alternative benchmarks to the 27% benchmark for VSC. Again it seems that the test has not been performed correctly as the addendum to the report sets out the difference in the numbers of windows meeting the 27% target in both schemes.

12.40. The BRE guidance considers the circumstance where there may be an extant planning permission for the site but the developer wants to change the design. It advises that, in assessing the loss of light to existing windows nearby, the permitted scheme may be used as a benchmark but that, as the permitted scheme only exists on paper, it would be inappropriate for it to be treated in the same way as an existing building. So the test is breached if the damage to daylight exceeds that of the extant permission. Looking at Technical Appendix 3 of the ES, which sets out the results of the BCS, there is a huge difference with almost every single room at County Hall North worse off. In other words, if we take the BCS as the benchmark, breaches in the BRE guidance are almost total.

12.41. The evidence of the BCS itself calls into question the accuracy of the results submitted by the Applicants. The Inspector's report on the BCS states that the Applicant's evidence indicates that only 6 windows would be below 27% VSC. However, in case inquiry, the Applicants' evidence as described in the PAC report states that 62 windows would not have a VSC of more than 27% at County Hall with the Belvedere Court scheme in place.

12.42. To optimise housing density adequate regard must be paid to social infrastructure, green spaces, children's play space, residential amenity and the baseline standards in the HSPG. The main application fails this key test, and it is no surprise that the Applicants see no difference between optimising and maximising density and that the goal of the application is to maximise development on the Shell Centre site. The test has also not been applied correctly either by the GLA or by the LBL, neither of whom see a difference between the need to optimise and maximise.

### Affordable Housing

12.43. There is a desperate shortage of affordable housing in London. Planning policy rightly demands that any departure from the needs based policy on affordable housing is justified with evidence. CS policy S2 (CD B2) states that "The Council will meet the borough's housing needs to 2025 by...seeking the provision of affordable housing on sites of at least 0.1 hectares or on sites capable of accommodating 10 or more homes. At least 50% of housing should be affordable where public subsidy is available, or 40% without public subsidy, subject to housing priorities and where relevant, to independently validated evidence of viability".

12.44. It is claimed that the viability has been independently validated but independent evidence has not been submitted to the Inquiry. In other recent Inquiries the Applicant has provided a financial viability report and financial viability reports are increasingly being disclosed by Councils under rulings from the information commissioner. LBL received a financial viability report from the Applicants as part of this application and the GLA received the report too.

12.45. But the viability report has not been provided to the Inquiry and the Applicants have relied instead on a 15 page report from BNP Paribas which reviews the viability report. The report is not a viability report but reveals enough to cast serious doubt on the reliability of its conclusions.

12.46. The main issue is the residential sale prices. RCL have not produced any valuations of the proposed development but we are not valuers and have not attempted to put a value on the units ourselves. All we have done is submit valuations made by the Applicants' own consultants for this scheme. It is certainly the case that these valuations were not made available to the local authority or to the Inquiry, but their provenance has not been contested and the Applicants have confirmed they came from a powerpoint presentation for investors in the scheme.

12.47. The sales price in the Knight Frank/Savills investor presentation puts a sales value of £1641 per square foot on average across the development. Under the sensitivity analysis conducted by BNP Paribas, this puts the scheme in the clear in financial viability terms by £90m. Linked to this is the issue of the commuted sum for affordable housing. Again, using the BNP Paribas sensitivity analysis we have shown that the re-assessment threshold of £2117 per square foot, which is the sales price that the developers will have to achieve across the site before a commuted sum is paid to the council to make up for the fact that a policy compliant level of affordable housing is not being provided onsite, is too high.

12.48. Our calculations demonstrate that the Applicants would be achieving an IRR of 38% before a commuted sum is paid. In the light of this there is no case whatsoever that the development is providing the maximum reasonable amount of affordable housing. The Applicants have not contested our figures, probably because they come from their own valuers. Nor have they contested our calculations. The only criticism made is that our calculations did not end up with the real profit level because it excluded the cost of delivering the off-site affordable housing and the financial obligations of the Section 106 agreement. But the BNP Paribas report, which they themselves rely on, does not include these costs either. If our figures cannot be relied upon for that reason alone nor can the BNP Paribas report.

12.49. The cost of delivering the off-site affordable housing is unknown because the figures have not been disclosed. But it is unlikely to be £90m in excess of the viability target that this scheme is likely to achieve, because the applicant says that a contribution of 20% is represented by a commuted sum of £24m. The Applicants appear not to have fully grasped the policy requirement for affordable housing. They claimed at the Inquiry that there is no policy requirement for a specific level of affordable housing in Waterloo. But CS policy PN1 states that LBL will achieve its goal for a mixed residential area by "...supporting sustainable development for jobs and homes in line with LP targets, taking all possible steps to ensure that these are available to Lambeth residents through the application of affordable housing policy and planning obligations for local training and employment".

12.50. Waterloo is not excluded because of its central location from the affordable housing policy, quite the opposite, the need to adhere to the policy of 40% of new homes being affordable is stressed in policy. The Applicants also misunderstand how the affordable housing criteria work. Developers receive a return for building affordable housing. Social housing providers pay developers for the affordable housing they provide and the amount paid usually gives the developer a small profit. A BNP Paribas report on the viability of Lambeth's affordable housing policy states that there is a 6% assumed profit on affordable housing.

12.51. The Applicants have suggested that the difference between the value of £1641 per square foot, the amount Knight Frank and Savills presented to investors, and the £1275 per square foot included in the viability assessment, is the timing of the valuations. They have also suggested that the £1641 figure was an outturn figure, or the sales price expected when built; whereas £1275 was current value or



the amount that the apartments would generate today. The applicant argues that the viability test needs to be done on a current value basis.

12.52. However, evidence from several different sources demonstrates that comparable schemes are generating much more than £1275 per square foot. Again, these comparable schemes, are not comparisons chosen by us, but by the Applicants' own valuer. The BNP Paribas report states that it is the Applicants who believe that One Tower Bridge and Neo Bankside are the most directly comparable schemes. The Molior report is considered by many in the property industry to be the most authoritative source on property prices in London. The latest Molior report for London shows that Neo Bankside is currently achieving an average sales value of £1,492 per square foot and One Tower Bridge is achieving £1,708 per square foot. This would place the values proposed by Knight Frank/Savills for the development right in the middle of these two comparable schemes, today.

12.53. The Applicants have provided no evidence as to why it believes the current values of their development should be significantly lower than values currently being achieved at developments which they concluded are the most directly comparable. Finally, how can we have any confidence in any of the viability report when we know that some of the fundamental figures were not agreed until during the Inquiry, when the Applicants announced that they had a new figure for the net saleable area of the development in a new draft Section 106 agreement. This figure is 749,671 square feet; which is 69,644 square meters. This contrasts with the 77,110 square meters previously stated. That is a loss of 7,466 square meters.

#### Transport and permeability

12.54. Another policy goal is to increase the permeability of the site. The current site is a perfectly permeable scheme; as designed the buildings had wide passageways under the wing buildings from the podium and York Road through to the courtyard. The courtyard and the podium are permeable and the proposed development should be judged on the permeability of that baseline and not on the baseline that has resulted from Shell's decision to close off the courtyard.

12.55. Future visitors to the South Bank would have to walk along a narrow and crowded pavement on York Road before moving to a narrow pavement at Chicheley Street or use one of the narrow passageways through the scheme, rather than along a high level walkway or through the courtyard. The Applicants claim that the site is currently restricted for security reasons. RCL do not understand what security arrangements will be made easier by having the public square in the middle of the development and 877 new homes on the site with several routes through.

12.56. The amount of people visiting the South Bank has exploded over the last ten years. This brings constant movement on Chicheley Street from people, taxis, tour buses, coaches and others. To concentrate all of the servicing on Chicheley Street, a small street which services so much traffic, is unworkable.

#### Planning benefits

12.57. One of the key policy goals is to increase the number of jobs in Waterloo. This is set out in the WASPD and the site specific guidance on the Shell Centre specifically requires a jobs-led development. The mechanism by which planners can do this is to increase employment floor space. The main argument presented at this inquiry by the Applicants and LBL, as well as some third parties such as London First, is the need to keep Shell at the Shell Centre. But this is not the planning policy goal which seeks nothing more than to increase employment capacity.

12.58. However, there is no reason why Shell needs this particular scheme in order to stay on the site. In fact it is bizarre if they do because the majority of new development as part of this scheme will be in new housing. Even if there is a disagreement about the quality of the employment use on the site and that proposed, no one can argue that this development is jobs led. There also should be no argument about the facts of the amount of office space being provided. RCL maintain that there is a loss of B1 space. B1 is defined in law and the figures in the SoCG show clearly that there is a substantial loss of B1 space as part of this scheme.

12.59. It may be that a lot of the loss of that space is in the basement, but that does not matter, it still has use and offices need ancillary space for them to function. If it is not in the basement the ancillary space will be above ground. The Applicants and the LBL seek to downplay this idea through reference to the rifle range and the swimming pool. There is no planning requirement for Shell to use their B1 space for this purpose. Other uses in the basement include the mailroom, and storage space, both of which are necessary in a large corporate headquarters.

12.60. The evidence from the Waterloo Business Improvement District is that there is a chronic shortage of office space in Waterloo. The loss of employment floor space therefore must be regarded to be a departure from the development plan.

#### Other Benefits

12.61. The development will provide new housing and that is a benefit but it is not necessarily a benefit that outweighs all the harm that has been identified. LBL are comfortably meeting the targets set in the LP for the delivery of housing in Lambeth. LBL are also meeting the opportunity area targets in Waterloo with the amount of new homes permitted. The need to build new housing does not mean it should come at the expense of health and this raises the issue of daylight.

12.62. One third of the apartments will not meet the minimum standards for daylight set out in the British Standard. The Applicants justify this through their central London location but have provided no evidence whatsoever that these extremely high levels of non-compliance with the standards are normal anywhere else in London. This is not just a matter of amenity, it is a matter of health. People need daylight in order to feel rested and for good mental health.

12.63. The problem is particularly acute in the extra care housing proposed as part of the development where almost all of the homes are below the British Standard. Being housing designed for old people they will have a lower mobility and therefore be condemned to a dark existence. The Applicants have argued that there is amenity space provided in the form of winter gardens, but as RCL have shown they will be dark too and they will certainly not have the light levels required to grow plants. This poorly lit housing will inevitably lead to further health difficulties and does nothing to address health inequalities, which is a theme of planning policy. People living in social housing do not have the choice of where they can live. Many of these people will have no option other than to spend the last part of their lives in darkness.

#### Conclusion

12.64. The harmful effects of the proposed development, on residential amenity, transport, open spaces, child's play space, amongst other matters, stem from the fact that the Applicants are trying to fit too much onto this site. They are seeking to maximise rather than optimise development and in doing so they are in conflict with a number of development plan policies and the proposed development fails to live up to the policy aspirations for the Shell Centre site.

### **13. THE CASE FOR THE TWENTIETH CENTURY SOCIETY**

*The material points of the case made by 20<sup>th</sup> Century Society are:*

13.1. The Twentieth Century Society does not object to Application B if Applications A and D are granted. In those circumstances the Society has no objection to the grant of listed building consent for Application C. However, the Society has the strongest objections to the grant of planning permission for Application A and to the grant of conservation area consent for Application D.

13.2. Applications A and D may be two sides of the same coin, in that the Applicants require both in order to proceed but each must be determined separately. Before the development that is the subject of Application A can proceed, consent under the Planning (Listed Buildings and Conservation Areas) Act 1990 is necessary for Application D. In the judgement in *Kent County Council v SSE (1979) EGCS 91* it was held that the appearance of the new works is a material consideration when deciding an application for conservation area consent. Hence the development in Application A must be taken into account in the decision on Application D.

13.3. There is no dispute that the SBCA is a largely 20th century conservation area, as confirmed by both the designation report and the SBCA Statement (CD E17). The Shell Centre makes a positive contribution to the character and appearance of the SBCA as the statement acknowledges. The reference there is to the entirety of the Shell Centre, as is clear from the qualification concerning the Tower. LBL are clear that the whole is an architectural composition and the wings provide an architectural counterfoil to the Tower.

13.4. TCS consider that the demolition of the wings, podium deck and other structures of the Shell Centre, as proposed by Application D, would result in substantial harm to the character and appearance of the SBCA. English Heritage say there will be some harm to the character and appearance of the SBCA incurred in the loss of the existing Downstream Building. Thus the statutory consultees on heritage matters in this case agree that harm will be caused; they differ only on the degree of harm, which in any event is ultimately a matter of judgement.

13.5. LBL say that demolition of this building will mean a loss of the set-piece complex and a loss of the unifying post-war character. However, they then fail to make any assessment of the effects of those losses, notwithstanding that the main consideration in Application D is the effect of the proposed demolition on the character and appearance of the SBCA. It may be that this inexplicable lacuna has led to LBL's irrational conclusion that the effect on the SBCA would be "imperceptible". That conclusion is less intelligible and contradictory when compared to that of the effects on the undesignated heritage asset of the locally listed Shell Centre itself, which is assessed as "medium adverse". In these circumstances, little weight should be afforded to their assessment of the effect on the SBCA.

13.6. The Society has supported its view that the proposed demolition would cause substantial harm to the SBCA by producing Inquiry Documents TCS 1, 2 and 3. These three volumes are a thoroughly researched analysis of the importance of the Shell Centre as the earliest example of the implementation of town planning under the system introduced by the 1947 Town and Country Planning Act. They show that, together with the Royal Festival Hall, the Shell Centre encapsulates the ground-breaking LCC South Bank redevelopment, designed by an architect/planner of outstanding ability, Leslie Martin. The Shell Centre is therefore a non-designated heritage asset of the highest value in planning terms.

13.7. The NPPF advises that the loss of a building which makes a positive contribution to the significance of a conservation area should be treated either as substantial harm under paragraph 133 or less than substantial harm under paragraph 134 as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the conservation area as a whole. The complex of the Shell Centre Upstream Building, the Downstream Building and the Royal Festival Hall form the core of the SBCA. The loss of what is probably approaching half of those buildings, would take the heart out of the SBCA and destroy its 20th century character and appearance. Even LBL, despite its conclusion that the proposed redevelopment is acceptable, grudgingly acknowledge that the effect of the proposed demolition would be “medium adverse”.

13.8. A judgement would therefore have to be reached on whether the effects of demolition of most of the Shell Centre on the designated heritage asset of the SBCA, an asset of very great significance to planning, constitute substantial harm or less than substantial harm. In turn, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 would have to be applied with more rigour because this part of the SBCA does display its special characteristics, as the judgement in *University College London v FSS [204] EWHC 2846 (Admin)* makes clear.

13.9. The local listing of the Shell Centre shows that this is a heritage asset of above average quality. The rejection by English Heritage of the latest application for statutory listing of the Shell Centre is unsurprising given that this application was supported by no new information and the three earlier applications for listing were all rejected. Little weight should therefore be given to this latest rejection. The quality of the building, that is the significance of this non-designated heritage asset, will have to be assessed in the light of TCS 1, 2 and 3.

13.10. However, because of the symbiotic relationship between the Shell Centre and the Royal Festival Hall, consideration must also be given to the impact of the demolition on the setting of the latter. The Royal Festival Hall is a designated heritage asset of the highest significance and, as paragraph 132 of the NPPF advises, great weight should be given to the asset's conservation. This significance can be harmed or lost through, amongst other matters, development within its setting. Any harm or loss should require clear and convincing evidence, and the TCS and English Heritage agree that harm will arise from the proposed development.

13.11. If that harm is found to be substantial there would need to be some wholly exceptional justification for it. That is an extremely high threshold and no such justification has been put forward by the Applicants or the LBL or the GLA. Accordingly, the TCS believes that conservation area consent should be refused for that reason. But even if the harm is found to be less than substantial, consent should still be refused, unless it can be demonstrated that the less than substantial harm is necessary to achieve public benefits which outweigh that harm.

13.12. With regard to Application A, the TCS draws attention to the provisions of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, that in considering whether to grant planning permission for development which affects a listed building or its setting, the Secretary of State shall have special regard to the desirability of preserving the building or its setting. That is a statutory duty and the paying of “special regard” is not simply a meaningless formality. Given that the development lies within the setting of the Royal Festival Hall (Grade I), County Hall Main Block and Waterloo Bridge (both Grade II\*) at a minimum, all of which are 20th century buildings with clear and close visual relationship with the Shell Centre site, then paragraph 133 or 134 of the NPPF must apply.

13.13. The TCS maintains that the proposals would cause substantial harm to the setting of these designated assets of the highest significance for the reasons set out in its representations. The LVMF contains seven points from which the site is prominently visible. In all of these protected views the setting of the designated heritage assets will be substantially affected by the proposed development so that harm will be caused. The extent and nature of that harm can be seen in the TVIA in the ES, which contains photographs of the existing situation and photomontages of the application proposals both with and without the Elizabeth House scheme.

13.14. The previous proposals for the redevelopment of the Elizabeth House site, dismissed on appeal by the Secretary of State (APP/N5660/V/08/1203387), were for three tall towers. That site was further from the river than the Shell Centre site of Application A, further from the listed buildings of the Royal Festival Hall and Waterloo Bridge, outside the SBCA, and the tallest of the proposed towers was some 3 metres lower than the tallest of those now proposed on the site. Hence, from the north bank of the Thames and from Waterloo Bridge the effect of the present proposals will be substantially greater due to these factors combined with perspective.

13.15. The Applicants rely on what they claim is policy and guidance, but they and the LBL have misread and misapplied both. The construction of a planning policy is a matter of law for the Courts, and if a decision maker errs regarding the interpretation of a policy of the development plan, then it is for the Courts to substitute the correct interpretation. The site is within the RCA and CS policy PN1 states:

*The Council will support and enhance Waterloo as a key part of Central London and Lambeth and its economy in its various roles as an international centre for culture and arts as part of the London Plan/Bankside Strategic Cultural Area... its valued historic character and its role as being one of London's most important transport hub.*

*This will be achieved by:*

*(c) Promoting and supporting development and uses of an appropriate scale and form to reinforce the distinct identity of the four character areas...respecting strategic views, local considerations including heritage assets and ensuring that design quality is worthy of a World City. Waterloo Station and the immediate adjoining area has been identified as providing appropriate potential for a loose cluster of tall buildings... Development should scale down from the station to the River Thames and be appropriate to its setting, having due regard to strategic views".*

13.16. The supporting text to policy CS PN1 states that "The Waterloo neighbourhood is... an Opportunity Area in the London Plan" and "The London Plan indicates that Opportunity Areas are appropriate locations for tall buildings". Paragraph 5.3 states that "The RCA is the focus for cultural activities as well as bars and restaurants and the Riverside Walk is a public space that is well used by tourists and locals alike during the evening and the daytime. The South Bank's international cultural attractions include the National Theatre, the South Bank Centre, the BFI, the London Eye and the London Aquarium. These are iconic internationally-known buildings, many of which are listed. In recognition of its clear architectural and historic importance, almost all the area is contained within the SBCA...."

13.17. CS policy S9 'Quality of the Built Environment' states that:

*The Council will improve and maintain the quality of the built environment, and its liveability, in order to sustain stable communities, by:*

*(d) Supporting tall buildings where they are an appropriate development form for the area, particularly where this contributes to area regeneration and local distinctiveness, makes the most effective use of land and is consistent with national*

*and London Plan policies and guidance. Appropriate locations for tall buildings are parts of the Vauxhall and Waterloo London Plan Opportunity Areas and Brixton town centre, subject to appropriate accompanying urban design assessments. The height of buildings should be appropriate to the surrounding townscape.*

Paragraph 4.46 of the supporting text to CS policy S9 states that "Tall buildings are defined as over 25 metres adjacent to the River Thames and over 30 metres elsewhere in the borough".

13.18. The TCS considers that reinforcing the distinct identity of the RCA cannot be interpreted reasonably as permitting the demolition of one of the core buildings which establishes the character of the SBCA, an area of clear architectural and historic importance. Nor can the erection of several towers, each far higher than the 30m tall building definition, let alone the 25m threshold for the riverside, and creating vertical emphasis in an area of predominantly horizontal emphasis be said to be of an appropriate scale and form or to reinforce that character.

13.19. Neither does the WOAPF support the Applicants' or LBL's position. This states that "... tall buildings in Waterloo are considered to be suitable in two broad areas: above and around Waterloo Station and on the commercial spine behind the Riverside buildings". Nor do the Figures help because they appear to be photographs of a large model with the image coloured to show the character areas. The text introduces the definition of the "commercial spine" as a second layer of buildings behind the Riverside, yet that area has already been clearly defined. Figure 15 illustrating the commercial spine shows a long coloured model of the South Bank stretching into Southwark. All in all this "strategy" is a confused and confusing collection of phrases which do not give clarity.

13.20. Saved policies of the UDP are also of little assistance in dealing with policy in relation to the application site. The only saved policy expressly dealing with the Shell Centre is MDO93 which refers mainly to the BCS and has nothing to say about tall buildings on this particular site. UDP policy 40 'Tall Buildings' has been substantially altered by deletions of large parts, leaving only the Visual Design Criteria and Urban Design sections which are intended to provide strict design criteria to ensure London's skyline is enhanced.

13.21. The most useful, up to date and site specific document is in fact the WASPD (CD C1.1). Section 7.2 deals with the Shell Centre site and contains a series of development principles. The TCS has no disagreement with any of these principles, although it would point out that permeability and pedestrian linkages of the site could be improved tomorrow if the applicants chose to remove the barriers they chose to install. There is nothing about the intrinsic design of the building which prevents permeability or pedestrian access; indeed that was the aim of the designer.

13.22. The principles in the WASPD dealing with grain and height refer only once to redevelopment to a taller height, and that is of the north wing only. Even that is subject to the caveat of open space creation elsewhere and subject to the impact on views and residential amenity. The reference to development scaling down from tall buildings at the station to the riverside implies that this site is *not* appropriate for tall buildings, and nothing there says that it is. In TCS's view the proposed development will not comply with these principles which are clear and concise (by contrast with the WOAPF) and this should weigh heavily against the grant of planning permission.

13.23. The proposed development is not consistent with Government policies for conserving and enhancing the historic environment, so Application A and Application D should be refused. In those circumstances it would follow that planning permission and listed building consent should also be refused for Applications B and C.

## **14. CASES MADE BY INTERESTED PARTIES AT THE INQUIRY**

*The material points of the cases made by interested parties in support of the proposed redevelopment of the Shell Centre site, including points made in their written representations where appropriate, are:*

### Mr Bishop – South Bank Centre

14.1. The South Bank Centre has been involved in discussions with the Applicants over a two year period and fully supports the proposed development. It represents a once in a generation opportunity to secure a comprehensive development of the Shell Centre site together with sympathetic redevelopment of the Hungerford Car Park. The extended Jubilee Gardens would be enjoyed by residents and workers of the redeveloped site and by visitors to the South Bank.

14.2. The development itself has been sensitively planned and designed, and would represent high quality design that would enhance the various heritage assets of the South Bank. In this regard, the Royal Festival Hall would retain its prominence in views from Waterloo Bridge. The scheme would increase permeability through the Shell Centre site and would improve the public realm. The mix of uses on the site would be entirely appropriate and would result in positive economic benefits for the South Bank area.

### Ms Santer – Waterloo Quarter Business Improvement District

14.3. The Shell Centre redevelopment would be an exciting new addition to the Waterloo area that would assist in raising its profile as a great place to do business. The increased permeability through the site and the improved access between the hinterland and the riverside is strongly supported. The procurement opportunities for local businesses that would arise are welcomed.

### Mr Baber – London First

14.4. The Shell Centre is a landmark site with high public transport accessibility and deserves the kind of imaginative developments that have taken place in other parts of the capital. The proposed redevelopment represents an exciting vision for the future of the site and would act as a catalyst for further regeneration of the surrounding area. The scheme incorporates architecture of the highest quality.

14.5. The Mayor's housing strategy as set out in a recent Strategic Housing Land Availability Assessment requires the construction of 42,000 homes per year but developers struggle to build even 20,000 homes per year. The housing element of the redevelopment scheme will make a significant contribution to the housing strategy. Similarly, London needs more office space to meet demand over the coming years and the scheme would assist in meeting this demand. Shell's desire to bring their headquarters' staff back under one roof should be encouraged.

### Mr Inman – South Bank Employers' Group (SBEG)

14.6. Increased permeability through the site and improvements to pedestrian routes across York Road are welcomed. Also welcomed is the ambition to create a higher quality environment in Chicheley Street and Belvedere Road. These routes are part of the South Bank Spine Route and their improvement is a high priority for SBEG and is identified in the South Bank Public Realm Framework.

14.7. Heritage issues should not be given undue weight but should be balanced against the overall economic and community benefits of the scheme. However, the

proposed development will have no effect on the Outstanding Universal Value of the WWHS or on the view from the Blue Bridge in St James's Park.

14.8. SBEG welcome the additional jobs that would result from the development and the new retail opportunities that would be included. Also welcomed is the Applicant's commitment to the South London Procurement Network and to feasibility work on the South Bank Decentralised Energy Network. The development, through Section 106 and other commitments, would result in improvements to the IMAX roundabout and to Jubilee Gardens through the redevelopment of Hungerford Car Park. The development would also result in improvements to the public realm.

Mr Clements – Oasis UK

14.9. The social and economic benefits to the Waterloo area outweigh any short-term concerns about the redevelopment scheme. The regeneration benefits and the financial benefits to local suppliers and businesses will provide a welcome boost to the area. The design of the scheme is coherent and suitable for its context. The masterplan provides welcome connectivity from Waterloo Station to Jubilee Gardens and will enliven the somewhat bleak streetscape along York Road.

Mr Weighton – Friends of Jubilee Gardens

14.10. The Applicant's commitment to the principle of the extension of Jubilee Gardens onto Hungerford Car Park is welcomed though the Friends have practical concerns about the Agreement that seeks to achieve this.

Mr Clarke – Waterloo Festival

14.11. The development will bring more people to the Waterloo Festival and could provide increased sponsorship of this annual local event.

Mr Haywood – Local resident

14.12. Suggestions made during the extensive consultation process were incorporated into the scheme, which would be of the highest architectural quality.

Mr Clark-Hall – Local resident

14.13. The proposed redevelopment of the site would result in a vigorous enlivening of the Waterloo area and would incorporate important artwork in public areas. The additional retail opportunities are welcomed and the landscaping of Hungerford Car Park would be an enormous advantage.

Mrs O'Dwyer – Local resident

14.14. The redevelopment of the Shell Centre site is supported in principle but Buildings 4A and 4B are too high and removing a few of the floors would be a suitable compromise.

Mr Ball – Waterloo Community Development Group (WCDG)

14.15. The retention of Shell, a major employer, on the site is a local imperative and though there is some dispute about floorspace figures it is a relief that no further loss of office space is proposed. The podium affords the best views of the London Eye, from York Road, and though it is not well maintained it does afford a break in the built environment and is key to the visual success of the Shell Tower. The proposed square, by comparison, is extremely small and compromised by unrealistic multifunctionality. It will be used as outdoor seating for cafes, public seating, planting, a water feature, events and playspace but will also be a main pedestrian route for thousands of visitors to the London Eye. It will not be a credible space.



14.16. York Road currently has generous pavement space but will have only a four metre wide strip for pedestrians sandwiched between very tall buildings. The proposed buildings are too big, too dense, too tall and out of context with Waterloo and would impact negatively on many aspects of local life. Waterloo Station is a physical, psychological and social barrier to movement between the hinterland of the Borough and the riverside. There is an unacceptable discrepancy between the focus of maximising densities on the riverside and the refusal by LBL to allow even modest development in the hinterland to the east of the station.

14.17. The quantum of retail on the site appears to strike the right balance of enlivening the area without threatening the vitality and viability of the Lower Marsh local centre but the development is lacking any community or cultural uses. The playground in Jubilee Gardens is already overused by visitors but it is not suitable for toddlers whose playspace should, in any event, be less than 100 metres door to door. Similarly, Archbishop's Park is good for older children but is at least 1000 metres from the site by the safest route – beyond the maximum recommended distance in the PIRSPG (CD C2.7) even for teenagers.

14.18. The proposals for extra care affordable housing is imaginative and responds to local need though there is concern for the levels of daylight and sunlight in the units. The off-site provision of affordable housing is also imaginative and maximises the potential for this type of residential unit, and the 'post-sales' appraisal of viability is a big step forward for LBL's capacity to maximise affordable housing opportunities. The greening of Hungerford Car Park is welcomed though it is a pity that this is not tied to a possible planning permission. The SBCA will withstand the construction of the proposed development within it but the WCA and RSCA will be harmed by the development as will the settings of the Royal Festival Hall and other listed buildings.

*The material points of the cases made by interested parties in opposition to the proposed redevelopment of the Shell Centre site, including points made in their written representations where appropriate, are:*

Mr Clyne – LBL Ward Councillor

14.19. The application, given the proposed height of some buildings, cannot be compatible with LBL's policy which states that tall buildings should be avoided in this location. The policy statements regarding the canyon-like nature of York Road and the need to respect the Shell Tower preclude the scale of development proposed.

14.20. The additional off-site affordable housing, if the viability of the scheme is better than envisaged, is proposed to be on the Ethelred Estate but there is uncertainty about whether additional local facilities and infrastructure would be put in place to cope with the increased population. There is also uncertainty about the form of the additional accommodation on the estate.

Ms Braithwaite – LBL Ward Councillor

14.21. The proposed development would have a colossal impact on local residents particularly those living on Chicheley Street opposite the proposed access into the underground elements of the development. The proximity of this access point to nearby apartments in County Hall North Block would create the potential for noise nuisance and thus would harm residential amenity. Local residents' concerns about some conditions proposed, particularly those regarding opening hours of late evening uses, are genuine and should not be ignored.

Mr Dahlberg – Local resident

14.22. The proposed development does not comply with Government policy and guidelines. In particular, the buildings would be too close together, too many habitable rooms would have below recommended daylight levels, too many rooms are too small, and the development would adversely affect the historic environment. The Architects of the scheme could design buildings that meet Government policy and guidelines but they have not done so for purely financial reasons.

Mrs Burke – Local resident

14.23. The proposed development would have one service entrance rather than three to two service yards and one to a car park. The single entrance would also be on Chicheley Street opposite the eight storey County Hall North Block. This is illogical and, together with the narrowing of the street, will exacerbate traffic congestion on a street that is the main access to the County Hall Riverside Building and to many businesses and apartments in County Hall. There is already regular congestion at the junction of Chicheley Street and York Road and traffic is often backed-up to the Shell Tower on Belvedere Road. Vehicles will struggle to manoeuvre into the proposed access and will cut across the pavement on the north side of Chicheley Street. The application should be refused on safety grounds alone.

14.24. The Applicant's Travel Plan indicates that there will be 1,740 vehicle movements in and out of the proposed access per day; 4-5 vehicle movements per minute during the day. Deliveries to the site will be at any time of the day or night so local residents can expect to be disturbed throughout each and every night. Compounding noise disturbance and loss of sleep residents can expect to experience increased pollution. The area is already polluted by slow and stopped vehicles on Chicheley Street and York Road and it is illogical to locate the single access to the site on Chicheley Street. The existing route to the South Bank Centre from Waterloo Station via Sutton Walk is perfectly positioned and the proposal for another narrow thoroughfare alongside the viaduct will be intimidating for pedestrians.

14.25. The development will result in residents of County Hall North Block losing daylight and sunlight in their apartments contrary to advice in the BRE Guidelines.

Mr Sprinz – Local resident

14.26. The Applicants maintain that the tower blocks need to be 37 storeys high to be viable. So height will bring financial reward but will ruin the skyline for all Londoners forever. Over 50% of the site will disappear under new buildings and the thoroughfares between them will be in shadow for most of the time. The 37 storey tower will be directly opposite the Elizabeth House development which was turned down because it was deemed to be too high and because of its effect on the Royal Festival Hall. But Building 4A will be higher and closer to the Royal Festival Hall.

14.27. The pavement to York Road will be 7 metres narrower than it is at present and there will be virtually no room for pedestrians. York Road should be made wider than it is rather than the pavement being narrower. The children's playground in Jubilee Gardens is already overcrowded and the Applicant's should not be relying on this playspace to provide amenity space for intended residents but should be providing additional facilities. The design of the development lacks imagination and the development would be undistinguished. The buildings should be low not high, the development should be spaciouly laid out not dense and the buildings should be beautiful imaginative architecture not plain and boring.

Mrs Sprinz – Local resident

14.28. The proposed development would be no more than a mini Canary Wharf – composed of absurdly high towers, densely packed together and of the most unimaginative design. It would not relate to its surroundings and will do very little to benefit the vibrant South Bank. Together with the redevelopment of Elizabeth House there will an unrelenting wall of construction with no clear route to the riverside. WCC support development of the site but the proposal has ignored conservation principles. English Heritage also support development of the site but query the benefits of the proposal. RCL support development of the site but this proposal is too high, too dense and causes light deprivation.

Mrs Mellor – Local resident

14.29. If the development was built as well as all permitted and proposed housing developments in the Borough Waterloo's open spaces, pavements, transport and restaurants would become even more congested than they are at present, resulting in an unpleasant environment for the existing and new population. There is under occupancy of many private housing developments built in recent years and many of the proposed new homes will be investment properties and will remain empty. People who live in these gated communities contribute little to the community and will not contribute to the creation of a balanced community. The development of 877 apartments is not required to meet the housing needs of the Borough if extant planning permissions are implemented.

14.30. The application will result in a net loss of office accommodation and the proposals will not contribute to employment targets established in the LP. The loss of the podium will be a very great loss and should be resisted. The proposed square, furthermore, is trivial by comparison and, given that it would be overshadowed by tall buildings on all sides and would be traversed by five pedestrian routes, would be inhospitable. At best the square will replace the existing courtyard but will not compensate for the loss of the podium.

Mr Rubinstein – Local resident

14.31. The proposed development, which is of national and international interest, is deeply flawed as it does not respect the iconic site which faces the WWHS.

## 14A. SUMMARY OF WRITTEN REPRESENTATIONS

*The material points of the cases made in written representations are:*

### English Heritage

14.32. St James's Park is a sublime piece of picturesque landscape in the heart of London. The view from the Blue Bridge is of extraordinary quality. The scale and style of the buildings in the background have fortuitously added to the intended romantic quality of the setting of the Park. The proposed development would be of a scale, mass and form that significantly detracts rather than adds to the picturesque qualities of the view. It would compete with the tower of the FCO, severely diminishing the clarity of its built form. The development would thus cause substantial harm to the setting of the Grade I RPG and the Grade I listed FCO.

14.33. St James's Park is one of the very best urban public parks in the country. It is of the very highest heritage value, not just because of its own design and history, but because of the extraordinary buildings that surround it. The views out of the Park greatly enrich our sense and understanding of London and of the country. It is perhaps one of the clearest examples of a setting combining with a heritage asset to make a whole that is far greater than the sum of its parts.

14.34. St James's Park is a grade I RPG, but that does not do it justice. It is at the top end of that classification and the Blue Bridge is the most valuable spot from which to appreciate its qualities and the contribution of its setting.

14.35. So in assessing impact it is not just proper to afford great weight to the conservation objective (NPPF paragraph 132) as applies to all heritage assets, but to factor in the very high importance of this asset and the sensitivity of this aspect of its setting. The highest justification is required. As is apparent from our analysis above, in our view the impact is very serious given the nature and importance of the heritage significance and the nature of the impact. So the policy in paragraph 133 of the NPPF should be engaged.

14.36. However, prior to considering the relevant heritage specific policies, we believe it is important to address the objectives of the NPPF. Sustainable development is defined as seeking economic and social progress and environmental protection and enhancement. Clearly, progress on all fronts cannot always be achieved, but where there is a serious impact on one of the core planning principles (conserving heritage assets – NPPF paragraph 17) there must be a much greater effort made to seek economic, social and environmental gains jointly and simultaneously through the planning system (NPPF paragraph 8).

14.37. So the stress in the case, echoed in paragraph 133, must be to consider if the adverse impact on St James's Park and the FCO is necessary in its extent or at all. That must come prior to considering whether the impact is outweighed by the benefits of the proposed scheme, as to keep what is special about St James's Park and the FCO whilst allowing an economically successful redevelopment of the Shell Centre, would be truly in line with the objectives of the NPPF and would therefore be truly sustainable development.

14.38. Horse Guards has an exceptional façade in a Palladian style, which the proposed development would rise above in views from Horse Guards Parade. A number of other buildings can already be seen above Horse Guards in views from Horse Guards Parade which disrupts the symmetry of the composition, but the proposed development would cause further harm. However, because the Palladian symmetry of Horse Guards has been compromised by historic development, we are

of the view that the harm caused to the significance of Horse Guards by the proposals would be less than substantial.

14.39. By affecting the setting of Horse Guards, the appearance of the Whitehall Conservation Area within which the building sits is harmed. The character of the Conservation Area is also harmed through the introduction of a residential tower into the view from Horse Guards which is dominated by buildings reflecting British military history. The visual intrusion is minor and the harm is less than substantial.

14.40. The setting of the Royal Festival Hall within the SBCA is partially compromised by existing development on adjacent sites, but the proposed development would rise significantly higher. As the setting of the Royal Festival Hall has historically been compromised and the ability to view the building against a clear backdrop is not fundamental to its significance, we are of the view that the further harm the development would cause to the setting of the listed building and the character and appearance of the SBCA would be less than substantial.

14.41. Part of the Outstanding Universal Value of the WWHS and the significance of its Grade I listed buildings is derived from the visual dominance of its buildings and the viewer's ability to read them against a clear backdrop. The introduction of built form into the "gap" between Portcullis House and the Elizabeth Tower in views from the Great North Door of Westminster Abbey will diminish the visual dominance of the Grade I listed Palace of Westminster of which Elizabeth Tower forms an iconic part and thus harm its setting. However, the existing Shell Tower is already partially visible in this view, and the proposed development would step down from behind it while not appearing to physically "touch" the Elizabeth Tower. We conclude therefore that some harm is caused to the outstanding universal value of the WWHS in the context of views from Westminster Abbey's North door.

14.42. Under the terms of paragraph 132 of the NPPF, any harm or loss requires clear and convincing justification and the more important the asset the greater the weight should be given to its conservation. Conservation is defined as the process of maintaining and managing change in a way that sustains or where appropriate enhances its significance. The heritage assets affected by this development are of the very highest significance, including Grade I listed buildings, a Grade I RPG, and the WWHS. As heritage assets are irreplaceable, their loss or erosion subverts the objective of sustainable development and therefore the decision maker would need to be satisfied that it had been demonstrated that there is clear and convincing justification as to justify the harm to the assets identified in these representations.

14.43. Paragraph 133 of the NPPF states "*Where a proposed development will lead to substantial harm or total loss of significance of a designated heritage asset, local authorities should refuse consent unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss ...*". In considering necessity the decision maker would need to be convinced that the benefits offered by the scheme cannot be delivered without causing substantial harm to the historic environment. However it may be the case that Buildings 4A and 4B could be redesigned so that they are not visible in the setting of St James's Park and in the setting of the FCO, and the residential apartments omitted from these areas could be accommodated elsewhere on the site. Additionally it is unclear whether the proposed quantum of development on the Shell Centre site could not be delivered in a manner that delivers the anticipated economic and regenerative benefits without harm to the historic environment.

14.44. The particular design chosen has a serious impact on nationally important heritage assets and it has not been demonstrated that there is no design solution

that delivers economic gains whilst not harming the historic environment, as required by NPPF paragraph 8. We believe conflict between the objectives of the development and the conservation of the area can be avoided or at the very least greatly reduced. In accordance with paragraph 137 local planning authorities should be looking for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance – not detract.

14.45. The proposed development fails to respond to local character and history (NPPF paragraph 58), does not integrate into the historic environment (NPPF paragraph 61), and fails to promote or reinforce local distinctiveness (NPPF paragraph 60). These NPPF design policies set the goal for new design. It is only good or outstanding design in all respects if it achieves integration with the historic environment. This scheme does not achieve integration and therefore whilst it may be, in another location and architectural context, good or even outstanding design, it fails to be that here.

14.46. In light of the harm to the historic environment we have identified and the need for clear and convincing justification to be provided in order to demonstrate the necessity of such substantial harm to the heritage assets we do not consider that this scheme is sustainable development.

#### Mr Tamplin

14.47. The principal concern is for the *genius loci* of Waterloo and how the proposed development would affect this; particularly how the development would affect the physical context of those who live, work and visit the area.

14.48. A walk-through of the area is the right approach to properly assess the character and appearance of the SBCA and of Waterloo. From this walk-through the *genius loci* of the setting, context and townscape of the area indicates that:

- it contains several important buildings including listed buildings of the highest quality such as the Royal Festival Hall, the Royal National Theatre, Waterloo Bridge and County Hall, and is an important part of the setting of the WWHS;
- the form of development is generally horizontal with only a few taller buildings that punctuate rather than dominate such as the Shell Tower and the London Eye;
- the scale of development is monumental including County Hall, the Shell Tower, the Whitehouse Apartments and buildings on York Road;
- open space is dominated by the Thames but penetrates almost up to the west boundary of the application site;
- the area is very popular with visitors who arrive principally on foot and from Waterloo Station;
- there is a great deal of pedestrian congestion around the railway station and the London Eye and at pedestrian crossings of York Road;
- its character is of a destination for tourism and culture and a transit point for business travellers, an office centre and home to many residents.

14.49. The Shell Centre is a civilised and respectful building and occupies a key location within Waterloo as well as within central London. Its importance cannot be overestimated because it acts as a fulcrum for views around the whole arc of the Thames from Lambeth Bridge to Blackfriars Bridge. The Tower is a landmark giving

legibility to the whole of Waterloo and the South Bank. It is vital to the character and appearance of the SBCA, which must be preserved or enhanced.

14.50. The applications do no such thing. The applications include a proposed development that would be:

- too tall, because it would not 'scale down from tall buildings at the station to the riverside' and would fail to 'retain the pre-eminence of the Shell Tower as a London landmark';
- too dense, because it would create 'an overall wall effect that would harm the significance of the surrounding assets' and the 'perceived canyon-like character of York Road' would be intensified;
- too small blocks, because the existing character of the SBCA is of large monumental blocks;
- too forward, because it would intrude into the RCA of the WOA and extend the commercial spine, introducing tall buildings at a key point;
- too upright, because the impression, is of a large mass with vertical emphasis in an area presently characterised by development with horizontal emphasis;
- too confused, because the clean, clear landmark of the Shell Tower would be closely surrounded by a clutch of no less than eight other blocks.

14.51. Given the height and mass of the clump of buildings proposed that would rise well above Hungerford Railway Viaduct and Waterloo Bridge Approach Road, the setting of the Royal Festival Hall, the Royal National Theatre and Waterloo Bridge would be seriously harmed. These unacceptable effects are due to a misreading of planning policy by the Applicants, the LBL and the GLA; in particular LB policies 4B.8 and 4B.9 (CD B1), UDP policies 31,33, 39, 40, 41, 43, 45, 47, MDO92 and MDO93 (CD B3), WASPD policy PN1 (CD C1.1), and Figure 15 of the WOAPF (CD C2.1).

14.52. The applications put forward an over-developed, overambitious and harmful scheme in which public interest appears to be secondary to commercial imperatives. The LBL and the GLA are misguided in their support for the development and have failed to safeguard and promote the public interest in this outstanding site.

Dr Golding – Local resident (representation written by Maven Plan Limited)

14.53. The proposed development would have a major adverse impact on four windows serving habitable rooms in Flat 1220 in the Whitehouse Apartments as a result of the height, proximity and orientation of proposed Buildings 4A and 4B. There would be a very large reduction in daylight, between 43% and 50%, to the assessed windows, and the proposed buildings would directly obscure sunlight, particularly during winter months. There would also be significant adverse impacts to over 25% of south facing windows of habitable rooms in apartments in the block.

14.54. The proposed development would create an over dominant backdrop to nationally significant cultural buildings to the north, a cramped setting for the Shell Tower, and a highly visible intrusion into views from the WWHS. English Heritage and WCC are of this view and also object because the tallest towers would be visible from St James's Park. The proposals fail to adhere to paragraphs 132 and 133 of the NPPF, which seek to ensure that the heritage assets and their settings should not be harmed by the development proposals for the Shell Centre site.

14.55. CABE have raised specific concerns about the proximity of Building 4A to the spur on the railway viaduct and to the pedestrian bottleneck that would arise.

The practical failures of this proposed route emphasis the cramped siting and massing of the proposed buildings. Given also the adverse impact on daylight at neighbouring residential properties, the poor provision of daylight in proposed apartments, and the impact on the wider area, the development would create a sub standard and unusable public realm.

Mr Ball, Ms Spater, Mr Wong, Mr and Mrs Mills, Mr and Mrs Davies, Mr Walker, Mr and Mrs Burke, Dr Scott and Professor Darbyshire, and Mr Lee – Local residents

14.56. The proposed development will reduce the amount of open space on the site, will be too dense, will be too high, and will be out of scale with its surroundings. The architecture is poor, the design is uninspiring and harm will be caused to heritage assets in the SBCA, in the WWHS and in St James's Park. It will be prominent in views from across the river and will have an adverse effect on the amenities of local residents by reducing the amount of sunlight and daylight in their homes. The developer's contribution to affordable housing should be higher. The proposals will have a significant adverse effect on air quality and will result in traffic congestion on the roads in the vicinity of the site.

Mr Haliman – Local resident

14.57. As a chronic asthma sufferer I will be badly affected by dust from the demolition of the existing buildings on the site, as will my young daughter who is already showing signs of developing her own acute respiratory problems.

The Theatres Trust

14.58. The Trust regrets the loss of the basement theatre that is part of the staff facilities on the site. A scheme for the redevelopment of the site should include the retention of the Shell Theatre.

London and Continental Railways Limited

14.59. The proposals would create a number of new and significantly improved routes through the Shell Centre site from the railway station to the riverside. The proposed new high quality retail and commercial space, in addition to hundreds of new homes will act as a catalyst for redevelopment of the area.

Network Rail

14.60. The development of the Shell Centre site offers a fantastic opportunity to stimulate and promote the economic regeneration of the area.

St John's Waterloo

14.61. The Waterloo area will benefit from an increased residential community and the proposed scheme will open up the area to the river and to the South Bank. The scheme is of high quality and will result in the retention of Shell as a major employer in the area.

Councillor Peter John – Leader of the London Borough of Southwark

14.62. The Shell proposals are of high architectural quality and are sympathetic to their surrounding historic 20<sup>th</sup> century environment. They are respectful of views across the river, they leave the Shell Tower as the primary feature of the site, and they offer a good mix of residential and office space.



## **15. CONDITIONS AND SECTION 106 LEGAL AGREEMENT**

### Conditions

15.1. A list of suggested conditions for the four applications was jointly submitted to the Inquiry by LBL and the Applicants. These were commented on during the course of the Inquiry by opposing parties and some suggested conditions were amended. RCL, alone, retained concerns about some of the conditions and these concerns were heard towards the close of the Inquiry.

15.2. One of RCL's principal concerns is that many important considerations require future submission of information to the Council and that local residents would not be consulted on this information before it is approved. Their concerns include lighting, vehicular activity associated with servicing and deliveries to the site, and disturbance during the construction process. It is not uncommon for such aspects to be the subject of conditions particularly for large developments such as that proposed. Furthermore, the Council has a duty to consult whoever might be affected by the matters on which information is submitted to them and there is no reason to suppose that LBL would not do so in this case.

15.3. Concern about potential disturbance for local residents from service deliveries to the site at unsocial hours is a matter that is covered by a condition requiring the prior approval of a Delivery and Service Management Plan. Concern about the provision of on-site play equipment for children aged under 5 has been addressed by incorporating the need for the developers to seek the Council's prior approval of 'play equipment for the amenity areas either side of Building 4B' in a landscaping condition.

15.4. Local residents have expressed concern about the opening hours of Class A1-A5 uses imposed in some of the suggested conditions. The suggested hours of opening are similar to those of existing A1-A5 uses in the County Hall complex and are not, also given the location and surroundings of the site, inappropriate.

15.5. The suggested conditions for the four applications have been amended, where necessary, in the interests of clarity and precision and in accordance with Circular 11/95. Recommended conditions for the four applications are set out in appendices to this report.

### Section 106 Legal Agreement

15.6. A draft Section 106 Legal Agreement was submitted to and discussed at the Inquiry. A final signed and dated version was submitted to the Planning Inspectorate on 20 December 2013 and is included as ID BE20. The main provisions of the Agreement are for the development to include:

- Affordable housing including a Viability Review Mechanism;
- Employment and Skills Plan;
- Employment Strategy;
- Highways Works pursuant to an Agreement under Section 278 of the Highways Act 1980;
- Car Club;
- Neighbourhood Coordination Group;
- Public Art Strategy;
- Public Realm, Landscaping and Estate Management;

- Energy Centre;
- £1,000,000 Leisure Contribution in 8 instalments each payable on completion of a Building;
- About £2,000,000 Education Contribution in 6 instalments payable on completion of Buildings 3, 4A, 4B, 5, 6 and 7;
- About £925,000 Health Contribution in 6 instalments payable on completion of Buildings 3, 4A, 4B, 5, 6 and 7
- About £160,000 Children and Youth People's Play Space Contribution in 6 instalments payable on completion of Buildings 3, 4A, 4B, 5, 6 and 7;
- £230,000 Cycle Hire Contribution;
- £30,000 Legible London Contribution;
- £150,000 York Road Improvement Contribution;
- £600,000 Revenues Contribution payable in ten equal yearly instalments for the maintenance of Jubilee Gardens;
- £200,000 Milk Passage Contribution in two equal instalments;
- £400,000 IMAX Roundabout Contribution in three instalments;
- £117,277.66 Landscaping Contribution in two equal instalments;
- £1,000,000 Community Facilities Contribution in three instalments;
- £650,000 Local Labour in construction Contribution;
- £1,000,000 Job Brokerage Contribution in three instalments;
- £375,000 Council Fee for monitoring Section 106 Obligations.

15.7. The Section 106 Obligations are all related to requirements of development plan policies and are all necessary to make the development acceptable in planning terms. They are all, furthermore, directly related to the development and are fairly and reasonably related in scale and kind to the development. The Legal Agreement therefore complies with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and weight needs to be attached to it. LBL submitted a CIL Regulation Note at the Inquiry (ID LBL9).

## 16. INSPECTOR'S CONCLUSIONS

*Numbers in square brackets at the end of each paragraph refer to earlier paragraphs in sections of this Report.*

16.1. My conclusions are based on the matters that the Secretary of State wishes to be informed upon, design, heritage assets and the development plan, on the additional matters that I consider to be significant, residential amenity and affordable housing, and on other matters raised by third parties. I introduce sub-matters, based on topics of debate at the Inquiry, and I have assessed each matter and sub-matter against the relevant provisions of the development plan.

### **The extent to which the proposed development is consistent with Government policies requiring good design (NPPF Section 7)**

#### Tall Buildings – Policy Background

16.2. The LP identifies the Shell Centre site to be in the CAZ and in the WOA. LP policy 2.13 requires development in the WOA to optimise residential and non-residential output and density and contain a mix of uses. LP policy 7.7 states that tall buildings should be part of a plan-led approach and should be, amongst other things, generally limited to sites in the CAZ. This policy also requires that Boroughs should consider which areas are appropriate, sensitive or inappropriate for tall buildings and identify them in their LDF. [9.6, 9.7, 9.11, 10.9, 10.19, 10.20, 11.20]

16.3. CS policy S9 supports tall buildings where they are an appropriate development form for the area, particularly where this contributes to area regeneration and local distinctiveness and makes the most efficient use of land. CS policy PN1 supports development and uses of an appropriate scale and form to reinforce the distinct identity of the four character areas. Diagram 1 that follows policy PN1 places the Shell Centre site in the RCA. [9.13, 10.11, 10.54, 11.18, 11.21, 13.15, 13.16, 13.17]

16.4. The tall building strategy in the WOAPF identifies two broad areas that are considered to be suitable for tall buildings – above and around Waterloo Station and on the commercial spine behind the Riverside buildings; one of which is the Shell Tower. This conclusion is reached because, amongst other things, they are in the WOA and Waterloo Station is a transport interchange. The WOAPF flows from identification in the LP of the WOA and was adopted following a thorough consultation process. It is part of the plan-led approach to tall buildings advocated in LP policy 7.7 and is a significant material consideration. [9.11, 9.12, 9.14, 9.43, 10.17, 10.18, 10.22, 11.17, 12.2, 13.19, 15.20]

16.5. The UDP identifies the Shell Centre site as MDO93 and tall buildings are supported by UDP policy 40. The WASPD identifies the Shell Centre site as a development opportunity and places the Shell Centre within those 'areas sensitive to tall buildings' as opposed to areas where tall buildings would be inappropriate. The RCA is regarded to be an area 'generally considered inappropriate' for tall buildings, those over 25 metres high, but high quality design may justify development proposals stepping up from Belvedere Road. [9.13, 9.67, 10.17, 10.18, 10.19, 10.23, 10.54, 11.16, 11.18, 13.22, 15.20]

#### The Proposed Tall Buildings – Compliance with Policy

16.6. The only question mark against the suitability of the Shell Centre site for the location of tall buildings is the provision in the WASPD that the RCA is 'generally

considered inappropriate' for tall buildings. But the SPD does encourage tall buildings stepping up from Belvedere Road if they are of high quality design. This consideration will be covered later in these conclusions and can be set aside for this part of the report. Otherwise there is robust plan-led support, from the LP through the CS to the WOAPF, for the erection of tall buildings on the Shell Centre site. [9.13, 9.67, 10.17, 10.18, 10.19, 10.23, 10.54, 11.16, 11.18, 13.22, 15.20]

16.7. The plan-led support for the erection of tall buildings on the Shell Centre site has driven the overall master plan for the site. To do otherwise would have required the Architect of the master plan to ignore the requirement of LP policy 2.13 to optimise residential and non-residential output and density for development in the WOA. The previous LP required development in the WOA to be maximised whereas the current LP requires it to be optimised. This is a subtle change. Optimisation, in my view, requires maximum output without causing unacceptable harm. This view generally accords with the definition of 'optimisation' set out in paragraph 1.3.1 of the LHS. Whether the proposed development causes harm will be assessed later in these conclusions. [9.6, 9.7, 9.11, 10.9, 10.19, 10.20, 11.20]

16.8. The Shell Centre site is in the RCA, the CAZ and the WOA, and there is strategic and local policy support for tall buildings in these designated areas. The site is in an area that is identified in the WASPD to be a sensitive location for tall buildings, the tall buildings proposed for the site would be in the commercial spine identified in the WOAPF, and they would be behind the Shell Tower. The principle of including tall buildings in the proposed development accords with policies set out in the LP, the CS, the UDP and the WOAPF. [9.66, 9.67, 10.12, 10.42, 11.22, 12.6, 13.23, 15.20]

### The Design of the Proposed Development

16.9. The proposed development is, in effect and notwithstanding the retention of the Shell Tower, the redevelopment of an entire city block that is bounded on three sides by roads and on the other side by a railway viaduct. But rather than one Architect designing one development, five Architects have been engaged to contribute individual elements of the redevelopment scheme. This is an entirely appropriate approach but is also driven by the plan-led need to improve permeability through the site from Waterloo Station to the riverside attractions such as the London Eye and Jubilee Gardens. The WASPD sets one of the development principles to be 'the improvement of permeability and pedestrian linkages through the site'. [9.24, 10.13, 10.54, 12.53]

16.10. Thousands of people, particularly visitors to the area, arrive at Waterloo Station, via train or the underground, to access the amenities along the South Bank. They pour out of the station and head west to cross York Road at the north-east corner of the site. Currently, as the Shell Centre site is closed off to public access, they either head along Sutton Walk under the railway viaduct towards the South Bank Centre, or along the pavement to York Road towards the London Eye via the Shell Centre podium or Chicheley Street. York Road is an inhospitable and dull environment and the York Wing of the Shell Centre is an impermeable visual and physical barrier to access to the riverside. [9.18, 9.26, 10.25, 15.19]

16.11. The proposed redevelopment proposal would redress the current impermeability of the site. After crossing York Road, at an improved crossing, pedestrians would then immediately have a route through the site between Buildings 3 and 4A towards the proposed square and beyond to improved crossings of Belvedere Road. If pedestrians, having crossed York Road, venture further along the pavement they would then have two other opportunities to pass through the site

towards thoroughfares either side of the Shell Tower. These pedestrian linkages through the site are precisely those that are envisaged by the WASPD. [9.26, 9.28, 10.20, 10.23, 10.25, 12.54, 13.21]

16.12. The pedestrian route from the York Road crossing alongside the railway viaduct has been criticised for being confined and narrow. But this would probably be a little used route because the main pedestrian desire lines are diagonally across the site and, with Building 4A set back from York Road, the north wall of Building 3 would guide pedestrians towards the square and beyond. The thoroughfare between Buildings 1 and 2 has also been criticised for being too narrow. But this is a route that is likely to be used predominantly by office workers for access to Building 1, which is the building that has been pre-let to Shell to complement existing accommodation in the Shell Tower. [9.27, 9.28, 10.24]

16.13. The routes through the site are wide enough to accommodate likely pedestrian numbers and narrow enough to create a vibrant and active environment that would be complemented by the frontage retail and café/restaurant uses that would be within the ground floor areas of all of the proposed buildings. The overall scheme layout for the site has been carefully planned and responds to plan-led principles and to the specific circumstances and relationship of the site to the riverside amenities and to the transport hub that is Waterloo Station. The development would include active frontages to York Road and would improve the current somewhat dull frontage to this main road. [9.24, 9.34, 9.36, 10.23, 10.24]

16.14. Building over the podium has been established, in principle, by the implemented BCS. This space is currently used as a route from York Road to the riverside but is dull, underused and inaccessible to the disabled. Buildings 1, 6 and 7 that would be built over the podium would create a strong edge to the city block but would also have active and attractive frontages. Buildings 1 and 7 would be set well back from Chicheley Street which would remain a main thoroughfare for pedestrian access to the riverside. The development overall, in terms of the public realm, would have a strong sense of place, would have an active, pleasant environment at ground level, and would be accessible by all. [9.25, 9.34, 9.36, 10.23, 10.24]

16.15. The proposed buildings either side of the Shell Tower are significantly lower than the tower itself and the three tallest of the proposed buildings would have relatively small footprints and would form a small cluster at the north-east corner of the site. There would also be a significant gap between the Shell Tower and the cluster of three tall buildings and the Tower, given its height, scale and robust appearance, would remain the prominent and dominant building on the site. The three tall buildings would create a landmark feature at the corner of the site. All of the buildings have been carefully and sensitively designed in their own right and, together, would be cohesive and would complement the Shell Tower. [9.18, 9.23, 10.23, 10.24, 13.18, 13.22, 15.19]

16.16. Cohesion would be largely derived by the use of Portland stone as a principal external material; the Shell Tower is clad in this material. But the Architects have designed buildings with a lighter scale and form that would complement the robust architecture of the Shell Tower. Apart from Buildings 2 and 5 the buildings would have stone frames with metal and glass infill panels. This type of external envelope would contrast with, but complement, the Shell Tower which has a stone shell punctured by vertical windows. Building 2 would be entirely different, it would be fully clad in glazed curtain walling, but the location of this type of building has been carefully chosen. [9.23]

16.17. Building 2 would cover the centre point of the site, would be directly behind the Shell Tower, and only its east elevation to York Road would be seen from any great distance. Otherwise it would contrast with and complement the similar buildings to the south and north, and the robust Shell Tower to the west. It would break up what would otherwise be a development with a wholly similar appearance. Building 5, to the north of the Shell Tower, would also have a different appearance than most of the other buildings, but only in form, not in principal material. On this building the stone cladding would be solid sculptured planes rather than frame members, and would be horizontal in articulation rather than vertical. Its solid expression is appropriate to its location, which would be between the Shell Tower and the railway viaduct. [9.23, 9.67, 10.13, 10.24, 13.18]

16.18. All the buildings display architectural skill, would have well articulated elevations, and would be constructed using high quality materials. There is, furthermore, a balance to be struck when designing, at the same time, eight buildings on the same city block and around a prominent existing building. Too similar and the whole would dull, too different and the whole would be confused. It is my view that the Architects of the buildings, and in particular the Architect who created the master plan and who coordinated its elements, have created a cohesive architectural composition. The proposed development would be high quality design in accordance with LP policy 7.6, CS policy S9, UDP policy 40 and the WASPD.

#### The Proposed Development in Context

16.19. There is uncertainty about whether the proposed Elizabeth House development will be built. I will therefore consider the proposed development in relation to its existing context and then consider it in relation to the proposed Elizabeth House development. The proposed development does make adequate provision, given the uncertainty, for either the incorporation, or not, of the footbridge across York Road from Elizabeth House.

16.20. The main parties have all referred to, and have compared the proposed development with, tall building schemes at Doon Street, Blackfriars Road and elsewhere, and the Appellant's photomontages show these in outline. I have, however, considered the proposed development on its merits and have only referred to the other tall building schemes where necessary.

16.21. To the west of the site the immediate context is Jubilee Gardens and the riverside embankment footpath. From here the Shell Tower would remain the prominent feature of the development and would be flanked to the left by Building 5 and to the right by Buildings 6 and 7. Though the latter two buildings are linked at their lowest floor levels they are, visually, two distinct buildings. Building 7 would be slightly higher than the County Hall North Block and Building 6 would be nine storeys higher and would 'step-up' towards the Shell Tower. Development would thus rise up from County Hall to the Shell Tower. Building 5 would be less than half the height of the Shell Tower, would have a horizontal visual emphasis to complement the railway viaduct, and would have the tight cluster of three tall buildings behind it. [9.25, 9.34, 10.20, 10.23, 10.24, 10.25, 15.19]

16.22. In views from the gardens and from the riverside footpath the cluster of three tall buildings would be, given the solid barrier of Building 5, very much in the background. It would be the foreground development, Building 5, the Shell Tower and Buildings 6 and 7, that would be the backdrop for the open space and in this composition the central Shell Tower would be the prominent feature. It would continue, as it has been for in excess of 50 years, the principal built form to the east from the open area. The architectural composition, with the other proposed buildings

in the background, would complement the attractively landscaped gardens which, it is to be hoped, will extend across Hungerford Car Park. [9.25, 9.34, 10.20, 10.23, 10.24, 10.25, 15.19]

16.23. Building 1 would have a wide frontage to Chicheley Street but the height of this frontage and the height of neighbouring Building 7 would be about the same as the height of the parapet to County Hall North Block, which has two storeys in a mansard above parapet level. There would be a wide pavement in front of Buildings 1 and 7 and there would be about 26 metres between built development on opposite sides of the street. The scale of proposed development on the north side of Chicheley Street is commensurate with that of the entire County Hall. The fact that the proposed development then steps up across the site to the north reflects the prominence of the Shell Tower and the policy requirement to optimise development on the site. [9.25, 9.34, 10.20, 10.23, 10.24, 10.25, 15.19]

16.24. The WASPD requires that "...a view of the London Eye from York Road should be retained". Surprisingly, little mention was made at the Inquiry of the fact that Buildings 1 and 7 would obscure views of the London Eye from some parts of York Road. One of the pleasures of a cityscape is the tantalising glimpses of landmark features that draw a person through the built environment. Whilst there would probably be no glimpses of the London Eye, a distinctive landmark feature of the riverside, from within the Shell Centre development, a view would remain of the Eye along Chicheley Street from York Road. This would be a tantalising glimpse rather than an expansive view across the podium but a view of the London Eye from York Road would be retained nevertheless.

16.25. The WASPD also requires that "...the perceived canyon-like character to York Road should be addressed". This canyon-like character is derived, principally, from the existing Elizabeth House development which has a continuous high wall close to the road. A pedestrian walking along a pavement between a road and a building is only aware of maybe the first two storeys and is not aware of how high the building is. What the pedestrian is most aware of is how active the frontage is and whether it is permeable. The proposed development would have an active frontage along the entire York Road frontage, would be permeable in two places, and would widen out in front of Building 4A. The development would be closer to the highway than the existing York Wing but, though it cannot address what is opposite, it would not exacerbate the canyon-like character of York Road. It would, also, address the 'unpleasant environment' of York Road and would 'upgrade this street'. [9.26, 10.23, 10.24]

16.26. CS policy PN1(c) encourages the creation of a 'loose cluster' of tall buildings in the Waterloo area. It has been pointed out that the three tallest buildings of the proposed development would be a tight cluster rather than a loose cluster. But strategic and local planning policy, and the WASPD and WOAPF, envisage more tall buildings on and around Waterloo Station and the tight cluster of tall buildings on the Shell Centre site would, if future envisaged developments materialise, become part of the loose cluster mentioned in CS policy PN1. [11.21]

16.27. Most criticism of the proposed development, in context, is directed towards the cluster and height of the three buildings in the north-east corner of the site. These buildings, with regard to the limit set in the WASPD, would be well over 25 metres high but Building 5, which would have an entirely appropriate height in relation to the Shell Tower, would be over twice the height of the limit. It has already been established that the proposed development would be high quality design so development stepping up behind Belvedere Road is justified under the terms set out in the WASPD. The proposed development steps up from Building 5 to

Building 4B and then up again to Building 4A. Development would also step up along the York Road frontage to Building 4A. [9.23, 10.15, 10.18, 15.19]

16.28. Building 4A would be the highest proposed building, and would be higher than the Shell Tower. But the building, and the cluster of three buildings, would be separated from the Shell Tower by the proposed square and would have a closer relationship to the Elizabeth House development, whatever that might be in the future, and to Waterloo Station, particularly in views from the IMAX roundabout. From the vicinity of the roundabout the three slender towers, that are bold in design, subtle in detail, and framed in an appropriate material, would combine to be a prominent and distinctive feature of the Waterloo area. Figure 50 in the WOAPF can be afforded little weight, it is of a concept model, but it envisages buildings on Waterloo Station of far greater height than those proposed on the Shell Centre site. If these buildings were to be realised in the future the proposed development would be part of the step up to development on and around Waterloo Station. [9.11, 9.13, 10.18, 11.17]

16.29. Criticism has also been directed at the proposed density of the housing on the site. The density would exceed that given in Table 3.2 in the LP but developers and local authorities are directed not to apply the table mechanically. The underlying thrust of policy is to optimise housing output, particularly in Opportunity Areas such as the WOA. The proposed development would be in the WOA, would maximise housing output and does not cause harm, in regard to its context. The development therefore, in my view, optimises housing output and accords with the thrust of strategic and local policy. [9.9, 10.10, 12.5]

16.30. The proposed development would have an appropriate mix of uses at ground level and the public realm would be enhanced, particularly at the north-east corner of the site and along the three roads that bound the site as required by the WASPD. The proposed buildings and the proposed layout of the site constitute high quality design and there is no reason to suppose that this high quality would not be continued throughout the detailed design of the development and through the construction process. The proposed development, in layout, scale and form, is appropriate in context, particularly in the context of its proximity to Waterloo Station, which affords uses on the site high public transport accessibility. In this regard the proposed development accords with LP policies 2.13, CS policies S9 and PN1, and UDP policies 31 and 40, and with guidance in the WASPD and the WOAPF. [9.8, 9.18, 10.11, 10.12, 10.24, 12.57]

16.31. The Elizabeth House site is long and narrow and is between York Road and the unused Waterloo International Station. The principal feature of the redevelopment scheme would be a stepped tower at the north end of the site (it is this feature of the scheme that is visible in the Applicants' photomontages of the area). The building on the site would be a steel and glass structure and the tower would rise to a height only slightly less than the height of Building 4A, which would be on the opposite side of York Road. The tall buildings on the Shell Centre site and the Elizabeth House tower would be the cluster of tall buildings in the Waterloo Area envisaged by CS policy PN1(c) and in local planning policy and in the WASPD and the WOAPF. Though the two schemes together would not step down towards the river there would, nevertheless, be a general cascade of development in that direction from Waterloo Station, and development would step down towards the river if even taller buildings are built over Waterloo Station, as envisaged in the WOAPF.

16.32. The Elizabeth House tower would have a simple form and plain articulation. It would, in some respects, be similar in appearance to Building 2 but the two schemes, overall, would be different in character and appearance. However,



in London schemes of different eras and of different architectural styles stand close alongside each other and each scheme contributes to a rich and varied townscape. The Shell Centre scheme and the Elizabeth House scheme would be complementary and together would contribute to this rich and varied townscape.

### Conclusion on Design

16.33. The proposed development constitutes high quality and therefore good design, and would make the Waterloo Area better for people, including current and future residents, workers and visitors. The development thus accords with paragraph 56 and Section 7 of the NPPF.

### **The extent to which the proposed development is consistent with Government policies in planning for the conserving and enhancing of the historic environment including the impact on the WWHS (NPPF Section 12)**

16.34. The Franta Belsky Fountain, the subject of Application C, would be dismantled and relocated between Buildings 4a and 5. No one has raised any concerns regarding the resiting of this heritage asset. At present the fountain is not located within an accessible public space and cannot therefore be appreciated. The fountain has no specific relationship with the Wing buildings and its current location does not contribute to its historic significance. Its relocation within the public realm of the proposed redevelopment scheme would enhance its heritage significance and accords with the requirement of Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

16.35. The Applicants have produced photo-montages of the proposed development from many viewpoints, including those deemed important in the LVMF. These photo-montages have assisted greatly in my understanding of the scale and form of the development and its relationship to heritage assets. My assessment has been informed to a greater degree, however, from personal experience gained on the formal Inquiry site visit and on many other walks around the area and the WWHS - before, during and after the Inquiry.

### The Setting of Listed and Locally-Listed Buildings on the South Bank

16.36. The setting of the listed buildings on the south bank is, above all, the River Thames. Each building, in particular County Hall, the Royal Festival Hall and the Royal National Theatre, derive much of their significance from proximity to the river and to Queens Walk alongside the river; all pedestrians crossing the river use Queens Walk to gain access to the listed buildings. Jubilee Gardens also contributes to the setting of County Hall and to the setting of the Shell Centre.

16.37. The proposed development would be set behind the riverside band of listed cultural buildings and behind Jubilee Gardens. It would, in effect and in visual terms, be a second band of development away from the river and would be appropriately of greater scale. From within the SBCA and in views from in and around the listed buildings, the proposed development would not harm the setting of the listed buildings. Some criticism has been made of the difference between the horizontal emphasis of the riverside buildings and the vertical emphasis of the proposed buildings on the Shell Centre site. Adherence to one particular form or style of building, in a world city that has developed over many centuries and which includes a full array of architectural styles, would result in a dull townscape. The contrast in visual emphasis, given that the development is set back from the river, would be, in my view, visually pleasing and complementary. [9.23, 9.32, 10.26, 10.38, 13.18]

16.38. The settings of the heritage assets, including the locally listed Shell Tower and the listed buildings along the riverside, are appreciated to a greater degree, than from within the SBCA, in views from Waterloo Bridge, Westminster Bridge and the upstream Jubilee Footbridge, and from Victoria Embankment on the west bank of the river between Westminster Bridge and the Footbridge. These views include River Prospect Views 15, 17, 18 and 20 as designated in the LVMF.

16.39. The listed buildings along the south side of the river are all robust, set-piece buildings. They differ greatly in style and character but they are all distinctive in their own right and, given their riverside setting, they are prominent features in views from the bridges and from the opposite side of the river. In the LVMF views the Shell Tower is also a prominent building but it is clearly seen to be in the second band of development away from the riverside. Its setting is principally defined by Jubilee Gardens and it is another robust, set-piece building like the others on both sides and closer to the river. The setting of the Shell Tower, together with its Wings, is most appreciated from Victoria Embankment directly opposite the gardens. It is in this view, LVMF view 20A.1, that the proposed development would be best appreciated. [9.31, 9.32, 10.29, 13.9, 15.18]

16.40. The quality of all the proposed buildings has already been mentioned and need not be repeated. The Shell Tower would be flanked by Buildings 5 and 6/7 with the other buildings in the background. In this view, as in many others along the river, the eye is drawn to the London Eye, the most distinctive and prominent feature of riverside panoramas. Given also the height and scale of the buildings on either side, the Tower would retain its relative prominence and its setting would change, but would not be harmed. With regard to LVMF view 20A.1, the new development has been sensitively designed, would respect the heritage assets in this view and their settings and would not compromise or dominate the composition of the landmark buildings that characterise the South Bank. [9.34, 9.35, 9.36, 10.23, 11.20, 13.10, 15.20]

16.41. The same would be the case in the view from the upstream Jubilee Footbridge, LVMF view 17A.2. The Eye would be the most prominent feature and the Shell Tower would not stand alone but would be the centrepiece of a complex development. The history of the Shell Tower is interesting but it cannot be considered to be of high architectural merit and it would benefit from being part of a modern high quality development rather than standing alone with its Wings. With regard to this LVMF view, the proposed development would not undermine but would strengthen the Shell Tower's position as a feature in the middle ground and would not harm its setting, or the setting of County Hall, or the setting of any other listed buildings. [9.35, 10.27, 13.14, 15.20]

16.42. LVFM views 15A.1 and 15A.2 are from Waterloo Bridge towards the Royal Festival Hall with the Royal National Theatre to the left and the London Eye and County Hall to the right. In these views the Shell Tower is directly behind the Royal Festival Hall and is clearly separated from it by the railway viaduct. The LVMF recognises that new clusters of tall buildings may emerge in the WOA and it is worth noting that the plan-led approach to the development of tall buildings in the WOA flows into, and is recognised in, the LVMF. As previously noted, the Royal Festival Hall and other listed buildings along the south bank of the river are robust set-piece buildings and the proposed development of tall buildings would be related to the Shell Tower and would be in the background behind the railway viaduct. Some argue that the proposed development would be visually intrusive but it is my view that the architectural and historic merit of the listed buildings would not be undermined and no harm would be caused to their settings. [9.35, 10.27, 13.14, 15.20]

16.43. LVMF view 18B.1 is from the west end of Westminster Bridge towards the London Eye with County Hall to the right and in the foreground, with the Shell Centre in the background. The Eye catches the eye in this view but County Hall, given its mass, scale and width, is the most significant built feature. It dominates the view and the Shell Tower is distinctly in the background and, given also its limited architectural merit, of lesser visual value. The proposed development around and behind the Shell Tower, with regard to guidance in the LVMF, would be a legible cluster of tall buildings that would not undermine the prominence of County Hall, would be of the highest quality, and would not dominate the landmark buildings or diminish their relationship with the river. [9.35, 10.27, 13.14, 15.20]

16.44. Bringing all these considerations together it is my view, taking into account views within and from outside the area around the Shell Centre, that the proposed development would not harm the setting of any listed building on the south bank of the river. The proposed development thus accords, in this regard, with the requirement of Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and with LP policy 7.8 and UDP policy 45.

#### The Setting of the WWHS and Heritage Assets on the North Bank

16.45. The LWHS does not designate a buffer zone for the setting of WWHS and no party to the Inquiry has suggested that the setting of the WWHS or any listed building or conservation area on the north side of the river extends across the river. In views from within the WWHS and from within any conservation area on the north side of the river the proposed development on the Shell Centre site, if it can be seen, must therefore be regarded to be in the background of these views.

16.46. LVMF viewpoints 27A.1 and 27A.2 are on the south side of Parliament Square and therefore within the WWHS. From these points the principal feature of the view is the Elizabeth Tower. To the left of the Elizabeth Tower, in the gap to Portcullis House, is County Hall, across the river and in the background. Further in the background is the Shell Tower. The proposed development around the Shell Tower would be visible from viewpoints 27A.1 and 27A.2 but, with regard to guidance in the LVMF which flows from the plan-led support for development in the WOA, the buildings would be of the highest architectural quality. Though they would be in the background of the setting of the WWHS they would not cause any harm to this setting or to the outstanding universal value of the WWHS. It is worth noting that the proposed development would not be seen in any important views identified in the MVSPD. [9.44, 9.49, 10.31, 10.32, 11.12, 15.10]

16.47. Whilst the LVMF views have been chosen to assess, consistently, possible future development wherever it may be planned, views in Parliament Square are fluid and are dominated by the very significant heritage assets that surround it. These heritage assets are of the highest national significance and not even the London Eye, which appears above Portcullis House, detracts from an appreciation of the heritage assets or the WWHS. This is not to say that any development would be acceptable but the proposed development would be in the background, would be outside the setting of the WWHS, would be of the highest architectural quality, and no harm would be caused to the setting of any listed building in the WWHS. [9.50, 10.32, 11.13, 15.10, 15.11]

16.48. Further afield the principal concerns are for the view from the Blue Bridge in the St James's Park RPG and for the setting of the FCO and Horse Guards. On several occasions I spent time appreciating the view east from the Blue Bridge towards the FCO and Horse Guards. I also spent time observing other people in the vicinity and how they appreciated the view. Apart from office workers passing across

the bridge who were unaware of their surroundings, tourists and visitors were most attracted by the flora and fauna of their immediate surroundings and were then attracted by the view towards Duck Island and the fountain in the lake. The distant buildings of the FCO and Horse Guards will be in the background of their photographs and memories but they were not significant to their appreciation of the view.

16.49. But the view from the Blue Bridge is LVMF view 26A.1 and I accept that it is a view that is important to those who appreciate the history of the planned landscape of the RPG and the contribution to this landscape of the listed buildings of Horse Guards and the FCO. In this regard, the RPG is the setting of the listed buildings. The FCO and Horse Guards are important in the LVMF view and in any other view from the Blue Bridge and the buildings that appear above them are background layers of architecture and history. The spires and towers of Whitehall appear behind Horse Guards and so does the Shell Tower and the London Eye behind the FCO. Despite being a lightweight structure the London Eye is the background feature that indisputably catches the eye. [9.51, 9.53, 10.33, 11.5, 11.7, 15.2, 15.3]

16.50. The London Eye was intended to be temporary but will probably be, now that it is an iconic structure and important tourist attraction of London, a permanent feature in views from the Blue Bridge and the St James's Park RPG. It is a prominent feature in the views but it is clearly in the distance; a background layer of history. The Shell Tower peaks above the FCO in some views but is not significant in these views. The proposed tall buildings of the proposed development would be seen alongside the Shell Tower and the London Eye. Framed in Portland Stone, the same material as the FCO, and of the highest architectural quality, the proposed tall buildings would be accepted as partners to the Shell Tower and as another contribution to the layers of history behind the listed buildings that border St James's Park to the east. [9.54, 11.7, 11.9, 15.6]

16.51. The view from Horse Guards is not an LVMF view but is a view that is included in the MVSPD. Building 4A would be behind the Shell Tower and would not, even though it is higher, given perspective, appear other than alongside the dominant Tower. It would cause no more harm to the view from Horse Guards, given its close relationship to the Tower, its sympathetic material and high quality design, than is already caused by the Shell Tower and the London Eye. [11.11]

16.52. The tops of the proposed buildings, alongside the Shell Tower, would be visible in views from the Blue Bridge but would be outside and would not harm the settings of the WWHS, the St James's Park RPG, the several Conservation Areas on the north bank of the river, or the many listed buildings within these designated areas. The proposed development thus accords with the requirements of Section 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and with LP policies 7.8 and 7.10. [9.65, 10.39, 11.32, 15.15]

#### The South Bank Conservation Area

16.53. The Shell Centre, including the Tower, the upstream Wings and the downstream building, was a planned development and part of the comprehensive redevelopment of the South Bank designed by a renowned Architect/Planner. It may, by some, be regarded to be a heritage asset of the highest value and its architectural and planning significance is comprehensively recorded in three Inquiry documents (TCS 1, 2 and 3). These documents are a valuable source of information and would be informative for anyone interested, in the future, in the history of the Shell Centre. The Wing buildings, however, in my view, are dull and uninteresting and, irrespective of their history and that they are part of a planned development,

have no more than a neutral effect on the character and appearance of the SBCA. [9.34, 9.35, 10.38, 13.3, 13.5, 13.9, 13.10, 15.18]

16.54. If the Wing Buildings stood alone they would not, on their own merit, be worthy of retention. Their historical significance as part of the Shell Centre is well documented and the demolition of the Wing Buildings would change, but would not harm, the character and appearance of the SBCA. [10.38, 13.5]

16.55. The effect of the proposed development on the character and appearance of the SBCA must be considered in the light of the plan-led encouragement for the mixed use redevelopment of the Shell Centre site, including the erection of tall buildings, and the policy requirement that housing output be optimised. Policy, both strategic and local, envisages a redevelopment scheme such as that proposed and requires that such a scheme is of the highest quality. [9.5-9.14, 10.6-10.11, 13.15-13.17, 13.20, 13.21, 15.19, 15.20]

16.56. The design and context of the proposed development have been considered before in this report and the overall conclusion is that it is of high quality. The effect of the proposed development on the settings of listed buildings within the SBCA has also already been considered in this report and I have concluded that no harm would be caused to those settings. The proposed development would change, but would not harm, the character and appearance of the SBCA. The proposed development thus accords with the requirement of 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and with LP policy 7.8 and UDP policy 47. [9.37, 10.30, 13.22, 15.15]

16.57. The conclusions reached on the historic merit of the Wing buildings and on the quality and effect of the proposed development on the character and appearance of the SBCA result in a conclusion that Application D should be approved, if Application A is approved.

#### Other Heritage Assets on the South Bank

16.58. Victory Arch, a listed building and an architectural feature that is an entrance to Waterloo Station, was mentioned during the Inquiry. The Arch can only be appreciated from a small area and the proposed development would not intrude into any appreciation of this historic feature. The proposed development, particularly the high towers, would be in the background of the vista along Whittlesey Street in the Roupell Street Conservation Area (RSCA). But the Shell Tower and the existing Elizabeth House development appear in this vista and any new development on the Shell Centre site or the Elizabeth House site would also appear in the vista. The background to the 19<sup>th</sup> century terraced housing is already modern and would remain so. No harm, given in particular the quality of the proposed development, would be caused to the character or appearance of the RSCA or to the character and appearance of the neighbouring Waterloo Conservation Area. [9.64]

#### Conclusion on Heritage Assets

16.59. The historical context of the Shell Centre includes many heritage assets of the highest significance, including the WWHS and Grade 1 listed buildings and a Grade 1 RPG. The proposed development is of the highest quality, would cause no harm to any heritage asset, and is consistent with Government policies in planning for the conservation and enhancement of the historic environment. The proposed development thus accords with paragraph 132 and Section 12 of the NPPF.

## Other Matters of Importance

### Affordable Housing

16.60. LP policy 3.11 seeks to maximise affordable housing provision and CS policy S2 seeks the provision of 40% affordable housing in a new housing development where no public subsidy is available. LP policy 3.12 and CS policy S2 require the developer to submit independently validated evidence of viability. [9.107, 10.43, 12.42]

16.61. The viability of the proposed development on the Shell Centre site, which includes 877 apartments, was independently assessed by BNP Paribas and a viability report was submitted to the LBL and to the GLA. That report has not been included with any Inquiry documentation. Instead, a 15 page summary of the report has been submitted in evidence and RCL were able to draw conclusions from it to support their case. The summary, and there is no evidence to suggest that it is not a true summary, indicates that the viability of the scheme does not support the provision of 20% affordable housing. However, the Applicants have committed to the provision of 20% affordable housing with 98 units on-site and 70 units off-site. Of the 98 units on-site, 52 units would be extra care units. [9.108, 10.44, 12.43, 12.45]

16.62. The provision of some of the affordable housing off-site has been criticised. But relative construction costs, between high-rise apartments and conventional housing, indicate that for every one unit provided on-site eight could be provided off-site. Furthermore, off-site housing would be where it is needed most, in the hinterland of the Borough, and would include family housing with gardens. An appropriate site has been identified and the scheme is being progressed. If the identified site does not come forward the Applicants would be required, through a provision of the Section 106 Agreement, to pay a commuted sum of £22,708,734 for the construction of affordable housing off-site. Furthermore, a significant proportion of the on-site affordable units would be extra care units, which are welcomed by LBL. These extra care units demand greater space and on-site facilities and it is to the Applicant's credit that they have incorporated such units into the scheme. [9.110, 9.111]

16.63. The Applicants, in addition to a guaranteed provision of 20% affordable housing against evidence of viability, have committed, if the viability of the scheme improves during the course of its construction, to the provision of up to an additional 20% of affordable housing. This would be achieved through a review mechanism which is also a subject of the Section 106 Agreement. In simple terms, if the sale price of the market housing reaches a pre-determined value, £2117 per square foot which would equate to a return on investment of 20%, the Applicants would be required to make a financial contribution of up to £24,480,000 towards the provision of additional affordable housing units. This amount, if realised, would result in the delivery of 40% affordable housing overall. The review mechanism and the aforementioned financial commitment have been independently validated by BNP Paribas. [9.112, 9.113, 10.46, 12.52]

16.64. I found the criticism at the Inquiry, by Mr Turner for RCL, of the values used to establish the review mechanism and the maximum financial contribution, to be confused. He questioned whether an Internal Rate of Return (IRR) of 20%, used by BNP Paribas in their assessment, was reasonable, without bringing forward any evidence to justify such a claim. An IRR of 20% is quite common for a development of such complexity as that proposed for the Shell Centre site. He also questioned the average sales figure per square foot used by the Applicants in their assessment and

the sales value used by BNP Paribas as a sensitivity test. He did produce evidence but some of this confirmed the figures used to assess the scheme and some was from a source that was used to market and promote schemes to investors, rather than figures used to assess development viability. [9.118, 10.44]

16.65. The Applicant's evidence is clear, is as precise as it can be, and has been independently validated by BNP Paribas, a leader in the field of development viability. The summary of the viability assessment is sufficient to show that the Applicant's provision of 20% affordable housing is contrary to the conclusion of the assessment, and their later assessment of what the sales value would have to be for the development to achieve an IRR of 20% is realistic. The Applicants need not have offered 20% affordable housing in the scheme and need not have made any offer to provide up to 40% affordable housing if viability of the scheme improves as it proceeds. That they have made both offers is to their credit.

16.66. The proposed development, on the basis of the viability assessment, maximises affordable housing provision and therefore accords with LP policy 3.11. The Applicants have submitted independently validated evidence of viability and the proposed development thus accords with LP policy 3.12 and, in this regard, with CS policy S2. The development does not include 40% affordable housing and therefore, in this regard, does not comply with CS policy S2. But the Applicants are committed, through the Section 106 Agreement, to review viability as the scheme proceeds and, if it improves to give an IRR of 20%, to provide up to 40% affordable housing and thus to comply with CS policy S2. This positive approach to maximise the provision of affordable housing is commendable. [9.120, 10.48, 12.52]

16.67. Helpfully, the Applications submitted at the Inquiry worked examples of how the review mechanism would be applied (ID BE15) and a Calculation of the Review Mechanism Payment (ID BE16).

#### Residential Amenity - Sunlight and Daylight

16.68. Sunlight and daylight in proposed and existing buildings are subjects of BS 8206-2:2008 'Lighting for Building' (CD G8). BS 8206 "...takes the form of guidance and recommendations. It should not be quoted as if it were a specification...", and makes reference to, amongst other documents, 'Site Layout Planning for Daylight and Sunlight – a Guide to Good Practice' (CD G7). [9.76, 12.33]

16.69. The Guide, at Figure 20, sets out a 'Decision Chart' for assessing the effect of proposed development on daylight in habitable rooms in existing development. The main questions to answer in turn are – "Is the vertical sky component (VSC) less than 27% for any main window?", "Is the VSC less than 0.8 times the value before?", and, if it isn't, "Is the no sky line (NSL) value less than 0.8 times its value before?". The Decision Chart indicates that if the answer is yes to the first two questions then daylighting is likely to be significantly affected and this would also be the case if the answer to the second question is no but the answer to the last question is yes. [9.79, 12.33, 12.34, 12.36]

16.70. Appendix I of the Guide indicates that it may be used as the basis for an environmental impact assessment and that where the loss of sunlight or daylight does not meet the guidelines the impact is assessed as minor, moderate or major adverse. Factors tending towards a minor adverse impact include, amongst other things, only a small number of windows are affected, the loss of light is only marginally outside the guidelines, and an affected room has other sources of skylight or sunlight. The effect of the proposed development on daylight and sunlight in habitable rooms of apartments in the Whitehouse Apartments and County Hall North

Block has been the subject of an environmental impact assessment and this is included in the ES. [9.81, 10.50]

16.71. County Hall North Block is opposite the undeveloped podium and apartments in this building benefit from high levels of daylight. But the podium is the site of the implemented but unbuilt BCS and Appendix F of the Guide indicates that it may be appropriate "...for the permitted scheme to be used as an alternative benchmark", though "...it would be inappropriate for it to be treated in the same way as an existing building". The Guide also suggests, in some circumstances, it may be appropriate to compare the proposed development with a mirror image of, in this case, County Hall North Block. A comparative assessment of the proposed development against a mirror image of County Hall North Block was included in the ES but was found to be incorrectly applied and has been discounted. A second assessment was carried out but this has not been the subject of independent verification. [9.80, 9.84, 12.36, 12.37, 12.38]

16.72. The Decision Chart mentioned above is clear. If, after applying the VSC test, the answers to the first and second questions are both 'yes' then daylighting is likely to be significantly affected, irrespective of the answer to the third question. The Applicants were wrong therefore to suggest that if the VSC test is failed for a particular window and room then if the NSL test is passed there would not be a significant effect on daylight. The tests need only both be applied if the answer to the second question is 'no'. This having been said, BS 8206 and the Guide are guidance and not rigid standards, the tests have to be applied flexibly, and all relevant factors must be taken into account. [9.79, 12.33, 12.34, 12.36]

16.73. On the formal site visit I was taken to 1220 Whitehouse Apartments, Dr Golding's residence. This penthouse two-storey apartment has large windows facing south and west; the views west being spectacular and the views south only slightly less so. The south elevation of the apartment would be about 48 metres from the gap between Buildings 4A and 4B, which would rise high above the Whitehouse building. There is no reason to doubt the assertion that there "...would be a very large reduction in daylight, between 43% and 50%..." to the assessed windows in the apartment. But this apartment, given its rooftop location and large picture windows to main habitable rooms, currently benefits from a very high level of daylight. The residents of the apartment would experience a noticeable reduction in daylight but not to a level that would result in the apartment, with regard to daylight, being an unpleasant place to live. [15.22]

16.74. I was not taken to any other Whitehouse Apartments so I must reach a conclusion, on the effect on daylight at these apartments, on the cases that have been put to me. Of the 285 windows assessed 76, 27%, would fail the VSC test. This could be regarded to be a high percentage but the tests have to be applied flexibly and all factors must be taken into account. 20 of the windows only fail the second VSC question by a small margin and the independent review of the ES considered the reduction in daylight to be marginal. Of the remaining 56 windows 50 of the respective apartments pass the NSL test and of the other six windows four are kitchen windows and two are to second bedrooms. It is unlikely, therefore, that residents in the apartments that are lit by these windows would notice any appreciable reduction in daylight. [9.81, 9.82, 9.83, 12.36]

16.75. Given the height and orientation of the proposed buildings, some Whitehouse Apartments would experience loss of sunlight. 21 of the 39 windows that would lose sunlight serve bedrooms and the remaining 18, living room windows, would retain good sunlight. The loss of sunlight would be greatest during the winter



but my assessment is that even during winter months living room windows would still receive some sunlight. [9.86, 15.22]

16.76. Taking all factors into account, and applying the BRE guidelines flexibly, it is my view that no apartment in the Whitehouse building would become an unpleasant place to live and that, therefore, the harm that would be caused by the proposed development to the amenities of residents of the Whitehouse Apartments, resulting from reduction in daylight and sunlight, would be less than substantial.

16.77. The apartments in County Hall North Block are north facing so loss of sunlight is not an issue. The apartments, given the undeveloped nature of the podium, benefit from high levels of daylight. It is entirely appropriate, and accepted in the BRE guidance, that in these circumstances the proposed development may be compared against a mirror image scheme or, given the extant BCS, against the implementation of that scheme. The results of the second mirror image test, though not independently examined, cannot be discounted. This test demonstrated that almost all of the windows in the first to fourth floor apartments would have better daylight with the proposed development in place than with a mirror image of the apartment block. Above the fourth floor, in apartments in the mansard roof, the proposed development would have a greater effect than a mirror image but all windows in these apartments would retain good levels of daylight. [9.84, 9.87, 12.36, 12.37, 12.38]

16.78. Taking all factors into account it is my view that no apartment in County Hall North Block would become an unpleasant place to live. Residents of these apartments would experience a reduction in daylight but, given in particular the accepted application of a mirror image comparison, the harm that would be caused by the proposed development to the amenities of residents of the County Hall North Block, resulting from reduction in daylight, cannot be regarded to be anything other than less than substantial. [9.85, 12.39]

16.79. The proposed development would cause harm to the amenities of residents of the Whitehouse Apartments and County Hall North Block but the harm would be less than substantial. Nevertheless, the proposed development does not accord with, in particular, UDP policy 33.

#### Residential Amenity - Traffic and Noise

16.80. The principal concern is with regard to traffic on Chicheley Street causing congestion and disturbance to those living in County Hall North Block. This is not a solely residential street, is part of a bus route and is used by commercial vehicles, particularly those servicing businesses in County Hall, as well as being the stopping point for Duck Tours, taxis and buses. But I agree with the Applicants that it is not a heavily trafficked road. In this regard I observed traffic on this road and at the junction with York Road on many occasions during the course of the Inquiry and did not note excessive congestion at any time. The difficulties for traffic principally arise from traffic conflict between parked vehicles and those accessing County Hall. [9.89]

16.81. The proposed development includes the relocation of the stopping points for Duck Tours, taxis and buses to Belvedere Road to provide unimpeded access to County Hall and to the basement of the Shell Centre. This would alleviate the current traffic conflict. Chicheley Street itself would be narrowed but pavements on both sides would be widened and traffic access to the Shell Centre basement would not impede pedestrian flow or cause any concern for pedestrian safety. Access to the basement has been carefully considered and has been designed to ensure that

service vehicles awaiting security clearance would not impede traffic or pedestrians. [9.89, 9.98, 14.23, 14.25]

16.82. The closure of the current service access to the site at its north-east corner off York Road would be necessary if improvements to the crossing and to pedestrian flow across this road from Waterloo Station are to be realised. This objective of the proposed development would be fundamental to its success. Service access to the basement car park and service areas could not be off Belvedere Road or off York Road, given its status within the highway network. The only realistic option is to combine access to the site on Chicheley Street and the transport proposals were the subject of detailed discussions between the Applicant's consultants, LBL officers and TfL, who are satisfied with the proposals. [9.97, 9.100, 9.101]

16.83. The overall assessment of implications for traffic on Chicheley Street included an assessment of the potential for greater noise levels on surrounding roads. The assessment concluded that there would be, in simple terms, an increase of less than 1dBA. No evidence has been submitted to counter this conclusion and such an increase would have a negligible effect on disturbance at residential properties in the vicinity of the site. The proposed development, in this regard, would not conflict with plan policies that seek to protect residential amenity. [10.61]

#### Open Space

16.84. The podium and the courtyard of the Shell Centre are not designated open spaces. They do, however, fall within the definition of 'open space' found in the LP, principally because they are not developed. However, an assessment of open space must consider quality as well as quantity, and must also take into account the extant BCS permission. The Secretary of State, when determining the BCS applications, stated that "...the recreational value of the podium is very limited...and there would not be a serious and adverse effect on the quality, distribution or accessibility of open space in the area...". Furthermore, the podium can be discounted because the extant BCS permission ensures that the open space will, inevitably, be built on even if the applications that are the subjects of this report are not approved. [9.69, 10.57, 12.7-12.11]

16.85. The courtyard is 3,266 square metres of inaccessible space that is of poor visual, amenity and recreational value. The proposed development includes three principal open spaces, the square and the two amenity areas either side of Building 4B. These would total less than 3000 square metres. There would be, on paper, a minor loss of open space if the development was to be built. But the quality of the proposed open spaces would significantly exceed that of current open space on the site. In this regard, there is no reason to suppose that the high quality of the architecture would not be continued through the design and materials of the public realm. The public spaces would, furthermore, be fully accessible. [9.71, 12.13]

16.86. The public spaces within the proposed development would be overshadowed, to a significant degree, by the surrounding buildings. However, this is not unusual for inner-city developments and certainly not unusual in London, particularly in the CAZ. Furthermore, regard must be given to reflective sunlight entering, and contributing to the amenity of, the public spaces, and to the proximity of Jubilee Gardens and Queen's Walk, open and accessible public spaces that are not overshadowed and that afford panoramic views over the river and beyond.

16.87. The quality and full accessibility of the open space that would be provided within the development outweighs the greater amount but poor quality of open space

currently provided. The proposed development, in this regard, does not conflict with paragraph 74 of the NPPF or with the spirit of LP policy 7.18 and CS policy S5.

### Children's Play Space

16.88. The prediction is that 68 children would live in the development; 40 aged under 5, 18 aged 5-11 and 10 aged 12 and over. The PIRSPG requires 10 square metres of on-site play space per child but also recognises that the accessibility of off-site play space can be considered to offset on-site provision. The required 400 square metres of on-site play space for children under 5 could be in the two areas either side of Building 5. It is entirely appropriate that play space should not be 'fenced off' and these areas would not be pedestrian routes. They could be landscaped, hard and soft landscaping is the subject of a recommended condition, to provide sufficient play space for children aged under 5 without compromising access to the three adjoining residential buildings and whilst accommodating the relocation of the Franta Belsky fountain. [9.94, 10.59, 12.17, 12.18, 12.19]

16.89. The playground in Jubilee Gardens, which has been the subject of significant recent improvement using £1.5 million paid by Shell to meet an obligation for the extant BCS (if the applications are approved this can be regarded to be an obligation for the redevelopment scheme), is ideally suited and accessible as play space for children aged 5-11. Given the suitability and proximity of the improved play space, provision for the likely 18 children aged 5-11 can be regarded to have been satisfied by the payment of the commuted sum. [9.95, 12.22]

16.90. Archbishop's Park, where there is a significant play space for children aged 12 and over, is within a safe walking distance of 800 metres of the site, this being the maximum distance set out in the PIRSPG. But door-to-door the walking distance would be greater than this. The Applicants are committed to a Section 106 obligation for the payment of a contribution of about £160,000 for Children and Youth People's Play Space. This contribution, given also that Archbishop's Park is only slightly over the safe door-to-door walking distance, can be regarded to off-set the on-site provision of play space for the ten children aged over 12. [9.96, 12.24]

16.91. The proposed development, with regard to the provision of children's play space, generally accords with the PIRSPG and with the spirit of LP policy 3.6 and UDP policies 33 and 50.

### Design Standards

16.92. Standards set out in the HSPG are intended "...to improve the quality of housing output". They are not prescriptive and it is recognised in the HSPG that "Failure to meet one standard would not necessarily lead to an issue of compliance with the LP..." and "...departure from the Baseline standards will require a clear and robust justification. LP Policy 3.5...provides flexibility in this respect where development proposals meet specific, identified needs and demonstrate exemplary design quality". [12.25]

16.93. Some of the standards referred to by RCL relate to matters already considered, such as play space. Some of the standards referred to relate to the amenities of intended residents of the proposed apartments but in most cases, such as where bedrooms do not meet minimum area standards, the failure is minor. In other cases, such as where apartments are single aspect and face north, it would be for a prospective owner or tenant to consider whether this is important or is outweighed, for instance, by the proximity of the apartment to public transport and leisure opportunities. [12.26, 12.27, 12.29]

16.94. RCL point to deficiencies in the amenities of the affordable housing units, including the extra care units, and to the fact that the residents of these units would not necessarily have any choice in where they live. But the affordable housing units may be managed by Network Housing Group, one of LBL's preferred providers of affordable housing, and it is their view that "...the scheme will deliver affordable housing of an exceptionally high quality". [9.92, 12.30]

16.95. There is a plan-led need to optimise housing output on the site, which is in a highly accessible location for access to public transport. Minor departure from some HSPG baseline standards can reasonably be accepted if optimisation of housing output is to be achieved. This would not be the case if, with regard to LP policy 3.5, the scheme does not "...meet specific, identified needs and demonstrate exemplary design quality". The proposed development meets the plan-led need for housing and for affordable housing, particular in sustainable locations, and would be of exemplary design quality. In these circumstances minor departure from some HSPG baseline standards is acceptable and is not a reason to withhold planning permission.

### Office Floor Space

16.96. The Applicants claim that there would be an increase of about 24,000 square metres of above grade office space, whereas RCL and WCC claim that there would be a loss of about 6,500 square metres of such space. The principal difference between the parties is the amount of basement ancillary office space used in their calculations. Ancillary office space is classified as Class B1 office space but to be so classified it must be essential to the function of the office space it is ancillary to. A large part of the basement space, such as the theatre and the rifle range, is not B1 space because, whilst it provides staff facilities, it is not essential to the function of the above ground office space. The majority of the basement space considered by WCC and RCL to be B1 space cannot be classified as such. [9.18, 11.24, 12.56]

16.97. Below ground space cannot be considered to be B1 space unless it is truly ancillary to, or is required to support, above ground B1 office space. In this regard I favour the calculations provided by the Applicants. In any event, office space is used by office workers and I favour calculations based on the number of office workers previously occupied on site, when the original Shell Centre buildings were fully occupied, compared to the number of office workers that would be occupied on site once the proposed office buildings are built and fully occupied. This information was requested at the Inquiry and was provided by the Applicants (ID BE12). The number of office workers that could be accommodated on the site is commensurate with the quantity of above ground office space that would be part of the redevelopment scheme. [10.26-10.28, 11.57-11.60]

16.98. When fully occupied the Shell Centre accommodated 3,500-4,000 office workers. Currently, with only the Shell Tower occupied, only about 1,450 Shell staff are on-site. The proposed development would enable Shell to bring staff currently off-site back to Shell Headquarters and it is expected that Building 1, which is pre-let to Shell, would accommodate 2,000 office staff. The number of on-site Shell staff envisaged on site is 3,700-3,800. Building 2 would provide space for about 2,100 non-Shell office workers. The proposed development would result, therefore, in Shell returning to the position they were in before the Wing Buildings became unfit for purpose and in the provision of B1 office space for 2,100 additional non-Shell office workers. [11.27, 11.28, 12.57, 12.58]

16.99. The Shell Centre site, if the proposed development is implemented, would accommodate about 2,000 more office workers than when the Shell Buildings were fully occupied.

### Other matters

16.100. Other matters and concerns expressed by local residents are largely addressed in conditions recommended for Application A. Mr Haliman and his daughter could be affected by dust during the development process but it is expected that recommended conditions 4 and 5, which require dust suppression to be considered along with other measures, would alleviate this concern. Lighting of buildings is also covered by conditions and these would require the prior approval and implementation of lighting schemes for all buildings. Opening hours of Class A1-A5 uses within the proposed development, set by conditions, are considered to be appropriate and strike a balance between protecting residential amenity and ensuring that a vibrant and viable development would be achieved. [15.26]

### **The extent to which the proposed development is consistent with the development plan for the area**

16.101. Relevant development plan policies are identified in Section 6 of this report. I have concluded in earlier paragraphs in this section of the report that the proposed development is consistent with these policies except for UDP policy 33, because the development would cause harm to the amenities of residents of the Whitehouse Apartments and County Hall North Block.

### **Overall Conclusions**

16.102. There is robust up-to-date plan-led support, from the LP through the CS to the WOAPF and even the WASPD, for the erection of tall buildings on the Shell Centre site. This plan-led support for the erection of tall buildings on the site has driven the overall master plan. This master plan also accords with strategic and local policy to increase office floor space in the CAZ and to plan for a mix of uses including housing. There is also strategic and local policy support for large residential developments, including non-residential uses, in areas of high public transport accessibility.

16.103. Strategic and local policy requires development, particularly in the CAZ and in the WOA, to be, in all respects, of high quality. The sub-division of the site would significantly improve permeability through the site, most importantly from Waterloo Station to Queen's Walk. The public realm has been carefully considered and would be a safe and accessible environment. At ground level the frontages of the proposed development would be active and would include an appropriate mix of uses. The character of York Road and the entrance to the Underground would be significantly improved. The development would have a strong sense of place.

16.104. The architecture of the proposed development, appropriately by five architectural practices, would be varied but consistently of high quality. Each building would be distinctive but complementary and, generally, would share common materials. The one building that would not share common materials would, nevertheless, be complementary in scale and form and would, itself, enhance the relationship of the development to York Road. The Shell Tower would retain its prominence in views from the Victoria Embankment and from bridges across the river. The proposed development would enhance the setting of Jubilee Gardens and, in context, would enhance its surroundings and the character of the South Bank.

16.105. Listed buildings on the south bank of the river are robust set piece buildings with access directly from Queen's Walk. The proposed development would be set behind Jubilee Gardens and would not harm the setting of any of these listed buildings or the character and appearance of the SBCA or any other conservation

area on the south bank. The proposed development would be in the background of some views from within the WWHS but would not, given in particular that the Shell Tower would retain its prominence, be harmful to the setting or outstanding universal value of this designated heritage asset and would not harm the setting of any listed building within the WWHS.

16.106. The proposed development would not be visually intrusive in any views designated in the LVMF or in the MVSPD. This would include the LVMF view from the Blue Bridge in St James's Park. From here the tallest buildings of the development would be closely related to the Shell Tower and would become part of the background layers of history that already appear above Horse Guards and the FCO. No harm would be caused by the proposed development to the St James's Park RPG, to the character and appearance of the several Conservation Areas on the north bank of the river, or to the settings of the many listed buildings within these Conservation Areas and the WWHS. The proposed development accords with the requirements of Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

16.107. The proposed development maximises affordable housing provision and, if viability of the scheme improves, a legal obligation would, potentially, result in the policy compliant provision of 40% affordable housing. The quality and full accessibility of the open space that would be provided within the development outweighs the greater amount but poor quality of open space currently provided. The development makes adequate provision for on-site or off-site play space for children and would not depart from design standards to any significant degree.

16.108. The proposed development would reduce sunlight and daylight in nearby residential buildings and would thus cause harm to the amenities of residents of the Whitehouse Apartments and County Hall North Block. The harm, however, would be less than substantial and must be balanced against the benefits of the development.

16.109. The proposed development would provide the opportunity for Shell to once again have all headquarters staff in one location at the Shell Centre. Other benefits of the proposed development would be the provision of office space for about 2,000 office workers, the construction of 877 apartments including 98 affordable dwellings, the off-site construction of an additional 70 affordable dwellings, increased permeability between Waterloo Station and Queen's Walk and the introduction of a vibrant public realm. It is my view that these are significant benefits and that they outweigh the less than substantial harm that would be caused.

16.110. The proposed development would successfully optimise the potential for the provision of jobs and homes on a site that is highly accessible by public transport. In doing so it would accord with strategic and local planning policy, such as LP policy 2.13 and CS policy PN1, and would make a significant contribution to the regeneration of the Waterloo Opportunity Area.

16.111. The Applicants, through the Architect of the master plan for the Shell Centre site, have fully understood the development plan and supplementary planning guidance and have brought forward a scheme that accords with policy for development in the Waterloo Opportunity Area. The development scheme only accords with policy, however, because of the high quality of its architecture and the design of its public realm.

16.112. Overall, it is my view that the proposed development and associated works comply with the development plan as a whole, and should be approved.

## **17. RECOMMENDATIONS**

17.1. I recommend that planning permission should be granted for the redevelopment of the Shell Centre site that is the subject of Application A and for the works to the Shell Tower that are the subject of Application B.

17.2. I also recommend that listed building consent should be granted for the removal, storage and resiting of the Franta Belsky fountain that is the subject of Application C and that conservation area consent should be granted for the demolition of the buildings that is the subject of Application D.

17.3. If the Secretary of State agrees with my recommendations then the permissions and consents should be subject to the conditions set out in Schedules 1-4 at the end of this report.

***John Braithwaite***

Inspector

## **APPENDIX 1 : APPEARANCES AT THE INQUIRY**

### **FOR THE APPLICANTS:**

Mr T Corner QC and Mr P Brown QC      instructed by Hogan Lovells International LLP

They called

Mr J Rhodes    BSc MRICS                              Quod Planning Consultancy

Mr P Stewart    MA DipArch RIBA                              Principal of Peter Stewart Consultancy

Mr M Squire    MA DipArch RIBA                              Principal Partner at Squire and Partners

### **FOR THE LONDON BOROUGH OF LAMBETH AND THE GREATER LONDON AUTHORITY:**

Mr D Edwards QC and Mr J Lopez              instructed by Solicitors to the London Borough  
of Lambeth and the Greater London Authority

They called

Mr D Black    BSc MSc MRTPI IHBC                              Team Leader of Conservation and Urban  
Design Team at London Borough of Lambeth

Ms G Nicks    BA(Hons) MA MRTPI                              Principal Officer at London Borough of  
Lambeth

Mr C Wilson    BSc(Hons) MA MRTPI                              Senior Planning Manager at the Greater  
London Authority

Ms S Wells    BPlan(Hons)    Principal Strategic Planner at the Greater  
London Authority

### **FOR WESTMINSTER CITY COUNCIL:**

Mr R Ayton    BA(Hons) MA MSc                              Head of Design at Westminster City Council  
MRTPI IHBC

### **FOR RIVERSIDE COMMUNITIES LIMITED:**

Mr G Turner MA and Mrs M Thaine              Local residents

Gave evidence and called

Professor M Wilson                              Principal Research Fellow at the University of  
Westminster



**INTERESTED PERSONS:**

Mr R Tamplin	Resident of London
Mr Bishop	Chief Executive of the South Bank Centre
Ms Santer	Waterloo Quarter Business Improvement District
Mr F Baber	Director of London First
Mr E Inman	South Bank Employees Group
Mr C Clarke	Chairman of Waterloo Festival
Mr Haywood	Local resident
Mr Clark-Hall	Local resident
Mr Clements	Oasis UK
Mr Dahlberg	Local resident
Mrs Burke	Local resident
Mr Rubinstein	Local resident
Mr M Sprinz	Local resident
Mrs R Sprinz	Local resident
Mr Clyne	LBL Ward Councillor
Mr P Ball	Waterloo Community Development Group
Mrs M Mellor	Local resident
Mrs O'Dwyer	Local resident
Councillor Braithwaite	LBL Ward Councillor
Mr Weighton	Friends of Jubilee Gardens

## **APPENDIX 2 : INQUIRY DOCUMENTS (ID)**

### **Submitted by Braeburn Estates**

- BE1 Letter from English Heritage to Mr Bashforth dated 18 November 2013.
- BE2 Opening Statement on behalf of Braeburn Estates Limited Partnership.
- BE3 Photomontage from Parliament Square of Elizabeth House Schemes.
- BE4 Draft Section 106 Agreement.
- BE5 Summary of draft Section 106 Agreement.
- BE6 List of Speakers in Support of Application.
- BE7 Environmental Statement Volume III: Technical Appendix 1 of 2.
- BE8 Corrections to Rhodes' Proof of Evidence.
- BE9 Hungerford Car Park – Executive Summary.
- BE10 Review of Financial Appraisal Supporting Statement – April 2013 Update.
- BE11 Shell Centre Floorspace Note dated 27 November 2013.
- BE12 Shell Centre Scheme Employment Summary Table.
- BE13 WCC's Consultation Submission of the Draft Revised LVMF.
- BE14 Shell Centre Basement Note plus plans.
- BE15 Section 106 Viability Review Mechanism Worked Examples.
- BE16 Calculation of Review Mechanism Payment.
- BE17 Section 106 Agreement.
- BE18 Summary of the draft Section 106 Agreement.
- BE19 Closing Statement on behalf of Braeburn Estates Limited Partnership.
- BE20 Signed and dated Section 106 Agreement.

### **Submitted by London Borough of Lambeth and the Greater London Authority**

- LBL1 Appearances of the LBL and the GLA.
- LBL2 Representation to the Inquiry by three Ward Councillors of LBL.
- LBL3 Letter of support on behalf of the British Film Institute.
- LBL4 Opening Submissions on behalf of the LBL and the GLA.
- LBL5 Views of Elizabeth House Redevelopment.
- LBL6 Draft London Housing Strategy - November 2013.
- LBL7 Explanation of Floorspace Calculations used in LBL Committee Report.
- LBL8 Note on Planning Permission for Development at Doon Street.
- LBL9 CIL Regulation 122 Note.
- LBL10 Comments on suggested new or amended Conditions.
- LBL11 Comments on suggested new of amended Section 106 Clauses.
- LBL12 Closing Submissions for LBL and GLA.

### **Submitted by Riverside Communities Limited**

- RCL1 Opening Statement on behalf of RCL.
- RCL2 Submissions on Affordable Housing and Financial Viability.
- RCL3 Note on the Financial Viability of the Shell Centre Redevelopment.
- RCL4 Closing Submissions on behalf of RCL.

### **Submitted by the 20<sup>th</sup> Century Society**

- TCS1 Proof of evidence of Steve Gould – Shell Public Inquiry 2003.
- TCS2 Appendices 1 & 2 to Steve Gould's Proof of Evidence.
- TCS3 Appendix 3 to Steve Gould's Proof of Evidence.
- TCS4 Closing Submissions on behalf of Twentieth Century Society.

### **Submitted by Westminster City Council**

- WCC1 Comparison views of Shell Centre & Elizabeth House schemes.
- WCC2 Closing Submissions on behalf of WCC.

### **Submitted by Third Parties**

- TP1 Evidence of Friends of Jubilee Gardens – Mr Weighton.
- TP2 Evidence of Ms Anne Burke.
- TP3 Evidence of Mr Dahlberg.
- TP4 Evidence of Mr Rubenstein.
- TP5 Evidence of Mrs Sprinz.
- TP6 Evidence of Ms Margaret Mellor.
- TP7 Evidence of Mr Clyne.
- TP8 Evidence of Mr Sprinz.
- TP9 Evidence of Mr Clarke.
- TP10 Evidence of M P Mead.
- TP11 Evidence of Mr Gabriel Meridoza.
- TP12 Evidence of Ms Charlotte Thaine.
- TP13 Evidence of Mr David Tootill.
- TP14 Evidence of Ms Janet Morris.
- TP15 Evidence of Carney's Community Ltd.

### **Other Documents**

- OD1 Statement of Common Ground.
- OD2 Appendices to Statement of Common Ground.

## **APPENDIX 3 : INQUIRY CORE DOCUMENTS (CD)**

### **A : National Policy and Guidance**

- A1 National Planning Policy Framework.
- A2 Planning Practice Guide to Planning Policy Statement 5.

### **B : Development Plan**

- B1 The Spatial Development Strategy for Greater London - The London Plan 2011.
- B2 London Borough of Lambeth Core Strategy (January 2011).
- B3 Saved Policies of LBL's Unitary Development Plan (August 2007).

### **C : Supplementary Planning Guidance and Other Guidance**

#### 1 : LBL Supplementary Planning Documents (SPD)

- C1.1 SPD : Waterloo (April 2013).
- C1.2 SPD : S106 Planning Obligations (April 2012) - including accompanying Toolkit.
- C1.3 SPD : Safer Built Environments (April 2008).
- C1.4 SPD : Guidance and Standards for Housing Development and House Conversions (July 2008).

#### 2 : Mayor of London Supplementary Planning Guidance and Other Guidance

- C2.1 Waterloo Opportunity Area Planning Framework (October 2007).
- C2.2 Draft London Planning Statement (December 2012).
- C2.3 London World Heritage Sites - Guidance on Settings SPG (March 2012).
- C2.4 London View Management Framework (March 2012).
- C2.5 WCC - draft Metropolitan Views SPD (2007).
- C2.6 Housing (November 2012).
- C2.7 Shaping Neighbourhoods : Play and Informal Recreation SPG (Sept 2012).
- C2.8 Mayor's Transport Strategy (May 2010).
- C2.9 Revised Early Minor Alterations to the London Plan (October 2013).
- C2.10 London Housing Strategy (February 2010).
- C2.11 Draft Revised London Housing Strategy (December 2011).
- C2.12 Mayor's 2020 Vision (June 2013).

#### 3 : Other Guidance

- C3.1 Conservation Principles (2008) published by English Heritage.
- C3.2 Seeing the History in the View (May 2011) published by English Heritage.
- C3.3 Setting of Heritage Assets (October 2011) published by English Heritage.
- C3.4 By Design (2000).
- C3.5 Understanding Place - CA designation, appraisal and management.
- C3.6 LBL Open Space Strategy.
- C3.7 Inspector's Report on the Lambeth Core Strategy (6 December 2010).
- C3.8 LBL Housing Strategy 2012-2016.
- C3.9 LBL Housing Implementation Strategy (February 2013).
- C3.10 Our vision 2020 : Lambeth's sustainable Community Strategy.

## **D : Emerging Documents**

- D1 Conservation Principles (2008) published by English Heritage.
- D2 Seeing the History in the View (May 2011) published by English Heritage.

## **E : Heritage Assets**

- E1 Palace of Westminster Abbey Including Saint Margaret's Church World Heritage Statement of Significance.
- E2 Listing Description for Fountain in Courtyard of Shell Centre.
- E3 Listing Description for Main Block of The County Hall.
- E4 Listing Description for Royal Festival Hall.
- E5 Listing Description for Royal National Theatre.
- E6 Listing Description for Church of St John with All Saints.
- E7 Listing Description for Waterloo Bridge.
- E8 Listing Description for Westminster Bridge.
- E9 Listing Description for Victory Arch.
- E10 Listing Description for Foreign and Commonwealth Office, Whitehall.
- E11 Listing Description for Horse Guards.
- E12 LBL local listing - Shell Centre.
- E13 LBL local listing - County Hall North Block.
- E14 LBL local listing - QEH and Hayward Gallery complex.
- E15 LBL local listing - IBM building, Upper Ground.
- E16 LBL Roupell Street Conservation Area Statement (2007).
- E17 LBL South Bank Conservation Area Statement (2007).
- E18 LBL Waterloo Conservation Area Statement (2007).
- E19 LBL Waterloo Conservation Area Map.
- E20 LBL Lambeth Palace Conservation Area Map and Statement.
- E21 WCC Royal Parks Conservation Area Mini Guide.
- E22 WCC Savoy Conservation Area Audit.
- E23 WCC Strand Conservation Area Audit.
- E24 WCC Westminster Abbey and Parliament Square Conservation Area Audit.
- E25 WCC Whitehall Conservation Area Audit.
- E26 WWHS Management Plan (2007).
- E27 UNESCO Operational Guidelines for WHS (2011).
- E28 ICOMOS Mission Report 2006.
- E29 ICOMOS Mission Report 2011.
- E30 UNESCO Decision 2012 36COM 7B.92.

## **F : GLA Documents and LBL Committee Reports**

### 1 : GLA Documents

- F1.1 GLA Stage 1 Report (6 February 2013) and letter notifying LBL of the Mayor's decision (dated 7 February 2013).
- F1.2 GLA Stage 2 Report (17 July 2013) and letter notifying LBL of the Mayor's decision (dated 17 July 2013)

### 2 : LBL Committee Reports

- F2.1 LBL Planning Applications Committee Report and Addendum.
- F2.2 LBL Planning Applications Committee Minutes.

## **G : Other Relevant Documents**

- G1 Doon Street Appeal Decision.
- G2 Shell Centre Belvedere Scheme Appeal Decision.
- G3 Elizabeth House Appeal Decision (Inspector's Report).
- G4 Elizabeth House Appeal Decision (Direction Letter).
- G5 Blackfriars Appeal Decision.
- G6 Vauxhall Island Appeal Decision APP/N5660/A/11/2157961 (20 August 2012).
- G7 Site Layout Planning for Daylight and Sunlight - A guide to good practice (2<sup>nd</sup> Edition).
- G8 British Standard - Light for Buildings Part 2 : Code of practice for daylighting.
- G9 CABE: Guidance on Tall Buildings (2007).

## **APPENDIX 4 : ENVIRONMENTAL STATEMENT DOCUMENTS**

### **ES Non-Technical Summary**

1	Introduction
2	Public Consultation and Planning Policy
3	Alternatives and Design Evolution
4	The Redevelopment Proposals
5	Demolition and Construction
6	Socio-Economics
7	Traffic and Transportation
8	Wind
9	Daylight, Sunlight and overshadowing, Light Pollution and Solar Glare
10	Electronic Interference
11	Water Resources and Flood Risk
12	Ground Conditions
13	Air Quality
14	Noise and Vibration
15	Ecology
16	Built Heritage
17	Townscape and Visual Impact Assessment
18	Residual Effect Assessment
19	Effect Interactions and Cumulative Effects Assessment
20	References

### **ES Volume I – Main Document**

1	Introduction
2	EIA Methodology
3	Alternatives and Design Evolution
4	The Redevelopment Proposals
5	Demolition and Construction
6	Socio-Economics
7	Traffic and Transportation
8	Wind Microclimate
9	Daylight, Sunlight, Overshadowing, Light Spillage and Solar Glare
10	Electronic Interference
11	Water Resources and Flood Risk
12	Ground Conditions
13	Air Quality
14	Noise and Vibration
15	Ecology
16	Built Heritage
17	Residual Effect Assessment
18	Effect Interactions and Cumulative Effects Assessment
19	Glossary and Abbreviations

### **ES Volume II - Environmental Statement: Townscape and Visual Impact Assessment**

1	Introduction
2	Method of Assessment

3	Planning Policy Context
4	The Site and its Surroundings
5	The Redevelopment Proposals
6	Views and Visual Impact Assessment
7	Construction Effects
8	Cumulative Effects
9	Mitigation
10	Effect of Redevelopment Proposals on Townscape and Conclusions
11	Appendices

### **ES Volume II – Appendix 7 – Views for On-Site Assessment**

#### **ES Volume III – Technical Appendices 1 of 2**

1	Technical Appendix A - EIA Scoping Report
2	Technical Appendix B - Transport Assessment
3	Technical Appendix C - Wind Microclimate

#### **ES Volume III – Technical Appendices 2 of 2**

1	Technical Appendix D - Daylight, Sunlight, Overshadowing, Light Pollution and Solar Glare
2	Technical Appendix E - Flood Risk Assessment
3	Technical Appendix F - Ground Conditions
4	Technical Appendix G - Noise Survey
5	Technical Appendix H - Phase 1 Ecology Report
6	Technical Appendix I - Heritage Statement
7	Technical Appendix J - Aviation

#### **ES Addendum March 2013**

1	Introduction
2	Structure of the December 2012 ES
3	March 2013 Amendments
4	Environmental Statement Addendum Methodology
5	Review of the Design Changes
6	Conclusion
7	Environmental Statement Addendum Availability
8	References
9	Appendix A – Addendum Socio-economics Chapter
10	Appendix B – Addendum Traffic and Transport Chapter
11	Appendix C – Addendum Water Resources Chapter
12	Appendix D – Traffic and Transportation Assessment Addendum



## **SCHEDULE 1 – Conditions for Application A No. 12/04708/FUL**

1. The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To comply with Section 91(1) (a) of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed below, other than where those details are altered pursuant to the requirements of conditions of this planning permission.

11016\_C645\_B2\_P\_B3\_002 Rev 01, 11016\_C645\_B2\_P\_B1M\_002 Rev 01, 11016\_C645\_B2\_P\_B1\_002 Rev 01, 11016\_C645\_B2\_P\_B2\_002 Rev 01, 11016\_B1\_P\_00\_C645\_001 Rev 00, 11016\_B1\_P\_01\_C645\_001 Rev 00, 11016\_B1\_P\_02\_C645\_001 Rev 00, 11016\_B1\_P\_03\_C645\_001 Rev 00, 11016\_B1\_P\_04\_C645\_001 Rev 00, 11016\_B1\_P\_05\_C645\_001 Rev 00, 11016\_B1\_P\_06\_C645\_001 Rev 00, 11016\_B1\_P\_07\_C645\_001 Rev 00, 11016\_B1\_P\_08\_C645\_001 Rev 00, 11016\_B1\_P\_09\_C645\_001 Rev 00, 11016\_B1\_P\_10\_C645\_001 Rev 00, 11016\_B1\_P\_11\_C645\_001 Rev 00, 11016\_B1\_P\_RF\_C645\_001 Rev 00, 11016\_B1\_E\_E\_C645\_001 Rev 00, 11016\_B1\_E\_N\_C645\_001 Rev 00, 11016\_B1\_E\_S\_C645\_001 Rev 00, 11016\_B1\_E\_W\_C645\_001 Rev 00, 2104\_C645\_B2\_P\_00\_001 Rev 00, 2104\_C645\_B2\_P\_04\_001 Rev 00, 2104\_C645\_B2\_P\_08\_001 Rev 00, 2104\_C645\_B2\_P\_12\_001 Rev 00, 2104\_C645\_B2\_P\_16\_001 Rev 00, 2104\_C645\_B2\_E\_N\_001 Rev 00, 2104\_C645\_B2\_E\_S\_001 Rev 00, 403\_B3\_P\_00\_C645\_501 Rev 01, 403\_B3\_P\_00\_C645\_502 Rev 01, 403\_B3\_P\_02\_C645\_501 Rev 01, 403\_B3\_P\_08\_C645\_501 Rev 01, 403\_B3\_P\_14\_C645\_501 Rev 01, 403\_B3\_P\_20\_C645\_501 Rev 01, 403\_B3\_P\_26\_C645\_501 Rev 01, 403\_B3\_P\_29\_C645\_501 Rev 01, 403\_B3\_E\_N\_C645\_501 Rev 01, 403\_B3\_E\_N\_C645\_502 Rev 01, 403\_B3\_E\_S\_C645\_501 Rev 01, 403\_B3\_E\_S\_C645\_502 Rev 01, 11016 B4A\_P\_00\_C645\_001 Rev 01, 11016 B4A\_P\_33\_C645\_001 Rev 01, 11016 B4A\_E\_AL\_C645\_001 Rev 01, 11016 B4B\_P\_00\_C645\_001 Rev 01, 11016 B4B\_P\_17\_C645\_001 Rev 01, 11016 B4B\_E\_AL\_C645\_001 Rev 01, 453\_B5\_P\_00\_C645\_001 Rev 00, 453\_B5\_P\_02\_C645\_001 Rev 00, 453\_B5\_P\_12\_C645\_001 Rev 00, 453\_B5\_E\_EN\_C645\_001 Rev 00, 453\_B5\_E\_WS\_C645\_001 Rev 00, 12013 B6+7\_P\_00\_05\_C645\_001 Rev 00, 12013 B6+7\_P\_06\_13\_C645\_001 Rev 00, 12013 B6+7\_P\_14\_Roof\_C645\_001 Rev 00, 12013 B6+7\_P\_E\_N+S\_C645\_001 Rev 00, 12013 B6+7\_P\_E\_E+W\_C645\_001 Rev 00, 11016 MP\_P\_00\_C645\_001 Rev 01, 11016 MP\_P\_01\_C645\_001 Rev 01, 11016 MP\_P\_00\_C645\_002 Rev 01, 11016 MP\_P\_01\_C645\_002 Rev 01, 11016\_B0\_P\_00\_G710\_001 Rev 01, 11016\_B0\_P\_00\_G710\_002 Rev 01, 11016\_B0\_P\_RF\_G710\_001 Rev 01, 11016\_B0\_P\_RF\_G710\_002 Rev 01, 11016\_B0\_P\_00\_G710\_012 Rev 01, 11016\_B0\_P\_00\_G710\_013 Rev 01, 10073\_003A Rev 01, 10073\_003B Rev 01, MP\_P\_00\_JA12\_001 Rev 00, MP\_P\_01\_JA12\_001 Rev 00, MP\_P\_TY\_JA12\_001 Rev 00, MP\_P\_RF\_JA12\_001 Rev 00, MP\_P\_B1\_JA12\_001 Rev 00, MP\_P\_B1M\_JA12\_001 Rev 00, MP\_P\_B2\_JA12\_001 Rev 00, MP\_P\_B3\_JA12\_001 Rev 00, MP\_E\_E\_JA12\_001 Rev 00, MP\_E\_N\_JA12\_001 Rev 00, MP\_E\_S\_JA12\_001 Rev 00, MP\_E\_W\_JA12\_001 Rev 00, MP\_S\_AA\_JA12\_001 Rev 00, MP\_S\_BB\_JA12\_001 Rev 00.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The first element of the development (excluding demolition) shall comprise Building 1 and Basement works as defined on drawings 11016 MP\_P\_00\_C645\_002 Rev 01, 11016 \_C645\_B2\_P\_B1\_002 Rev 01, 11016 \_C645\_B2\_P\_B1M\_002 Rev 01, 11016 \_C645\_B2\_P\_B2\_002 Rev 01 and 11016 \_C645\_B2\_P\_B3\_002 Rev 01. Prior to the commencement of the remainder of the development, a Construction Sequencing Plan shall be submitted to and approved in writing by the local planning authority. The Construction Sequencing Plan shall include details of the sequence of the construction of the proposed buildings, landscaping and any works to the York Road Footbridge (as shown on drawings 11016 MP\_P\_00\_C645\_002 Rev 01, 11016\_B0\_P\_00\_G710\_001 Rev 01 and 11016\_B0\_P\_00\_G710\_002 Rev 01).

Reason: To ensure that the development sequencing and provision of detailed design information occurs in a satisfactory order.

4. Demolition works shall not commence until a Demolition Method Statement has been submitted to and approved in writing by the local planning authority. The Demolition Method Statement shall include details of consultation with neighbours regarding: the timing and coordination of works; the notification of neighbours with regard to specific works; advance notification of road closures; access, parking, servicing, deliveries, and storage; dust mitigation; measures to prevent the deposit of mud and debris on the public highway; loading, off-loading, parking and turning of vehicles within the site; and other measures to mitigate the impact of demolition upon the amenity of the area and the function and safety of the highway network. The approved Demolition Method Statement shall be implemented and adhered to during the demolition process.

Reason: To minimise danger and inconvenience to highway users.

5. Development shall not commence (other than demolition) until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Construction Method Statement shall include details regarding: consultation with neighbours regarding the timing and coordination of works; the notification of neighbours with regard to specific works; advance notification of road closures; access, parking, servicing, deliveries, and storage; dust mitigation; measures to prevent the deposit of mud and debris on the public highway; loading, off-loading, parking and turning of vehicles within the site; and other measures to mitigate the impact of construction upon the amenity of the area and the function and safety of the highway network. The approved Construction Method Statement shall be implemented and adhered to during the construction process.

Reason: To minimise danger and inconvenience to highway users.

6. Demolition works shall not commence until the developer has agreed with the local planning authority, in consultation with LUL, the extent of the existing site areas to be demolished that would impact on LUL's assets. Structural demolition works within those agreed areas and all other development hereby permitted shall not be commenced (other than the demolition works that would not impact on LUL's assets) until a detailed Design and Method Statement for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), has been submitted to and approved in writing by the local planning authority in consultation with London Underground. The Statement shall:

a) provide details on all structures referred to above;

- b) demonstrate how the development works would accommodate the location of the existing London Underground structures and tunnels;
- c) demonstrate how the development works would accommodate ground movement arising from the construction thereof; and
- d) set out mitigation measures against the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The approved Design and Method Statement shall be implemented and adhered to during the construction process.

Reason: To ensure that the development does not impact on existing London Underground transport infrastructure.

7. Demolition works shall not be carried out in the bird nesting season (March to July inclusive) unless all trees, scrub and buildings have been searched for the presence of nesting birds. If any are found the nests shall be protected until such time as the young have fledged and left the nest. The protection details shall be submitted to and approved in writing by the local planning authority prior to the commencement of demolition works on the relevant part of the development.

Reason: In the interest of preserving ecology on the development site.

8. Development shall not commence (excluding demolition) until load take-down input to the pile load design calculations of each building has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the piling design is sufficient enough to support the approved façade design.

9. Development shall not commence (excluding demolition) until details of items 'a to l' below (where relevant) have been submitted to and approved in writing by the local planning authority for the following: (i) each building (above ground, excluding the building core); (ii) the basement; and (iii) the public realm (as shown on drawings 11016 MP\_P\_00\_C645\_002, 11016 \_C645\_B2\_P\_B1\_002 Rev 01, 11016 \_C645\_B2\_P\_B1M\_002 Rev 01, 11016 \_C645\_B2\_P\_B2\_002 Rev 01, 11016 \_C645\_B2\_P\_B3\_002 Rev 01 and 11016\_B0\_P\_00\_G710\_001 Rev 01 and 11016\_B0\_P\_00\_G710\_002 Rev 01). The development shall be carried out in accordance with the approved details.

- a. A sample of external materials;
- b. Mock up panels of typical elevations for each building and window bays;
- c. Façade design and detailing at 1:20 and 1:5 scale to include (where relevant) details of the precast concrete, reveal depth, glass, mullion, transom, fins and their supporting structure, opening windows (or equivalent), the integration of the façade cleaning rails and any external louvres, illustrating the different conditions over the building;
- d. Location and dimension details of all external pillars;
- e. Details of building soffits;
- f. Full ground and first floor detailed elevation drawings of the buildings including details of entrance doors, canopies, fire escapes and service doors;

- g. Details of basement ventilation strategy;
- h. Finishing details to all external pillars;
- i. Details of louvres, PV panels, façade cleaning equipment, plant and machinery and other structures at roof level (including screening);
- j. Detailed design of canopy between Buildings 1, 2 and Shell Tower;
- k. Detailed design of the bridge links between Building 1 and the Shell Tower;
- l. Details of screening between building 5 and the railway viaduct for the purpose of wind mitigation.

Reason: To ensure that the buildings have a satisfactory appearance.

10. Development shall not commence of any building hereby permitted until a detailed signage/advertisement strategy for that building has been submitted to and approved in writing by the Local Planning Authority (buildings as shown on drawing 11016 MP\_P\_00\_C645\_002). All signage/advertisement to be fixed to each building shall be in accordance with the approved strategy for that building.

Reason: To ensure that the buildings have a satisfactory appearance during construction.

11. Development shall not commence of any building hereby permitted until details of a lighting strategy for lighting to be fixed to that building has been submitted to and approved in writing by the local planning authority. The approved lighting strategy shall be implemented before the relevant building is first occupied, or in accordance with a timetable approved in writing by the local planning authority, and shall be retained thereafter for the duration of the development.

Reason: To ensure that satisfactory attention is given to detailed design, to security and community safety, and to providing acceptable living environments for future residents of the development.

12. No plumbing or pipes, other than rainwater pipes, shall be fixed to the external faces of buildings or associated structures.

Reason: To ensure that the buildings have a satisfactory appearance.

13. Development shall not commence on any building hereby permitted (as shown on drawing 11016 MP\_P\_00\_C645\_002 Rev 01) until a landscaping scheme for the site of that building, including hard and soft landscaping, street furniture, lighting not fixed to buildings and an implementation programme, has been submitted to and approved in writing by the local planning authority. Soft landscaping details shall include trees and shrubs to be planted showing numbers, species and type of stock, areas to be grass seeded or turfed, and planter profiles. Hard landscaping details shall include all ground surfaces, seating, lighting of all external public areas, refuse disposal points, designated smoking areas, secure and covered cycle stands, bollards, vehicle crossovers/access points, ramps or stairs plus wheel chair access, play equipment for the areas either side of Building 4B, finished ground levels and site topographical levels. The development shall be carried out in accordance with the approved landscaping scheme. The landscaping shall be maintained for a period of ten years including the replacement of any plants/trees that die, or are severely damaged, seriously diseased, or removed, upkeep of ground surfaces and hard landscaping features, and the removal of graffiti/chewing gum.

Reason: To provide a high environmental standard in the interest of the site and wider area.

14. Development shall not commence until details of the dismantling/removal, storage and reinstatement, within the application site, of the following artefacts and art works has been submitted to and approved in writing by the local planning authority:

- a. The Motor Cyclist Statue (presently in the courtyard);
- b. Aumonier's 'sphere' (presently on Belvedere Road);
- c. The two carved Portland stone shells (presently flanking the high level footbridge entrance on York Road);
- d. The bronze Shell cartouche (presently marking the secondary entrance to Belvedere Road);
- e. The shell embellished lead-work (presently on the Chicheley Street podium canopies).

The artefacts and art works shall be reinstated on site in accordance with the approved details.

Reason: In order to preserve the special interest of the site and the character and appearance of the conservation area.

15. Development shall not commence until the interior of the basement theatre and the interior of the swimming pool have been recorded (photographically and with measured drawings) prior to dismantling. The records made shall be deposited in the London Historic Monuments Record. The decorative elements of the interiors shall, if feasible, be salvaged and re-used on or off site or offered to relevant archives or museums.

Reason: In order to preserve the special interest of the site and the character and appearance of the conservation area.

16. No trees other than those identified to be removed in the Arboricultural Development Statement (CBA 10073 V3) by CBA Trees dated March 2013, shall be felled, pruned, uprooted, damaged or otherwise disturbed without the prior written approval of the local planning authority.

Reason: To ensure the retention of, and avoid damage to, the retained trees on the site which represent an important visual amenity to the locality

17. Development shall not commence until all tree protection measures and arboricultural method statements, as set out in the Arboricultural Development Statement (CBA 10073 V3) by CBA Trees dated March 2013, have been implemented. The tree protection measures and arboricultural method statements shall remain in place for the duration of the construction works.

Reason: To ensure the retention of, and avoid damage to, retained trees on the site.

18. All arboricultural site monitoring, site supervision and subsequent record keeping of all tree protection measures shall be carried out in accordance with the details contained in the Arboricultural Development Statement (CBA 10073 V3) by CBA Trees dated March 2013.

Reason: To ensure the retention of, and avoid damage to, retained trees on the site.

19. Development shall not commence until a drawing showing service and drainage routes outside tree root protection areas has been submitted to and approved in writing with the local planning authority. The development shall be carried out in accordance with the approved drawing.

Reason: To ensure the retention of, and avoid damage to, retained trees on the site.

20. Above ground building works shall not commence on any residential building shown on drawing 11016 MP\_P\_00\_C645\_002 Rev 01 until details of sound insulation for the residential units in that building have been submitted to and approved in writing by the local planning authority. The insulation shall be designed to meet the following standards:

- for living rooms, 35 dB(A) LAeq 16 hour between 0700 and 2300 hours;
- for bedrooms, 30 dB(A) LAeq 8 hour between 2300 and 0700 hours; and
- 45 dB(A) max for any individual noise event (measured with F time weighting) between 2300 and 0700 hrs.

The development shall be carried out in accordance with the approved details.

Reason: To ensure that residents do not suffer nuisance or disturbance.

21. Amplified sound, speech or music (excluding voice alarm systems for fire alarm and evacuation purposes) associated with any non-residential use hereby permitted shall not be audible above background noise levels when measured outside the nearest residential property.

Reason: To safeguard the amenities of residents and the surrounding area.

22. Development shall not commence of any building hereby permitted (as shown on drawing 11016 MP\_P\_00\_C645\_002 Rev 01) or of works to the basement (as shown on drawings 11016 \_C645\_B2\_P\_B1\_002 Rev 01, 11016\_C645\_B2\_P\_B1M\_002 Rev 01, 11016 \_C645\_B2\_P\_B2\_002 Rev 01 and 11016 \_C645\_B2\_P\_B3\_002 Rev 01) until details of internal and external plant equipment and trunking, including building services plant, ventilation and filtration equipment and commercial kitchen exhaust ducting/ventilation to terminate at roof level, have been submitted to and approved in writing by the local planning authority. All flues, ducting and other equipment shall be installed in accordance with the approved details prior to the relevant use commencing on site and shall thereafter be maintained in accordance with the manufacturers' instructions.

Reason: To safeguard the amenities of residents and the surrounding area.

23. Noise from any mechanical equipment or building services plant shall not exceed the background noise level when measured outside the window of the nearest noise sensitive or residential property, when measured as a L90 dB(A) 1 hour event.

Reason: To safeguard the amenities of residents and the surrounding area.

24. Development shall not commence of any building hereby permitted (as shown on drawing 11016 MP\_P\_00\_C645\_002 Rev 01) or of public realm works (as shown on drawings 11016\_B0\_P\_00\_G710\_001 Rev 01 and 11016\_B0\_P\_00\_G710\_002 Rev 01) until a crime prevention strategy has been submitted to and approved in

writing by the local planning authority in consultation with the Police. The strategy shall demonstrate how the development makes reasonable endeavours to meet 'Secured by Design' standards and shall include details of the following:

1. Secured by Design physical protection measures to be incorporated in both the commercial and residential units;
2. External & courtyard communal lighting to BS 5489;
3. Full audio-visual access control measures in all units;
4. Monitored alarm facilities in commercial units;
5. Closed Circuit TV;
6. Lockable robust security rated doors to plant rooms;
7. Lockable bin stores;
8. Lockable cycle stores;
9. Security rated doors and windows to each unit;
10. Lighting to a minimum of 0.25 uniformity.

The development shall be carried out in accordance with the approved details.

Reason: To ensure that satisfactory attention is given to security and community safety.

25. Before any building hereby permitted is first occupied an Evacuation Plan, including details of safe access from the basement levels of the development to an upper level and a flood warning system, shall be submitted to and approved in writing by the local planning authority. The approved Evacuation Plan shall be implemented before occupation of the relevant building and shall remain in place thereafter.

Reason: To reduce the risk to people using the basement levels in case of flooding due to breach or overtopping of the Thames tidal flood defences.

26. Before any building hereby permitted is first occupied a Delivery and Servicing Management Plan shall be submitted to and approved in writing by the local planning authority. The approved plan shall be implemented before any uses in the relevant building are commenced and shall be adhered to thereafter.

Reason: To ensure that delivery arrangements to the buildings are appropriate.

27. Development shall not commence (excluding demolition) until details of a parking scheme for the office, retail and residential accommodation, garaging, manoeuvring, and the loading and unloading of vehicles, have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the relevant building is occupied and the areas shall not thereafter be used for any other purpose or obstructed in any way.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.

28. Before any building hereby permitted is first occupied cycle parking for that building (as shown on drawings 11016\_C645\_B2\_P\_B1\_002 Rev 01, 11016

\_C645\_B2\_P\_B1M\_002 Rev 01, 11016\_C645\_B2\_P\_B2\_002 Rev 01 and 11016\_C645\_B2\_P\_B3\_002 Rev 01) shall be completed and brought into use and shall not thereafter be used for any purpose other than cycle parking.

Reason: To ensure adequate cycle parking is available on site.

29. No doors or gates (other than for means of escape) shall open over or across footways, carriageways and public rights of way.

Reason: In the interests of public safety and to prevent obstruction of the public highway.

30. Development shall not commence (excluding demolition) until impact studies for existing water supply infrastructure have been submitted to and approved in writing by the local planning authority. The studies shall determine the magnitude of any new additional capacity required in the system, a suitable connection point and measures for overcoming impact on the water supply infrastructure. The development shall be carried out in accordance with the approved impact studies.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with additional demand generated by the development.

31. Development shall not commence (other than demolition) until a drainage strategy, detailing any on and/or off-site drainage works, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved strategy.

Reason: To ensure that sufficient capacity is made available to cope with the new development and in order to avoid adverse environmental impact upon the community.

32. Before any building hereby permitted is first occupied a Waste Management Strategy shall be submitted to and approved in writing by the local planning authority. The approved strategy shall be implemented before any uses in the relevant building are commenced and shall be adhered to thereafter.

Reason: To ensure that adequate provision is made for the storage of refuse and the provision of recycling facilities on site.

33. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) by URS (dated September 2012) and in accordance with the mitigation measures and timetable detailed in it.

Reasons: To prevent flooding by ensuring the satisfactory storage or disposal of surface water.

34. Impact piling shall not commence until a piling method statement has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. The statement shall include details of the type of piling to be undertaken and the methodology by which the piling shall be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure and a programme for the works. All piling shall be carried out in accordance with the approved method statement.

Reason: To prevent damage from piling to underground water utility infrastructure.



35. Development shall not commence (other than demolition) until a surface water drainage scheme for the site, based on sustainable drainage principles where possible, and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall seek to implement a Sustainable Drainage System (SuDS) hierarchy to achieve reductions in surface water run-off rates to greenfield run-off rates or, as a minimum, to 50% of existing rates, and shall detail measures to prevent infiltration of surface water into the ground. The development shall be carried out in accordance with the approved surface water drainage scheme.

Reason: To ensure that the new development does not increase the risk of flooding.

36. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out on that part of the site until a remediation strategy, detailing how the contamination shall be dealt with, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved remediation strategy.

Reason: To protect the environment from contamination.

37. The Class A4 use hereby permitted shall only be carried out between the hours of 1100 to 2300 hours Monday to Wednesday, 1100 to 2400 hours Thursday to Saturday and 1000 to 2200 hours on Sundays and Public Holidays.

Reason: To ensure that the use does not prejudice local amenity.

38. The Class A3 use hereby permitted shall only be carried out between the hours of 0630 to 2300 hours Monday to Wednesday, 0630 to 2400 hours Thursday to Saturday and 1000 to 2200 hours on Sundays and Public Holidays.

Reason: To ensure that the use does not prejudice local amenity.

39. The Class A1 and A2 uses hereby permitted shall only be carried out between the hours of 0630 to 2200 hours on Mondays to Fridays, 0700 to 2200 hours on Saturdays and 1000 to 1800 on Sundays and Public Holidays.

Reason: To ensure that the use does not prejudice local amenity.

40. The Class A5 uses hereby permitted shall not be carried out other than in the ground floor units of Buildings 1, 6 and 7 and shall only be carried out between the hours of 0730 to 2300 hours on Mondays to Fridays, 0800 to 2400 hours on Saturdays, and 1000 to 2200 on Sundays and Public Holidays.

Reason: To ensure that the use does not prejudice local amenity.

41. The Class A2 use hereby permitted shall not be operated as a betting office.

Reason: Unrestricted A2 use would be unacceptable.

42. The Class D1 use hereby permitted shall not be operated as a place of worship or church hall.

Reason: Unrestricted D1 use would be unacceptable.

43. The Class D2 use hereby permitted shall not be operated as a bingo hall or casino.

Reason: Unrestricted A2 use would be unacceptable.

44. Before any building hereby permitted is first occupied (as shown on drawing 11016 MP\_P\_00\_C645\_002 Rev 01) evidence (e.g. photographs, installation contracts and as-built certificates under the Standard Assessment Procedure and National Calculation Method) shall be submitted to and approved in writing by the local planning authority to show that the development has been constructed in accordance with the approved energy strategy.

Reason: To ensure that the development has an acceptable level of sustainability.

45. Development shall not commence of any building to have a green roof until details of the green roof for that building, compliant with GRO Green Roof Code 2011, have been submitted to and approved in writing by the local planning authority. The development of that building shall be carried out in accordance with the approved details and the installed green roof shall be retained and maintained thereafter.

Reason: To ensure that the development has an acceptable level of sustainability.

46. For each residential building hereby permitted a design stage assessment report prepared by an accredited Code for Sustainable Homes assessor and summary score sheets under the Code for Sustainable Homes (or any equivalent standard that replaces this), to show that a Level 4 rating shall be achieved, shall be submitted to BRE for their approval. The BRE Design Stage Level 4 Certificate subsequently received shall be submitted to the local planning authority no later than three months before construction of the residential building (other than below ground and building core works) is commenced.

Reason: To ensure that the development achieves the highest standard of sustainable design and construction.

47. Before any residential building hereby permitted is first occupied a post construction report prepared by an accredited Code for Sustainable Homes assessor and summary score sheets under the Code for Sustainable Homes (or such equivalent standard that replaces this), to show that a Level 4 rating has been achieved, shall be submitted to BRE for their approval. The BRE Post Construction Stage Level 4 Certificate subsequently received shall be submitted to the local planning authority.

Reason: To ensure that the development achieves the highest standard of sustainable design and construction.

48. For each office building hereby permitted a design stage assessment report prepared by an accredited BREEAM assessor and summary score sheets under the

BREEAM (or any equivalent standard that replaces this), to show that an Excellent rating shall be achieved, shall be submitted to BRE for their approval. The BRE Design Stage BREEAM Excellent rating Certificate subsequently received shall be submitted to the local planning authority no later than three months before construction of the office building (other than below ground and building core works) is commenced.

Reason: To ensure that the development achieves the highest standard of sustainable design and construction.

49. Before any office building hereby permitted is first occupied a post construction report prepared by an accredited BREEAM assessor and summary score sheets under the BREEAM (or such equivalent standard that replaces this), to show that an Excellent rating has been achieved, shall be submitted to BRE for their approval. The BRE Post Construction Stage Excellent rating Certificate subsequently received shall be submitted to the local planning authority.

Reason: To ensure that the development achieves the highest standard of sustainable design and construction.

50. For each building hereby permitted containing retail floor space a design stage assessment report prepared by an accredited BREEAM assessor and summary score sheets under the BREEAM (or any equivalent standard that replaces this), to show that a Very Good rating shall be achieved, shall be submitted to BRE for their approval. The BRE Design Stage BREEAM Very Good rating Certificate subsequently received shall be submitted to the local planning authority no later than three months before construction of the building (other than below ground and building core works) is commenced.

Reason: To ensure that the development achieves the highest standard of sustainable design and construction.

51. Before any retail unit hereby permitted is first occupied a post construction report prepared by an accredited BREEAM assessor and summary score sheets under the BREEAM (or such equivalent standard that replaces this), to show that a Very Good rating has been achieved, shall be submitted to BRE for their approval. The BRE Post Construction Stage Very Good rating Certificate subsequently received shall be submitted to the local planning authority.

Reason: To ensure that the development achieves the highest standard of sustainable design and construction.

52. The residential units hereby permitted shall be built to 'Lifetime Homes' standards and 10% of residential units shall be designed to be wheelchair accessible, or easily adaptable for residents who become wheelchair users.

Reason: In the interests of providing longevity of tenure.

53. At least 20% of the vehicular parking spaces shall be provided with electrical charging points for electric vehicles.

Reason: To encourage the uptake of electric vehicles.

54. Before any retail unit hereby permitted is occupied a Retail Vacancy Strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall include details of how units shall be let or made available for use, the categories and types of potential use, and the vacancy period that would trigger the strategy coming into effect. The retail units shall be managed in accordance with the approved strategy.

Reason: To maintain vibrancy and activity within these units throughout the duration of the use within the development.

55. No building hereby permitted shall be occupied until a Travel Plan for that building has been submitted to and approved in writing by the local planning authority. The approved plan shall be implemented before any uses in the relevant building are commenced and shall be adhered to thereafter.

Reason: To ensure that the travel arrangements to the site are appropriate and to limit the effects of the increase in travel movements.

56. No development shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:

- An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
- Information on environmental management;
- A description of management responsibilities;
- A description of the demolition and construction programme, highlighting the various stages and context of the whole project;
- Site working hours;
- Detailed Site logistics arrangements;
- Temporary works requirements;
- Communication procedures with the LBL and local community regarding key construction issues – newsletters, fliers etc.;
- Established environmental monitoring and control measures with respect to:
  - Air Quality;
  - Noise and Vibration;
  - Water;
  - Fuel and Chemicals;
  - Waste Management;
  - Worksite Housekeeping;
  - Electricity and Lighting;
  - Traffic Management and Site Access;
  - Operations Likely to Result in Disturbance;
  - Site Layout Arrangements with respect to temporary works, plans for storage, accommodation, vehicular movement, delivery and access;

- Materials;
- Contaminated Land;
- Ecology;
- Vermin Control;
- Public Relations – procedures ensuring that communication is maintained with the LBL and the community and also provisions for affected parties to register complaints and a means of replying to these complaints;
- An overview of environmental incidents;
- A description of relevant documentation and records;
- Environmental inspections and reviews; and
- Housekeeping and general site management, materials storage and handling, waste management, recycling and disposal.

The approved CEMP shall be adhered to throughout the construction period.

Reason: To prevent pollution to the land and/or water environment, protect the amenities of local residents and occupiers and to safeguard the natural environment within the site and its surroundings.

57. Development shall not commence (excluding demolition) until a site hoarding strategy has been submitted to and approved in writing by the local planning authority. The strategy shall include a plan showing the location of site hoarding, a strategy for continual displays on the site hoardings surrounding the site showing the history of the site and the surrounding area, and details of engagement with the local community and local schools in relation to the displays on the site hoardings. The approved strategy shall be adhered to throughout the construction period.

Reason: To minimise danger and inconvenience to highway users.

## **SCHEDULE 2 – Conditions for Application B No. 12/04699/FUL**

1. The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To comply with Section 91(1) (a) of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed below:

1106 ST\_P\_00\_C645\_001 Rev 00, 1106 ST\_P\_00\_JA12\_001 Rev 00, 1106 ST\_E\_N\_C645\_001 Rev 00, 1106 ST\_E\_E\_C645\_001 Rev 00, 1106\_ST\_E\_S\_C645\_001 Rev 00, and 1106 ST\_E\_W\_C645\_001 Rev 00.

Reason: For the avoidance of doubt and in the interests of proper planning.

### **SCHEDULE 3 – Conditions for Application C No. 12/04701/LB**

1. The works hereby authorised shall begin not later than three years from the date of this consent.

Reason: To comply with the requirements of Section 18(1)(a) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

2. The works hereby permitted shall be carried out in accordance with plan nos. 11016 MP\_P\_00\_C645\_003 Rev 00 and 11016 MP\_P\_00\_C645\_004 Rev 00.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Prior to the removal of the fountain details outlining the following shall be submitted to and approved in writing by the local planning authority.

- Moving, storage and re-erection method statements.
- Detailed drawings at 1:20 scale showing the design of the basin, pool, water supply, drainage etc..
- Samples of the materials of the basin, pool and water supply.

The works shall be carried out in accordance with the approval details.

Reason: To restore and protect the historic interest of the fountain.

#### **SCHEDULE 4 – Conditions for Application D No. 12/04702/CON**

1. The works hereby authorised shall begin not later than three years from the date of this consent.

Reason: To comply with the requirements of Section 18(1)(a) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

2. Following demolition of existing structures the relevant resultant debris shall be removed from the site and the ground works shall be made good in accordance with details to be submitted to and approved in writing by the local planning authority and shall thereafter be maintained until such time as building works commence in accordance with planning permission ref. 12/04708/FUL.

Reason: To protect the character and appearance of the South Bank Conservation Area.

3. The part of the existing footbridge over York Road within the South Bank Conservation Area shall not be demolished before a contract for the construction of Building 3 as approved by planning permission ref. 12/04708/FUL has been made.

Reason: To ensure that demolition does not take place before development is certain.





## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL ( 0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING, TREE PRESERVATION ORDER & ADVERTISEMENT APPEALS; CALLED-IN PLANNING APPLICATIONS; GRANTS OF PLANNING PERMISSION IN ENFORCEMENT NOTICE APPEALS**

Depending on the circumstances, the decision may be challenged by making an application to the High Court under either or both Sections 288 and 289 of the Town and Country Planning Act 1990 (the TCP Act). There are differences between the two sections, including different time limits, which may affect your choice of which to use. These are outlined below.

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) or section 195 (Lawful Development Certificate) may be challenged under this section, as may discontinuance order, tree preservation order and advertisement appeals. Section 288 also relates to enforcement appeals, but only to decisions granting planning permission or discharging conditions. Success under section 288 alone would not alter any other aspect of an enforcement appeal decision. The enforcement notice would remain quashed unless successfully challenged under section 289 of the TCP Act or by Judicial Review.

Section 288 provides that a person who is aggrieved by the decision to grant planning permission or discharge conditions (on an enforcement appeal) or by any decision on an associated call-in under section 77, appeal under section 78 or section 195 of the TCP Act, may question the validity of that decision by making an application to the High Court.

#### **SECTION 2: LISTED BUILDING & CONSERVATION AREA CONSENT APPEALS & CALLED-IN APPLICATIONS; LISTED BUILDING ENFORCEMENT APPEALS.**

Depending on the circumstances, the decision may be challenged by making an application to the High Court under either or both sections 63 and 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act). There are differences between the two sections, including different time limits, which may affect your choice of which to use. These are outlined below.

### **Challenges under section 63 of the LBCA Act**

Decisions on appeals made under section 20 (listed building consent) may be challenged under this section. Section 63 also relates to enforcement appeals, but only to decisions granting listed building consent or conservation area consent or discharging conditions. Success under section 63 alone would not alter any other aspect of an enforcement appeal decision. The enforcement notice would remain quashed unless successfully challenged under section 65 or by Judicial Review.

Section 63 of the LBCA Act provides that a person who is aggrieved by the decision to grant listed building or conservation area consent or discharge conditions (on an enforcement appeal) or by any decision on an associated appeal under section 20 of the LBCA Act, may question the validity of that decision by making an application to the High Court.

### **GROUNDINGS FOR APPLICATIONS UNDER SECTION 288 OF THE TCP ACT AND SECTION 63 OF THE LBCA ACT**

Challenges may be made on the grounds:-

That the decision is not within the powers of the Act; or

That any of the relevant requirements have not been complied with ('relevant requirements' means any requirements of the LBCA Act or the TCP Act as appropriate, or of the Planning and Tribunals Act 1992, or of any order, regulation or rule made under any of those Acts).

These two grounds mean in effect that a decision cannot be challenged merely because someone does not agree with the Secretary of State's decision. Those challenging a decision have to be able to show that a serious mistake was made when reaching the decision; or, for example, that the inquiry, hearing or site visit was not handled correctly or that the procedures were not carried out properly. If a mistake has been made the Courts may decide not to quash the decision if the interests of the person making the challenge have not been prejudiced.

Please note that under both sections an application to the High Court must be lodged with the Crown Office within 6 weeks of the date of the decision letter. This time limit cannot be extended. Permission of the Court is not required to make these types of challenge.

### **CHALLENGES UNDER SECTIONS 289 OF THE TCP ACT & 65 OF THE LBCA ACT**

In both planning and listed building enforcement notice appeals, and tree preservation order enforcement appeals, the appellant, the local planning authority or any person having an interest on the land (to have an interest in the land means essentially to own,

part own, lease and, in some cases, occupy the site) to which the enforcement notice relates may challenge the decision in the High Court on a point of law.

An application under either section may only proceed with the permission of the Court. An application for permission to challenge the decision must be made to the Court within 28 days of the date of the decision, unless the period is extended by the Court.

If you are not the appellant, or the local planning authority or a person with an interest in the land but you want to challenge a planning enforcement appeal decision on grounds (b) to (g) or a listed building enforcement appeal decision on grounds (a) to (d) or (f) to (k), or the decision to quash a notice, you may make an application for Judicial Review. You should seek legal advice promptly if you wish to use this non-statutory procedure. The procedure is to make an application for the permission of the Court to seek Judicial Review. The claim form must be filed promptly and in event within the period of three months after the grounds to make the claim first arose. In many planning related disputes a shorter period, say no more than 6 weeks will be regarded as prompt. The Court can extend or abridge time but will only exercise this power where it is satisfied there are very good reasons for doing so. The time may not be extended by agreement between the parties.

### **SECTION 3: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

### **SECTION 4: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.