



Department for  
Communities and  
Local Government

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Our Ref: APP/K5030/V/13/2205294  
Your Ref: DP2520

7<sup>th</sup> July 2014

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION BY HENDERSON GLOBAL INVESTORS LTD  
AT 43 FARRINGDON STREET, 25 SNOW HILL AND 29 SMITHFIELD STREET,  
LONDON EC1  
APPLICATION REFERENCE 13/00150/FULEIA**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, C.J.Ball DArch DCons RIBA IHBC, who held a public local inquiry which opened on 11 February 2014 into your client's application for partial demolition of the existing building and other structures at 43 Farringdon Street and part redevelopment and part refurbishment of the existing buildings to provide office (B1) and retail (A1-A3) uses, partial demolition of the existing building and other structures at 25 Snow Hill and 29 Smithfield Street to provide office (B1) and retail (A1-A3) uses, with associated servicing and access (39,441m<sup>2</sup>) in accordance with application reference 13/00150/FULEIA dated 8 February 2013.
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 application be referred to him instead of being dealt with by the relevant planning authority, the City of London Corporation.

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

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation. 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 under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Having had regard to the Inspector's comments at IR27 – 28, 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 application.

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

5. The Secretary of State has given careful consideration to the representations which were submitted following the close of the inquiry or too late to be considered by the Inspector. The Secretary of State is satisfied that these representations do not raise any new issues which affect his decision or which require him to refer back to parties. Copies of the representations, which are listed at Annex A, are not enclosed with this letter but may be obtained on written request to the address at the foot of the first page of this letter.

### **Policy considerations**

6. In deciding the planning application, 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.
7. In this case, the development plan comprises the 2011 London Plan, the City of London Core Strategy 2011 (CS) and the saved policies of the City of London Unitary Development Plan 2002 (UDP). The Secretary of State considers that the development plan policies most relevant are those identified by the Inspector at IR32-34. He sees no reason to disagree with the Inspector's view (IR35) that all the relevant development plan policies are broadly in line with the objectives of the National Planning Policy Framework (the Framework) and so carry full weight.
8. Other material considerations which the Secretary of State has taken into account include the Framework, the Planning Practice Guidance (the Guidance), the Community Infrastructure Levy (CIL) regulations, the City of London Planning Obligations Supplementary Planning Guidance (2014), the City of London CIL Charging Schedule (2014) and the Smithfield Conservation Area Character Summary and Management Strategy Supplementary Planning Document (2012).

9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has paid special regard to the desirability of preserving those listed structures potentially affected by the scheme 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 Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Main issues**

10. The Secretary of State considers that the main issues in this case are those identified by the Inspector at IR398-399.

### **The heritage assets**

11. The Secretary of State has had regard to the Inspector's comments about the Smithfield area, its heritage assets and the adjoining Conservation Areas at IR18 – 21 and at IR400-416. He sees no reason to disagree with the Inspector's remark that the General Market, the Annex Market, the Red House and the Engine House are not listed but are clearly an integral part of the Smithfield market complex and are recognised as non-designated heritage assets which contribute strongly to the distinctive character of the Smithfield Conservation Area (IR408). In relation to the market group and its setting, the Secretary of State agrees, for the reasons given by the Inspector (IR416), that the market and the Holborn Viaduct effectively lie within a large shared setting which strongly enhances their significance and reflects their origins as grand Victorian engineering schemes that have shaped the area as it is seen today.
12. For the reasons given by the Inspector at IR417 – 418, the Secretary of State sees no reason to disagree with his view that the deteriorated state of the buildings is, at least in part, the result of the history of deliberate neglect and that, in assessing the planning balance, less weight should therefore be given to the current condition of the buildings and the consequent benefit of their repair (IR418).

### **The proposed development**

13. Like the Inspector (IR420), the Secretary of State has also taken account of the three bullet points within paragraph 131 of the Framework.
14. With regard to the proposed development of the General Market, the Secretary of State shares the Inspector's view that the restored street elevations would enhance the appearance of the Conservation Area and the variety and mix of the small-scale uses would be entirely consistent with the conservation of this element of the building (IR421). For the reasons set out by the Inspector (IR422 – 423), he also concurs that the other element of the proposed works would have an extremely harmful effect on the significance of the General Market as an important non-designated heritage asset (IR423).
15. Turning to the Annex Market, the Secretary of State shares the Inspector's view (IR424) that the appearance of the Conservation Area would be enhanced with the

repair of its 2 main external elevations and the restoration of their decorative features but that the integrity of the market hall would be compromised by the internal works. He also agrees with the Inspector's analysis at IR425 and he too considers that the proposed works to which the Inspector refers would have an extremely harmful effect on the significance of the Annex Market as an important non-designated heritage asset.

16. The Secretary of State agrees with the Inspector that in principle the appropriate redevelopment of the Red House and Iron Mountain sites together could make a positive contribution to the character of the Conservation Area (IR426) but, for the reasons given by the Inspector at IR427, the development proposal before him would have a harmful effect on the significance of the Red House as an important non-designated heritage asset.
17. The Secretary of State shares the Inspector's views in respect of the Engine House and is satisfied that the proposed restoration would sustain the significance of this relatively minor heritage asset (IR428).
18. For the reasons given by the Inspector, the Secretary of State agrees that the proposed development would cause substantial harm to the significance of the Western Market buildings, both individually and as an integral part of the Smithfield market complex, in conflict with the aims of LP policies 7.4, 7.6 and 7.8 (IR429). He also agrees with the Inspector (IR429) that the alterations would not properly conserve the significance of the City's heritage and nor would they take sufficient account of local scale and character, as required by CS policy CS12 and UDP policy ENV6.
19. The Secretary of State sees no reason to disagree with the Inspector's view that the partial removal of the canopy between the General and Poultry Markets would not cause substantial harm to the significance of the Poultry Market as a listed building (IR430). However, for the reasons given by the Inspector at IR431, the Secretary of State agrees with him that the disruption of their shared setting would cause substantial harm to the significance of the listed market buildings.
20. The Secretary of State endorses the Inspector's analysis at IR432 – 433. Like the Inspector (IR432), he considers that the restoration of the external facades of the Western Market buildings would significantly enhance the appearance of the Smithfield Conservation Area and the re-use of the perimeter shops would be consistent with the prevailing character of the area but that, in design terms, the proposed development would not be an appropriate or effective response to local character and history, and nor would it reflect the particular identity of the local surroundings, so it would not make a positive contribution to local character and distinctiveness. He further agrees with the Inspector that the loss of the General Market hall and its replacement by a large block of offices, and the addition of a taller office block at the Annex Market, would seriously affect the character and appearance of the area, causing substantial harm to the significance of the Smithfield Conservation Area as a whole (IR433). For the reasons given by the Inspector at IR434, he too concludes that the proposal would cause a modest degree of harm to the Charterhouse Square Conservation Area and would have a negligible impact on the character of the Hatton Garden Conservation Area.

21. Overall, the Secretary of State concurs with the Inspector's remarks at IR435. The Secretary of State concludes that the development proposal would lead to less than substantial harm to the significance of the Charterhouse Square and Hatton Garden Conservation Areas and substantial harm to the significance of the Smithfield Conservation Area. In his view, through damage to their setting, there would be substantial harm to the significance of listed buildings as designated heritage assets and he also finds that there would be a substantially harmful effect on the significance of the General and Annex Markets and the Red House as non-designated heritage assets.

### The Planning Balance

22. The Secretary of State has given careful consideration to the Inspector's comments at IR436 – 438. Like the Inspector (IR437) and as indicated at paragraph 9 above, the Secretary of State has been mindful of his obligations under the Planning (Listed Buildings and Conservation Areas) Act 1990. He has borne those obligations in mind in assessing the planning balance in this case and he has gone on to consider the principal public benefits claimed for the scheme.

23. The Secretary of State agrees with the Inspector that the repaired and restored street elevations of both market buildings, the Red House and the Engine House would be a clear benefit of the proposed scheme but, for the reason given by the Inspector, this benefit attracts limited weight (IR439).

24. The Secretary of State also agrees with the Inspector's analysis at IR440 – 441. In common with the Inspector, he concludes that the repair and reuse of some parts of the historic building group would enhance the character and appearance of the Conservation Area and would bring significant regenerative benefits, but those benefits would be heavily compromised by the extensive harm to heritage assets caused by the major alterations to other parts of the building group (IR442). He too considers that, overall, in the particular relationship of old to new, the proposal would not secure high quality design, a core Framework principle (IR442).

25. For the reasons given by the Inspector at IR443, the Secretary of State agrees that the clear public benefit of public access would be somewhat reduced.

26. In common with the Inspector (IR447), the Secretary of State considers that there is some tension between the City of London Corporation's policies aimed at increasing City office space and those setting out a positive strategy for the conservation and enjoyment of the historic environment. For the reason given by the Inspector (IR447), he gives greater importance and more weight to the conservation of the heritage assets. In common with the Inspector (IR447), the Secretary of State considers that the proposed development would not conserve the buildings in a manner appropriate to their individual significance, to their huge value as part of the Smithfield Market group or to the contribution they make to the setting of important listed buildings. Overall, having also taken account of the Inspector's remarks at IR444 – 446, he agrees with the Inspector that there is no pressing need for offices in this particular location sufficient to justify such a harmful intervention (IR447).

27. The Secretary of State has had regard to the applicant's contention that its proposal represents the optimum viable use for the buildings (IR448), the

Inspector's concerns about the impact of that proposal (IR449) and the Guidance which states that where other viable uses exist, the optimum use is the one likely to cause the least harm to the significance of the asset (IR450). He has given very careful consideration to the Inspector's analysis at IR451 – 457 and he sees no reason to disagree with the Inspector's conclusion that the funding proposals from SAVE Britain's Heritage and the Victorian Society (SVS) are sufficiently convincing to indicate that such a regeneration scheme would be possible, viable and deliverable (IR457). He also sees no reason to disagree with the Inspector that the SVS scheme could secure a long term future for the buildings through economically sustainable uses, provide public access to all parts of the buildings through their original gates and provide a mix of small scale uses which would maintain the diversity of character in the Conservation Area (IR457). Like the Inspector, he considers that, since the SVS scheme could do all this and conserve the buildings in their entirety, the scheme before him would not represent the optimum viable use (IR457).

28. In conclusion on this matter, like the Inspector (IR458), the Secretary of State gives great importance and weight to the substantial harm the proposed development would cause to the significance of the Conservation Area and the setting of listed buildings, reinforced by the substantial harm it would bring to the market buildings themselves. He agrees that the public benefits of the scheme would be limited and are those matters summarised by the Inspector at IR459. Overall, like the Inspector, the Secretary of State considers that the public benefits of the scheme would not be anything like substantial enough to provide a clear and convincing justification for the extensive harm it would cause to Smithfield's historic environment (IR460). He considers that the proposal would not sufficiently sustain or enhance the significance of heritage assets or put them to viable uses consistent with their conservation and that the scale of the harm to the non-designated assets would seriously affect their significance (IR460). Like the Inspector, the Secretary of State considers that it has not been demonstrated that the substantial harm to the designated heritage assets is necessary to achieve substantial public benefits that outweigh that harm (IR460).

### Obligation

29. The Secretary of State has had regard to the signed and sealed deed of Agreement dated 5 March 2014, the Inspector's remarks at IR386 – 390 and IR461, national policy set out at paragraphs 203-205 of the Framework, the Guidance and the CIL regulations. The Secretary of State observes that, as anticipated by the Inspector (IR390), the City of London Corporation's CIL Charging Schedule took effect from 1<sup>st</sup> July 2014. He agrees with the Inspector (IR461) that the provisions in the Agreement meet the tests set out at paragraph 204 of the Framework and comply with regulation 122 of the CIL regulations and that, to the extent that the wider public would benefit from some of the transport improvements and environmental works, there would be some degree of public benefit.

### Conditions

30. The Secretary of State has considered the suggested conditions at Annex A to the IR, the Inspector's comments on conditions at IR391 – 397 and IR462 as well as national policy set out in paragraphs 203 and 206 of the Framework and the

Guidance. The Secretary of State is satisfied that the proposed conditions are necessary and meet the other tests identified at paragraph 206 of the Framework. However, like the Inspector (IR462) he does not consider that the conditions would be enough to overcome his broad-based objections to the scheme.

### **Final Conclusion**

31. The Secretary of State has given careful consideration to the Inspector's concluding remarks at IR463 – 465. He too considers that the Western Market buildings are an integral part of the group of market buildings that is a key characteristic of the Smithfield Conservation Area and that it is important that they are repaired and put into a beneficial use that is consistent with their conservation as heritage assets (IR463). Like the Inspector (IR463), he finds that the proposal to demolish important parts of significant market buildings, to the great detriment to the surrounding area, to be wholly unacceptable. He also concurs with the Inspector that the shared setting of several listed buildings would not be preserved and the character and appearance of the Smithfield Conservation area would be diminished (IR463).
32. The Secretary of State shares the Inspector's view (IR464) that while the proposal would be consistent with some local development plan policies promoting intensification, rejuvenation and regeneration, it would not be consistent with those policies intended to protect the historic environment from harmful development and he attaches greater weight to the latter policies. He also sees no reason to disagree with the Inspector (IR464) that the threat of vacancy does not weigh heavily in favour of the proposal.
33. Overall the Secretary of State concludes that the extent of damage that the application would cause to the important heritage assets at Smithfield runs entirely counter to national and policy objectives intended to protect such assets from harm and that this would seriously undermine any economic, social or environmental benefits otherwise arising from the development, such that the proposal would not represent sustainable development.

### **Formal Decision**

34. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby refuses your client's application for planning permission for partial demolition of the existing building and other structures at 43 Farringdon Street and part redevelopment and part refurbishment of the existing buildings to provide office (B1) and retail (A1-A3) uses, partial demolition of the existing building and other structures at 25 Snow Hill and 29 Smithfield Street to provide office (B1) and retail (A1-A3) uses, with associated servicing and access (39,441 m<sup>2</sup>) in accordance with application reference 13/00150/FULEIA dated 8 February 2013.

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

35. 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.

36. A copy of this letter has been sent to the Greater London Authority, English Heritage, SAVE Britain's Heritage, the Victorian Society and Mark Field MP. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**Christine Symes**

Authorised by Secretary of State to sign in that behalf



## Annex A

### Representations Received Following the Close of the Inquiry or Otherwise Not Seen by The Inspector

Glenda Jackson MP (enclosing a representation from Mr Richard Upton, Chief Executive of Cathedral Group Plc, dated 12 June 2014)	18 June 2014
Alex Berry-Hart	14 June 2014
Mrs Sarah Plastow	13 June 2014
Anja Andersson	30 May 2014
Ronald Dominy	30 May 2014
Mrs Sylvia Dominy	30 May 2014
Simon Black	26 May 2014
Gaby Higgs, for the Marylebone Society	6 March 2014
Bob Hale	28 February 2014
Huw Griffith	27 February 2014
Mr G.H. and Mrs M.G. Scott	25 February 2014

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

by **C J Ball** DArch DCons RIBA IHBC

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

Date: 10 June 2014

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

Application for planning permission  
by Henderson Global Investors Ltd

**Proposed development at  
43 Farringdon Street, 25 Snow Hill and 29 Smithfield Street, London EC1**

Inquiry opened on 11 February 2014

File Ref: APP/K5030/V/13/2205294

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## **ABBREVIATIONS USED IN THE REPORT**

Ax	Appendix
CA	Conservation Area
CAZ	Central Activities Zone
CG	Cathedral Group plc
CGI	Computer-generated image
CIL	Community Infrastructure Levy
COL	City of London Corporation
CS	City of London LDF Core Strategy
EH	English Heritage
EIA	Environmental Impact Assessment
ES	Environmental Statement
Framework	National Planning Policy Framework
GLA	Greater London Authority
HGI	Henderson Global Investments Ltd
JMP	John McAslan and Partners
LP	The London Plan July 2011
OVU	Optimum viable use
PPG	Planning Policy Guidance
PIM	Pre-inquiry meeting
P(LB&CA)A	Planning (Listed Buildings and Conservation Areas) Act 1990
SPG	Supplementary Planning Guidance
SVS	SAVE Britain's Heritage and the Victorian Society
TCPA	Town and Country Planning Act 1990
UDP	City of London Unitary Development Plan 2002
USM	Urban Space Management Ltd

**File Ref: APP/K5030/V/13/2205294**

**43 Farringdon Street, 25 Snow Hill and 29 Smithfield Street, London EC1**

- 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 Henderson Global Investors Ltd to the City of London Corporation.
- The application Ref 13/00150/FULEIA is dated 8 February 2013.
- The development proposed is partial demolition of the existing building and other structures at 43 Farringdon Street and part redevelopment and part refurbishment of the existing buildings to provide office (B1) and retail (A1-A3) uses, partial demolition of the existing building and other structures at 25 Snow Hill and 29 Smithfield Street to provide office (B1) and retail (A1-A3) uses, with associated servicing and access (39,441 m<sup>2</sup>).
- The reason given by the Secretary of State for making the direction to call in the application was because the proposal concerns 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:
  1. the extent to which the proposed development is consistent with Government policies in requiring good design (NPPF Section 7);
  2. the extent to which the proposed development is consistent with Government policies in planning for conserving and enhancing the historic environment (NPPF Section 12);
  3. the extent to which the proposed development is consistent with the development plan for the area; and
  4. any other issues the Inspector considers appropriate.

**Summary of Recommendation: the application be refused.**

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**Preliminary matters**

1. I held a pre-inquiry meeting (PIM) on 20 November 2013 and a PIM Note was circulated to all parties on 26 November. Following the PIM a Programme Officer was appointed by the City of London Corporation (COL) to manage the inquiry process. A further PIM Note, including an updated inquiry programme, was circulated on 30 January 2014 (*CD21.4*).
2. The planning application submitted to COL was accompanied by applications for listed building consent and conservation area consent. Only the planning application was called in by the Secretary of State (*CD1.1-CD1.5*). At the PIM, COL confirmed that decisions on the 2 other applications would be held in abeyance until the appeal decision is known.
3. The inquiry sat for 12 days on 11-14, 18-21 and 25-28 February 2014. I made preliminary unaccompanied visits to the site and the surrounding area on 19 November 2013 and again on 10 February 2014. During the inquiry, as requested, I made unaccompanied visits on Saturday 22 February to One New Change, Borough Market, Hays Galleria and Greenwich Market; on Sunday 22 February to Leadenhall Market, Spitalfields Market and Brick Lane, including the Truman Brewery site; and on Monday 23 February to Borough and Spitalfields Markets again, Kings Cross Station, the Roundhouse Camden and Camden Lock Market. I made an accompanied visit to the site and its surroundings on 27 February.

4. The Greater London Authority (GLA), SAVE Britain's Heritage and the Victorian Society (together SVS) were all granted Rule 6 status. English Heritage (EH), although not a Rule 6 party, also gave evidence to the inquiry. SVS acted jointly but, as their advocate was ill for part of the proceedings, the 2 parties largely conducted their own cases and they gave separate closing submissions. I have reported their cases separately. Before the inquiry SVS withdrew their intended witness 4, who did not submit evidence. At the inquiry SVS withdrew their witness 6, Ian Lerner, and his written proof of evidence has not been taken into account (*SVS/6/A*). Before the inquiry the GLA's witness, David Blankson-Hemans, was taken ill. His evidence was presented by Stewart Murray (*GLA/1/A*). COL and GLA were represented by the same advocate. While he called separate witnesses, he made a joint closing submission. I have reported their cases jointly.
5. At the inquiry the applicants submitted a final draft s106 Agreement which was discussed on day 10 (*CD12.1*). The draft was in a form agreed between all the parties with an interest in the site. On 28 February, having heard all the evidence, I adjourned the inquiry to 10 March (with the intention of closing the inquiry in writing) to allow signature of the Agreement by all the necessary parties. A certified copy of the executed Agreement, with agreed minor amendments, was received on 7 March (*CD12.3*).
6. On 6 March, during the adjournment, the final version of national Planning Practice Guidance (PPG) was launched. Since some reliance had been placed by the parties on the beta version of the Guidance, I extended the period of adjournment to 24 March, inviting the parties to make written submissions on any matters affecting their submitted evidence arising from the publication of up-to-date guidance and the associated cancellation of other documentation. I have taken the PPG and these comments into account. I closed the inquiry in writing on 24 March (*CD21.7*).
7. The application addresses refer to separate buildings on the overall site. They are: the former General Market building (43 Farringdon Street); the former fish market, also known as the Annex Market (25 Snow Hill); the Red House, a former cold store, (1A Smithfield Street); and a separate small single storey triangular lavatory block for market porters which previously formed part of the Engine House to the Red House cold store (29 Smithfield Street). A modern infill between the Annex Market and the Red House, formerly used by Iron Mountain for document storage, lies above below-ground railway lines. In this report I refer to the buildings as the General Market, the Annex Market, the Red House, the Engine House and the Iron Mountain building. As a group they are known as the Western Market buildings.
8. On 3 December 2013 SAVE submitted a planning application to COL for the change of use of the ground floor of the General Market, Annex Market and former Iron Mountain loading bay to a flexible allocation of uses to include classes A1, A3, A4 and A5 (retail use), D1 and D2 (assembly leisure, market, theatrical performance, live music performance and storage), and provision for cycle parking facilities (*CD22.1-CD22.23*). That application had not been decided when the inquiry closed.
9. The reporting of the parties' cases is based on summarised evidence given at the inquiry, both oral and written, and edited closing submissions (*SVS/CS/1&2*, *GLA/CS*, *COL/CS*, *HGI/CS*). References in italic brackets, eg (*CD1.1*), are to the documents listed at the end of this report. With a few exceptions, these are hyperlinked to the Programme Officer's dedicated inquiry website where the full text of the documents is available.

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## The site and surroundings

*The site and its surroundings are described in CD21.1 and are further described and illustrated in CD2.2. References to CD3.2 are to existing views.*

### **Location**

10. The site is on the edge of the City of London, bounded by Farringdon Street to the west, Charterhouse Street to the north, West Poultry Avenue to the east, Smithfield Street to the south east and Snow Hill to the south west. The site, which has an overall area of approximately 1.03 hectares, is part of the extended Smithfield Market site (*CD2.2/1, CD21.1 Plan1.1*). Smithfield Meat Market, designed by Horace Jones the City Surveyor, was completed in 1868. The market was subsequently expanded westwards over a period of 20 years to the designs of Jones with the erection of the Poultry Market, completed in 1875, followed in turn by the buildings on the application site - the General Market, completed in 1883, and the Annex Market in 1888. The Red House and Engine House (by others) were completed in 1898. The Poultry Market was rebuilt in 1963 after the original building was destroyed by fire (*CD2.2 Ax1/4*).

### **Site description**

11. The General Market building consists of a central market space surrounded, uniquely among the market buildings, by a perimeter of 2 and 3-storey street-facing shops with offices above (*CD3.2 View10, CD2.2 Ax1/4*). At the north-west corner, known as Hart's Corner, the original domed pavilion (similar to those at the Meat Market) was destroyed by wartime bombing (*SVS/14 photos 1-3*). The damaged corner was replaced in the 1950s by a much simpler structure (*CD3.2 View 11*). The market roof is a grid of iron and laminated timber trusses, supported on wrought iron Phoenix columns, carrying a series of lantern-glazed roofs. An ornate central lantern was replaced in the 1960s by a shallow concrete dome, supported on the original structure (*CD2.2 Ax1/4*). An external ramp at the south-west corner leads down to the basement, which adjoins the railway tracks running under the site. A full-width canopy links the Poultry Market to the General Market (*CD3.2 View 20*).
12. The Annex Market occupies a triangular site, reflected in the triangular layout of 3 separate arcades, with rows of timber trusses, supporting glazed roofs, built around a central raised triangular office space (*CD2.2 Ax1/6*). The structure remains essentially unaltered. A canopy was erected between the General and Annex Markets in about 1900 (*CD3.2 View 7*). The taller Red House is generally derelict internally, although the external walls remain, and it has a temporary roof cover (*CD2.2 Ax1/1*). The Iron Mountain building, a relatively recent infill, is a utilitarian structure of no architectural merit. The separate small triangular Engine House is more or less complete, although it is much altered internally (*CD2.2 Ax1/1*).
13. The external design and materials of the buildings on the site generally reflect the red brick and stone design of the Meat Market and, although the later buildings became progressively simpler, they clearly form part of the same group (*CD3.2 View 13*). The linking canopies allow undercover movement from one end of the market complex to the other, from the grand avenue through the Meat Market, through the Poultry Market and General Market to the Annex Market.

14. All the market buildings, including the 'pop architecture' of the 1960s Poultry Market, have a grand 2-storey scale (*CD21.1/8.4*). The application buildings in general are structurally sound although there is some minor damage to the roof and walls and many of the decorative features are in poor condition (*CD2.2 Ax1/5 & Ax1.7*). All the buildings on the site are now largely vacant, although the basement of the General Market is in temporary use as part of the Crossrail project and the ground floor is being used by Network Rail in connection with the associated above-ground works at Farringdon Station.

### ***Surroundings***

15. Many of the buildings on Charterhouse Street originally housed functions connected with the operation of the markets, including the early market building at 67-77 and the former Cold Store at 51-53. The buildings along the north side of the street are generally 4-5 storeys high, mixed in character, with a predominance of bars, restaurants and shops at ground floor level. The former Caxton House site, at the junction with Farringdon Road opposite Hart's Corner, currently part of the Crossrail operation, has planning permission for an 11-storey mixed use development (*CD3.2 View 6*). Farringdon Street to the west includes a number of 9-10 storey office buildings.
16. To the south, adjacent to Holborn Viaduct, a 10-storey commercial building has recently been completed, including the reinstatement of a pavilion giving stepped access between the viaduct and Farringdon Street. There are elevated views of the buildings on the site and their surroundings from Holborn Viaduct (*CD3.2 View 6*). The buildings on West Smithfield, Smithfield Street and Snow Hill are a mix of new and older buildings ranging from 5-7 storeys, with mainly retail and restaurant uses at ground floor (*CD3.2 View 7*). Planning permission has been granted for a hotel on Snow Hill.
17. The parties agree that there would be no intrusion into protected views, in compliance with London Plan policy 7.12 and the London View Management Framework SPG (*CD3.2 views 01-04, CD18.1, CD18.2, CD21.1/9.0*).

### ***Heritage assets***

18. The site lies within the designated Smithfield Conservation Area, which includes the whole of the market group. Originally centred on St Bartholomew's Hospital and the Church of St Bartholomew the Great, the conservation area was extended in stages, to include the Poultry, General and Annex markets in 1986 (*CD2.2/3*).
19. The Charterhouse Square Conservation Area adjoins to the north, while the Hatton Garden Conservation Area lies across the road from Hart's Corner.
20. The Meat Market building is listed grade II\*. The replacement Poultry Market is listed grade II. The former Cold Store at 51-53 Charterhouse Street, and the early former meat market building at 67-77, both in the Charterhouse Square Conservation Area, are both listed grade II. Holborn Viaduct, to the south of the site, is also listed grade II (*CD21.1*).
21. The General Market, the Annex Market, and the Engine House were all granted 5-year immunity from listing in 2005 (*CD14.1*). The Red House was de-listed in 2008 (*CD14.9*). A recent application by the Victorian Society to have these market buildings listed was dismissed by EH (*SVS/27*). Nonetheless, the architectural and historic interest of these buildings is recognised and the parties agree that, in terms



of the Framework, they are important non-designated heritage assets which contribute strongly to the character and appearance of the Smithfield CA.

### **Planning history of the site**

22. The Annex Market and the Red House were declared surplus to operational requirements in 1983. The General Market was subsequently declared surplus to requirements in 1999. The buildings became vacant. In 2007, following abortive earlier proposals, an application was submitted by Thornfield Properties (London) Ltd for demolition of the General Market and the erection of a single block with retail uses on the ground floor and offices above. COL resolved to grant permission but the application was called in by the then Secretary of State. In 2008, following an inquiry, the application was refused primarily on heritage grounds. The Inspector found, and the Secretary of State agreed, that no other factors outweighed the harm that would be caused to the character and appearance of the conservation area by the loss of the General Market (CD15.1, CD15.2).
23. Reference was made by all the main parties to the 2008 report and decision. It clearly informed the approach taken in developing the design of the current scheme. The need to repair the 'lids' over the rail tracks featured prominently in that inquiry. That repair work has since been carried out by HGI and is no longer an issue. COL resolved to grant permission for the current application before it was called in by the Secretary of State.

### **The proposals**

*The proposals are described in CD21.1 and CD2.2.1/5. Plans and elevations of the design scheme are included in CD2.2/8. Views showing CGIs of the proposal are in CD3.2.*

24. An office led, mixed use development is proposed, consisting of 2 separate buildings with retail and A3 uses at ground floor and floors of office use above (CD21.1).
25. At the General Market, the perimeter of shops would be retained on 3 sides and refurbished. In the central area, an open piazza off Hart's Corner would lead into a mall of shops and restaurants with linked rectilinear office blocks of 2, 3 and 4 storeys above, stepping up in height from Farringdon Street to West Poultry. The canopy between the General Market and the Poultry Market would be partly removed and the West Poultry frontage refurbished below the overhanging offices. The General Market basement would be used primarily for building service plant, with cycle parking and some car parking provision for disabled users (CD2.2/5).
26. In the Annex Market, within refurbished external walls and roof, retail uses would occupy the whole of the ground floor, including the Iron Mountain and Red House sites, around a central passage. A 6-storey office block would be built above, partly behind the repaired Red House street frontage. The offices would overhang the main arcade roof. The canopy linking the General and Annex markets would be refurbished. The Engine House would become a small café/retail unit (CD2.2/5). The Annex Market basement would be retained as the COL winter salt store.

### **Environmental Impact Assessment**

27. The applicants carried out an Environmental Impact Assessment and submitted a detailed Environmental Statement (ES) with the application (CD3.1-CD3.4). An ES Addendum, re-presenting the Statement of Significance originally appended to the

Design and Access Statement, was submitted in May 2013 for reasons of completeness and ease of reference (*CD3.5*). The ES is site specific, it covers the necessary matters and it sets out local mitigation proposals where appropriate. Consultation responses have been addressed and there is a non-technical summary.

28. At the PIM, SVS argued that in some respects the ES was defective and inadequate (*CD21.4*). While it can always be argued that an ES should go further, I consider that none of the points raised were sufficient to render the submitted ES invalid. I consider that the ES meets the terms of the current EIA Regulations and provides the data and information required to adequately assess the impact of the proposal on the environment. I heard further evidence on the matters raised by SVS at the inquiry and have taken all that environmental information into account.

### **Agreed matters**

29. Before the inquiry HGI and COL submitted a statement of common ground (*CD21.1*). This agrees a site description, gives the planning history of the site and describes the proposal. The statement sets out the history of the area and gives details of local heritage assets. It itemises the relevant policy background and provides details of the technical and environmental studies submitted. It includes an outline of the s106 Agreement and a list of suggested conditions. The statement gives viewpoint details, concluding with a list of submitted plans.
30. Since COL is not an objecting party, at the PIM I asked HGI and SVS to agree common ground, particularly in relationship to viability. In the event this proved not to be possible.

### **Planning policy**

31. The local development plan consists of the London Plan 2011 (LP), the City of London Core Strategy 2011 (CS) and the saved policies of the City of London Unitary Development Plan 2002 (UDP) (*CD18.1, CD19.1, CD19.2*).
32. Relevant LP policies include 2.10, 2.11 and 2.13, which set out the strategic priorities and functions of the London Central Activities Zone (CAZ), and identify Farringdon/Smithfield as an Area for Intensification; 4.1, 4.2, 4.3 and 4.8, which support the development of London's economy with offices, mixed use developments and retail; and 7.2, 7.3, 7.4, 7.6, 7.8 and 7.9, which seek to provide an inclusive and safe environment which sustains and enhances local character, require the highest architectural quality, protect heritage assets by conserving their significance and assist regeneration by putting heritage assets to a suitable and viable use consistent with their conservation;
33. CS policies of particular relevance to this proposal include CS1, intended to ensure the provision of additional office space to meet future City demand; CS4, which seeks planning contributions to address the impact of development; CS5, which addresses the potential for rejuvenation in the Farringdon/Smithfield area; CS10, which promotes high standard sustainable design; CS12, which aims to conserve or enhance the significance of the City's heritage assets; and CS15, which requires sustainable standards of development.
34. Saved UDP policies relevant to the proposal include ECON6, intended to maintain or enhance the varied and special character of Smithfield by controlling the extent of B1 and non-B1 uses; ENV6, which requires alterations to buildings to take account of their scale, character, proportions, materials and settings; ENV11, which resists

the demolition of buildings which make a positive contribution to the character or appearance of a conservation area and encourages their sympathetic refurbishment; and ENV12, which permits development in conservation areas only if it preserves or enhances the special architectural or historic interest of the area.

35. All the relevant development plan policies are broadly in line with the objectives of the NPPF, published in March 2012, and so carry full weight.
36. Other material policy considerations include the Smithfield Conservation Area Character Summary and Management Strategy SPD (CD19.5).

### **The Case for Henderson Global Investments Ltd**

*This is the gist of evidence given to the inquiry by HGI, set out primarily in proofs of evidence HGI/1/A-J, HGI/2/A-E, HGI/3/A-H, HGI/4/A-D and closing submissions HGI/CS.*

37. The site is within the Smithfield Conservation Area. The proposals include significant changes to three unlisted buildings in the conservation area: the former General Market; the Annex building; and the former Engine House. In addition, the proposals would see alterations to the Grade II listed Poultry Market to the east of the site. The interiors of the General Market and the Annex building would largely be removed and replaced with new development. This new development would affect the conservation area and designated heritage assets including listed buildings. While none of the buildings on the site are listed, they do make a positive contribution to the conservation area (HGI/2/A.7).
38. In this application the conclusions reached about the heritage issues will determine whether permission should be granted. HGI rely on submissions made by COL and GLA concerning accordance with the development plan on other matters. If it is concluded that the application is acceptable on its own terms in relation to heritage issues, there is nothing in the development plan which would justify refusing the application on this - or any other - issue. What matters is how the application fares when assessed in relation to the statutory provisions and the up-to-date national planning policies which concern heritage issues (HGI/S).

### ***The proposals***

39. The perimeter buildings of the General Market would be retained and restored. The ground floors of these buildings would provide retail and cafe accommodation whilst the 2 upper floors would provide ancillary office or meeting room space. All architectural embellishment, external and internal, would be restored. Within the central space of the market hall at ground level, the majority of historic structural elements would be retained and the space used as a retail hall. Existing architectural elements would be salvaged, restored and reused within the building or in the former Annex Market (HGI/1/A).
40. Within the retained elements of the General Market, 3 new linked pavilions of increasing height would be inserted of a height, scale, materiality, and architectural language that would defer to the host buildings. These would provide accommodation on ground floor plus 2, 3 and 4 storeys above. The elevations would incorporate glazing set within a series of frames constructed of weathering steel to complement the tone and colour of the surrounding historic brickwork. The flat roofs would form a series of terraced amenity areas, each containing a garden area (HGI/1/A).

41. The former Annex Market would be retained in its entirety, and brought back into use as retail and cafe/bar accommodation. All of the building's architectural embellishments, external and internal would be restored. The street elevations of the Red House would be retained and restored. Within the space currently occupied by the remains of the Cold Store and the Iron Mountain storage facility, a new building would be constructed on ground floor and 6 storeys above. Elevations would be formed in glass with black anodised aluminium framing. Above the elevation, a series of solid finned aluminium panels would contain the lift core. The new elements would be set back from restored elevations, and of a height and scale which would provide a good balance between new and old. The former Engine House would be retained and its street elevations restored. The interior would be converted into a small retail or cafe unit (*HGI/1/A*).
42. It is important to note that these proposals are entirely different from those rejected by the Secretary of State in 2008. Equally, it is important to appreciate that this is not a façade retention scheme. The former Annex Market and perimeter buildings of the General Market would be retained and restored in their entirety, largely for public uses. Only the street elevations of the Red House would be retained but they are all that survive of the Cold Store. The interior of the former Engine House would be refitted for a new use but currently it contains nothing other than lavatories (*HGI/1/A*).
43. Taken together, these proposals offer a high quality, contextual response to an important site within the CA. The most architecturally significant parts of the Victorian buildings, those that make the greatest contribution to the street scene and CA, would be retained and restored. Well designed new floor space would provide attractive, flexible accommodation within environmentally responsible buildings. Active street frontages and permeability would animate the buildings and bring them back to life. All of this would be a significant enhancement of the Smithfield CA.
44. Although not listed, the Western Market buildings are handsome structures of architectural and historic interest which make a positive contribution to the Smithfield CA. They have been largely empty for some 3 decades and their present condition is a great sadness. HGI has endeavoured to keep them weathertight and secure but it is inevitable that the fabric of these vacant buildings will deteriorate and that their contribution to the townscape and CA will be weakened.
45. It is necessary to find a secure, economically viable future for the buildings and, thereby, enhance this part of the CA. This proposal would provide that future by developing an approach which keeps and repairs the most significant parts of the buildings and inserts an appropriate amount of new floor space within retained buildings. The scheme delivers a high quality architectural solution which adds to the interest of the Victorian buildings and the CA.
46. Above all the proposal, in addition to being architecturally appropriate, is realistic, deliverable, viable and fundable. Its implementation would secure the future of this important group of buildings. This in turn would enhance the CA by injecting new life and activity into the street scene. These proposals offer the best possible realistic opportunity for bringing these buildings back to life (*HGI/1/A-D*).

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***Statutory duty - s72(1) & s66(1) Planning (Listed Buildings & Conservation Areas) Act 1990***

47. S72 (1) states the duty to pay “special attention ...to the desirability of preserving or enhancing the character or appearance” of conservation areas & s66 (1) to have “special regard to the desirability of preserving” listed buildings or their settings.
48. In *Barnwell Manor Wind Energy Ltd v East Northamptonshire DC & Others* ([2014] EWCA Civ 137) the Court of Appeal treated “the nature of the duty” as “the same under both enactments” and that “preserving” in both sections means “doing no harm.” (SVS/17). In *Barnwell Manor* the Court of Appeal held that: “decision-makers should give “considerable importance and weight” to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise” in cases which involve heritage issues. By implication, the same approach would apply in relation to s72(1) such that “considerable importance and weight” should be given also to the desirability of preserving or enhancing the character or appearance of conservation areas.

***Conservation Area***

49. The significance of the Smithfield CA, as described in the Conservation Area SPD, lies primarily in the unique character derived from a long and colourful history, the diversity of built form and uses, a rich townscape with great contrasts of scale and the large concentration of historic buildings (CD19.5, HGI/2/A.5). HGI, COL and EH all acknowledge that the proposals would cause some harm to the CA but this harm would be limited. SVS consider that the harm would be considerable but it is important to bear in mind that the statutory duty for CAs (unlike that in relation to listed buildings) does not relate only to harm but also to enhancement. The significance of this point is that in a case such as this where on any sensible analysis there would not simply be harm to the CA but also enhancements to it, the question arises as to how the decision-maker should balance these countervailing harmful and beneficial impacts.
50. There would be several beneficial impacts on the CA; repairing, restoring and bringing back into use the public face of the General Market on 3 of the 4 streets on which it sits would bring life and activity to the CA as well as bringing similar benefits to West Poultry Avenue; providing public access through the General Market, with its shops and places to eat and drink, across under the restored canopy to the repaired, renovated and re-invigorated Annex Market would be a stunning place to be; the unattractive Iron Mountain building would go; the historic elevations on all three sides of this triangular block would be repaired and renovated; and the Engine House would be restored and brought into beneficial use. These would be very significant and worthwhile enhancements to the CA.
51. In circumstances such as these the decision-maker should give “considerable importance and weight” both to the desirability of preserving i.e. avoiding the harm to, the CA and also “considerable importance and weight” to the desirability of enhancing the CA i.e. to the beneficial impacts of the proposals. Alternatively, the decision-maker should weigh the harm against the benefits so as to conclude whether in overall terms there would be a net harmful or net beneficial impact, and depending upon the degree of the net effect, consider it in light of the statutory duty. In that case HGI submit that overall the net effect of the proposals would be beneficial rather than harmful. If it is concluded otherwise, then it must surely be the case that any net harmful impacts must be very considerably counterbalanced

by the benefits, such that there would be little if anything to attach “considerable importance and weight” to in the context of the statutory duty.

### **Listed buildings**

52. The grade II\* listed meat market is of high significance historically, socially and architecturally. It is the most flamboyant of the range of market buildings and it sets the pattern for the entire market area. It would not be directly affected by the proposed development (HGI/2/A.5).
53. The heritage interest or value of the grade II listed Poultry Market lies principally in its “remarkable ...pop architecture” exterior, its “particularly striking” interior and its concrete shell dome (CD21.1/8.4). Removing part of the canopy that spans across West Poultry Avenue would not harm this heritage interest. The list description does record that: “The market is entered under the canopies to either end”. It still would be. The manner in which the canopy is fixed to the listed Meat Market shows that little if any regard was paid to the significance of the Meat Market in doing so, and the same is true in relation to the crude manner in which the canopy currently meets the General Market (HGI/1/G/Photo p32).
54. In assessing the effect of development within the setting of a listed building an examination should be made as to whether the development would “make a positive or negative contribution to the significance of the listed building”. In other words, the setting of a listed building is not protected for its own sake but for the sake of the significance of the listed building. Accordingly, the question is whether building the application proposals within its setting would harm the significance of the listed Poultry Market. HGI considers that there would not be harm (and thus the setting would be preserved) as the ability to appreciate the significance of the Poultry Market as a listed building (its pop architecture exterior, its shell dome and its striking interior) would not be impaired by the proposed development. If anything, the proposed development with its renovation and reinvigoration of the General Market would enhance the Poultry Market’s setting.
55. Under s66 (1) as construed by the Court of Appeal, HGI submits that there is nothing to attach “considerable importance and weight” to, as both the listed Poultry Market and its setting would be preserved as either the impact simply would not be harmful or because any harmful impacts would be countered by enhancing effects such that overall there would be preservation.
56. Other listed buildings referred to are the former cold store at 51-53 Charterhouse Street and Holborn Viaduct, both of which are listed grade II (CD21.1/8.5 & 8.6). There is no direct impact on either building so the s66 (1) issue can only arise in relation to their settings. The question is not whether the townscape view from the Viaduct would be made better or worse. Once it is understood why these buildings are listed, and the impact of the proposed development on the heritage value of these building is considered, it must be the case that their settings would be preserved. There is nothing to attach “considerable importance and weight” to.
57. If it is concluded that there would be harm to any one or more of the Smithfield CA, the listed Poultry Market, its setting, the setting of any other listed building(s), then on the Court of Appeal’s interpretation in the *Barnwell Manor* case of the statutory provisions, depending on the conclusion reached, “considerable importance and weight” should be given to the desirability of preserving: the Smithfield CA’s character or appearance; the listed Poultry Market; its setting; and the setting of

whichever other listed building the conclusion relates to “when carrying out the balancing exercise.”

***Would there be “less than substantial harm” or “substantial harm” to the significance of designated heritage assets?***

58. This issue arises from Framework ¶132-134. It is not whether the proposals would cause substantial, or less than substantial, harm to the significance of the individual buildings on the site such as the General Market because none of them are designated. This means that the issue is whether there would be less than substantial, or substantial, harm to the significance of either the Conservation Area, as a whole, within which the site lies, (Smithfield CA), other nearby Conservation Areas (Hatton Garden CA & Charterhouse Square CA) or nearby listed buildings.
59. The High Court held last year in *Bedford BC v SSCLG* ([2013 EWHC 2847 (Admin)] (CD20.1) that “the test for the grant of planning consent varies according to the quantum of harm to significance. There is a presumption against granting consent if the harm to significance is substantial (¶133). But if the harm is less than substantial, it is simply a question of weighing that harm against the public benefits of the proposal (¶134).” The High Court held that ‘substantial’ is synonymous with ‘serious’ in the sense that “very much, if not all, of the significance was drained away” - “an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced.” This approach is reflected to some extent in the recently published PPG (CD17.11, HGI/13) which under the heading of: “How to assess if there is substantial harm” advises that: “in general terms, substantial harm is a high test, so it may not arise in many cases ... an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest”.
60. With regard to the Smithfield CA, the proposal would involve most notably (albeit not most noticeably) the removal of the roof over the General Market market hall and not retaining the old covered market hall as a space; together with building offices in steps of 2, 3 and 4 storeys over shops and retail courtyards within the retained and restored perimeter buildings of shops running along West Smithfield, Farringdon Street & Charterhouse Street; and in relation to the Annex where the former Annex Market building would be refurbished for restaurant and retail uses, the unattractive Iron Mountain building would go, the canopy link between the General market and the Annex would be retained and renovated, and within the retained and restored elevations of the Red House there would be a 6 storey office building above shops and the office reception. These proposals would not cause harm so serious to this very extensive and very varied CA that its heritage significance, as an Area, as a whole, would be “very much reduced”. If this scheme is permitted and built, the continued designation of the CA would not be called into question.
61. The proposals would raise the quality of the general environment, removing the barrier of unused and semi-derelict buildings between Farringdon Road and, in particular, the Market buildings to the east and north of the site, but also the locations to the south adjacent to the Annex and former Engine Room and this would lead to benefits for the setting of the nearby listed buildings and the conservation areas (HGI/A/2.8).
62. The new uses, the mixture of a variety of types of retail and office uses, would constitute appropriate types for this location within the CA and would provide

viability for the historic environment for the longer term. This would result in a major public benefit for the designated heritage assets of both the Smithfield and Charterhouse Square CAs.

63. While the physical impact of the proposals, in terms of the extensions, would see significant new building within the conservation area, the quantum of additional development that the proposals would result in is based on reasonable levels of return for the investment made. The new accommodation in the form of extensions to the General Market and the Annex building would cause 'less than substantial harm' to the setting of the conservation areas, irrespective of the benefits described above.
64. Otherwise as regards the buildings on the site:
- The General Market would have restoration of elements on the north, west and south of the building. These changes would mean that the building's contribution to the conservation area would be enhanced. This would be a major benefit.
  - The proposals would affect the fabric of the Annex buildings in different ways ; the former Annex Market would be restored, with its roof structures, while the Red House would retain its east elevation and the arcaded elevation to the south. The Iron Mountain would be removed. The proposals for these buildings would result in no loss of significant historic fabric and the restoration and their conservation to new uses would lead to significant benefits.
  - The proposals would lead to the most important contribution the buildings make to the conservation area being protected and enhanced and, while the loss of historic elements of structure would be regrettable, they would allow proposals which would secure the long-term viability of the buildings and would therefore lead to a significant benefit.
  - The extensions to these buildings would affect their significance in a similar manner to their effect on the setting of the conservation area. They would, however, allow the retained historic elements to be repaired, restored and put into uses to ensure their long-term viability and which would interact better with the CA and would result in a significant benefit.
  - The proposals for the former Engine House would see it repaired, restored and put into a use which would ensure its long-term viability. This would result in its significance as part of the group with the General Market and Annex building being protected and enhanced. This would result in a significant benefit (*HGI/A/2.8*).
65. HGI's evidence shows that, that rather than causing harm to the CA, the proposals would be beneficial. That which makes the greatest contribution to the CA would be retained, repaired, and reinvigorated. The Thornfield Inspector concluded that the existing market buildings on the site make a "strong positive contribution" to the CA (*CD15.1/12.2.16*) and that the General Market is at a "gateway" to the CA (*CD15.1/12.2.19*) but the most telling point is that in the main those elements of the buildings that the Inspector described in a commendatory manner (*CD15.1/12.2.1 – 12.2.20*) are the very features that would be repaired, restored and reinvigorated in these application proposals.
66. It is perhaps not that surprising that the Thornfield Inspector's conclusions emphasise the exteriors as after all, the particular feature of the General Market that marks it out as quite different to the Meat Market and the Poultry Market is its



perimeter of street-facing shops. The market-roof is mentioned in passing in the sense that he refers to the post-War dome but comments that it is “not readily seen” (*CD15.1/12.2.9*). There is no mention of the interior of the General Market apart from a qualified reference to the Phoenix columns (*CD15.1/12.2.10*). He does not mention the arcade roof in the Annex Market. He regarded the canopy between the General Market and the Annex as “important” (*CD15.1/12.2.19*) and in this scheme it would be renovated and retained.

67. The Architects JMP did not have a brief to maximise floorspace and height, nor to demolish as much as possible. The JMP Consolidation Study recognised the qualities of the buildings (*HGI/1/C(i)*). When it became apparent that restoring, repairing and retaining them in their entirety is neither viable nor fundable and cannot be delivered, JMP’s work for HGI produced a scheme which, far from departing from the Thornfield Inspector’s central conclusion, has heeded it. That Inspector condemned the (very different) scheme before him for taking its cue from buildings outside the CA (especially those along Farringdon Street) and concluded that although these buildings should “not be ignored” they should not be “the main basis” for a scheme; instead the starting point should be the buildings within the CA (*CD15.1/12.2.29*). JMP have gone well beyond following the Thornfield Inspector’s view that the CA should be the starting point – the buildings within the CA have formed the main basis for the scheme. Apart from the brick-arched ceiling in the central courtyard, the scheme has been praised warmly by CABE/the Design Council (*CD10.2*).
68. The scheme evolved through years of painstaking, constructive and well-informed negotiations with EH and their well thought-through and measured support for the scheme, as opposed to their visceral condemnation of the Thornfield proposals, is of huge importance (*EH/1/C Ax 8*).
69. In contrast the evidence of SVS witnesses showed a variety of different approaches. They all valued the existing buildings as ones which should have been listed; all expressed regret and disagreement with the repeated decisions over the years, including during the inquiry, not to list the buildings (*SVS/27*). This approach inevitably heavily influenced the tenor of the SVS evidence. Several of their witnesses disagreed with the approach of assessing the effect of the proposals on the CA *as a whole* and considered that one should examine the impact on a part (or parts) of the CA. This is not the right approach. Others acknowledged that the continued designation of the CA would *not* be called into question by the application scheme, which is obviously correct. Others, but not all, could recognise that the scheme would deliver at least some enhancements to the CA.
70. In relation to the character and appearance of the CA, the impact of the proposals on the various verified and other views of and around the site has been analysed. This shows that all of the views would see the Smithfield CA and the setting of the adjacent heritage assets enhanced by the proposals. This is largely because the proposals would lead to the repair and restoration of the most significant elements of the historic buildings on the site. This, along with new uses to invigorate the conservation area and high quality new interventions in the way of extensions to the unlisted buildings, would see the locality regenerated with the historic buildings creating the framework and setting for this new lease of life (*HGI/2/A, 2/D & 2/E*).
71. SVS argue that it is the use of the General market that makes a significant contribution to the CA and that as this use would be lost, consequentially there

- would be a substantial harmful impact on the CA. But this argument does not stand up to a moment's analysis. The use of the General Market as a wholesale market was lost years ago and for many years now the closed, redundant, market building has made no contribution at all in this way to the CA. No-one contends that the former, historic, use can or even should be re-instated; even the SVS planning application is for the change of use of the ground floor to retail and associated uses.
72. Similar points can be made against the repeated claim that, inside the General Market, the market hall is a public space. This is plainly wrong. The two markets in question were wholesale. The public were able to access them but only for a few hours and unappealing ones at that. There was precious little public access in the past and there has been none since the markets closed. In contrast the application proposals would open up retail courtyards and places to eat and drink inside both main buildings – in a well-designed and extremely pleasant new build inside the General Market (with an open courtyard, and generous headroom in the middle courtyard, lofty atria, retained and reused Phoenix columns) connecting across West Smithfield under the retained and renovated canopy to the wonderfully restored Annex Market with its places to eat and drink and shop. Hours of public access would be long and generous and at times of the days which would appeal to people and not just on weekdays. If activity and engaging with the public do have a role to play in the CA then this scheme would enhance the position massively.
73. It is surely the case that the harm to the Smithfield CA would be “less than substantial” and, even then, that is simply looking at harmful impacts, leaving out of account any process of weighing these against the beneficial impacts of the scheme on the CA in order to see whether the overall position is one of harm. In other words, the conclusion that there would be harm and that it would be less than substantial is on a worst case or most onerous approach to the issue.
74. It follows that any harm – if any - to the Hatton Garden CA's reason for being as a CA could not be described sensibly as anything other than less than substantial, and the same goes for the Charterhouse Square CA. Similar points arise with regards the listed buildings in the vicinity – the heritage significance of the Poultry Market (notwithstanding the partial removal of the later-added canopy across West Poultry Avenue), the former cold store at 51 – 53 Charterhouse Street) and Holborn Viaduct as listed buildings, the rationale behind their listing would not be very much reduced, if reduced at all, by the proposals.
75. Applying the Framework, the conclusions reached about the degree of harm to the significance of the designated heritage assets are to be weighed against the benefits. In doing so, it is clear from the Court of Appeal's decision in the *Barnwell Manor* case that the decision-maker is to apply the statutory duties as construed by the Court when carrying out the balancing exercise. In order to reconcile the law and the policy it would seem that, to the extent that it has been concluded that there would be harm, when it comes to balancing this against any benefits so as to reach an overall conclusion whether to grant or refuse permission, “considerable importance and weight” is to be given to the desirability of avoiding the harm. The process is to ask whether the harm, giving considerably weight and importance to the desirability of avoiding it, is outweighed by the benefits. None of this means that the degree of harm (i.e. whether it is less than substantial or substantial) is beside the point, instead it must still be the case that the less the harm, provided that one recognises that it is desirable to avoid it in the first place, the more readily it can be concluded that the benefits outweigh it.

***The public benefits of the proposals are significant.***

76. The benefits must be considered as a whole. Whether similar or greater or different benefits could or could not be achieved realistically from a different way of dealing with the site is nothing to the point – the public benefits of the application proposals are to be weighed against their impact – that is the task set by the Framework.
77. These proposals would amongst other things: repair, restore and put to good use much of the heritage of the site and a great deal of that which is appreciated by people milling around the area; the site would be made truly permeable by the public with ready accessibility to shops and places to eat and drink, not only in the units along the street frontages but also those within the buildings on the General Market and Annex sites that the public would be able to walk through freely; the new offices would be beneficial both in strategic and city policy terms as well as in economic and employment terms – in sum, the site would be brought back to life after a long period of torpor, and the shadow would be lifted of what otherwise will be many more years of uncertainty. There is a great deal of good to be gained by allowing these proposals to go ahead.
78. SVS describe the benefits as weak but their “planning balance sheet” (SVS/7/A) reveals the weakness of that evidence; the key benefit of restoring the perimeter buildings is discounted entirely, on the basis that there has been neglect. The allegation (of deliberate neglect, and with a view to making it easier to obtain permission) has not been substantiated; in any event it is not levelled against HGI. It would be ludicrous to conclude in the circumstances of this case that the tangible and very significant benefits in question should be ignored; that makes it all the more difficult to achieve them. The balance sheet does not even mention what would be a magnificent restoration of the Annex Market. It discounts the removal of the Iron Mountain building on the erroneous basis that this would also be achieved by the SAVE scheme. This is entirely the wrong approach; this application should be judged on its own merits, not by comparison to something else.
79. It also discounts bringing the site back into productive use. It says of the application scheme’s retail and associated facilities that they would only “*have local appeal*”. This is flatly contrary to the “Retail & Leisure Vision” written in support of the application (CD2.12) which describes the offer as one which would have wide appeal far beyond just being local – the description of the SAVE scheme as making a “major contribution towards making the area a high quality place” must on any sensible basis be apt for the application proposals instead. SVS discounts the proposed offices on the basis that there is no evidence of a pressing need but this of course is an entirely false test; the unvarnished praise for the SAVE scheme as one that would “encourage high quality office occupiers to the area” is apt for the application proposals instead.
80. Applying Framework ¶134, the benefits that the proposals would bring are more than sufficient to outweigh the less than substantial harm described above. Indeed, even were it to be concluded that the harm would be substantial, and so Framework ¶133 applies, as far as the Applicant is concerned applying the first part of the paragraph (before the “or”) these public benefits would be substantial and would outweigh such harm.

### **Framework ¶135**

81. This part of the Framework concerns cases, like this one, where the buildings on the site are non-designated heritage assets. In such cases there is to be “a balanced judgement”. If it is accepted that the public benefits of the proposals are sufficient to outweigh whatever the harm is found to be to the designated heritage assets (e.g. Smithfield CA) then it must surely be the case that the benefits are sufficient to outweigh whatever harm it is concluded would be caused to the non-designated assets themselves in terms of their heritage significance as non-designated buildings. It should be remembered that, when weighing this balance, the statutory duties discussed earlier on do not apply as they concern listed buildings and conservation areas, whereas Framework ¶135 is about neither.

### **Securing optimum viable use**

82. It appears that SVS regard the last few words of Framework ¶134 and the reference there to “securing its optimum viable use” (OVU) as importing a test that the Applicant must pass of demonstrating that its proposals are the OVU of the unlisted buildings in question. HGI submits that that is a misreading and that Framework ¶134 does not impose a test that has to be passed in order for permission to be granted. All these words infer is that if a party claims that its proposals would secure the OVU then that is an example of a public benefit that would count. (This point was so much more clearly conveyed by PPS5 (HE 9.4(i)) which said “...weigh the public benefit of the proposal (for example, that it helps to secure the optimum viable use...”)) but there is no reason to suppose that the Framework meant to introduce a different approach to this).

83. The “its” is the designated heritage asset – here therefore the Smithfield CA – but it would be a nonsense in a case like this, where the buildings in question are unlisted, to say that one has to demonstrate that the use in question would be the OVU of the Conservation Area. It is obvious that the words in question are meant to apply only in cases where the heritage asset in question is designated in its own right e.g. a listed building, and not to cases like this where it is not. The reality is that these last few words of the paragraph really do not sit comfortably with a case such as this where the buildings in question are undesignated. In the case of these proposals (a) they are viable (realistically deliverable) and (b) there is no substantiated (as opposed to claimed) other viable use of the site – the scheme put forward by SAVE is massively unviable and thus, if the last few words of Framework ¶134 are some sort of hurdle, the application surmounts it.

84. The viability, fundability and deliverability of the application proposals have been substantiated in evidence and are not in issue (*HGI/3/A-F*). If it is concluded that SAVE’s alternative ideas for the site - for that is all they are - have not been shown to be viable, fundable and deliverable, that would be the end of this issue. The application scheme would count as the only substantiated, known, viable use and therefore if HGI can demonstrate that its scheme is the OVU *then* by definition in these circumstances it would be. PPG makes this point clear (*CD17.11*) – “If there is only one viable use, that use is the optimum viable use”.

85. It has not been substantiated that SAVE’s ideas for the site are viable – the evidence substantiates that they are not (*HGI/3/G-H*). In reality the detail of the viability calculations isn’t much to the point. Instead what really counts is an understanding of how SAVE’s alternative ideas for the site would be funded and the implications of this. USM confirmed that their ideas for the reuse of the buildings on

- the site would require to some or other extent a mix of bank debt (money advanced by a bank) and equity (money put in by investors, whether institutional or not). Equity investors may very well be reliant on bank debt as well. USM envisage a 60:40 split between bank and equity (*SVS/5/A/12.9.1*) but it doesn't matter what the split is, as it is the implications which matter.
86. The key point is that, in order to obtain bank debt, the bank in question would rely on the independent expert advice of an RICS Valuer who would value the proposition put forward by applying the "Red Book" i.e. the (internationally) recognised approach. The RICS Valuer is obliged, if the valuation is positive, to explicitly state the suitability for loan security purposes of the proposition. (This puts the professionalism, and professional indemnity insurance, of the Valuer on the line.) USM acknowledge the critical role of the (Red) book valuation in the process and that the only appraisals before the inquiry which apply the RICS Red Book methodology (i.e. which look at this as a bank would) are those provided by HGI.
87. In ordinary language, no matter how beguiling the presentation made to the bank by the likes of USM, experienced in markets though he might be, unless an RICS Valuer can sign off on the proposition having applied the Red Book appraisal methodology to it, the bank would not risk its money. Equity investors (whether institutional or non-institutional) – unsurprisingly – would be interested in understanding how safe or risky their investment would be.
88. Cathedral Group (CG) did not produce any counter-analysis to HGI's and, as confirmed in CX, without the detail (which was not provided) it was impossible to substantiate the claims that a restore and re-use scheme was viable; the claims are literally unsubstantiated assertions.
89. The position thus is very straightforward. HGI had appraised 2 re-use schemes ("12a" and "12b") which produced a loss of £21.6m and £20.5m respectively and so would not be viable, fundable or deliverable. Even taking into account the rise in the market since the time of the 12a and 12b appraisals and even discounting the cost of works to the railway tunnel lids, the two schemes would show a loss of some £10m and so would not be viable, fundable or deliverable. Both USM and CG criticised these schemes and appraisals – they said that HGI did not have the benefit of advice from an experienced market operator like USM with regards to rent, they were not phased, they built in excessive voids for the offices.
90. But the important point is that, in appraising USM's 2013 proposal to the City and then in appraising USM's 2014 SAVE scheme, HGI relied upon USM's market expertise, phasing and voids at face value. Having corrected USM's maths, added obvious omitted items (such as SDLT, bank, legal and agents' fees) and looked at the propositions as he would in advising a bank, HGI (having corrected a single error) showed "USM 2013" with a loss of £18.73m and (having corrected two errors and one presentational issue, none of which made a difference to the "bottom line") showed the peak loss of "USM 2014" to be £22.23m. As is obvious, these propositions are not viable, fundable or deliverable. (Ironically, the much criticised 12a and 12b produce smaller losses because they produce a more valuable product.) It is also important to bear in mind that in appraising USM 2013 and 2014, HGI has not included a payment for the use of the basement (even though USM's proposals rely on bringing the basement into use in Year 4) which could well amount to some £7.5m (*HGI/3/D/ 3.2 vii*).

91. In short, the evidence does not substantiate that bank debt would be advanced for USM's propositions; the evidence substantiates that it would not be. This means that the reuse ideas are neither viable nor fundable, they are thus undeliverable, and would also be undeliverable in another important regard; without the co-operation of HGI as virtual freeholder of the basement, and lessee of the above ground buildings, no other scheme is possible.
92. As for equity, USM claimed in EIC that over the previous weekend it had "rattled up" some £11m (£2m from USM and £9m from others). However, when the emails were produced to try and substantiate this claim, they showed no such thing (SVS/22, SVS/24). There are only 2 emails that refer to a sum of money; both were on terms of a guaranteed 7% annual return and a pro-rata share in capital gain. The problem is that once the figures are examined properly they show no such returns but rather a huge loss. As for CG's late offer of £2m as part of a consortium on his "pro-forma" terms, those terms are onerous, and it is wholly unsubstantiated that the proposition would be able to meet them (TP/O/2B).
93. Nor is the recent Spitalfields' transaction a "comparable" which substantiates the viability of USM's or CG's ideas. USM was involved in this market as long ago as 1992 – 1999. The important point is that the value in Spitalfields is heavily skewed towards and based upon the conventional retail units and not the market element (HGI/3/A.section 11), whereas USM's ideas for Smithfield show a very different make-up with a much heavier reliance on the market and a much lesser reliance on retail units proper. Spitalfields and Smithfield are chalk and cheese.
94. SVS references to EH's guidance on Enabling Development is a red herring. This concept is referred to in Framework ¶140 and in essence arises where an application would not normally be permitted because it is in breach of planning policy but it is argued that it should be permitted exceptionally in order to fund some other worthwhile development (e.g. the restoration of a listed building). HGI does not put its proposals forward for consideration on this basis; the scheme is not enabling development. EH's Guidance is nothing to do with the case in hand. The main point drawn by SVS from this publication is the notion referred to by the Thornfield Inspector that "market testing would be the real test of viability." Market testing was a requirement of the then applicable policy in PPG15 but is no longer required by the Framework. In any event, market testing is not the true or any test of viability – someone might well be interested in a site if brought to the market but this does not demonstrate that his ideas are financially sustainable whether in the first instance or longer term. For example, if the site was marketed there seems little doubt that USM would express an interest in it (perhaps with CG in tow) but the evidence before this inquiry shows that their ideas are not viable, fundable or deliverable.
95. The centrepiece of the case made by SVS that they have not only a viable use for the site but the optimum viable use for it, even if true, is beside the point. If considered true, and the concept is material, the position is that because the application scheme is viable and there is no evidence to substantiate that SVS' alternative ideas are viable, the application scheme is by definition the OVU as there is no known, substantiated, other viable use.
96. An associated point concerns the policy implications of concluding that the buildings on the site have been deliberately neglected – a charge levelled by SVS against the freeholders (COL) rather than HGI. Framework ¶130 advises that in such cases

“the deteriorated state of the heritage asset should not be taken into account in any decision”. This is directed against a party who has deliberately neglected a heritage building in the hope of making permission easier to gain (*HGI/4/C/Ax 7*). There is no evidence to substantiate that COL has had such an animus but in any event HGI certainly hasn’t. Whatever Framework ¶130 means, it cannot mean to advise that when looking at issues of viability the costs of repair can be ignored. USM and CG have not assumed that someone else – HGI, COL? - would foot the bill and there is no evidence to substantiate that either would be likely to do so.

97. It has been a constant refrain of SVS’ case that the Thornfield Inspector concluded that there had been deliberate neglect but in fact, even though PPG15 at 3.19 (i) referred both to deliberate neglect and the animus of hoping that this would make it easier to obtain permission to demolish, the Inspector made no such findings. He did indeed refer to “neglect” in various passages in his conclusions but nowhere did he find “deliberate” neglect or that this had been in the hope of easing the path to demolition. In any case this was some time before HGI’s involvement. There is no evidence to substantiate that there has been “deliberate neglect” in the sense meant by NPPF ¶130.

### ***Other conclusions reached by the 2007 Inquiry Inspector***

98. SVS argued in their Statement of Case (*SVS/SC*) that the current proposals “are almost identical” to those put forward by Thornfield Properties and rejected by the Secretary of State in 2008. This claim is nonsense. Thus, for example, previously the entirety of the General Market was to be demolished, now large parts of it are to be retained and restored; then, EH fought hard and successfully against the Thornfield scheme whereas now, after intervening years of constructive dialogue with JMP, EH support the new, and very different, proposals from HGI; even the most cursory glance at the images of the previous and current schemes as seen from Holborn Viaduct (*HGI/1/A.9*) demonstrates that as JMP says – “Beyond the address, there is no similarity between them.”
99. SVS also placed great reliance on the previous inspector’s conclusion that: “market testing would be the real test of viability for any retention and re-use scheme” (*CD15.1/12.3.10*) and argue that in defiance of this, there hasn’t been market testing. Leaving aside concerns about the practicalities of this, the key point is that national planning policy on this issue has changed out of all recognition since the time when these conclusions were reached. At the time of the last inquiry, PPG 15 was still in force and this explicitly required market testing - the Thornfield Inspector explicitly relied on this (*CD15.1/12.3.10, 12.4.27, 28 & 36*) but now the NPPF does not – even in a case of substantial harm to designated heritage assets it is only if reliance is placed on the 2nd part of ¶133 (i.e. after the “or”) that one finds “appropriate marketing” required; there is no such requirement where the harm would be less than substantial (Framework ¶134) or even where it would be substantial and the 1st part of ¶133 (i.e. before the “or”) is relied upon.
100. So not only are the schemes very different but so too is the applicable national planning policy. (Note too that, at the time of the last inquiry, there was a national planning policy requirement that benefits should “decisively outweigh” the harm and that permission should only be granted “very exceptionally” (*CD15.1/12.4.32*). Neither provision applies today.)

### ***Overall conclusion of HGI's case***

101. SVS argues that there is time in hand for their alternative ideas for the site to be given a chance – USM mistakenly believes that it would take some years before HGI could recover possession of the basement from Crossrail and the ground floor of the General Market from Network Rail. However the true position is that HGI has the ability to gain possession expeditiously (*HGI/12*).
102. The real point is that neither the law nor planning policies make the approval of HGI's proposals contingent upon finding that they are "better than" SVS's or anyone else's ideas for the site; instead the issue is whether once the law and planning policies are applied to the HGI scheme it should be granted permission on its own merits. HGI has proposed a well-thought through scheme which offers a great deal to the Smithfield CA, the wider City and wider still, London.
103. The proposal meets all reasonable requirements in relation to national and local development plan policies and, importantly, is not the subject of objection by EH, who have taken a pragmatic approach and accepted that the partial demolition of the General Market building represents the only way forward in economic terms to secure the future of the Smithfield Western Market buildings (*HGI/4/A-D*). There is no good reason to turn down these proposals but many good reasons for allowing them to proceed. It is time to allow this worthwhile scheme to go forward. The alternative to doing so is uncertainty for the indefinite future and it is this, rather than HGI's proposals, that is truly unacceptable.

### **The Case for the City of London Corporation and the Greater London Authority**

*This is the gist of evidence given to the inquiry by COL and GLA, set out primarily in proofs of evidence COL/1/A-F, GLA/1-4 and joint closing submissions GLA/CS*

104. The application site lies at the heart of a great city at an intersection of public transport routes, and yet is underused. The buildings are no longer required for the use for which they were designed, a wholesale market. There can be no doubt that some form of development is required to take advantage of the location and bring activity and vibrancy to the buildings and the area. The application scheme would bring back the site into active use.
105. The issue at the heart of this case is whether such a gain would be achieved at too great a cost to heritage interests. The proposals have also to be considered in a wider context, and by an analysis of the facts (and in relation to viability, figures), and a balanced judgment made. When making that judgment SVS urges consideration of their alternative proposals. In the absence of conflict with planning policy or other planning harm, the relative advantage of alternative proposals for an application site are normally irrelevant (*GLA/4*). The first question to consider is whether the application proposal is acceptable when judged against planning policies; if it is there is no need to consider alternatives. The current application must be considered on its own merits and not by some comparative exercise. If some conflict with policy or planning harm is found, alternative proposals should be considered. There is a danger of being beguiled by the apparent promise of full restoration of the historic fabric but the SVS alternative would only go ahead if it is viable, fundable and deliverable. There is serious doubt about the availability of funding without formal valuation. There is little prospect of the alternative scheme coming about so it should be given no or very little weight.



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### ***The statutory framework***

106. The duties imposed by section 66(1) and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (P(LB&CA)A) apply in this case. The section 66(1) duty applies when considering whether to grant planning permission for development which affects a listed building or its setting, in this case the impact of the proposals on the Poultry Market canopy, and on the setting of listed buildings including 51-53, Charterhouse Street, Holborn Viaduct, the Meat Market, and the Poultry Market. The section 72(1) duty applies when determining whether to grant planning permission with respect to any buildings or other land in a CA, in this case the Smithfield CA. In fulfilling the duty imposed by these sections, and in performing the necessary balancing exercise, as confirmed by Sullivan LJ in *Barnwell Manor Wind Energy Limited v. East Northamptonshire District Council (SVS17)* 'considerable importance and weight' should be given to the desirability of preserving the listed building or its setting; and to the desirability of preserving or enhancing the character or appearance of the conservation area

### ***The policy framework***

107. The LP, the CS and the UDP were all adopted before the Framework was published in March 2012 and the advice in ¶215 of the Framework applies, namely that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Where a policy is inconsistent with the Framework, less weight can be given to it, and in most cases it will be appropriate to follow the approach set out in the Framework.
108. The Framework policy relating to heritage assets is of particular importance in guiding the approach to be taken when determining this planning application. For example UDP policy ENV11 is based upon the approach set out at ¶4.27 of PPG15. That approach has been changed in the Framework, as a result little weight should be given to ENV11 and the approach set out in the Framework should be adopted. The decision to be made in this case requires the process set out in ¶129-135 of the Framework to be followed.
109. One of the main issues in dispute in this case is whether any harm (either to the non-designated heritage assets - the buildings on the application site - or to the designated heritage assets - the CA and the listed buildings) - is substantial or less than substantial. It is therefore necessary to understand what is meant by 'substantial' or 'less than substantial' in ¶133 and 134 of the Framework. The approach to be taken when considering whether harm is substantial or less than substantial involves matters of law and of planning judgment. The meaning of the words used in the policy is a matter of law (*GLA/3*), whereas it is for the planning decision maker to make a judgment based upon a proper understanding of the policy. The meaning of the words in the Framework has been considered by the High Court in the Bedford case (*CD20.1*). Jay J held that, in order to fall within the category of 'substantial harm', there would have to be such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced.
110. Once a judgment has been formed on the question of whether any harm is substantial or less than substantial, the next task is to apply the policy set out in either ¶133 or ¶134 of the Framework. There no dispute as to the meaning of ¶133. There are two alternative means of complying with policy. If there is judged to be substantial harm, the applicant relies upon the first limb not the second, and

that it has been demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits.

111. There is a dispute as to the meaning of ¶134. The balancing exercise required by ¶134 is to weigh the less than substantial harm to the significance of a designated heritage asset against public benefits. Securing optimum viable use is an example of a public benefit, not, as some (but not all) SVS witnesses argue, an additional requirement. If there were any doubt on the basis of the words, it would be resolved by considering the advice given in the (still extant) PPS5 Practice Guide, ¶79, where securing optimum viable use is given as one of six examples of a public benefit that could weigh in favour of a scheme (*CD16.4*).
112. The application is not advanced on the basis that it is a proposal for enabling development as referred to in Framework ¶ 140. It is advanced on the basis that it complies with planning policies. As a result ¶140 of the NPPF is not engaged so that EH's Guidance on Enabling Development and the Conservation of Significant Places is of little or no relevance.
113. There is a dispute as to whether the advice in ¶130 of the Framework is engaged. ¶130 is a re-statement of existing policy (as referred to in ¶3.19(i) of PPG15) relating to cases of deliberate neglect. The consequence of a finding of deliberate neglect is limited; it is that the deteriorated state of the heritage asset in the hope of obtaining consent, should not be taken into account in any decision.
114. SVS also refer to the absence of 'market testing'. The references to market testing in the previous inspector's report have to be seen in context. He was considering a case advanced on the basis that ¶3.19 of PPG15 was satisfied. That policy no longer applies. Under the new policy regime, appropriate marketing is only required in relation to a case advanced under the second limb of ¶133 of the Framework – no such case is advanced.

### ***Design issues***

115. Design and heritage issues are intertwined in this case. The proposals have been the subject of much deliberation and discussion between JMP and other parties, most importantly EH. The scheme has also been endorsed by CABE/Design Council after detailed consideration. CABE support the design approach of retaining the significant historic fabric, namely the General Market perimeter buildings, and the facades of Red House, Annex Market and Engine House. They describe the stepped form of the office buildings as well judged (*HGI/9*). COL considers the response to be innovative, and the office development constructed above and behind the retained elements as expressing their own character in a manner which is complementary to those retained elements through their positioning, articulation, colouring, and relationship with the existing fabric (*COL/1/A*).
116. The designers have faced a considerable challenge in retaining the public facing elements of the existing buildings, whilst devising a modern building which complements the retained, addresses the topography of the site, and does not interfere with the 19th century engineered structures. The design meets all those challenges; the public facing structures are retained and restored, the height of the office development on the General Market site is broadly comparable to that of the Poultry Market (approximately 1 metre higher) and it reduces in height as the site slopes down towards Farringdon Street. The proposed design creates an imaginative link between the new and the old.

## ***Heritage***

117. Any consideration of the heritage issues, which lie at the heart of the case, should take place within the context set by the statutory provisions, based upon a proper understanding of the relevant policies, in particular those in the Framework

### ***The particular significance of the heritage assets that may be affected by the proposal should be identified and assessed (Framework ¶129).***

118. The heritage assets which fall for consideration in this case range from the Grade II\* listed meat market to non designated heritage assets. The listed buildings are described in *CD21.1*. The buildings on the application site form part of a group within the Smithfield CA, which is described and evaluated in the Character Summary and Management Strategy SPD (*CD19.5*). The former General Market, Annex Market, Red House and former Engine House are non-designated heritage assets. EH have indicated that these buildings are not listed and are not under consideration for listing (*SVS/27*).

### ***Account should be taken of the factors identified at Framework ¶131.***

119. The factors set out in ¶131 are to be considered when carrying out the balancing exercise required by the Framework. They include consideration of the connection between the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. In this case the buildings are not required for the use for which they were constructed, and some alternative viable use of the site is necessary.

120. A judgment should be formed as to whether any impact on the significance of a designated heritage asset is substantial or less than substantial. The exercise of this judgment must be made on the basis of a proper understanding of the policy. Harm will only be substantial if the significance of the asset is vitiated altogether or very much reduced. Given their role as advisers to the Government, great weight should be placed on the views expressed by EH on this issue.

### ***The removal of the Poultry Market canopy***

121. The main interest of the Poultry Market as a listed building is in the single span shell concrete dome. Its significance lies in the technology of its construction. The impact of the proposal will be limited to removal of part of the canopy. COL considers that this would not harm the aesthetic or historic significance of the Poultry Market (*COL/1/A*). Even if it is considered that some harm would be caused, the removal of part of the canopy cannot be said to vitiate altogether the significance of the Poultry Market, and therefore any harm would be modest, and less than substantial (*EH/1/B*). The impact would not be such as to call the listing into question.

122. While the previous Inspector did find that the removal of the canopy would sever the visual and functional link between the market buildings (*CD15.1*), that finding must be seen in the context of the proposal before him. The current proposal is very different and the retention of the perimeter buildings would enable the visual link and continuous flow of buildings to be maintained. The clear conclusion is that the removal of part of the canopy will either cause no, or minor, harm to the significance of the Poultry Market as a heritage asset.

### *Adjoining Conservation Areas*

123. All the parties agree that the proposals would cause no or less than substantial harm to the significance of the adjoining Hatton Garden and Charterhouse Square CAs (COL/1/A).

#### *The Smithfield Conservation Area*

124. The central issue in dispute between the parties is whether harm to the Smithfield CA should be categorised as substantial or less than substantial. Most witnesses consider that the restoration of the General Market perimeter buildings, the Red House facade, the Annex Market interior the Annex perimeter would be beneficial. The dispute turns on whether the removal of Harts Corner and the market hall in the General Market, and the arcade in the Annex Market, together with the insertion of the new structures, would cause substantial harm to the significance of the CA. The use proposed, namely a mix of offices and retail, cannot of itself be said to cause any harm to the character of the area or the significance of the asset. The uses in the CA have changed and so long as mixed use is proposed (which it is) it will sit with the character of the CA. Further the uses proposed (retail and office) are also proposed by SVS in their scheme (albeit in different proportions), and therefore the evidence does not support a conclusion that the proposal to change the use, will of itself give rise to harm.
125. SVS's main points of objection are:
- o The roof structure and dome (a later addition) of the General Market and the market area which they enclose would be lost.
  - o The Hart's Corner structure (another later addition) would be lost.
  - o The roof of the main arcade in the Annex Market would be lost.
  - o The new structures would undermine and interrupt the run of market buildings and stand tall of the Red House facade and Annex.
126. The essence of the question to be asked is whether the significance of the CA would be vitiated altogether or very much reduced. One way of testing that point is to ask, would the CA area still be worthy of designation if the development were to proceed. The immediate answer to that question, "... of course it would still be worthy of designation", gives the strongest possible indication that any harm caused can properly be categorised as being less than substantial. That conclusion should resolve this dispute.
127. If that is not agreed, consideration should be given to the fact that the General Market roof structure, its dome and the area it encloses are not easy to appreciate even from within the CA. The General Market is not in use and the enclosed space is not open to view. Views from Holborn Viaduct are relied upon but even from there the roofs can hardly be seen. EH considers that the significance of the linear sequence of market buildings is both historic and architectural (EH/1/B) and describes the concrete dome as having more historic than aesthetic interest as an indicator of a rapid response to getting the market back into use.
128. The fact that those elements of the CA which are identified and discussed in the Conservation Area SPD (CD19.5) - deep red brick, Portland stone dressings and classical detailing, the elevated facade of the Red House, the canopy across West

Smithfield, and north frontispiece of the Annex Market - would all be retained gives the clearest possible indication that any harm would be less than substantial. The new insertions would appear above the retained perimeter buildings but set back from them. The essential run of market buildings from east to west would not be interrupted as the unifying materials and perimeter buildings would be retained. The evidence cannot sustain a finding of substantial harm to the significance of the designated heritage asset, whether considering part of the CA (Area 3 in particular) or the whole of it.

***If the impact is substantial the approach set out in Framework ¶133 is to be followed.***

129. For the reasons set out above any harm would not be substantial and therefore ¶133 is not engaged. If that is not agreed it would be necessary to consider whether it had been demonstrated that such harm is necessary to achieve substantial public benefits that outweigh that harm. COL/GLA considers that the benefits, referred to below, would outweigh such harm.

***If the impact is less than substantial the approach set out in Framework ¶134 is to be followed.***

130. In order to apply this approach it is necessary to identify the extent of any harm and the range of public benefits that will accrue.

*The extent of the less than substantial harm to the conservation area*

131. As identified above, COL/GLA considers that the harm to the CA is limited. Also there is either no harm, or limited harm, to the significance of the adjoining CA's, the listed Poultry Market, and the setting of listed buildings, That limited harm has to be weighed against the public benefits of the scheme.

*The Public Benefits*

132. Given that the benefits which are to be weighed against harm are 'public' benefits, the views of the local public authorities on the way in which the balance is to be struck should be given considerable weight. COL/GLA identify the following public benefits (COL/1/A, GLA/1/A):

- a. The proposal would result in regeneration through the restoration and refurbishment of the perimeter buildings of the General Market, Annex Market and Engine House and the principal façade of the Red House and removing the unsightly Iron Mountain store;
- b. The provision of public access into both the Market buildings increasing permeability of the sites and providing new public routes, and an external square;
- c. The preservation and enhancement of the character and appearance of the CA through the restoration of the principal facades of the buildings and the provision of active frontages and associated activity, and public realm improvements;
- d. The provision of a mix of retail and office uses that are appropriate in land use terms that support the vitality of the area and do not detract from other land uses in the locality;

e. The intensification of the use of the site in a highly accessible area in association with the improvements in public transport accessibility arising as a result of the Crossrail project and Thameslink enhancements; and

f. The provision of public benefits in relation to s106 and CIL payments which accord with the Mayor of London and the COL's objectives to provide planning benefits in accordance with policy.

133. Importantly, the application proposals would secure the long term future of the site and its heritage interest, and allow it, once again, to contribute to City activities. Trading may no longer be carried out in a wholesale market, but it would continue in its modern form.

*The Restoration Proposals*

134. There is no dispute that removal of the Iron Mountain store would be beneficial. The red brick and Portland stone of the perimeter buildings are identified by all parties as an important characteristic of the General Market in the Smithfield CA SPD (CD19.5, SVS/8/E). Restoration of the Farringdon Street, Charterhouse Street, and West Smithfield perimeter buildings of the General Market would be a very clear benefit. In addition the agreed conditions would ensure that the spirelet on the General Market at the corner of Farringdon Street and West Smithfield would be reinstated and that the treatment of Hart's Corner could be considered further. They are further benefits of the scheme.

135. The Annex would be the subject of very extensive restoration as would be the facades of the Red House, and the interior of the Annex Market. The only real complaint is the approach taken to the arcade roof (apart from the point take in relation to the new office development). However that treatment, whether or not one shares the views expressed on behalf of SVS, does not take away from or diminish the benefits which will be derived from the restoration of the perimeter and the Annex Market.

*The introduction of active uses*

136. The re-introduction of active uses is a very considerable benefit. The uses will not only take place in the perimeter shops, but throughout the ground floors (save for the office entrances).

*Improved permeability*

137. When in use as a wholesale market, few members of the public would have entered the market. It was generally closed and locked by midday. At present there is no public access. If the scheme proceeds, the public would have access from 0630 to midnight. The introduction of through route and public access areas is a very considerable benefit which will add to the life and vitality of the area.

*The proposal makes a contribution towards the outputs sought by LP policy 2.13 (area of intensification)*

138. LP Policy 2.13B(b) indicates that development proposals in areas of intensification should seek to optimise residential and non-residential output. The relevant output in this case is employment capacity. By providing retail floorspace and additional office floorspace, taking advantage of the excellent and improving

public transport accessibility, output will be optimised. This would be a major benefit of the scheme.

*LP policies 2.10 and 2.11*

139. LP policy 2.10A(c) aims to sustain and enhance the City of London as a strategically important globally-oriented financial and business service centre while policy 2.10A(f) provides support and encouragement for the retail offer in the Central Activities Zone ("CAZ"). Policy 2.11A(a) indicates that the Mayor will ensure that development proposals to increase office floorspace within the CAZ include a mix of uses including housing unless such a mix would conflict with other policies in the plan. There is no dispute that the policy does not require housing in this case, given the conflict with, and resultant prejudice to, wholesale meat market uses. The proposals advance the objectives of policies 2.10 and 2.11 – that is another considerable benefit of the scheme.

*The contribution towards the supply of office floorspace in the City.*

140. CS policy CS1 sets out to strengthen the beneficial cluster of activities found in and near the City that contribute to London's role as the world's leading international and financial business centre, including by increasing the City's office floorspace (*CD19.1*). Policy CS1 (1) contains two separate and distinct indicators. One figure (1,150,000 sq m of additional office floorspace) is for additional floorspace, the other is a pipeline figure (750,000 sq m). The current prediction is that the additional floorspace target will be achieved over the period to 2026 (*COL/1/F*).
141. The pipeline relates to office floorspace with planning permission but not yet commenced – that pipeline is required to be maintained in order to provide office occupier choice. The pipeline indicator (750,000 sq m) is not being met. The current figure is 649,000 sq m and has fallen below the indicator since March 2012 (*COL/1/A*). An 8% vacancy rate is seen as a sign of a healthy market and is used as a benchmark by the GLA in its London Office Policy Reviews (*GLA/2*). The current vacancy rate in midtown is 3.4% and in EC1 and EC4 is even lower, at 1.9% and 1.8% respectively. Demand for office accommodation is strong. No real development pipeline exists, with little or no speculative space being constructed; potential sites for the short/medium term are limited (*COL/1/C*). All this demonstrates an urgent need to grant further planning permissions for office floorspace.
142. The approach taken by objectors demonstrates a misunderstanding of the role of the City, as identified in the relevant planning policies. Suggesting that office uses can be distributed around London displays a misunderstanding of the nature of the cluster of business activities in the City (and the interrelationship between them) and of its importance to London. As set out at ¶ 3.1.1 of the CS it is the concentration of business skills, activities and contacts in or near the City which gives the City and London an international competitive advantage. As is also stated in ¶ 3.1.1, providing additional floorspace will help strengthen that advantage. Furthermore, changes to the LP figures (as reflected in the Further Alterations draft LP) show an increase in projected employment growth in the period to 2026, increasing the pressure for office space (*CD18.6*).
143. Objectors have pointed to a number of proposed office schemes nearby, particularly in the Farringdon Road area (*SVS/1/A, TP/O/1*). The relevant planning

policy (CS policy CS1) takes an overall approach to the City and sets two indicators. The fact that the pipeline indicator has not been met is the clearest demonstration that there is a need to grant further office planning permissions. The alternative approach relied upon by objectors does not address that planning policy indicator, and does not consider net additional floor space (*COL/1/D*).

144. The provision of additional office floorspace is a very considerable benefit of the scheme. The additional office accommodation would contribute to optimising outputs in the area of intensification, would contribute to redressing the shortfall in the pipeline of permitted but not commenced schemes, and would contribute to meeting the demand for office floorspace in the midtown area.

145. The current scheme offers the opportunity to secure the long term future of the Western Market buildings. It meets the test set out in ¶134 of the Framework. The harm is limited. The public benefits are substantial. The policy is complied with. Taking account of giving considerable weight and importance to the desirability of preserving or enhancing the character or appearance of the Smithfield CA, and having special regard to the desirability of preserving the listed Poultry Market and its setting or any features of special architectural or historic interest which it possesses, and the setting of the other listed buildings referred to above, the public benefits far outweigh the limited harm.

***In the case of a non-designated heritage asset the balancing exercise referred to in Framework ¶135 is to be carried out.***

146. SVS approached the assessment of harm to the General Market and Annex Market/Red House as if the buildings were listed, (as SVS considers they should be), but they are not. As non-designated heritage assets, it is the policy in ¶135 of the Framework which is to be applied. A balanced judgment is required having regard to the scale of any harm or loss and the significance of the heritage assets. It is clear from ¶76 of the PPS5 Practice Guide that the balancing exercise is not restricted to heritage considerations (*CD16.4*). The public benefits of the scheme referred to above are all applicable when considering ¶135.

147. The General Market in particular, although not listed, is of some significance as a non-designated heritage asset. The scale of any harm must be considered. COL acknowledges that a substantial element of the significance of the GMB derives from the market hall (*COL/1/A*). The loss of the market hall and the West Poultry frontage has to be balanced against the proposals to restore the other perimeter buildings, the uses proposed, the activity which will be introduced, and the public access which will be provided. The benefits are very considerable and far outweigh the harm.

148. The loss to the Annex Market would be limited (*COL/1/A*). The proposed office building would rise up above the Annex Market and Red House. The scale of the harm would be limited, the benefits including restoration of the retained elements of the buildings, removal of the Iron Mountain store, the uses proposed, and public access would all far outweigh the harm. For these reasons, and in reliance also upon the benefits identified when addressing ¶134 of the Framework, the policy test set out in ¶135 is satisfied.



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**Framework ¶130 – neglect**

149. Framework ¶130 advises that, where there is evidence of deliberate neglect or damage to a heritage asset the deteriorated state of the asset should not be taken into account. This is to discourage deliberate neglect in the hope of obtaining consent. SVS contend that there was deliberate neglect in the period up until the last inquiry, but not after that date. SVS acknowledges that the repairs carried out since 2007 'offset' any dilapidations since 2007 (SVS/5/A). While the previous Inspector found neglect, he did not specifically find that it was deliberate (CD15.1). EH does not categorise the neglect as deliberate - as some money was spent by COL it suggests that they were not deliberately trying to get the building knocked down. There is no basis upon which to make a finding of deliberate neglect so ¶130 of the Framework is not engaged.
150. If that is not agreed, such deterioration as was attributable to such neglect would have to be left out of account. SVS acknowledges that any damage is mostly superficial and the buildings as for the most part structurally sound (SVS/5/A). As a result, if ¶130 is engaged, it would be necessary to leave out of account (when considering benefits) the benefit to be derived from making good damage arising from neglect; such works would amount to a small proportion of the total works. In fact the COL analysis has left out of account any measures to remedy damage or neglect, whether deliberate or not, and has come to the conclusion that the public benefits still outweigh any less than substantial harm (COL/1/A). Any deterioration attributable to deliberate neglect would be minor and, even if taken into account, the balance would remain firmly in favour of the proposals.

**Marketing**

151. The previous Inspector's findings on this issue (CD15.1) were in the context of the PPG15 test for demolition, set out in ¶3.19(ii). This stated that real efforts to find alternative uses should include offering the unrestricted freehold of the building on the open market. PPG15 is no longer extant and a very different policy regime is in place. The Framework does require appropriate marketing in certain circumstances, namely when the second limb of ¶133 is relied upon. The circumstances are wholly different to those considered by the previous inspector, the second limb is not relied on and there is, in this case, no policy or other requirement for market testing. In any event, so far as COL is concerned, and as SVS acknowledges, given the ownership arrangements (COL/1/D.Ax5), COL had not been in a position to market the building since the previous inquiry.

**Viability**

152. The viability of HGI's scheme is not in dispute. The fact that the scheme is viable makes it more likely that it will come to fruition and as a result more weight should be given to the benefits that it would bring about. The policy framework does not require the Secretary of State to consider whether there is an alternative viable use – the second limb of ¶133 of the Framework is not applicable.
153. In this case SVS put forward an alternative use, and Cathedral Group (CG), a third party objector, has sought to present an argument that such a scheme could be delivered (SVS/5/C, TP/O/2). In order for this scheme to come forward it has to be viable, fundable and deliverable. The proposals are dependent upon both equity investors and bank debt. If bank funding is required, any bank would require a valuation from a professional valuer. HGI has made professional assessments of

viability on four alternative bases, namely HGI 12A and 12B and on the basis of SVS 2013 and 2014 proposals. On no basis can the SVS scheme be said to be viable. No person with the relevant RICS qualifications has put forward any valuation to counter those produced by HGI. It can therefore be said with certainty that the SVS scheme would not achieve the necessary funding and therefore has no prospect of being brought into being.

154. Very little or no weight can be given to the email evidence of potential funding (SVS/22, SVS/24) to support an argument that the equity element of the funding would be forthcoming. One investor says he can probably raise up to £3m 'via Barclays'. That response appears to suggest that the equity investors may themselves require bank funding – they will face the insuperable difficulties identified above. CG has a record in developing sites with heritage interest, but their evidence adds little to that of SVS in that it cannot be substantiated.

### ***Development plan***

155. COL's evidence contains an analysis of compliance with local planning policies and the GLA has similarly assessed the relevant LP policies (COL/1/A, GLA/1/A). For the most part that analysis has not been subject to challenge. All parties are agreed that retail uses are appropriate for the site and COL's conclusion that the site is not suitable for residential use has not been challenged. Similarly the COL analysis of views, sustainability and energy, flood risk, air quality, access, daylight/sunlight, archaeology, highways and transportation, Crossrail safeguarding and wind effects has not been challenged or otherwise disputed.
156. The heritage policies in the LP and the UDP have been referred to. Both the LP and the UDP were published or adopted before the Framework was published, as a result the policy in ¶215 of the Framework is to be applied. UDP policy ENV11 conflicts with the approach now set out in the Framework so should be given little weight (COL/1/A).
157. LP policy 7.8C indicates that development should identify, value, conserve, restore, re-use and incorporate heritage assets where appropriate – that is exactly the approach taken in this case. Those aspects of the buildings which contribute most to the CA would be retained, restored and re-used. The significance of the CA would be conserved, as would the significance of the non designated heritage assets. That conservation would be achieved, in accordance with the policy approach, by accepting a limited degree of harm to allow restoration and re-use of the retained elements. The proposal is compliant with section 7 of the LP (GLA/1/A).
158. CS policy 12 has 3 primary considerations: safeguarding the City's listed buildings and their settings while allowing appropriate adaption and new uses; preserving and enhancing the distinctive character and appearance of the City's CAs while allowing sympathetic development within them; and protecting the City's ancient monuments and archaeological remains. The proposal would comply with those objectives (COL/1/A).
159. The purpose of UDP policy ECON 6 is to ensure that development maintains or enhances the varied and special character of Smithfield by a number of different means (CD19.2). There is no dispute that criteria (ii) (a proportion of non-B1 uses) and (iii) (variety of uses at street level) are satisfied. There is a dispute as to whether criterion (i) is satisfied. This normally requires that development proposals

for sites including existing non-B1 uses shall maintain the amount and proportion of non-B1 uses on the site. COL/GLA considers that the aim and objective of the policy would be satisfied in that the existing ground floor area of both buildings would be retained in non B1 uses (save for the office entrances). The fact that non B1 uses (as a proportion of the total floorspace) would be reduced would not undermine the objective of the policy which is to maintain or enhance the varied and special character of Smithfield – that character will be enhanced by the introduction of the new retail uses on the ground floor of the General and Annex Market buildings. This is the very type of case for which the word ‘normally’ was included. The objective is met by expanding the amount of floorspace and retaining the ground floors in non B1 use, and as a result the policy would be satisfied.

160. The relevant LP economic development policies would also be satisfied. The proposals optimise outputs in the area of intensification and thereby satisfy LP policy 2.13. The proposals also provide office floorspace in accordance with the CAZ policies 2.10 and 2.11.
161. The proposals would make a very important contribution towards meeting the objectives and requirements of the economic development policies in the LP and the City’s CS whilst also satisfying the design and heritage policies, and as a result the proposals accord with the development plan when considered as a whole. As the proposals accord with the development plan, the presumption in favour of sustainable development applies and planning permission should be granted.

### **Conclusions**

162. The General Market building has not been used for wholesale market purposes since 1999. The Annex Market has been disused for even longer. Total demolition of the General Market was proposed in 2007 and was rejected by the Secretary of State. The scheme now under consideration has been developed in response to the previous Inspector’s comments and to those made by EH. The critical issues in this case are the degree of harm to heritage assets, and whether public benefits outweigh any harm. EH, who opposed the previous scheme, have given their views on the first issue; they consider the harm to be less than substantial. They are the Government’s adviser on heritage issues, and have great expertise, and very great knowledge of this particular site. There are no reasons to disagree with them.
163. In the same way that EH is exceedingly well placed to deal with the impact on heritage assets, the relevant public authorities (the City and the Mayor) are similarly well placed to weigh the harm identified by EH against the public benefits. They have done so, and have concluded that the public benefits outweigh the harm. In weighing up the public benefits, considerable importance and weight must be given to the statutorily desirable objectives set out in sections 66 and 72 of the P(LB&CA)A, but in doing so the views of the public authorities should only be rejected on the basis of very clear reasons. There are none.
164. This is a well conceived scheme which responds to the context set by the Smithfield CA, other CAs and the listed buildings. The benefits of the scheme far outweigh any limited detriment, and it deserves the Secretary of State’s support.

### **The Case for English Heritage**

165. EH’s statement sets out the heritage significance of the site and its setting and how the current proposals affect that significance (*EH/1/B*). It provides some

background to the previous inquiry scheme and its effect on those assets. The current regeneration proposals represent a fundamental change in approach since the Secretary of State's decision on the previous proposals in 2008.

***Heritage assets within the site and surrounding area***

166. The development site is associated with the western expansion of Smithfield Meat Market. It includes the General Market; the Annex Market; the former Red House Cold Store and a Market Porters' Lavatory block, which previously formed part of the Engine House to the Red House Cold Store. The site is within Smithfield CA and is directly west of the listed Poultry Market (*EH/1/C Ax3*). The site lies immediately to the south of the Charterhouse Square CA. This includes buildings on the north side of Charterhouse Street that were originally related to Smithfield Market, which share a scale and quality with the existing market buildings, in particular the General Market. To the west of the site is the Hatton Garden CA.
167. The application site and its immediate context has been the subject of extensive study. In 2005 EH produced an *Area Assessment for Farringdon/Smithfield (CD16.6)* which concluded among other things that whilst western Smithfield retained something of its ancient street pattern, its surviving fabric is largely Victorian and Edwardian and overtly commercial in character. The actual market buildings were the subject of historical research in 2003 with the production of a report by EH entitled: *Western Buildings London Central Markets Smithfield (CD16.5)*. These documents informed the expert evidence given by Roger Mascall on behalf of EH at the inquiry in 2007 and detail the significance of the various assets. (*EH/1/C Ax4*). The assessment of special interest presented by EH at that time was largely agreed by all parties. Since that Inquiry significant new development around the market sites has been permitted and in some cases constructed, changing the setting and context of the Smithfield CA to some degree. However, the original assessment of special interest is still valid.
168. The site contributes to the settings of other adjacent and nearby listed buildings which are, or were once, related to the market and market use on the north side of Charterhouse Street. These comprise the Central Cold Storage building at 51-53 Charterhouse Street (grade II, 1899), the former meat market at 67-77 Charterhouse Street (grade II, 1872) and the former Corporation of London Meat Inspection Offices at 79-83 Charterhouse Street (grade II, 1930). The grade II listed Holborn Viaduct (1863-9) spans Farringdon Street just to the south of the General Market Building. The viaduct is part of the setting of the Smithfield Western Market buildings and the two have an important visual relationship reflecting their origins as grand Victorian engineering schemes that have shaped the area as found today.
169. The unlisted Western Market buildings are attached to, and form an integral part of, the great linear sequence of market buildings comprising the Central Meat Market (grade II\*, 1868, Horace Jones), and the Poultry Market (grade II, 1963, T.P. Bennett and Son). They contribute positively to each other through their linked function, historical development and architectural form. The existing canopy that spans between the General Market Building and Poultry Market was a later feature of the Poultry Market but is nonetheless of some architectural merit, principally evident in the curves of the concrete trusses. The Western Market buildings are unlisted, with Certificates of Immunity issued for the General Market, Annex Market and Lavatory Block in 2005 and for the Red House in 2009 (*CD14.1-9*). Despite

their unlisted status, the buildings make a strong positive contribution to the western part of Smithfield CA.

170. The architectural language of the individual buildings varies between and within the French and Italian Renaissance styles, but there is a consistency to the group arising from their scale, decoration and materials.
171. Horace Jones's 1881 General Market building is the largest of the Smithfield Western Market buildings and was the third of a suite of buildings designed by him at Smithfield. The building itself is one of four structures including the Annexe Market, the Red House Cold Store and the triangular Engine House/lavatory block, that were built between 1879 and 1899 for the Corporation of the City of London to serve the London Central Markets at Smithfield. The two markets, although intended for other purposes, were mainly used by the meat and poultry trade until they closed in the 1990's.
172. The plot for the General Market was approximately square and was developed with largely two storey external ranges enclosing the central market area. There was once an elaborate, crowning, central lantern and spire over the market area that could be seen from the street. The frontages to all sides are treated consistently, although each façade varies slightly from the other. The greatest architectural decoration was reserved for the entrances formed under pediments and the three storey polygonal tower at the southern end of the Farringdon Street façade which has pilasters, swags and circular windows. This tower was originally capped by a lead-clad spirelet, which was removed at some point in the post-war period. Decoration is also found concentrated in the roofscape including stone dressed dormer windows and stone faced chimneys, deliberately grouped together. The western elevation fronting Farringdon Street is now the least altered, although the north end of the west range and half of the north elevation including the corner tower were replaced in the 1950's.
173. Functionally and spatially the building is divided into three sections; a basement car park, the central market area and the outer shop units originally open on the lower level and enclosed above. When originally built the shops were provided with angled fireplaces and stairs against the back walls but many of these features have been subsequently removed. The present arrangement for the central interior market area is the result of several phases of alteration, beginning very shortly after the building was first constructed. This is set out in the EH Historical Report (*CD16.5*). The outer shop units, more than the interior market hall, now give definition and expression to the form and appearance of the building in most views from within the conservation area, with the north and south elevations stepping down in stages to accommodate the fall of the land towards Farringdon Street.
174. The Annex Market, designed by Horace Jones in 1888, is confident in its design and well executed in red brick and Portland stone detailing. A decorative two storey flatiron 'pavilion' forms the southwest corner of the building. The interior is partly visible from the street through the main entrances, and comprises a triangular market hall lined on all three sides by shop units. The internal roadways are spanned by arched wooden trusses supporting roofs with, originally, glazed pitches and louvred ridge lanterns. As befitting a wholesale (as opposed to public) market, the interior of the Annex Market is relatively simple, although elegant.
175. The Annex Market is part of a larger complex that includes the former Red House Cold Store from 1898-99. The highly decorative, red brick facades of the Red House

complete the block to the east and south. The principal east elevation has two storeys of blind arcading with stone oeil-de-boeuf mouldings to the upper floors. The rear facades are largely concealed by the Annex Market and Iron Mountain building, so their visual contribution to the surrounding CA is somewhat limited. The single storey south elevation along Smithfield Street is articulated by a series of decorative, red brick, blind arches.

### ***The 2007 Proposals for the Western Market Buildings***

176. The proposals considered at the Inquiry in 2007 involved the total demolition of the General Market building and substantial demolition of the Annex building to provide new buildings for office, retail/market and other uses. The conclusions of the Inspector, supported by the Secretary of State in her decision, were that the loss of buildings that made a positive contribution to the special character and appearance of the Smithfield CA was not justified. The design and impact of the proposed replacement building was similarly unacceptable as it failed to preserve or enhance that special character (*CD15.1 & 2, EH/1/C Ax5*).
177. After the 2007 Inquiry EH set out its position with regard to the future of the Smithfield site. Any approach for the regeneration of the site would have to start from an acknowledgement that the existing buildings make a positive contribution to the CA and, as then set out in PPG15, the strong presumption in favour of their retention (*EH/1/C Ax6*). EH subsequently engaged in pre-application discussions on the retention of the buildings, understanding their significance, developing an adaptive, re-use strategy and testing viability. In early 2010 HGI acquired its interest in the site. Pre-application discussions continued and on 29 June 2012 EH provided a formal pre-application response (*EH/1/C Ax7*). Subsequently a formal response was made to the planning application consultation (*EH/1/C Ax8*).

### ***The current proposal***

178. The current proposal is fundamentally different from the previous scheme because it proposes alteration and conversion and not wholesale demolition.
179. On the General Market site, the existing Victorian perimeter buildings along Farringdon Street, Charterhouse Street and West Smithfield would be retained and restored. The damaged eastern elevation along West Poultry Avenue would be partially demolished at ground floor level and replaced with appropriate period shop-fronts. The concrete canopy of the grade II listed Poultry Market would be removed where it meets the General Market. The post-war Hart's Corner block would be demolished to create an open, accessible entrance and new public space leading to the centre of the market, which would be occupied by a mix of restaurant and small retail units. Significant features of the existing central market area such as the iron lattice girders, Phoenix columns and butchers' hooks etc. would be re-used. Above this space, a new structure containing offices would replace the later, C20, dome of the market hall, rising above the retained perimeter Victorian buildings; from 1 storey at the west side and reaching 3 storeys above the eastern range. The new upper floors of the east elevation would cantilever out over West Poultry Avenue and necessitate the removal of the Poultry Market canopy that currently spans the road. The new building would include a terrace level that would connect to the rear of the restored upper floors of the retained Victorian perimeter buildings. The new building would be planted with green roof gardens.

180. The Annex Market would be substantially restored in its present form and given over to a variety of retail, restaurant and café uses in a traditional market setting. These would complement the diverse range of small scale uses evident elsewhere in the conservation area. The early C20 timber canopy between the Annex and General Market buildings would be retained and refurbished.
181. The facades of the former Red House Cold Store along West Poultry Avenue and Smithfield Street would be retained and restored, with some minor modifications applied to existing openings. A new 7 storey office building is proposed behind the retained facades with its top storey set back. It would rise above the height of the imposing Victorian gable wall which originally formed the entrance to the former cold store fronting West Poultry Avenue.
182. The exterior of the small triangular Engine House/lavatory block would be restored and its interior modified to accommodate a small retail unit.
183. Materials for the new elements of the scheme would vary across the site. The new building above the General Market Building would use weathering steel as a frame, with glazing between. The new building above the Red House Cold Store would combine glazing with a frame of black anodised aluminium.

### ***Assessment of the proposal***

184. EH's assessment of the proposal rests on the P(LB&CA)A, the Government's planning policies as set out in the Framework, the local Development Plan and relevant guidance. The starting point for an assessment of the proposals is the statutory duties placed on decision makers, when dealing with applications for planning permission for development which would affect a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and, when dealing with applications which would affect CAs to pay special attention to the desirability of preserving or enhancing the character and appearance of that area (*CD17.1*)
185. In this case that means having special regard for the contribution that the western market buildings make to heritage significance of Smithfield as a whole, aesthetically and as illustrations of the evolution of the area, when considering proposals to adapt them.
186. The Framework makes it clear that the purpose of the planning system is to contribute to the achievement of sustainable development which has three roles: economic, social and environmental, which are mutually dependent. The conservation of heritage assets, which are the components of the historic environment, is one of the core planning principles (Framework ¶12). Conservation is defined as the process of maintaining and managing change in a way that sustains and, where appropriate, enhances significance. The appropriate starting point for considering change to the historic environment is therefore a sound understanding of the significance of the heritage assets affected. The more important the heritage asset, the greater the weight should be given to its conservation.
187. In this case the designated heritage assets are the Smithfield CA and the neighbouring listed buildings: The Poultry Market, the Central Meat Market, the Holborn Viaduct, 51-3 Charterhouse Street, 66-77 Charterhouse Street, and the

former Corporation of London Meat Inspection Offices at 79-83 Charterhouse Street.

188. The significance of the current linear sequence of market buildings running from the east to the west is both historic and architectural. The creation of the market complex at Smithfield was an ambitious undertaking and was part of a greater programme of market improvements by the Corporation in the second half of the C19th, necessitated by the rapid growth of the metropolis and the Corporation's desire to retain its dominance over market activity in central London. Architecturally, the buildings originally had coherence through the use of common materials and revivalist architectural styles, although this coherence has been eroded by the loss of some of the buildings and the construction of the Poultry Market in a clearly different style. However, notwithstanding some erosion of aesthetic coherence, this sequence of buildings is still consistent in function and scale and clearly central to the character and special interest of the conservation area.
189. The Western Market buildings are non-designated heritage assets that make not just a positive contribution to the conservation area, but are a key element of its character and appearance that justifies its designation. So their loss should undoubtedly be regarded as substantial harm. (Framework ¶138). However, the buildings would not now be entirely lost. The judgement required is how far their adaptation would harm their individual significance and their contribution to the designated heritage assets - the Smithfield CA and the setting of the listed buildings.
190. The Western Market buildings hold historic interest as individually and collectively demonstrating the rapid and ambitious evolution of this part of the city, and, architecturally as examples of the work of Horace Jones. The importance of Jones to the evolution of London is widely accepted and some of his more significant buildings are nationally designated, including the Smithfield Meat Market and Leadenhall Market. However, the Western Market buildings do not represent his best work in a national context and, of the complex, the Annex Market is the best survival in terms of illustrating an original Horace Jones design concept. The proposals for the adaptation of the buildings retain the most characteristic and decorative elements of his architecture and re-instate missing features. Through repair and refurbishment, some architectural coherence will be strengthened. The greatest intervention in the exterior ranges is concentrated on the altered, eastern range of the General Market where the architectural significance of Jones' work has been most eroded.
191. The contribution of the central market hall to the significance of the General Market has been compromised by later alteration and adaptation, starting shortly after completion, as well as loss of fabric (*CD16.5*). The technical solutions originally employed by Jones, represented by the lattice girders and the Phoenix columns, would be retained and re-used although not in their current positions. Overall, the approach to adaptation for the General Market building has been based on the greatest intervention being concentrated in the areas of relatively lower significance.
192. The contribution the interior market area makes to heritage significance is primarily as evidence of the former market function. The removal of the Phoenix columns and other Victorian features from their original context is regrettable, but



this would be mitigated by their re-use in the proposed new building. Visually the central market area makes a limited contribution to the conservation area. Clearly removing the main market area would disrupt and harm the historic, and to a lesser degree, the architectural interest of the building. It would be preferable to avoid it. However it would be wrong to perceive this building as being solely about the open market space. Whilst external ranges containing shops and offices above were physically peripheral they were an equally important part of its function.

193. The demolition of the post war tower and side bays at Harts Corner to provide a new entrance leading into the reconfigured central area of the General Market building (*CD3.2 View 11*) involves loss of fabric. The existing corner tower has some historic and architectural interest as a repair very much of its time indicating the importance of ensuring the market was capable of use as soon as possible after the war, but it is architecturally modest. More harmful is the fact that the entrance way would be open save for an iron sign overhead. This though would still be minor harm.
194. The design of the new building within the General Market is clearly informed by a different architectural approach than the 2007 scheme. The use of stepped ranges of simple form, but carefully articulated, recognises that modulating a deep plan building to ensure a human scale was central to the original design approach by Horace Jones. The detailed design also responds to the aesthetic of the buildings within the CA, and specifically the General Market, in its use of Core-ten steel to produce warm tones and in the use of glass.
195. In most ground level views, the new development would appear as a backdrop to the restored, historic, red brick exterior perimeter shop buildings which would continue to visually dominate the experience at ground floor level. The reinstatement of appropriate period shop-fronts and canopies along all of the historic facades would visually strengthen the presence of these perimeter buildings by re-introducing the coherence and evident function of the original designs by Jones, which has been eroded by later alterations and additions. Reinstatement of the southern turret would also add to the visual presence of the original building, reinforcing the characteristic Jones architectural features of turrets and towers in key views into the conservation area.
196. By retaining the external ranges and increasing the height of the new intervention from west to east, any "canyon" effect on Farringdon Street would be avoided (*CD3.2 View 07*). The distinct "gateway" to the conservation area would also be maintained so that the change in character between the setting of the conservation area and the conservation area itself would still be appreciable. This change would be more distinct with the re-instatement of the missing turret to the south end of the western range of the General Market.
197. In the high level view from Holborn Viaduct towards the application site, the additions to the General Market would be clearly visible above the retained perimeter shop buildings (*CD3.2 View 06*). The amount of new development rising above the old would produce some visual tension in the view, particularly as the height of the new extensions increases to the east. Depending on the exact viewpoint, the listed Poultry and Central Meat Market buildings further east would be partially or fully obscured by the new development. The new architecture, due to its height and scale, would appear most assertive in this particular view, causing some visual harm to the CA and the settings of the listed Poultry and Meat Market

buildings to the east. While this is not the only view obtainable of either listed building, it is the most publicly accessible elevated one.

198. The new extensions to the General Market building would also have an impact on the local view towards the site from Charterhouse Street looking west. Here, the highest portion of the extension at 37m would be in full view, and there would be a strong visual contrast in height between the new building and the restored Victorian perimeter shop buildings (*CD3.2 View 19*). The height and scale of new development would interrupt the relative consistency of the built form of the market buildings from east to west. This change at the eastern end of the General Market building would cause some visual harm to the CA (*CD3.2 View 20*).
199. The change in scale would also affect the setting of the grade II listed Poultry Market. However, the Poultry Market itself is a very large and robust building with a very simple exterior, and the harm to its setting would be modest. The fabric of the grade II listed Poultry Market would be altered with the removal of the canopy that currently spans West Poultry Avenue. The loss of the canopy would have some impact on the CA by reducing the ability to appreciate the connected nature of the suite of market buildings but it would allow uninterrupted views of the upper part of the listed building to be gained from West Poultry Avenue. The impact on this part of the setting of the listed Poultry Market and its contribution to the buildings significance would be similarly modest.
200. The design approach for the former Red House Cold Store and Annex Market is to retain and restore the most significant architectural elements of the buildings, in this case their principal red brick facades and most of the original interior and roofs of the Annex Market. A new office building of 7 storeys, about 45 metres, is proposed for the site behind the retained facades of the former Red House Cold Store, necessitating the demolition of that building's rear façade and all of the adjacent Iron Mountain document store building. While the loss of the Victorian rear façade of the Red House is regrettable, it is much plainer than the principal facades of the building and largely hidden from view. The harm to the CA would be modest.
201. The new 7-storey office building would appear above the retained principal Victorian façade of the former Red House Cold Store in the local view looking west from West Smithfield (*CD3.2 Views 13 & 14*). The new building would also appear in the view from Snow Hill, where it would rise above the single storey elevations of the Red House Cold Store and adjacent Annexe Market, causing some harm to the setting of those buildings and this part of the CA. However the elevations would be repaired and provided with new retail uses that would enhance their presence at street level and their contribution to the character of the CA (*CD3.2 View 16*).
202. The proposals for the Western Market buildings require substantial investment in refurbishment and repair. Clearly the buildings are not in good condition and the Framework does reference neglect. The buildings suffered from low levels of maintenance over many years, both before and after they became redundant. In the last 10 years proposals for the future of the buildings have been under active consideration and because of the uncertainty over their future EH has been monitoring their condition. Emergency works have been carried out on a number of occasions and the buildings have been protected from vandalism.

### ***Alternative Schemes***

203. EH is aware that SAVE is promoting an alternative scheme for the re-use of the Smithfield Western Market buildings based on the similar approach outlined in the 2007 inquiry (CD22.1-22). In 2013 EH staff met directly with SAVE to discuss their proposals. They would retain the General Market and Annex buildings in full with very little, if any, significant new development. If this scheme is deliverable and economically sustainable, this approach would cause little, if any, harm to the historic environment and indeed may provide the optimum conservation outcome for the future.
204. The SAVE proposals appear to focus on the General Market and Annex Buildings at ground floor, with basements and upper floors in abeyance. How far they are based on an up to date assessment of condition is not clear but proposals for physical works or adaptation have not been submitted.
205. Conservation is not a passive exercise. It requires periodic if not continuous investment. For buildings of this type that means finding the optimum viable use as referred to in Framework ¶134. As the Framework says, harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset. The obvious question in this case is whether the proposed HGI scheme represents the optimum viable use or whether it is realistic to expect that refusal may lead to a less harmful scheme coming to fruition. The HGI scheme may be harmful, but this is preferable to more years of deterioration leading to the necessity of a more radical solution to achieve economic sustainability or the buildings' total loss.
206. Without clear evidence that the SAVE scheme, or any another alternative and materially less harmful scheme is deliverable, a refusal of the current HGI proposals could result in the long term survival of the Smithfield Western Market buildings being put at considerable risk.

### ***EH Conclusions***

207. All the existing buildings make a clear and important positive contribution to the CA and are of interest in their own right. The current proposals would retain much of that heritage significance. The architectural contribution made by the General and Annex Markets to the conservation area is in their human scale, choice of materials, very apparent historical function and liveliness of skyline, including finials and towers. These would all be retained and in the case of the south-western tower re-instated. The central lower dome and its market area beneath, do add to the heritage values of the building as a whole, but are less important than other elements and make a lesser contribution to the CA as a whole and the setting of nearby listed buildings. EH considers that the loss of the General Market hall and the dome would be harmful to the historic environment and therefore need justifying in accordance with the statutory considerations and the Framework. But that harm is modest and in terms of Framework ¶134, can be described as less than substantial harm to the CA and nearby listed buildings.
208. In the General Market, the proposed new building would be much more visually prominent than the dome it replaces. It would be contemporary in style and would rise above the retained Victorian perimeter ranges. The design has responded, in its stepped form, to the need for a transition of scale. In its choice of materials it has

responded to those used historically for the market buildings. For a building of this scale, we believe the design has mitigated its impact to best effect.

209. In the majority of views within the CA the visual prominence of the external ranges of the Western Market buildings and their contribution to the character and appearance of the CA would be maintained, and through substantial investment in repair and re-use, as small retail units, a key element of the character and appearance of the CA would be enhanced.
210. In 2 views, from Holborn Viaduct and along Charterhouse Street, the visual prominence of the existing General Market building would be adversely affected by the height of the proposed new offices and, in addition, there would be an impact on the setting of adjacent listed buildings. EH judges this harm as modest and less than substantial harm in the language of Framework ¶134. The scale of the new building, its design and location within key views mean that in sum, the harm it would create would not seriously affect the key elements of the heritage significance of the neighbouring listed buildings or the Ca.
211. The harm caused by the proposals has to be justified in line with the statutory considerations regarding CAs and the setting of listed buildings and the policies within the Framework and the local development plan. The principal concern is the public benefits to be derived from the scheme which include securing a long term future for the buildings through economically sustainable uses, facilitating public access and providing a mix of uses to maintain the diversity of character in the CA.
212. There are undoubtedly other schemes that could be conceived of that would cause less or no harm and would also deliver, in theory, the same regeneration, enhancements and public access. The SAVE proposed scheme would undoubtedly be less harmful than the HGI proposal. The key question is whether any other options are realistically deliverable and would be sustainable both economically and in terms of the heritage conservation they delivered. It is EH's view that, if the Secretary of State concludes that the proposal represents the optimum viable use of the site, the current proposal is acceptable in accordance with the guidance in the Framework (¶132, 134, 135 and 138). The harm caused by the scheme is then justified as the scheme would deliver the best long term conservation of the site and satisfy the objectives of sustainable development.

### **Third Party Supporters**

213. **Marina Szanto**, a local resident, considers that the HGI scheme would regenerate this part of Smithfield. It is conservation based, preserving the best of the historic market buildings, and would provide the best planning outcome taking long-term sustainability into account. The scheme would bring viable long term investment and active use back to this part of Smithfield while respecting its heritage (TP/S/1).

### **Written representations in support**

214. **Mark Field MP** for the Cities of London and Westminster forwards HGI's case, outlined in correspondence with HGI, asking that it is given due consideration (WR/S/1).

## The Case for SAVE Britain's Heritage

*The gist of evidence given to the inquiry by SAVE is set out primarily in proofs of evidence SVS/1/A, SVS/2/A-B, SVS/3/A-D, SVS/5/A-E, SVS/7A-C, SVS/8/A-F and closing submissions SVS/CS/1.*

215. SAVE has been campaigning for London's landmarks for nearly 40 years. SAVE led the fight for Billingsgate Fish Market, designed by Sir Horace Jones, which COL was determined to demolish and replace with an office block.
216. SAVE has always taken a long view. It led the fight for both Battersea and Bankside power stations, obtaining the first planning permission for Battersea to be transformed to leisure use, prompting its listing. It has been a long time coming but now £800 million is being invested in the repair and conversion of Giles Gilbert Scott's masterpiece. Viable, funded and now deliverable. Bankside's owners wanted to demolish it and build offices. It wasn't listed. Now it is restored and revived and is the most visited modern art gallery in the world. Once again viable, funded and delivered, though SAVE was told time and again that it was a white elephant.
217. SAVE's case is essentially that the HGI scheme would mutilate the buildings to such an extent that it would cause substantial harm and any benefits would be far outweighed by the damage caused.
218. HGI has made no ostensible effort to find a re-use scheme for this site. Their plan is to remove the entire market hall. This airy and spacious interior of 23,315 ft<sup>2</sup> (2,100 m<sup>2</sup>) would be replaced by a token food hall of just 9,400 ft<sup>2</sup> (850 m<sup>2</sup>). All the splendid patent Phoenix columns would be stripped out apart from a select few, which would be truncated. Covered space is an important element of architecture, as lofty atria in modern office blocks demonstrate. Here, by contrast, the new "atrium" or food court would be just 16 ft (4.7 m) high with no possibility of sunlight even in high summer.
219. SAVE's alternative scheme (CD22/1-23), which has been submitted for planning permission, is both viable and deliverable without there being any material alterations to the historic market hall and its roof. There is a clear economic argument for the retention scheme which would accord with what the original Inspector said and the Secretary of State agreed with (CD15.1, CD15.2). It would enable the spirit and fabric of the historic market to be preserved. It worked for Spitalfields (SVS/5/A, SVS/7/A) and it would work for Smithfield. Indeed, the proposals put forward by SAVE are likely to make a much more substantial profit.
220. With regard to heritage protection policy, however much HGI wishes to argue that the position under PPG15 has been seriously weakened by the replacement Framework, it has not. EH has indicated publicly that it shares this view.
221. On the question of viability, if and to the extent that anything has changed since the previous inquiry, it makes a reuse scheme even more viable today.

### **Substantial harm**

222. There is a serious dispute between the parties as to whether or not the agreed harm that this scheme would cause to the CA as a whole would be substantial or not. The word substantial is not defined in the glossary of the Framework. It is left to the decision maker to consider the arguments both against and in favour. The OED defines substantial as '*more than a minor amount*' but '*something less than*

- overwhelming or complete*. The demolition work would be so extensive, and so alter the character of the buildings, that the harm must be considered substantial. While there may remain disputes about the exact percentages of loss and retention, the extent of demolition is clearly set out in the submitted plans (CD1.5, HGI/1/A).
223. It is completely unnecessary for this site and the CA to be overwhelmed by the proposed large new office blocks. As EH previously said, the essence of this area is of low-rise buildings (CD15.1).
224. SAVE considers that the HGI proposals would cause very substantial harm to both the General Market and the Annex Market, both recognised as non-designated heritage assets. The proposals would also cause very substantial harm to the designated Smithfield CA, both this part of it, and as a whole.
225. Thus the scheme falls to be considered under Framework ¶133. A serious search has to be made under point 2 for a viable use for the building that will enable its conservation. This clearly has not been done. Nor has point 3 been considered, as the doors have been closed to some form of charitable or public ownership because COL says it is not possible because of the lease/ownership arrangements (COL/1/A, COL/1/C Ax5). On point 4, the previous Inspector agreed that the harm or loss could be outweighed by bringing the site back into use, but he found, and the situation is no different, that any scheme could do this, and would therefore be given minimal weight in the decision making balance.
226. If SAVE is wrong in this question of substantial harm to the significance of the designated heritage asset then, under Framework ¶134 the harm should be weighed against the so called public benefit, including securing its optimum viable use (again no glossary definition). This means that at the very least every reasonable effort should have been made to find the best use that is viable. The best use must itself mean that many options have been tested and they have failed when weighed against the current proposal. That too has not been done.

*Demolition: General Market*

227. The demolition would include virtually the entire length of the General Market frontage along West Poultry Avenue. The opportunity has not even been taken therefore to retain the complete run of frontages around the four sides of the island block.
228. The second point of obvious damage is the removal of the entire internal structure of the General Market. This is a free standing structure erected on a grid of widely spaced Phoenix Columns, supporting lattice trusses which carry the weight of the dome and other roofs, and also the ingenious flying arches of Horace Jones' arcades which run in both directions forming a neat and consistent piece of geometric design. This is one of the most extensive and impressive market interiors in London (HGI/1/G p35, SVS/23/6B & 6C). Reducing the height of some retained and re-used Phoenix columns would be a travesty. The demolition would result in the removal of the entire geometric roofscape around the central dome, which can be seen from Holborn Viaduct and many other vantage points, and forms a fifth facade.
229. In addition the plans show that most of the internal facades facing on to the covered market will also be removed (CD1.5, CD2.2). The result can be described as *'old fashioned semi-façadery'* (SVS/3/A). In addition the Portland stone

chimneys, which are an essential part of the building's silhouette, would not all be retained. Essentially the HGI proposals would not retain the full depth of perimeter buildings but in most cases a depth of one room. The extent of demolition would be so great that it would be as emasculating as complete demolition.

*Demolition: the Annex buildings*

230. The HGI proposals imply that the arcades of the Annex Market which form a triangle would be retained. In fact only the two shorter arms of the triangle would be retained. The main arcade, which runs across the site, extends beyond the triangle in both directions. It is considerably longer than the two retained sections and would be removed (*HGI/1/G p42*).
231. The arcade as rebuilt would lose the full length of its arched roof and the major part of the walls on the eastern side. The footprint of the main arcade may remain the same but it would be a new structure with vastly reduced top-lighting, which is the major feature of the present arcade. It would also be a curious amalgam of half arches echoing the original arches and tall free standing columns which would have no relation in design to the existing structure.

***Significance of the site***

232. The Western Market buildings comprised the main part of the original Smithfield CA, designated by the GLC in 1986, specifically because of the threat of office redevelopment on COL-owned land. The amalgamation of this with other CAs to form the current large Smithfield CA came later. Even so, the market complex remains the dominant influence on the whole Smithfield area (*CD19.5*).
233. The COL CA Character Appraisal sensibly divides the larger Smithfield CA into sub-areas (*CD19.5*). It is considered that the preservation and/or enhancement of the character of this part (Sub-Area 3) of the Smithfield CA is as equally important as its appearance. The gritty character of the existing wholesale markets and the unused General and Annex Markets is very different to other sub-areas of the CA, such as Hosier Lane. It is in even starker contrast to the recent large scale office developments outside the CA on Holborn and Farringdon Road/Street and those granted permission at Caxton and Cardinal Houses and Lindsey Street. The extraordinary character of the Smithfield market complex, with a history stretching back to medieval times, is unique. The bland words of formal conservation policies and character appraisals struggle to capture the true essence of this remarkable place.
234. The Smithfield Market buildings are not just handsome street frontages, but a whole series of Victorian market halls, superbly designed and constructed using the latest technology. Following the lead of the Crystal Palace, an acknowledged masterpiece of 19<sup>th</sup> century world architecture, Britain led the way with iron and glass structures, whether railways stations, great conservatories or market halls.
235. The Smithfield Market buildings were from the start all interconnected and built along a single grand walkway which continued from building to building. Though this was principally a wholesale market it has always attracted visitors, interested in the development of cities as well as seeing the life of a busy market. SAVE's case is based on the importance of the market halls as public realm, expressed in this permeability of the existing market buildings, both present and future.

236. London has long been regarded as a city of villages and distinct neighbourhoods. Similar market neighbourhoods at Covent Garden, Spitalfields, Borough and Greenwich Markets have all now been revived and become intensely popular destinations. They are used not just by office workers or tourists but also by London residents enjoying a day or a morning out, or the many people who come regularly from the Home Counties and beyond to visit the capital.
237. CAs are not simply about preserving street frontages and the exteriors of buildings. There are a wide range of buildings which offer interior covered open space, be they railways stations, shopping arcades, or market halls. In this case both market halls are of special quality and character as covered open spaces and as examples of fine engineering structures. The internal hall of the General Market, with its geometrically aligned top lit roofs, is virtually complete apart from the reconstruction of the dome which rests on the original columns and supporting lattice girders. A remarkable amount of Victorian ironwork survives, not just the distinctive Phoenix columns and lattice trusses, but the subsidiary cast iron columns and ornamental brackets used by the traders for the display of wares (*SVS/5/E, SVS/14*).
238. The importance of the Phoenix columns and structural iron was emphasised by EH in 2003 (*CD15.1*). Since then it transpires that the present original arrangement of the Phoenix columns (and their number) constitutes the finest surviving example in England and possibly in America too, where they were mainly used in railway bridges and seaside piers (*SVS/16*). At Smithfield the Phoenix columns are developed as a carefully proportioned classical order, unusually with gothic detail celebrating the fruit for sale. They have pedestals, bases, column shafts and ornamental capitals, with an added collar of ivy leaves just below the capital (*HGI/1/K.6B*). As engineering columns they rival the best examples in railway architecture.
239. The General Market roofs are intricately engineered (*SVS/3/A*). Unusually the arches supporting the roof are not made of iron, which had the tendency to overheat in hot weather and increase the overall temperature of the market hall in an age before refrigeration. Instead Horace Jones used laminated timber arches which did not absorb and conduct heat like iron and ensured the market halls remained cool in summer.

### ***Shortcomings of the new design***

240. SAVE contends that the new office buildings inserted in both the General Market and the Annex would do substantial damage to the CA, as well as to adjoining listed buildings and street views. Though the proposed offices in the General Market would be stepped back in an attempt to reduce their impact, at the eastern end in particular they would be very bulky and ungainly and they would appear totally out of scale in relation to the market buildings preserved on the perimeters, and other adjoining buildings including the listed Poultry Market. The greatest damage would be evident where the buildings are seen projecting over West Poultry Avenue. Part of the existing listed canopy would have to be removed. The juxtaposition between the cantilever of the new build and the truncated canopy of the Poultry Market, so close that they would almost abut, is of an order of clumsiness that cannot be accepted as good design. Here the new buildings would be extremely assertive and seen at their highest elevation, which in terms of bulk would be well above the graceful line of the Poultry Market building (*HGI/2/D views 13, 20*).



241. Further damage would be caused to views of the Poultry Market. Though a building of substantial size, the Poultry Market blends into the general run of market buildings thanks to the gentle lines of its handkerchief dome. This splendid dome is best seen from the western end of Holborn Viaduct (*HGI/2/D view 6*). The stepped blocks of the new offices would entirely block this view, thereby damaging the views and setting of an important post war listed building.
242. SAVE objects equally strongly to the proposed new building set behind the Red House walls. The new façade is described as having the character of anthracite (*HGI/1/A*). Given its size and bulk, a large black building would contrast in an extremely painful fashion with the graceful and well proportioned frontages of the Red House and Annex Market. The new anthracite building would be twice the height of the Red House and would tower above its graceful arcaded façade. It would equally be extremely intrusive in the relatively low rise views along Smithfield Street and Snow Hill (*HGI/2/D views 13, 14, 16, 17*).
243. The design of the modern insertions would severely damage the CA, in street views and elevated views, both in the immediate vicinity of the buildings and in longer views (*HGI/2/D views 6, 11, 14, 19, 20*). The CGI wire diagram views seem to have been carefully chosen to avoid portraying the full impact (*HGI/2/D view 17*). The offices would project in an extremely clumsy fashion from behind the retained façade (*SVS/23 views 13B, 13C*).
244. The General Market is at the gateway to the Smithfield CA, formed by the low roofs of the market buildings. The proposed office blocks, as seen from the corner of Farringdon and Charterhouse Streets, would be built over this gateway, blocking it and interrupting the sweep of market buildings leading up Charterhouse Street and causing substantial harm to the conservation area (*HGI/2/D views 9, 11*).
245. For the many office workers in the area, and residents too, the views of the market hall roofs are a significant bonus (*SVS/14 view 20*). The pattern of market hall roofs at Smithfield has become a familiar sight due to their formality and consistency and precise geometry which is in most cases original to the buildings. The loss of the General Market roofs is therefore an important point both externally and internally. There is no validity in claiming that Hart's Corner can be considered for demolition on the basis that it is a late 1950s addition. Historic buildings whether listed or not accrue additions that in time become part of their history. The proposal leaving a gap is extremely weak and understated.

### ***Market testing***

246. Between 1992 and March 2012 – the PPG15 era - it was always understood that the best way, and probably only real way, to test the viability of a retention scheme was to put the long-lease on the open market. For whatever reasons, COL not only haven't done so, but have closed the door to every bit of interest from anyone else other than Thornfield and HGI on the grounds that they're powerless to deal with any other party.
247. HGI has publicly stated that they would leave the site to decay if the scheme is refused. The Secretary of State has to take a view as to whether that is a serious proposition but, as a company responsible to its investors, HGI would hardly be able to justify letting the buildings stand idle if there was rental income to be generated.

### ***Viability, fundability and deliverability***

248. HGI considers that its scheme meets these criteria and that all other alternatives fail to. Its calculations are based on a simple test, that of the formal 'Red Book' valuation. This has been used as a means of dismissing alternative proposals on the grounds that they will not qualify for a bank loan since only through such a valuation can anyone obtain finance for a rehabilitation scheme.
249. This is manifest nonsense. The overall health of the London property market shows there are many people buying buildings in large numbers, as well as buildings of large scale, who do not rely on bank finance but who have their own resources and investors. Urban Space Management (USM), who have extensive experience of market developments, including Camden Lock, Borough, Greenwich and Spitalfields markets, gave evidence for EH at the 2007 inquiry to show that an alternative scheme was viable. In this case, USM has given evidence for SAVE to show that a regeneration and re-use scheme would be viable, fundable and deliverable (SVS/5/A).
250. The previous Inspector found as a conclusion (CD15.1 12.3.7) that 'the valuations are not helped by the fact that there is no definitive retention and re-use scheme to value. A re-use scheme might be better able to withstand the vagaries of the commercial property market, as initial expenditure would be less, phasing the works might allow cash flow to start from an earlier stage, and occupiers might want to participate in financing the scheme. Such a scheme might also be more flexible than trying to pre-let 60% to major tenants... In my view, Smithfield would be a more attractive location for a market than Greenwich, due to its accessibility and proximity to attractions such as St Paul's'.
251. HGI's office investment advice is inapplicable for the sort of proposals that SAVE has in mind. Cathedral Group (CG), as an experienced developer, considers that the USM proposals are viable, fundable and deliverable. Unlike the expensive and very complex engineering necessary to the HGI scheme, the USM proposals do not involve any expensive engineering or structural works and would simply make use of the existing structure and the massive floor slab which supports it. EH said at the last inquiry that the opportunity should be taken to look to non-institutional investors and publicly funded organisations. This is precisely what SAVE has done.

### ***The re-use proposals***

252. HGI describe the existing buildings as being unsuitable for modern requirements. This view is based upon the narrow requirements of the wholesale meat trade and ignores the revival in modern, specialist retail markets that has accelerated in the last two decades (SVS/7/A). USM is the only expert in the re-use of historic wholesale market buildings as new visitor destinations who has given evidence to the inquiry (SVS/5/A). The Western Market Buildings, as they currently stand, possess unique potential for intensive use. They enjoy all of the necessary characteristics to house a modern urban destination market; they could easily be filled with many small, independent retail businesses, combined with perimeter retail within the historic façade and connected to arts, theatre, live music, exhibitions and community events within the Annexe, Red House and basement of the General Market (CD22, SVS/23.3A).
253. The starting point for USM's evidence is the model of re-use produced for EH as part of the 2007 inquiry. USM's financial model and costs were carefully considered

and approved by EH Development Economics Director at the time, stating that “there is clear evidence to show that the General Market can be repaired and viably reused in a way which will add to the creativity and diversity of the Smithfield Area. To the extent that other uses for the car park might not have been fully included in the valuations of retention and re-use schemes, the effect would be to make them more viable” (*CD15.1*)

254. SAVE’s 2014 proposal is therefore based upon the following assumptions:

- o The buildings are structurally sound
- o There is a use for which they are suitable
- o The area is one with considerable potential
- o The cost advice as originally prepared by experts on behalf of EH is robust
- o The project could be phased
- o The potential revenue is in line with comparable projects.

255. The 2007 Inspector concluded that market testing would be the real test of viability for any retention and re-use scheme and that he did not consider that it would be misconceived to consider that there might be interest where valuers have not demonstrated viability (*CD15.1 12.3.10*). No evidence of market testing of the opportunity for the reuse of the Western Market Buildings has been included in Henderson’s application. HGI’s approach indicates an attempt to use valuation models rather than market testing to prove viability.

256. USM considers that the total project cost of its regeneration and re-use scheme would be about £27m. That would be funded 60% by debt (£16m), 40% by joint venture (JV) capital (£11m) (*SVS/5/A s12-13*). During the inquiry, at short notice, USM and CG showed that they could get together some £11m from JV partners which at the very least shows serious interest in funding this site. (*SVS/22, SVS/24*). HGI has sought to make light of this, suggesting that the emails are insubstantial and unverified. Nonetheless the rapid response obtained by USM shows that there are investors willing to put funds into a reuse scheme such as SAVE propose.

257. HGI called into question USM’s ability to raise debt from a bank for the scheme as it would require a Red Book valuation, but this is based upon the assumption that the works cannot be phased and income generating activity commenced at an early stage. They clearly can be.

258. As HGI concedes, the buildings are separate and capable of being used in a phased approach to repair and reuse. SAVE are confident that a phased approach would be possible in physical terms and very sensible in expenditure and revenue terms. There is no reason why several elements of the scheme could not be up and running, generating revenue and establishing the location as a new destination, whilst refurbishment works take place in other elements of the scheme. Given that the Annex, Engine House and Farringdon Road retail units are not affected by the present Crossrail use of the General Market it would be sensible to start works in one or more of these units to ensure that part of the regeneration project was ready to open alongside Crossrail.

259. The proposal is a well-conceived business proposition, promoted by organisations with substantial experience of similar projects, well-located in the City, well-timed to coincide with the opening of Crossrail and underpinned by a substantial city centre property asset. The phased approach, generating income from the start, would reduce much of the risk. The proposal would be attractive to Bank investment funding, either direct or through JV partners (*SVS/5/A*).
260. The mix of income producing uses proposed by USM would generate a positive cash flow and that justifies the scale of capital required to bring the buildings back into use. In building and use terms the project is clearly viable. In ongoing sustainability terms is it viable. The income generated for mixed use clearly covers the operating costs with a surplus to pay interest or a return to investors. The Net income produced from the USM scheme could be well in excess of double the peak interest payments required (*SVS/5/A, SVS/5/C Ax1-3, SVS/18*). The USM financial model illustrates that the viability of re-use has strengthened since both EH and the Inspector concluded that a full retention scheme was viable in 2007.
261. HGI holds a very long term lease on the General Market basement and may not make it available. While the basement features in SAVE's longer term ideas, the USM scheme could in fact be delivered without the need for the inclusion of the General Market basement. Clearly in planning terms a use other than a car park/plant is preferable – particularly if such a use can generate jobs and support the local creative economy - but it is not essential for the deliverability of a retention scheme. There was no discussion of the possibility of the ability and capacity of HGI and/or the COL themselves to fund a full retention scheme. HGI could, with its above and below ground interests, easily deliver an integrated full retention scheme.
262. EH spoke in favour of a retention scheme at the last inquiry, with particular reference to maintaining the quality of the CA (*CD15.1*). In its evidence to this inquiry EH was at pains to emphasise that its letter to COL commenting on the planning application was not a letter of approval. The letter states that 'if the City of London corporation takes the view that the public benefits of the proposals outweigh the harm to the historic benefits, or that the proposals are appropriate in other planning respects, then English Heritage would support their approval' (*EH/1/A*). In turn COL based its approval on what it perceived it to be support from EH. This proposal was therefore approved for planning permission without a clear statement and justification of support from either party.

### ***Neglect and Framework ¶130***

263. The 2007 Inspector, in agreement with EH, found that there had been neglect. It is perfectly obvious looking at the site that there has been neglect (*CD15.1*). COL has not repaired and maintained the buildings in a way that would retain them for the future.
264. HGI has been at pains to point out that the 2007 inspector only mentioned neglect rather than deliberate neglect. The difference between neglect and deliberate neglect is a minor point. The major issue is that both before the last inquiry and after there has been a consistent pattern of neglect. In fact the 2007 Inspector stated (*CD15.1 13.1.2*) that due to neglect, less weight should be given to the costs of repair. Under the terms set out in ¶3.19 (i) he could only have come to that conclusion if he had considered it to be one of those 'rare cases where it is clear that a building has been deliberately neglected in the hope of obtaining

consent for demolition'. There was no other provision in PPG15 for discounting such costs. He clearly considered the neglect to be deliberate. PPG widens the scope to include deliberate neglect to any heritage asset (designated or non-designated) in the hope of making consent or permission easier to gain. The General Market building today presents a sorry appearance as all the perimeter shops bar 2 are boarded up. This is not because they cannot be let. It is because COL and HGI over a considerable period of years have decided to allow the properties to fall vacant and simply board them up.

265. The second point about neglect is that it has obviously increased the cost of refurbishment and reopening the market. However all are agreed that the structures remain fundamentally sound and are not in danger of collapse. While the building fabric may not have deteriorated significantly under HGI's control (having largely implemented EH's schedule of urgent works) HGI have also consciously decided to leave the Annex buildings empty. COL has not been pro-active in exercising their duty to preserve and enhance the character and appearance of the CA, such as using their powers to arrest the decay of the buildings or seek beneficial use.

### ***Deliverability***

266. There is a confusion in terms between viability and deliverability. Viability, unless tested in the open market, is a paper exercise done through the Red Book approach of HGI, designed to fail unless the client is an institutional developer. Deliverability is the ability to deliver the finished product, and both these tests are on the balance of probability. SAVE maintains that there is more in the balance of probability that this site could be fully funded for a restoration scheme. If consent is granted to HGI there is no guarantee that development would take place, but there is much greater probability that these outstanding market buildings would be destroyed forever, perhaps entirely unnecessarily.

267. SAVE wishes to make it clear that the restoration scheme could be handed to HGI at no cost, with help and assistance from USM, CG and others, so that a success could be made from the retention of these buildings without any profit to themselves. They feel so strongly about the value of retention of these buildings that if they can't deliver it themselves they'd be delighted for HGI to do it for everyone.

268. SAVE's case is that the large artisan market it proposes would make a much greater contribution to the diversification of London than the simple food court proposed by HGI which is essentially for office workers. The General Market and the Annex Market offer the opportunity for a lively balance between stall holders and shops. The USM proposals provide a much greater number of smaller shops than the larger units proposed by HGI. This would encourage small businesses and provide the opportunity for successful stallholders to trade up and move from stalls to small shops. The big retail markets are one of the liveliest features of the capital and have increased in popularity over recent years (SVS/7/A). The Smithfield General Market building is at a point some distance from all the other markets, yet nonetheless very centrally placed and with the potential to be major generator for the area.

269. In addition to the rapidly improving public transport provision, particularly at Farringdon Station, there are also new pedestrian routes developing. Smithfield is at a key point on a new north-south pedestrian route running between Clerkenwell

and Bankside. This route passes through the Smithfield CA and past St Pauls, and has been greatly reinforced by the Millennium Bridge which attracts a huge number of pedestrians on a daily basis. The General Market also lies astride an important east-west axis which runs from Soho, through Covent Garden to Hatton Garden and Smithfield, and connects with the heart of the City as centred on the Guildhall, the Bank of England, Liverpool Street Station and Leadenhall Market.

### ***Conflict with UDP policy ECON6(i)***

270. UDP Policy ECON6 seeks to ensure that new development maintains or enhances the varied and special character of Smithfield by normally requiring that development proposals for sites including existing non-B1 uses shall maintain the amount and proportion of non-B1 uses on the site. These proposals, by contrast, would greatly reduce both the actual amount (from 15,042 m<sup>2</sup> to 9,059 m<sup>2</sup>) and the proportion (from 71% to 25%) of non-B1 uses on the site, contrary to this Policy. The 2007 Inspector's comments about the previous scheme (*CD15.1, 12.8.6*) equally apply to this one: "the large increase in B1 use would produce a corresponding reduction in the proportion of non-B1 uses, contrary to the aim of ECON6. The proposal is primarily for a commercial Grade A office building, which would be out of character with the small-scale uses in the Smithfield area that UDP Policy ECON 6 seeks to protect."

271. There is a compelling argument that the proposal falls within the scope of ¶140 of the Framework. EH's acceptance of the current proposals is based on their view that there is a conservation deficit which requires subsidy from the construction of new offices. While this strategy is contrary to national policy (and involved EH's indication that the provisions of PPG15 need not apply), and the local policies outlined above, notably ECON6(i), it was considered that this development was a realistic way of enabling what EH regarded to be the most important part of the heritage asset to be saved. If ¶140 of the Framework is held to be relevant, then EH's Guidance *Enabling Development and the Conservation of Significant Places* published in September 2008 is also relevant, with its stringent requirements. The HGI scheme conspicuously fails to meet the terms of that Guidance.

### ***Public benefits***

#### *Repair of historic fabric*

272. SAVE considers that the repair of the historic fabric of what is kept of the perimeter buildings and of bringing them back into beneficial use as retail should be discounted from the weighing of harm against public benefits, because they have been subject to deliberate neglect over a long period of time. In any event the benefits put forward would apply equally to a purely conservation scheme.

#### *Public Access*

273. The proposal would reduce permeability compared with the existing situation (prior to the buildings being closed and boarded up). The expansive and airy market halls would be replaced with a smaller air-conditioned shopping mall, with fewer access points and less connectivity. The welcoming attitude of the Smithfield Market Tenants' Association to encourage public access and retail trade shows how things have changed in the operating meat market (*SVS/19*). No consideration has been given to the potential passenger exit for Thameslink/Crossrail onto Charterhouse Street (*SVS/25*).

### *Demand for Offices*

274. The current apparent shortage of new-build office accommodation in the Mid-Town area is a result of the market catching up after the recession of 2008, and the loss a various previous office sites and buildings to hotels. There is no evidence of any shortage of office accommodation in Mid-Town 2017/18 onwards. There are many large office redevelopment sites, such as 40 Shoe Lane, in the area with planning permission, and several are now under construction. Most of these are speculative and will be available to the market. Where there is a pre-let it is to a local firm who will vacate their existing offices nearby. Two very large office redevelopment schemes within the London Borough of Islington at Caxton House (Charterhouse Place) and Cardinal House lie between the site and Farringdon Station, together with several other permitted office developments on the Islington side.
275. Within the City as a whole there are many office sites with consent that await development, or where construction has stalled. In terms of the pipeline of sites with office consents, not yet under construction, this is a changing figure. While the Inquiry was sitting, 89,000 m<sup>2</sup> of new offices were granted planning permission at 40 Leadenhall Street, also to HGI, adding considerably to the pipeline.

### *Area of Intensification*

276. SAVE does not argue that the proposals are premature but it is the case that there is no SPD for the area, and that there has been no joint planning exercise carried out by the adjoining boroughs of Islington, Camden and the City, a policy requirement. It is clear that there are many potential development sites within the area of intensification, some of which on their own (e.g. Mount Pleasant) could exceed the GLA's minimum targets for the whole area. There are many cleared sites close to the site where large-scale office developments are consented.
277. GLA policy does not require every site or building in the area to be redeveloped more intensively, nor that heritage policies should be overridden. An SDP might help to set priorities and detailed strategies. These might include considering how existing buildings might be used more intensively (e.g. 7 days a week, rather than 5), stimulated by an attractive new use such as an artisan market. Borough, Spitalfields and Camden Lock markets have achieved levels of intensification of use and regeneration of their surrounding areas which a mere office block with a few shops would never have produced.
278. An artisan market would attract tourists, Londoners, people from the Home Counties, as well as providing office workers in the western part of the City with a retail offer that is distinctly lacking. It would make the area more attractive for commercial developers. Given its location, its public transport and historic interest, Smithfield could become the prime honey-pot for the whole of London.

### *Sustainability*

279. While the proposals would meet current construction and performance standards, as it must, it would nevertheless consume a huge amount of energy, including the loss of embodied energy of the existing structures to be demolished, the new manufacture and transport of new materials, and the running costs of air-conditioned offices, shops and retail mall. A refurbishment of the existing, retaining a naturally-ventilated and lit public space, would use much less energy.

### **SAVE's Conclusion**

280. SAVE strongly draws attention to the fact that there is a presumption against demolition in a conservation area of those buildings which make a positive contribution. This scheme is as poor as the previous scheme in respecting the valuable heritage of these historic buildings and spaces. The USM scheme would provide a lively and viable alternative which would do far more to regenerate the wider Smithfield area.
281. The family of Smithfield Market buildings including the General Market and the Annex Market, all designed by the City Surveyor Sir Horace Jones, represents the finest collection of surviving Victorian market buildings in Britain. It has been said that the HGI proposals are positively the last chance to preserve at least part of the General Market and the Annex Market. This is simply not true. All attempts over 15 years to pursue a scheme on the lines USM proposes have been rebuffed by COL, by Thornfield and now HGI, who assert that if they don't get their way, the buildings will be left to deteriorate. That is a wholly irresponsible position to take.
282. SAVE is asking for a chance to save these splendid market halls in their entirety. The scheme is ready to go. If HGI would only take down the hoardings and open up the gates there would be life and activity - and visitors - in the market buildings within weeks.

### **The case for the Victorian Society**

*The gist of evidence given to the inquiry by The Victorian Society is set out primarily in proofs of evidence SVS/1/A, SVS/2/A-B, SVS/3/A-D, SVS/5/A-E, SVS/7A-C, SVS/8/A-F and closing submissions SVS/CS/2.*

283. This scheme would cause substantial harm to the Smithfield CA and to the Grade II-listed Poultry Market, as well as less than substantial harm to other designated heritage assets. The harm would include:
- Demolition of the majority of the General Market, one of the three major market buildings of Smithfield Market. This would include the complete demolition of the market hall, a structure that EH has stated is of "*substantial engineering interest*" (CD16.5 p2). The General Market is fundamental to the character of the Smithfield CA and makes a significant positive contribution to its interest.
  - Demolition of most of the canopy across West Poultry, which is an original part of the Grade II-listed Poultry Market.
  - Removal of the roof of the principal arcade of the Annex Market, a building that makes a further significant positive contribution to the Smithfield CA.
  - Erection of one 5 storey and one 7 storey office building in Character Area 3 of the Smithfield CA, which is characterised by its "*consistent building height of predominantly one or two storeys*" (CD19.5).
  - Replacement of the market use which is an important part of the character of the Smithfield CA with a predominantly office use.
284. By contrast the benefits of the scheme are relatively minor, and many of them would be realised by any scheme for the site, or in the case of increased office space, by many other less sensitive sites. An alternative scheme for the site exists that is viable, fundable and deliverable (CD22).



285. The substantial harm to the designated heritage assets that would be caused by the scheme means that ¶133 of the Framework applies, and the public benefits of the scheme would not outweigh the harm.
286. Even were it to be found that the harm that would be caused to the designated heritage assets is less than substantial, meaning that ¶134 of the Framework applies, the benefits of the scheme would not outweigh the harm caused, bearing in mind the weight of the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of CAs, and the consideration of optimum viable use. (CD17.2)

### ***Conserving and enhancing the historic environment***

#### *Significance of the site*

287. The buildings on the site form a significant proportion of Smithfield Market. EH asserts that Smithfield Market forms one of the most outstanding complexes of market hall buildings in England (CD15.1). The General Market, Annex Market, Red House and Engine House are all attractive late-nineteenth century market buildings that are undesignated heritage assets in their own right. It is common ground that they make a positive contribution to the Smithfield CA. Indeed they are a fundamental part of the CA (SVS/2/A, SVS/3/A). Market use is key to the character of this part of the Smithfield CA. The sights and sounds of market life colour the whole area. The buildings also form part of the setting of the Hatton Garden and Charterhouse CAs.
288. The group value of the site buildings with the remaining market buildings is of great significance; the whole complex is even greater than the sum of its parts. The Western Market buildings are an important part of the setting of the Grade II\*-listed Meat Market and of the Grade II-listed Poultry Market and also contribute to the setting of other listed market-related buildings and the setting of Holborn Viaduct.
289. As EH's 2003 report into the buildings indicates, the market hall of the General Market is a structure of "*substantial engineering interest*" (CD16.5). The hall is one of only two known buildings in England that use Phoenix columns, an important structural innovation. The two-way spanning framework is unique in English market halls, the use of laminated timber arches is noteworthy, and the planning of this building, with a very challenging site and complicated requirements, is of great interest.
290. The canopy over West Poultry forms part of the 1960s Grade II-listed Poultry Market. This is an original part of the listed building, and is a feature of interest as part of the motor-dependent servicing concept. It also helps to link all the market buildings of the complex together in both visual and functional terms.

#### *Impact of the proposals*

291. It is important to remember the strong statutory underpinning behind the section of the Framework that relates to the historic environment. S.72(1) of P(LB&CA)A states that when exercising planning functions in a conservation area, "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area." In the recent Barnwell Manor Wind Energy Court of Appeal judgment (SVS/17) it was held that, because of s.72(1), 'there is a "strong presumption" against granting permission for development which would harm the

- character or appearance of a conservation area precisely because the desirability of preserving the character or appearance of the area is a consideration of “considerable importance and weight” (*SVS/17 paragraph 23*).
292. Framework ¶132 also makes clear that great weight should be given to the conservation of a designated heritage asset and that any harm or loss should require convincing justification, given the irreplaceable nature of heritage assets.
293. The proposals involve the removal of the entire market hall of the General Market, forming most of the area of the building, the removal of the post-war tower of Hart’s Corner, the removal of the West Poultry façade, and the insertion of a large office block rising to 5storeys. The roof of the major arcade of the Annex Market would be removed, and a 7 storey office building inserted behind the two retained facades of the Red House. That office building would also overhang the altered main Annex Market arcade.
294. The loss of the West Poultry canopy would harm the design integrity of the Poultry Market and the group value of the complex by severing its physical connection to the General Market. The office block overhanging West Poultry would cause significant harm to the setting of the Poultry Market as an element in a coherent complex of market buildings. Cumulatively these impacts would cause substantial harm to the listed building (*SVS/2/A, SVS/3/A*).
295. The loss of the General Market hall would cause substantial harm to the Smithfield CA, removing one of the three major market halls of Smithfield Market, removing the potential for market use in the building, reducing the permeability of the building, removing the extensive and attractive top-lit market space and its noble dome. The retained perimeter buildings would be reduced to a decorative wrapper for the large office building inside, which would also cause substantial harm. Views of the chimneys and rooflines of the General Market against the sky would be replaced by a backdrop of office facades, offices which would introduce an alien massing and form to the area, altering it fundamentally. The important view of the Poultry Market and General Market from Holborn Viaduct would see substantial change, with the Poultry Market now mostly hidden from view, and a stepped flat-topped office block replacing views over the intricate rooflines of the market complex (*HGI/2/D view 6*).
296. CA protection is not just about protecting facades. Their character is inextricably linked to the activities inside, to the flow between exterior and interior, to sounds and smells, to uses and to spaces that have both an external and an internal character, like market halls. Great damage can be done to the character of a place without making changes to facades. Use is key to the character of Smithfield, from the buzz of the markets to the ambulances of Bart’s to the sound of choirs at St Bartholomew the Great.
297. The 7 storey office building behind the Red House would dwarf the historic building, destroying its prominence and introducing an alien scale into Sub-Area 3 of the CA. The removal of the roof to the arcade of the Annex Market would cause further harm, and the office building towering above the entrances to the Annex Market would damage the integrity of it as a historic building. From several key views this office building would have a major negative impact on the CA. HGI’s assessment is that the impact would be beneficial. An assessment of these views shows otherwise, particularly if the remedial works to address deliberate neglect are discounted (*HGI/2/D views 6, 14, 16 & 17*).

### ***Conservation Policy and Guidance***

298. CS policy CS12 is to conserve or enhance the significance of the City's heritage assets and their settings, by measures including preserving and enhancing the distinctive character and appearance of the City's conservation areas. This application is inconsistent with the policy, greatly eroding what defines the character of the Smithfield CA.
299. Saved UDP Policy ENV11 is "to resist the demolition of buildings which make a positive contribution to the character or appearance of a conservation area and to encourage their sympathetic refurbishment." That the site buildings make a positive contribution to the Smithfield CA is common ground between the parties; the demolition of large parts of them is easily substantial enough to invoke ENV11. COL argue that ENV11 should no longer be applied due to the changes in planning guidance since it was written (*COL/1/A p27*) but there is nothing in the Framework that is in contradiction to this policy, which remains in force.
300. PPG offers useful guidance on the assessment of substantial harm, saying that "an important consideration would be whether the adverse impact seriously affects a key element of its special interest" (*CD17.11*). All parties agree that the market buildings are a key element of the CA. The major alterations to them would seriously affect the special interest and distinctive character of the Smithfield CA.
301. HGI argued in opening that the Bedford judgment (*CD20.1*) provided the correct template for defining substantial harm, at paragraphs 24 & 25. But the passages, which contain the phrase "vitiating altogether or very much reduced" are not a definition of substantial harm but an explanation of the definition that the Inspector used in the case. The judgment does not definitively define substantial harm.
302. A recent appeal decision concerning change of use of a pub in Chelsea upheld the assessment that a change of use of one pub to residential in a CA caused substantial harm to that CA, primarily on use grounds (*SVS/26*). The loss of market use would cause substantial harm to the Smithfield CA.
303. The Western Market buildings are clearly one of the major components of the Smithfield CA and important to its special interest. As a historic market building the General Market would be destroyed by this scheme, losing all its integrity as a building, and much of its contribution to the conservation area, in terms of its use, its permeability, its low skyline, and the views into its magnificent interior. This would greatly reduce the group value of the market complex. A further cause of substantial harm would be the introduction of 5 and 7 storey office buildings to a part of the conservation area characterised by its "consistent building height of predominantly one or two storeys on a grand scale" (*CD19.5 p18*).
304. When the Smithfield Market CA was first designated in 1986, the Western Market buildings formed the majority of the area, and it is clear that the CA was specifically designated to protect these buildings from office development (*CD15.1, 12.2.1*)
305. In case of substantial harm to designated heritage assets, ¶133 of the Framework says that consent should be refused unless one of two tests is met. HGI relies on the first part of ¶133, which states that in the case of substantial harm to a designated heritage asset, consent should be refused unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm.

306. The public benefits of the scheme are relatively minor when compared to the scale and seriousness of the harm that would be caused to the Smithfield CA and to the Poultry Market (*SVS/7/A*). In any case the test of necessity has not been met, given the existence of alternative proposals that would provide many of the benefits claimed for the scheme and others besides.
307. If it is concluded that the harm to the designated heritage assets would be less than substantial, then ¶134 of the Framework would apply. This requires the harm caused to be weighed against the public benefits of the proposal. One of these public benefits is securing 'its' optimum viable use. It has been suggested by HGI that the 'its' refers to the whole of the designated heritage asset, which in this case would refer primarily to the Smithfield CA. However, clearly an 11 hectare CA that includes dozens of buildings will not have one single optimum viable use. The 'its' can sensibly refer only to the parts of the designated heritage asset that are directly affected by the proposals and for which an optimum viable use can be determined; in this case the primarily the application site.
308. As PPG makes clear, the optimum viable use is not necessarily the most profitable one. If there is a range of alternative viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset (*CD17.11*). It is clear that the SVS proposals would cause no demonstrable harm to the significance of the part of the Smithfield CA within which the site lies, nor to the significance of the Poultry Market, in contrast to the HGI scheme.
309. In cases of less than substantial harm, the balancing exercise necessary under ¶134 should not ignore the overarching statutory duties imposed by Sections 66(1) and 72(1) of the P(LB&CA)A. This requires considerable weight to be given to the desirability of preserving listed buildings or their settings and to preserving or enhancing the character or appearance of CAs. (¶16 of the Barnwell Manor Wind Energy judgment explains that the nature of the duty is the same under both Sections 66(1) and 72(1)).
310. The intention that decision-makers should give 'considerable weight' to these factors applies in cases of less than substantial harm, as Barnwell Manor Wind Energy (¶29) makes clear. Less than substantial harm does not mean a less than substantial objection to the grant of planning permission. This contradicts the view taken by Jay J. in Bedford ¶17, which was relied upon by HGI in opening submissions (*HGI/OS*). Clearly a balancing exercise is necessary, but it is not a simple one because of the importance of the statutory duty laid down in P(LB&CA)A.
311. The scale of the harm that would be caused by the proposals would greatly outweigh the public benefits of the proposals (*SVS/7/A*).
312. Framework ¶135 also has to be considered. The proposals would involve substantial harm to the significance of a number of non-designated heritage assets; the General Market, Annex Market and Red House. It is incredible to argue, as EH does, that the loss of the market hall of the General Market, a structure that comprises most of the area of the building, which is central to its function and which is of acknowledged substantial engineering significance, would not cause substantial harm to this building. The inappropriate scale of the extension to the Red House would cause substantial harm to its significance, as would the loss of the principal arcade roof to the Annex Market, and the office building that would loom over its north and south entrances.

313. EH has confirmed that in their view the scheme would cause harm to the CA (*EH/1/A*). While they were content to let COL undertake the balancing exercise this does not mean that EH endorses the judgment that COL came to at the end of this balancing exercise.
314. Relevant to the balancing exercises under ¶133 or ¶134 of the Framework is the question of deliberate neglect. ¶130 of the Framework states that where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision. In the 2007 Inquiry there was a clear finding of deliberate neglect. The Inspector in his report (*CD15.1, 12.3.9, 12.4.2, 12.4.3, 13.1.2*) concluded that “the buildings and tunnel lids are in a poor condition, but this is due at least in part to neglect. Less weight should, therefore, be given to the costs of repair which would help the viability of any re-use scheme.” That the Inspector meant ‘deliberate neglect’ is clearly implied, as his recommendation that less weight be given to the costs of repair can only derive from a finding of deliberate neglect under PPG15.
315. This finding was made under PPG15 ¶3.19 (*CD15.1, 12.3.9*), which states that “where it is clear that a building has been deliberately neglected in the hope of obtaining consent for demolition, less weight should be given to the costs of repair.” Note that this policy in PPG15 requires intent, so it is clear that the 2007 Inspector made a finding of intent as well (PPG also refers to intent). There is no reason to depart from the previous Inspector’s conclusions, endorsed by the Secretary of State, on deliberate neglect now (*CD15.1, CD15.2*). While ¶3.19 of PPG15 states that “less weight” should be given to repair costs in cases of deliberate neglect, ¶130 of the Framework states that in such cases “the deteriorated state of the heritage asset should not be taken into account”, a significantly stronger stipulation. This alone would make a retention scheme significantly more viable than in 2007.
316. Sale of a property cannot mean that the slate is wiped clean on the deliberate neglect of previous owners. This would subvert the intention of ¶130, and indeed would soon make it meaningless. In any case legal title to the property has not changed since the last Inquiry (*HGI/4/C, Ax 2 ¶7*).
317. Framework ¶140 refers to enabling development. Given that this proposal conflicts with planning policies, it will have to be considered whether or not it falls under this paragraph. As it would involve the demolition of much of the heritage asset, and since it does not meet at least three of the tests in EH’s guidance document for enabling development, it would fail to meet the criteria laid down if they were to be applied. In particular, it would harm the heritage value of the place; no evidence has been presented that alternative sources of subsidy have been explored; and it has not been demonstrated that the amount of development is the minimum necessary.

### ***Benefits of the HGI Scheme***

318. A number of public benefits have been claimed for the HGI scheme, which would need to be weighed against the harm above.

#### *Repair and bringing back into beneficial use of the retained historic fabric*

319. The deteriorated state of the buildings should be discounted from the weighing of harm against public benefits, because the buildings have been subject to

deliberate neglect over a long period of time and this has included keeping retail units empty that could have been let in the intervening period.

*Public access*

320. The scheme reduces the permeability and connectivity of the General Market compared with the existing buildings. Covered markets are not public space, but they have a similar access status in practice to spaces such as railway termini, which is demonstrably of value. Currently the General Market has 5 entrances and extensive light, airy circulation routes. These would be replaced by 2 public entrances, and much less circulation space. It is particularly unfortunate that no public entrance is proposed to the north-east corner of the site, given the pedestrian flows from Farringdon and the potential for a future Farringdon station exit to Charterhouse Street (SVS/25).

*Sustainability*

321. While the HGI scheme meets current construction and performance standards, as it must, it will nevertheless consume a huge amount of energy, including the loss of embodied energy of the existing structures to be demolished, the new manufacture and transport of new materials, and the running costs of air-conditioned offices, shops and retail mall. A refurbishment of the existing, retaining a naturally-ventilated and lit public space, would use much less energy.

*Demand for Offices.*

322. The current apparent shortage of new-build office accommodation in the Mid-Town area outlined by COL reflects the lagging nature of the property cycle. It is the result of the market catching up after the recession of 2008, and also the loss of a number of previous office sites and buildings to hotel use. There is no evidence of a shortage of office accommodation in Mid-Town after 2016. There are a number of large consented office redevelopment sites in the area and several are now under construction. Two large office redevelopment schemes within Islington at Caxton House and Cardinal House lie between the site and Farringdon Station. The Farebrother Survey omits several other consented office developments on the Islington side (COL/1/C). Within the City as a whole there are many consented office sites that await construction and the pipeline figure changes constantly. In strategic terms the application site is a drop in the ocean.

***Viability***

323. The alternative scheme drawn up by SVS would provide for the retention of all historic buildings on the site and their bringing back into use. This alternative would cause virtually no loss of significance to the heritage assets, but would bring a number of benefits. The Western Market buildings, as they currently stand, possess unique potential for intensive use, given the location and the combination of historic spaces with differing characteristics.
324. USM's evidence demonstrated clearly a breadth of experience and knowledge in the re-use of historic wholesale market buildings as visitor destinations and in retail market-led regeneration schemes. USM has extensive experience of similar successful schemes, including Camden Lock and Spitalfields. USM gave evidence that, on the basis of previous experience at those sites and having carefully analysed Smithfield, the same success could be repeated here (SVS/5/A). USM's model is based on that produced for EH at the 2007 Inquiry, for which the financial

model and costs were carefully considered by EH's Development Economics Director of the time. The costs of the scheme have been suitably updated. In terms of viability, the income generated would more than cover the operating costs (SVS/5/C Ax3).

325. HGI has employed a standard methodology in its viability assessments. However, as the Inspector noted in 2007 (*CD15.1, 12.3.2*), such assessments are sensitive to a large number of variables. EH's guidance notes on Enabling Development (which are relevant, even if this scheme is not enabling development) state that "development appraisals by their very nature are prone to inaccuracy, because of the large number of variables." In a real world situation, the recent commercial property crash has provided eloquent evidence of their limitations. As the 2007 Inspector's conclusion states, "A re-use scheme might be better able to withstand the vagaries of the commercial property market, as initial expenditure would be less, phasing the works might allow cash flow to start from an earlier stage, and occupiers might want to participate in financing the scheme. Such a scheme might also be more flexible than trying to pre-let 60% to major tenants" (*CD15.1 12.3.7*).
326. HGI's costs for a retention scheme are substantially greater than those calculated for EH in 2007 (and updated). Had it applied the more realistic £17m costs rather than its £26 m, and retained all the other assumptions in the erratum Rebuttal (*HGI/3/I*), it would produce a positive result. The 2007 Inspector's report found that a re-use scheme was just viable. In fact, things have changed since then for the better. Tourism and population in London have increased. Retail markets such as Borough Market have gone from strength to strength. Crossrail has been confirmed and construction is well underway. To the extent that anything has changed since the 2007 inquiry, it makes a re-use scheme even more viable.
327. There is no reason to depart from the Inspector's and Secretary of State's finding in 2008 of deliberate neglect. The consequences of that deliberate neglect are to be deducted from the costs of any viability assessment, to fall ultimately on COL as freeholder. This would clearly improve the viability of any reuse scheme, and has not been accounted for in the illustrated reuse scheme. While USM has expressed the view that the costs of remedying this deliberate neglect and putting the building back into largely tenantable condition would be substantial, it is really for COL to have demonstrated what these costs are. On any view, though, they will reduce the amount of costs that go into the viability appraisals, and once again indicate that the viability of a reuse scheme is better than in 2007. The strengthened planning guidance about deliberate neglect, from 'less weight' being given to repair costs to the deteriorated state of the building being discounted, further improves the position.
328. USM gave evidence that apart from them, a number of financially credible individuals have expressed an interest in funding a reuse scheme, as has CG (*TP/O/2*). Phasing of works and the early delivery of income-generating activities, as achieved in other projects, would also assist the fundability of the scheme. HGI's retention scheme appraisals (12a & 12b) do not include basement use other than for car parking and plant. At the closely comparable Spitalfields Market there is no basement and so no basement services. More beneficial use of the basement would of course improve the viability of any reuse scheme, as the Inspector at the previous Inquiry recognised (*CD15.1, 12.3.8*)

329. In terms of deliverability, HGI currently has control over the above ground buildings and the basement. It is therefore in a good position to deliver a reuse scheme. Should consent for its current proposals not be granted, HGI would of course have a fiduciary duty to its shareholders to either market the buildings or bring forward a viable scheme for their beneficial reuse.

### ***Quality of design***

330. Framework ¶158 makes clear that new developments should respond to local character and history, and should reflect the identity of local surroundings and materials. Given the centrality of the market and of the historic market buildings to the Smithfield area, it is clear that demolishing a significant amount of important historic fabric would damage this character and identity. ¶160 of the Framework mentions that it is proper to seek to promote or reinforce local distinctiveness when taking planning decisions; this development would reduce the characteristics that make Smithfield such a distinctive part of the City of London – its top-lit market halls and its distinctive mix of uses. ¶166 of the Framework discusses the importance of taking account of the views of the community. Given the large number of objections to this planning application, as well as the 4,444 people who have signed a petition against the scheme, the views of the community are clear.

### ***Development plan***

331. This proposal is not compatible with Policy CS10: Design, as the bulk, scale, massing and height of the proposed buildings are not appropriate to the character of this part of the City, nor to the setting of nearby listed buildings. Saved UDP Policy ENV6 seeks to ensure that extensions to existing buildings take account of the scale, proportions, architectural character, materials and setting. The excessive scale, height and contrasting character of the proposed extensions to the General Market and Annex market do not achieve a successful design relationship with their surroundings.

332. In the LP, the Farringdon/Smithfield area is identified as an Area of Intensification, with an indicative additional employment capacity of 2,500 (*CD18.1 Ax1 p274*). HGI's proposal alone would provide almost the entire additional employment capacity required for the Area over the life of the Plan. Such a modest target means that the strategic case for providing significant additional office space on such a sensitive site is extremely weak. There are also a number of cleared sites with consented redevelopment proposals in the area, and the potential Mount Pleasant development site would exceed the GLA's targets on its own.

333. An artisan market at Smithfield of the type proposed by SVS would be an excellent catalyst for intensification of uses in the surrounding area. Borough, Spitalfields and Camden Lock markets have achieved levels of intensification of use and regeneration of their surrounding areas which a mere office block with a few shops would never have produced. An artisan market would do the same for Smithfield, making the area more attractive for commercial developers. The Farringdon/Smithfield area has considerable potential, bearing in mind the excellent and improving transport links. The lack of an SPD for the area as a whole represents a failure to properly explore its potential. It would be very unfortunate if, in what is something of a policy vacuum, planning decisions were taken that would reduce this potential. Given its location, its public transport and remarkable historical and architectural interest, Smithfield could become a major attraction at the heart of central London.



334. LP policy 2.13 makes clear that planning decisions within Areas of Intensification should *optimise* rather than *maximise* output and densities. It goes on to say that decisions should provide necessary social and other infrastructure to sustain growth. The Markets are a vital part of the area's infrastructure and appeal, having the potential to draw in visitors from all over London and internationally who are not currently aware of the area.
335. LP policy 7.4 emphasises the strategic importance of local character, and policies 7.8 & 7.9 state that development affecting heritage assets and their settings should conserve their significance. The Policies explain that the desirability of sustaining and enhancing the significance of designated heritage assets is of strategic importance to the city. These proposals would instead harm and reduce the significance of several conservation areas and listed buildings.
336. Drawing in visitors, especially at weekends, supports the City Visitor Strategy (*TP/O/1 p1*); there are many other sites on which offices can be built but the number of buildings with the potential to be a major tourist attraction is tiny. The opportunity cost of building offices on this key site would be high.
337. COL's Core Strategy sets out clearly the strategic importance of heritage to the City of London. As the document states, "the Square Mile is the original core from which London developed. It contains a valuable heritage of historic buildings, spaces and areas which make an important contribution to the City's distinctive identity... Further development must not detract from these historic assets and their settings" (*CD19.1 p20*). This is reflected in Strategic Objective 3.
338. Policy CS5, which covers the north of the City including the site, commits the City to "ensuring the retention and improvement of pedestrian connectivity and permeability, at ground level through large sites such as Smithfield Market". By contrast the proposals would reduce the potential connectivity and permeability of the site, from 5 entrances to 2 publicly accessible ones. The same policy commits the City to "further enhancing the distinctive character of the Smithfield area by retaining a range of buildings suitable for accommodating a mix of uses, whilst recognising the particular challenges arising from the 24 hour character of the area." Yet this development would eliminate a significant proportion of the buildings dedicated to market use, one of the defining characteristics of the area.
339. Policy CS5 commits the City to "recognising and supporting the continued presence of Smithfield Market." Removing one of the three principal market halls of the market would run counter to this aim, given the clear potential of this area to host new kinds of market activities.
340. The General Market and Annex Market are not only heritage assets but cultural facilities. The market activities for which they provide have been central to the culture of the Smithfield area for many centuries. Their loss as market buildings would be contrary to CS policy CS11.
341. Saved UDP Policy ECON6 seeks to ensure that new development maintains or enhances the varied and special character of Smithfield by normally requiring that development proposals for sites including existing non-B1 uses shall maintain the amount and proportion of non-B1 uses on the site. The 2007 Inspector's comments about the previous scheme still apply to this one: "the large increase in B1 use would produce a corresponding reduction in the proportion of non-B1 uses, contrary to the aim of ECON6. The proposal is primarily for a commercial Grade A office

building, which in my view would be out of character with the small-scale uses in the Smithfield area that UDP Policy ECON 6 seeks to protect." (CD15.1 12.8.6).

### ***Planning balance and conclusion***

342. On analysis, HGI fails to get anywhere near establishing benefits which approach the substantial harm to designated heritage assets caused by the their scheme. Even if the view were to be taken that the harm is less than substantial, HGI has not demonstrated that the benefits of the scheme outweigh such harm.
343. This is an important site and an important scheme for the future of London. The Western Market buildings have a unique potential if retained, to be the heart of a rapidly developing area, drawing people in to their generous, light interiors to enjoy a retail market that would be the hub and the heart that the area needs. COL aptly describes the scheme's retained perimeter buildings of the General Market as a 'rind' (COL/1/A p5). The choice London faces at Smithfield is clear. An orange, packed with juice and flesh and the potential for new life. Or a rind.

### **Third Party Objectors**

344. **Malcolm Hockaday** PhD FRTPI (TP/O/1) comments in particular on:

- the potential benefits to the locality from the opening of an alternative market scheme as put forward by SVS; and
- the appropriate wider basis for decision-making on the HGI current proposal.

### ***Markets***

345. Markets such as Covent Garden, Borough and Spitalfields Markets have become part of the mainstream visitor offer of central London, evidenced by the popularity of, and regular pedestrian congestion at, such sites throughout the year. They add to a mix of interest, being part of London 'culture'. COL recognises that parts of the City are 'dead' at weekends and its new Visitor Strategy 2013-17 notes in respect of encouraging weekend markets that more visitors would incentivise more businesses to open at weekends and so, in turn, generate more crowds (TP/O/1A Ax A).

### ***Location***

346. Policy CS20 indicates that, as there is little spare capacity for comparison goods shopping in defined Principal Shopping Centres, new retailing should appropriately be placed along 'Retail Links', one of which passes across Holborn Viaduct close to Smithfield West (TP/O/1A Ax C). Moreover, with COL's Visitor Strategy seeking to reinforce tourism visitation and expenditure within the City area, any 'stepping stone' location that can draw visitors eastwards would be welcome (TP/O/1A Ax A). With just over 80% of inbound (non-shopping) tourist expenditure into Inner London being in its western half rather than its east (TP/O/1A Ax E), there is real opportunity to remedy this imbalance. It is notable that, whilst there are a variety of locations and opportunities to meet general employment needs, including offices, it is acknowledged that there are no identifiable opportunities for substantial new retail spaces in the City. And there is adequate supply of sites for new offices in preferred locations in the City for identified need levels. There is accordingly a high 'opportunity cost' involved in using a unique site to meet increasing visitor and cultural requirements for office space – particularly where offices have a greater flexibility for location.

347. Whilst the HGI scheme could be a useful contribution to the localised economy, it would not act as a major attractor of visitors to Farringdon/Clerkenwell, together with the added benefits that would bring both locally and to London as a whole. Even without retail purchases the expenditure into London is still high at around £6.59bn p.a. (TP/O/1A Ax E). More recent visitor surveys show that visitation has since been increasing. A vibrant new public Smithfield Market would add to that overall attraction. If there were only a 1% increase in overall visitor attraction, this (non-shopping) boost in inbound expenditure would add some £65m p.a. GVA for London. Even at half of this rate, it would at least match the theoretical boost to GVA from the HGI scheme. None of these figures can be fully accurate - all this comment seeks to do in this respect is to show that the prospective benefits to the London economy could be at least equivalent and most likely higher than a narrow assessment of increased GVA arising from office development.

### **Smithfield Area**

348. The site lies within the Farringdon/Smithfield Intensification Area, for which the Mayor encourages joint working by COL with LB Islington and LB Camden. CS Policy CS5: 'The North of the City' notes that proposals for the regeneration of Farringdon should be implemented jointly with Islington and Camden Councils... *'taking account of urban design studies, conservation area management strategies and area enhancement strategies'* (CD19.1). Yet in relation to both policies, LB Islington is an objector to the HGI proposal. UDP Saved Policy ECON 6: 'Mixed Uses in Smithfield' seeks to retain its particular character, in part by *'normally requiring that development proposals for sites including existing non-B1 uses shall maintain the amount and proportion of non-B1 uses on the site'*; such that, for the largely non-B1 General Market and its Annex, it is the non-B1 (i.e. non-office) floorspace which should be retained (CD19.2). The HGI scheme would increase B1 offices from less than 30% of existing GIA to around 60% of proposed GIA (GLA/1/A).

### **Offices**

349. The Corporation's own CS Monitoring Paper of July 2013 for the City area (TP/O/1A Ax B) illustrates in Graph1 'Achievement Compared to Cumulative Target' for increased office provision that, whilst there is indeed a current shortfall in supply related to that target, the pipeline of current schemes and those with planning permission leads to annual 'Achievement' being more than double the 'Target' for each of the years from 2018 to 2026, with a conclusion indicating that there is a sound evidence base for this prediction.

350. There is a need in the City to support smaller businesses, typically those of up to 50 employees, implying a maximum floorspace size of about 500 sq m. Their needs include office designs which are flexible and adaptable to allow for sub-division to create small and medium sized business units. Yet the HGI scheme includes larger floor plates in modules of 3 x 900 sq m (or larger). This north-western corner of the City is well placed to contribute spaces for smaller businesses as would be possible though the SVS scheme but very difficult through subdivisions in the HGI scheme.

351. Unlike the major office block permissions nearby (e.g. 120,000 m<sup>2</sup> for Goldman Sachs on Farringdon Road) (TP/O/1A Ax D), the availability of 'interesting' small converted office spaces in the SVS scheme would encourage more creative activities, reinforcing the General Market as a creative and active hub for the area – and reinforcing the Intensification Area objectives by adding to local services attraction for new businesses in the area.

## **Heritage**

352. CS paragraph 3.1.6 confirms that office development should be *'appropriate to the existing context and should not cause undue harm to the City's historic environment'*. Conservation area studies and the expressed views of EH to the last inquiry identify the special character and contribution of the buildings in question; it is a matter of judgement as to whether there would be undue harm. The CA is very varied and the harm could be better assessed against only sub area 3, on the basis that *'the whole is more than the sum of its parts'*. Moreover, EH's ambivalent consultation response of April 2013 identifies the HGI scheme as the only realistic proposal and expressed a view of the unlikelihood that another scheme with little or no new development would come forward. Clearly, the SVS scheme offers just such an alternative.
353. With the General Market and Annex buildings being 'heritage assets' (in terms of Framework definition) which add to the character and appearance of the CA, there are relevant statutory development plan policies applicable before either Framework ¶133 or the optimum viable use from ¶134 are considered.
354. The wording of LP Policy 7.8: 'Heritage Assets' requires that *'development should identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate'* and Policy 7.9: 'Heritage-led Regeneration' includes a test of 'wherever possible' that they should be repaired, restored and put to a suitable and viable use that is consistent with their conservation. Yet the case is suggested that a Spitalfields-style regeneration scheme put forward by SVS is 'not possible'. If it is shown that this alternative scheme is possible, this is a clear breach of LP policy.
355. The alternative approach is also locally supported through the saved policies of the UDP, including Saved Policy ENV 11: 'Development in Conservation Areas', and by the new elements of the statutory development plan, e.g. CS Policy CS12: Historic Environment, as well as legislative requirements. These are all key elements of the statutory development plan. This approach is then continued in the emerging Local Plan.
356. The 2007 Inspector concluded that the buildings *'make a strong positive contribution to the conservation area as a whole'* (CD15.1). EH in its main observation response noted that the scale of development would cause moderate harm to the CA (EH/1/C Ax 8). If that is accepted, the harm would be 'less than substantial' and the approach under Framework ¶134 then becomes a test of whether the HGI scheme offers sufficient public benefits to outweigh that accepted harm – and not just whether the proposed scheme is an optimum viable use. The inquiry therefore needs to judge whether harm as identified is necessary to secure the part-restoration of the complex in the face of an alternative full restoration scheme as presented by SVS. It needs to do so in part within the umbrella of ¶14 of the Framework (with footnote) and the guidance in ¶65 regarding material harm and ¶132 according great weight to an asset's conservation. The wording of the EH letter asks the LPA 'very carefully' to review the balance between this harm against the delivery of potential public benefits (EH/1/C Ax 8): it is therefore far from overall 'support' as suggested by HGI (HGI/4/A 5.4.19).

## **Conclusions**

357. The evident non-compliance with the development plan needs to be balanced against other material considerations. A key decision is whether the extent of

demolition of the market buildings and the insertion of new office buildings meets statutory, legislative and development plan tests in respect of harm to acknowledged heritage assets and their settings. To meet development plan requirements, the scheme must:

- consider the contribution the buildings make to the character and appearance of the CA
- strengthen the special character of the CA; and
- wherever possible, repair, restore and put affected heritage assets to a suitable and viable use.

358. EH's change in position shows that these development plan tests have not been clearly assessed, merely indicating apparent desperation to see at-risk buildings brought back into use as an overriding material consideration – notwithstanding its earlier expressed views.

359. The balance of consideration is extended in view of the prospect of the SVS scheme as a practical alternative with evident viability and preferred heritage outcomes. With a clear and sufficient office supply being available elsewhere in the City, there appears from monitoring to be no immediate or urgent need for this site to accommodate new office floorspace. Conversely, retail policies do indicate the need for creation of new retail floorspace and the recognition that this is best located alongside Retail Links. The HGI scheme does not meet these development plan requirements and this should weigh against that proposal. COL and GLA policies support increased visitor attraction rates in the City. The up-to-date Visitor Strategy recognises that weekend markets are key attractors and support the extension of the active tourism week, over and above current business usage which fades at the weekend.

360. The SVS alternative scheme of a Spitalfields-style 7-day market (and busier at weekends) would:

- conform to the adopted visitor strategy
- add necessary retail floorspace in a preferred location
- not include 'unnecessary' substantial office floorspace which could be located elsewhere
- allow restoration of the attractive Victorian buildings, and
- support heritage-led regeneration within the identified Area for Intensification.

361. Such a scheme would support wider central London tourism and cultural objectives by adding to the range of opportunities whilst reducing pressure on overcrowded markets such as Covent Garden and Spitalfields. Its location would be an 'intervening opportunity' within easy walking reach of existing attractions and for local residents, and would plug a gap in current distribution of visitor facilities. Whilst it may have less 'instant' added GVA than an office-led scheme, it would add substantially to economic benefits for the wider Midtown, Farringdon, Islington and Clerkenwell areas as well as for the wider Central London area – to greater overall advantage. It would act as a 'bridge' for visitors connecting the west and Midtown areas of London to the rest of the City, underpinning 'alternative' and weekend interest.

362. There is the opportunity cost to London of the HGI scheme in unnecessarily 'using up' probably the last large heritage structure capable of adding to London-wide visitor attraction for purposes which could largely be located elsewhere without that loss. The site should be offered on the open market to judge whether there are other heritage-preferred and tourism/culture preferred schemes which can assure higher levels of heritage benefit. With the General Market apparently not being vacated until 2018, there is no urgency to confirm a major demolition by granting planning and associated consents for the HGI scheme. Rather, the reality of a less damaging scheme which has materially greater heritage benefits should be actively pursued.
363. **Richard Upton**, Chief Executive of the Cathedral Group plc (*TP/O/2*). Cathedral Group Plc (CG) is a large property development company with a current development pipeline of c£2.5bn. CG has an established track record of substantial mixed-use, regeneration schemes in unlikely neighbourhoods (*TP/O/2A Ax 1*).
364. CG's professional team has considered the prospect of deliverability of the SVS alternative market retention scheme, looking at the key variables which would indicate deliverability or not and concentrating on three key issues: areas, rents & capitalisation and construction costs. In order to be certain as to the issue of deliverability, CG has independently interrogated the SVS proposal and the assessment of the HGI proposals for retention, schemes 12A and 12B (*HGI/3/A*). CG concludes unequivocally that the SVS project is deliverable; in fact it provides a considerable profit margin for the risk involved.

### **Floorspace**

365. The existing floor areas provided by HGI are broadly agreed. However, there remains some confusion over how these have then been applied to the HGI appraisal for schemes 12A and 12B (*HGI/3/A*). A number of differences in area are clear - for example the potential to rentalise the first floor of the Annex Market, where some 6,534 ft<sup>2</sup> (590 m<sup>2</sup>) (NIA), is disregarded – so these schemes do not create optimum area and value from the upper floors. This potential is ignored in the HGI 12A and 12B schemes. There is no commercial sense in this. From CG's experience of retention and refurbishment schemes, utilising every corner of the building is critical in the success or otherwise of its refurbishment. CG's analysis suggests that a total of 110,000 ft<sup>2</sup> (10,000 m<sup>2</sup>) NIA and 150,000 ft<sup>2</sup> (13,600 m<sup>2</sup>) GIA is achievable compared to the HGI-assessed basis of around 85-99,000 ft<sup>2</sup> (9,000 m<sup>2</sup>) NIA and 127,130 ft<sup>2</sup> (11,500 m<sup>2</sup>) GIA (*TP/O/2A Ax 2*).

### **Rental levels and capitalisation**

366. HGI advise an annual market rent of £1.9m and £2m for schemes 12A and 12B respectively (*HGI/3/A*). As part of its evidence, USM has submitted a similar assessment which, once analysed to a comparable basis on the HGI numbers, suggests a market rental value of in excess of £3m (*SVS/5/A*). From the market research undertaken, CG considers this is certainly achievable and very likely to be well exceeded. One of the key anomalies within the assessment is the market space itself, which USM have confirmed they would pay an annual rent of £600,000 for a 200-stall market. This is directly comparable to the rent Wellington Markets pay for their lease at Spitalfields. In contrast to this, HGI assumes a rental value of only £224,435 for a 290 stalls (12A) and £51,111 for a 111 stalls (12B) market respectively. This variance is critical in assessing the viability of a retention scheme and, having analysed USM's numbers in detail CG is confident that USM's market

rent could be achieved. It is worth noting that the increase in rent as outlined here adds an additional £4.7m in value once capitalised at 8% to the optimum of HGI's option 12A which values this component at £2.8m.

367. With regard to capitalisation, HGI's opinion, ranging from 5.5% to 8% for a project of this complexity at this point in time, is agreed. CG would expect, over time and through maturity of the project in tenant mix and support for void periods etc for this to be substantially improved. Spitalfields is a case in point in this regard where a 10-year operation created significant extra value (£105m) through careful operation and development. Smithfield is arguably a better location than Spitalfields was at its inception and, given the abundance of demand around Smithfield (the already established office, retail and relevant market, the opportunity to pre-let and achieve optimum tenants of the right socio-economic mix) will ensure retention of investment value. The arrival of Crossrail and an anticipated forecast of 44m passengers per annum at Farringdon station will only see this demand increase. From a market demand, rental value and investor interest perspective, the SVS retention scheme is deliverable.

### **Construction costs**

368. CG has undertaken its own assessment of construction costs (*TP/O/2A Ax 3*) and has determined that a total construction cost of c£17m is suitable for this project. The variance between the CG and HGI cost plans amounts to c £9m and is summarised in *TP/O/2A*. In addition, CG has made prudent assumptions in terms of fees, contingency and programme. The total project cost would thus be in the order of £27m. From a cost perspective, the retention scheme is deliverable. The assessments by HGI include assumptions in respect of the SVS scheme which do not accord with the less conventional valuation and risk assumptions appropriate for the markets operations industry.

### **Summary**

369. On the basis of the adoption of the alternative and credible assumptions outlined above, the valuation of a completed SVS scheme is shown as having a GDV of c£45m as compared to the HGI basis of each scheme of c£28m. With construction costs assessed at around £17m, the SVS scheme is indeed viable in financial terms and thus deliverable. Further, it is highly profitable. Such viability credibility sits alongside the heritage and planning policy support for a retention and refurbishment scheme, itself bringing substantial economic and tourism benefits across central London. The outcome is that the SVS scheme can clearly be viable. CG would like to be part of that opportunity if it were to become available. The scheme is entirely deliverable by the private sector for extremely good development returns. CG is confident that a retention scheme could deliver a substantial land payment whilst also providing a development margin suitable for a project of this scale, risk and complexity, which CG considers is in excess of 20% on gross development value.

### **The refurbishment alternative to demolition**

370. These extraordinary market buildings have architectural merit beyond their mere existence in a CA. The HGI plans show that much of the General Market is to be demolished (*TP/O/2A Ax 2*). Whilst their current appearance and condition have arisen from years of uncertainty and indecision, emerging economic circumstances now offer the prospect of a worthy restoration of these important buildings. CG

considers that it would be entirely possible to sensitively refurbish the buildings and deliver a vibrant market and other public-access spaces. A sensitive refurbishment scheme would be an undoubted and welcome success in a key area of central London, for which footfall and vibrancy can be assured. A new market would be close to Farringdon transport interchange and would reinforce the resurgence of Farringdon/Clerkenwell in its own right and as a connection between Midtown/St Pauls and Islington and the City. It would fit well into patterns of movement and visitation in central London, securing its long term success (*TP/O/2A Ax 4*).

### ***Wider London benefits***

371. Whilst the HGI scheme could be a useful contribution to the localised economy, the SVS scheme would bring others to the locality and act as a major attractor of visitors, both locally and supporting visitation to London as a whole. With the opportunity for Smithfield to fit into the network of London's main attractions (as for Covent Garden, Borough and Spitalfields Markets), this would add to and help to renew London's attraction for overseas and domestic visitors (*TP/O/2A Ax 4*). The retention scheme would generate substantially greater economic benefit to the Capital. Importantly, it would add to the attractions of the eastern parts of central London, strengthening visitor attraction in Farringdon/Clerkenwell and supporting weekend tourism in The City.

### ***Conclusions***

372. CG has come to Smithfield Market as a real development alternative only recently and its evidence is limited. However, these buildings are far too important to London to be substantially demolished. CG is qualified by experience to make its assertion on deliverability and the buildings certainly deserve a realistic, transparent presentation of the facts. CG has no doubt that the alternative scheme is deliverable and is prepared to put up equity finance for a joint venture (*TP/O/2B*).

373. CG is aware of the historic general lease arrangements between COL and HGI and would be happy to work with either HGI or directly with COL to deliver the proposed alternative refurbishment scheme. CG considers that there are a number of substantial organisations which would welcome space at Smithfield to become part of their 'face' in London and would be happy to develop such ideas whilst aligned to the essential components of the restoration works.

374. The viability analysis outlined above confirms that the delivery of a retention scheme is not only attractive on a risk adjusted basis in its own right but also compares favourably with the viability for the proposed Henderson scheme as outlined in HGI's financial appraisals. In CG's long and varied experience of delivering such complex mixed-use regeneration schemes, it has no hesitation in confirming that a project with this viability would be fundable and deliverable in the current marketplace.

### **Written representations in objection**

375. **Philip Davies** MA(Cantab) DipTP MRTPI IHBC FRHistS FRAS FSA, Heritage and Planning Consultant, makes 8 points;

1. SVS's arguments and comments are fully endorsed, in particular the assessment of the importance of the work of Sir Horace Jones and the authoritative evaluation of the potential impact of the proposed scheme.



2. The 2007 Inspector found that the existing buildings make a significant contribution to the character and appearance of the Smithfield CA and to the setting of nearby listed buildings, with a presumption in favour of retaining the buildings. The contribution these buildings make to the CA and other heritage assets has not changed; if anything their townscape value is higher because of the level of change nearby, just outside the CA boundary. Together with the listed market halls, the group of buildings confer a highly distinctive sense of place and should be conserved.

3. The proposal involves substantial demolition of the market buildings behind a shallow depth of retained facades. Unlike private buildings the interiors of the market halls, with their fine internal colonnades designed for public access and circulation, are an integral part of the public realm. They are an important component of the CA and their loss would cause substantial harm.

4. The existing buildings have been neglected and poorly maintained by COL for many years, requiring intervention by EH.

5. Given the consistent neglect, EH is wrong to suggest that the degree of repair and restoration proposed should be allowed to offset the demonstrable harm to the CA. The 2007 Inspector made it clear that no advantage should be gained from the lack of maintenance, and the same applies to this proposal.

6. Contrary to best practice, the leasehold interest of the building has not been offered for sale on the open market. There is clear interest in the acquisition of the building by a developer experienced in refurbishing market buildings for market/retail related uses. The best use of any historic building is the use for which it was designed. The SVS scheme demonstrates that this is realistic, viable and highly desirable in the context of regeneration of the area.

7. New development in a CA should preserve and enhance its character or appearance. This proposal would not reinforce the qualities that led to the designation of the CA. The new development would cause substantial harm to the character, appearance and setting of the market buildings in the CA, particularly in longer views where it would loom above the retained perimeter buildings, reducing them to the role of mere stage scenery screening a taller office block. At the cold store, a 7 storey block would dominate the retained façade, causing substantial harm in views across the CA. EH's conclusion that the harm balanced against the degree of restoration would result in only moderate harm is fundamentally flawed.

8. The proposals should be seen in the light of other historic market sites in London. The revitalised Borough and Spitalfields markets in particular have become major visitor destinations with massive regenerative effects on the surrounding areas. At Smithfield there is the opportunity to refurbish the buildings to continue the market use, providing an exciting new destination for both residents and visitors and a similar regenerative function on the western fringe of the City that Spitalfields has on the east. The SVS scheme would achieve this. It is credible, realistic and viable and could be quickly implemented given the chance (*SVS/9/B*).

376. **Alan Baxter** CBE BSc FStructE MICE MConsE HonFRIBA, Director Alan Baxter & Associates LLP, considers that Sir Horace Jones had the vision to plan a fully integrated market structure with the railways and roads that were to serve it. The efficiency this generated was a remarkable achievement. The market was so successful that the demand for more buildings led to expansion over the existing

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railway lines (*Sketch 1, SVS/10/C*). Rail geometry is not usually compatible with urban forms of building but Jones positioned the heaviest part of the General Market roof, the central dome, on 4 columns straddling the track. The remaining roof structure is supported off the suspended floor deck, so that the 2 geometries did not have to be aligned (*Sketch 2, SVS/10/C*). The roof form is Jones' great achievement in the General Market.

377. The redevelopment of such long-term sites, particularly by short-life office blocks, presents considerable difficulties. SVS's scheme works as a simple repair and gentle upgrading of what is a good and generous original layout. It is the right approach. There would be no structural intervention with all the associated risks on a complex site above the live Thameslink railway in almost continuous use. The key to good engineering design is generous simplicity. The HGI scheme is at the upper end of the scale of engineering complexity with all the concomitant risks of escalation and viability (*Sketch 3, SVS/10/C*). The engineering profession is no longer constrained by technical boundaries – the question now is not 'can you do it' but 'should you do it'. The issue is longevity and what is left to future generations. This is the key to conservation and sustainability. The railways and the markets were a long-term investment. The SVS market scheme would have similar long-term value (*SVS/10/B & C*).
378. **Adam Wilkinson** MA MSC FSA FRSA, former Secretary of SAVE, questions the genesis of the current scheme. The 2007 scheme was put forward on the basis of the community benefit of replacing the rail tunnel lids to ensure the safe running of the railway, paid for by a new office block above. That was rejected and the lids have since been replaced. There is now no community benefit in the substantial demolition of handsome buildings of architectural, historic, engineering and social interest in a spectacular CA.
379. The contrast between the low scale of the market buildings and the tall office blocks around them creates a clear distinction between the CA and its surroundings. As the 2007 Inspector found, these offices should not be the basis of development in the CA – the starting point should be the characteristics that led to the designation of the CA. These proposals do not reflect that finding.
380. It is important to emphasise the innovative use of the remarkably strong Phoenix columns, widely used in bridge construction in the USA but only found in 1 other UK location, on a lesser scale. Jones' intelligent use of this technology to support the deck and the roof allowed the creation of sidings below the market and more flexible use of the clear-spanned market floor. The social impact of this group of buildings should not be under-estimated. The Red House cold store, with its newly-invented power cooling, provided a place where imported meat, delivered by train, could be safely stored. This was an important part of a health and nutrition revolution, leading to better lives for the masses. The understanding of this link would be largely lost, leaving just soulless facades.
381. While the SVS scheme might result in the loss of a little floorspace from COL's office supply pipeline, the gains produced for the City by retained and restored buildings would be far greater. The SVS scheme would support existing businesses and make the City a more attractive place to do business. The HGI proposals represent a race to the bottom. 20 years after the loss of the market buildings at Les Halles in Paris and its redevelopment, the Paris Mayor spent a massive amount

of money to undo the damage of the past. No-one wants London's mayor in 20 years time to have to do the same at Smithfield (SVS/11/B).

382. **Cllr P T Streeter**, Common Councillor, City of London, has known the buildings since the late 1990s. He has lobbied COL for their restoration and re-use, with the response that only rebuilding would be considered. Since election as a Councillor in 2004 he has continued to lobby and has supported USM's proposals, to no avail; COL acts not just as a local authority but as a property company seeking to maximise its returns, so the potential arises for a conflict of interest. He gave evidence at the 2007 inquiry in support of the regeneration scheme, arguing that neglect should not be a planning issue but accounted for by the price received for the site. COL has ignored the previous Inspector's recommendation that the site should be put on the open market so that alternative schemes could come forward. It is to be hoped now that the value and potential of the buildings will be appreciated. A genuine conservation scheme would allow the restoration, good use and future enjoyment of these unique structures (WR/O/1).
383. **Steve Daszko**, photographer and local resident, considers that the buildings are in a vital area concerning this part of the City. To pull them down and build yet more shops and offices is unacceptable. These historic buildings contribute strongly to the character of the area and should be retained (WR/O/2).
384. **Evelyn Cook** makes detailed comments about the de-listing of the Red House (WR/O/3).
385. **Peter Schmitt** MArch BA FAAR RIBA considers that the proposed development would cause substantial harm to the significance of Smithfield CA and the setting of listed buildings. The incongruous high-rise office building would dominate the area, looming over the Victorian perimeter, and degrading the architectural integrity of the street frontage. There is no justification for destroying the scale and meaning of the finest parade of market buildings in Europe (WR/O/4).

## Obligations and conditions

### *Planning Obligations*

386. COL and HGI submitted a final draft Agreement which was discussed without prejudice in a discrete session on day 10 of the inquiry (CD12.1). SVS and other objectors raised no objection to the proposed provisions. A signed and sealed deed of Agreement under s106 of the TCPA 1990, dated 5 March 2013, was subsequently submitted (CD12.3). It details a range of planning obligations and covenants agreed between the Mayor and Commonalty and Citizens of the City of London (the City Corporation), Snow Hill Real Estate Ltd (the Developer) and Charterhouse Snowhill (Luxembourg) SARL (the Chargee). Site ownerships and lease agreements are summarised at COL/1/C Ax 5. If planning permission is granted, the deed would effectively bind the parties to undertake the obligations and covenants.
387. The SCG (CD21.1) confirms agreement that contributions to meet the relevant policy objectives set out in the COL Planning Obligations SPG (CD19.4) would total £1,139,670. This is made up of:
- Agreement monitoring allowance of £11,397
  - Local Community Facilities and Environmental Works contribution of £564,136

- Affordable Housing contribution of £338,482
- Transport, bus stops and junction improvements contribution of £169,241, and
- Local Training, Skills and Job Brokerage contribution of £56,414.

388. The Agreement also contains covenants relating to a Local Procurement Strategy, Remedial s278 Works and Highway Reinstatement, Carbon Reduction Targets, Utilities Connections, Public Realm Access Provisions, a Travel Plan and a Delivery and Servicing Management Plan. COL undertakes to administer and apply the contributions for the purposes they are made, in accordance with the SPG.

389. In addition a contribution towards the funding of the Crossrail scheme is calculated in accordance with the Crossrail SPG as £1,827,850 plus £1,000 monitoring costs. A Mayoral CIL charge may be applied, so that a discounted Crossrail contribution of £1,645,065 may become payable.

390. It should be noted that the covenants to make the Local Community Facilities and Environmental Works and the Transport, bus stops and junction improvements contributions will not apply if the COL CIL is adopted before planning permission is granted. I heard at the inquiry, which closed on 24 March, that approval was scheduled for May 2014, with the CIL Charging Schedule coming into effect in July, alongside a revised Planning Obligations SPG.

#### *Conditions*

391. COL and HGI submitted a list of suggested conditions to be attached to the proposal should it be granted planning permission (*CD11.1*). The conditions were discussed without prejudice in a discrete session on day 10 of the inquiry. SVS and other objectors raised no objection to any of the suggested conditions.

392. Conditions 1 and 53 (time limit and approved drawings) are necessary in the interests of good planning. Condition 2 requires approval of phasing before any work starts and compliance with conditions. Condition 3 is intended to ensure that the basement of the general market building is kept available for the completion of Crossrail works, in compliance with the Crossrail Act 2008. Conditions 4, 5 and 6 would prevent any adverse effects of demolition and construction work on the amenities of neighbouring premises and the transport network (LP policy 6.14 and CS policy CS15). Condition 7 requires a sewer venting scheme to be approved at an early stage to protect the amenity of the area (CS policy CS15). Conditions 8, 9 and 21 require a programme of recording and archaeological work in order to properly record the archaeological and historic interest of the site and buildings (CS policy CS12 and UDP policies ARC2 and ARC3). Condition 10 requires the submission of a foundation plan to ensure the preservation of any identified archaeological remains (UDP policies ARC2 and ARC3).

393. Condition 11 requires measures to be taken to protect the buildings from vehicle-born damage (CS policy CS3). (Condition 12 is not allocated). Conditions 13, 14 and 15 require measures to be taken with regard to heating, rainwater and energy to ensure sustainable development (CS policies CS15 and CS18). Condition 16 requires a detailed surface water drainage scheme to prevent any increased risk of flooding and to improve water quality, habitat and amenity (CS policy CS18). Conditions 17 and 18 are intended to ensure that the water supply infrastructure has sufficient capacity and to protect the water infrastructure from construction damage (UDP policy UTIL6). Conditions 19, 20 and 48 would ensure that proper

- provision is made for access by disabled people and safety for cyclists (CS policy CS10 and UDP policies TRANS15 and TRANS22). Condition 22 requires details of the replacement spirelet to be submitted in order to ensure a satisfactory external appearance (UDP policy ENV6 and CS policies CS10 and CS12).
394. Objection was made to the design of the Harts Corner entrance so condition 23 requires revised details to be submitted in order to ensure a satisfactory external appearance (UDP policy ENV6 and CS policies CS10 and CS12). Condition 24 is intended to protect historic artefacts and other items to be retained and reused in order to enhance the character of the new development (CS policy CS12). Conditions 25 and 26 are intended to ensure the structural stability of retained structure and fabric during construction so that it can be incorporated into the development (CS policy CS12). Condition 27 requires a raft of further design details to ensure a satisfactory external appearance (UDP policies ENV6 and ENV29 and CS policies CS10 and CS12). Condition 28 requires details of refuse storage and collection to ensure the satisfactory servicing of the building (UDP policy UTIL6 and CS policies CS10 and CS17). Condition 29 requires details of hard and soft landscaping in the interests of visual amenity (UDP policies ENV8 and ENV9 and CS policies CS15 and CS19).
395. Conditions 30 and 31 are intended to ensure that all works of making good and the treatment of exposed existing walls are carried out in an appropriate manner in the interests of a satisfactory external appearance (UDP policy ENV6 and CS policy CS10). Policies 32 and 34 are intended to minimise carbon emissions and ensure a sustainable development (CS policy CS15). Conditions 33 and 35 require details of the design, construction and maintenance of the green roofs in order to ensure environmental sustainability and the encouragement of biodiversity ((CS policies CS10, CS15, CS18 and CS19). Conditions 36, 37 and 38 set limits on development to protect building lines, public safety, strategic views and external appearance (UDP policy TRAN7 and CS policies CS10, CS12, CS13 and CS16). Condition 39 is intended to ensure that the retail units are made available at an appropriate stage (UDP policies SHOP2 and SHOP3 and CS policy CS20).
396. Conditions 40, 43 and 44 are intended to restrict the noise impact of the development on the amenities of occupiers and neighbouring premises (CS policies CS15 and CS21). Condition 41 requires window cleaning mechanisms to be stored out of sight when not in use to ensure a satisfactory external appearance (UDP policy ENV6 and CS policies CS10 and CS12). Condition 42 would restrict the hours of servicing to protect the amenity of the occupiers of adjacent premises (CS policies CS15, CS16 and CS21). Conditions 45, 46 and 47 are intended to ensure that cooking odours are properly controlled and dispersed in order to protect the commercial and residential amenity of the area (UDP policy ENV28 and CS policies CS10, CS15 and CS21). Policies 49, 50, 51 and 52 are intended to ensure that appropriate facilities are provided for cycle and motor cycle parking and that parking spaces for disabled people are available (UDP policies TRANS18, TRANS22, TRANS23 and TRANS21 and CS policy CS16).
397. I have made minor alterations to the wording of some of the conditions suggested by the parties and have re-ordered their sequence, in the interests of good practice, consistency and greater clarity. A schedule of suggested conditions is set out in Annex A.

## Inspector's conclusions

*The following conclusions are based on my report of the oral and written evidence submitted to the inquiry and on my inspections of the site and its surroundings. The numbers in square brackets [78] refer to paragraphs in the preceding sections of the report from which these conclusions are drawn.*

398. The main considerations in this application fall within 3 broad headings:

- the extent to which the proposed development is consistent with Government policies in requiring good design;
- the extent to which the proposed development is consistent with Government policies in planning for conserving and enhancing the historic environment;
- the extent to which the proposed development is consistent with the development plan for the area.

399. The design of the new buildings and their effect on the historic environment are not separable considerations. The form and character of the local historic buildings have clearly informed the design, and the impact of that design on its historic surroundings is at the heart of the matters I must address. I shall therefore first consider the significance and inter-relationship of the historic assets; I shall then assess the design approach to the proposed development and its impact on the historic environment; and I shall balance these considerations against the statutory provisions and relevant national and local planning policy and guidance before coming to a final conclusion.

### **Background**

400. The Smithfield area, with its origins in the medieval open-air market, lies on the north-west edge of the City. The area is characterised by its relatively small-scale buildings and its eclectic mixture of uses. It has a strong sense of place, with a distinctive character and identity, valued for the vitality and diversity it brings to the capital. The iconic Victorian market buildings at its heart are recognised nationally and internationally. Smithfield is an essential part of the city's character, contributing significantly to the cultural identity of London. [167,345]

401. The completion of Crossrail in 2018, with the junction at Farringdon Station of Crossrail, Thameslink and Underground lines, will make the station one of the busiest in the capital. The LP identifies Farringdon/Smithfield as an Area for Intensification, where opportunities should be taken to accommodate growth in employment of 2,500 jobs and 850 new homes. COL considers that the majority of this growth should be accommodated in the neighbouring Camden and Islington boroughs. The CS designates the area around Smithfield as one of 5 Key City Places, with the strategic objective of achieving a world class city which, among other things, protects, promotes and enhances its environment and is vibrant and culturally rich. The aim is to benefit from the substantial public transport improvements at Farringdon and to realise the potential for rejuvenation of the area. One of the means by which this would be achieved is by further enhancing the distinctive character of the Smithfield area by retaining a range of buildings suitable for accommodating a mix of uses, whilst recognising the particular challenges arising from the 24 hour character of the area. [32,33,]

### ***The heritage assets***

402. The Smithfield area provides an important example of the intensive redevelopment of the City during the Victorian period when major infrastructure works –railways, roads, bridges and viaducts – were superimposed on the existing, largely medieval, street pattern. That contrast in scale remains today. The construction of the railways in particular was integral to the planned and phased development of the market complex between 1868 and 1888. [10,376]

#### *Smithfield Conservation Area*

403. The Smithfield CA began as the St Bartholomew's CA, first designated in 1971, extended in 1978 to include West Smithfield and again in 1981 to include the Meat Market. In 1986 the Greater London Council designated the Smithfield Market CA, including the Western Market buildings, specifically to prevent the intended redevelopment of that area with large office buildings. The areas were combined to create the Smithfield CA in 1991. Further adjustment took place in 2007 to form the CA as it stands today. [18,166]
404. The Smithfield CA now encompasses 4 sub-areas of markedly different character;
- Sub-area 1 - St Bartholomew-the-Great and surrounding streets; a dense urban layout, dating from the 16<sup>th</sup> century and earlier, of tightly packed buildings of a modest scale, surrounding the essentially Norman monastery church.
  - Sub-area 2 - St Bartholomew's Hospital; London's oldest hospital on its original site, now forming a secluded precinct characterised by a single use and Neo-classical buildings of a substantial scale.
  - Sub-area 3 - Smithfield Market complex; a linked linear group of Victorian market buildings, substantial in scale and elaborate in appearance, characterised by their single commercial use and with a dominant presence in the CA
  - Sub-area 4 – West Smithfield; a series of substantial, mainly 19<sup>th</sup> and 20<sup>th</sup> century commercial and residential buildings, conforming to the historic street pattern and housing a variety of office and small-scale business uses. [49,118]
405. The significance of the CA as a whole lies not only in the varied character and appearance of its streets and buildings but in the nature and range of its uses and activities. The group of market buildings and their associated activities are of central importance to the distinctive character of the CA, and probably its single most significant defining characteristic. Sir Horace Jones' Meat Market, the first to be built, is the most elaborate, in an exuberant French-Italian Renaissance style of red brick, Portland stone, decorative ironwork and roofline statuary. All the other market buildings, by Jones, followed much the same design principles, although they became progressively simpler towards the west. The replacement Poultry Market, although architecturally distinct, does not fatally undermine the essential unity of the group. [37,128,167,287]
406. Although public access is possible, none of the market hall interiors is easily visible from the street. Nonetheless it is readily apparent, and clearly understood, that the buildings each contain a large open market hall - it is implicit in their purpose, form and scale – and the market halls generate the activities that are key to much of the area's lively character. [127]

*The listed Market buildings*

407. The grade II\* listed Meat Market is notable for its layout, form, construction, scale and decoration. Although a large building of grand scale, its single storey form and detailed elevations relate well to the height and smaller scale of the surrounding buildings. The replacement grade II listed Poultry Market, although of a very different architectural style, reflects that approach. While its principal features are its shell dome and 1960s 'pop-art' elevations, in my view its significance also lies in the carefully considered relationship in form, height and scale to the streets on each side and to the other market buildings. [52,53]

*The Western Market buildings*

408. The General Market, the Annex Market, the Red House and the Engine House are not listed but, through their phased historical development, linked functions, form, design, scale and materials, they are clearly an integral part of the Smithfield market complex. All are recognised as non-designated heritage assets which contribute strongly to the distinctive character of the Smithfield CA. [37,170-175]

409. The General Market, the largest of the group, completes the 400 metre long phased sequence of market buildings fronting Charterhouse Street. Its unique plan form, with the central market hall enclosed by a perimeter range of outward facing shop units, is of particular interest. These shops, unlike the other market buildings, give the General Market an active street frontage. Like the Meat Market, the elevations are rich in sculptural adornment, much of it seen against the sky. Although the rebuilt Hart's Corner is more austere, it is not out of scale and demonstrates the rapid post-war response to getting the market back in use. The repair may not have the architectural quality of the Victorian original but it is, at the least, of considerable historic interest. [171,190,234]

410. While much of the significance of the General Market lies in the perimeter of small shop units, the primary purpose of the market lies in the use of the large market hall. Supported on a wide-span grid of Phoenix columns, of interest in themselves, the structurally efficient (and visually attractive) roof structure is essentially complete. Its interest may have been lessened by the loss of the original ornate central dome but the skilfully inserted replacement saucer dome is of interest itself as a repair, part of the building's survival. In my view, this does not seriously undermine the overall quality of the market roof structure. I consider the market hall to be at least as important a feature as the perimeter range of shops and that the significance of the General Market lies primarily in the unique arrangement of shops and market hall. [173,191,192,239,289]

411. I am aware that HGI interpreted my colleague's 2008 conclusions as giving limited value to the market hall, leading them to the view that it is of little significance. This seems to me a misreading of his findings. His report was made in the context of the total loss of the General Market and, while he made more reference to the exterior than to the interior, he referred to the form, structure and roof of the market hall, noting that it was considered a more effective market space than the earlier buildings. He came to the clear overall conclusion that the General Market, as a whole, makes a significant contribution to the character and appearance of the Smithfield CA and to the setting of nearby listed buildings so that, in accordance with national policy at the time, there was a presumption in favour of its retention. Although the planning circumstances have changed, I see no justification now for discounting the significance of the market hall. [65,66,176]



412. The Annex Market, on its triangular site, is of more traditional layout, with blind arcaded walls enclosing the market hall. In architectural style, the elaborately decorated facades have a strong resonance with the Meat Market. Internally the triangular market space is reflected in the arcaded roof layout, which remains virtually intact. EH considers that, of the Western Market buildings, the Annex Market is the best survival in terms of illustrating an original Horace Jones design concept. The significance of this building is in the integrated design of its plan, elevations and roof structure. [41,231]
413. The external design of the Red House cold store, although not by Jones, clearly relates in materials and decoration to the market buildings. Much of the interior is lost, although some original fittings remain, providing an illustration of its function. Although structurally sound, the building currently has a temporary roof to prevent further deterioration. The Engine House has long been used as a Porters' lavatory block, although its exterior is largely unchanged. The main significance of these 2 buildings now lies in their external appearance and the contribution they make to the townscape. [42]

*The adjoining Conservation Areas*

414. Charterhouse Square CA, within LB Islington, adjoins the Smithfield CA to the north along the length of Charterhouse Street. It is similarly characterised by the small scale nature of its streets and buildings and the variety of its uses, many stemming from the proximity of the market. Several buildings in Charterhouse Street were originally related to the market and share a scale and quality with the existing market buildings. These include the grade II listed former Meat Market at Nos 66-77 and the grade II former cold store at Nos 51-53. The Central Avenue of the Meat Market gives direct access between the City and Cowcross Street/St John Street. Part of the significance of the Charterhouse Square CA lies in its close association with the market. [56,74,123]
415. Hatton Garden CA, within LB Camden, lies to the west on Farringdon Road, opposite Hart's Corner. At this point it is largely characterised by modern office buildings. Its significance in relation to this proposal lies mainly in the availability of long views up the length of Charterhouse Street and across the market to the Barbican towers beyond. [74,123]

*The market group and its setting*

416. All the market buildings are joined by canopies, an essential feature of the market function, giving end-to-end sheltered access. The Western Market buildings are attached to, and form an integral part of, the great linear sequence of market buildings. Despite the very different architectural style of the Poultry Market, all the market buildings are seen together, as a single group. The Western Market buildings lie within the setting of the listed market buildings, including the former market buildings on Charterhouse Street and, as part of the main group, contribute strongly to their significance. The General Market, on Farringdon Street, is close to the grade II listed Holborn Viaduct, from where there are important high level views of the market group. The General Market lies within the setting of the Viaduct. Although outside the CA, and flanked by modern office buildings, the Viaduct has an important visual and historic relationship with the market buildings. The market and the Viaduct effectively lie within a large shared setting which strongly enhances their significance, and reflects their origins, as grand Victorian engineering schemes that have shaped the area as it is seen today. [121,122,168,170,290]

### *Neglect*

417. The Western Market buildings are generally structurally sound, but parts of the walls and roofs are in poor condition. The buildings have suffered from low levels of maintenance since they became vacant, perhaps with an eye to the potential for redevelopment. Although my colleague in 2008 did not mention the word deliberate, it is very clear from the conclusions he drew in relation to the evidence before him and conservation policy at the time, giving less weight to the costs of repair, that he considered the condition of the buildings to be due at least in part to deliberate neglect. I heard no convincing evidence to show otherwise. [96,149,202,263-265,314-316]

418. Since becoming responsible for the buildings, HGI have carried out some works of repair and protection. While these works have addressed urgent problems, stemming further deterioration, they have not overcome historic neglect. I consider that the deteriorated state of the buildings is, at least in part, the result of the history of deliberate neglect. Therefore, while I cannot ignore the costs involved, I shall give less weight to the current condition of the buildings, and the consequent benefit of their repair, in assessing the planning balance. [97,113,150]

### ***The proposed development***

419. The design approach to the current proposal is quite different to the 2007 scheme. Instead of more or less complete replacement, this scheme proposes the major alteration and adaptation of the existing buildings. [24-26]

420. Heritage assets are an irreplaceable resource. In accordance with ¶131 of the Framework, in assessing the proposed development I shall take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities, including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

### *The General Market*

421. The proposal takes 2 very different approaches to the 2 main elements of the market building, with very different outcomes. The range of street-facing perimeter shops, on 3 sides of the market hall, would be repaired, restored and put back into use as shops, bars and restaurants with offices above. The restored street elevations would enhance the appearance of the CA and the variety and mix of the small-scale uses would be entirely consistent with the conservation of this element of the building. [39,116,179,194]

422. On the other hand, the large covered market hall would be lost in its entirety. On the ground floor, much of the Hart's Corner repair would be removed to provide access to a small open square. This would be the main entrance into a shopping mall, lined with larger retail units. The existing main entrance to the market from Charterhouse Street would become a private access to the offices above. A new frontage would be built to the row of new large retail units on West Poultry Avenue, replacing the main entrance flanked by small shop units. Above, a stepped block of offices would be inserted over the market floor, partly supported on re-used

Phoenix columns. These would be truncated and repositioned, a pale reflection of the market's original lofty structure. Four storeys of offices would cantilever out over the new shopfronts on West Poultry Avenue. [39,40,179,192,240,288,293,375]

423. The complete loss of the market hall and its replacement by a 2, 3 and 4 storey office block above a shopping mall would effectively destroy the unique General Market layout and the key two-part relationship between the range of perimeter shops and the inner market hall, seriously undermining its significance as a market building. This would not be the kind of sympathetic alteration envisaged in UDP policy ENV11. The restored external elevations and their roofline features would be seen against the backdrop of a modern office building, losing the characteristic skyline profiles. The overhanging 5-storey high office block on West Poultry Avenue would reflect nothing of its local context of generally 2-3 storey street elevations. I consider that the proposed works would have an extremely harmful effect on the significance of the General Market as an important non-designated heritage asset.

#### *The Annex Market*

424. The 2 main external elevations of the Annex Market would be repaired and their decorative features restored. That would enhance the appearance of the CA. Internally, part of the market space and the 2 minor arcade roofs would be restored but the main arcade running between the entrances, one of the market's principal features, would be lost. The rear internal wall would be removed, extending the retail floor into the Iron Mountain site. The integrity of the market hall would be compromised. The adjacent office block would overhang the area of the main arcade. The arcade would be re-formed under the flat-ceilinged overhang, featuring somewhat contrived half bracket-trusses - more decorative than with an obvious structural purpose - a feeble nod to the original arcade structure. [41,180,250]
425. Externally, the 7-storey office block would occupy the adjoining Iron Mountain and Red House sites, projecting over the market building on its east side. The market has 2 grand pedimented entrance gateways, at either end of the main arcade on Snow Hill and on West Smithfield, where the linking canopy reflects the full width and form of the decorative pediment. Occupying the space above the main arcade, the curved office floors would be seen projecting above the Snow Hill gateway. On West Smithfield, the office block would project part way across the pediment, rising above it, and the canopy, in an entirely unrelated and discordant manner. This would seriously downgrade the value of some of the Annex market's most important features. The ill-considered relationship between these 2 buildings can have no other reason than to maximise office space, at the expense of the surviving completeness of Jones' design for the Annex market. The integrated design of its plan, elevations and roof structure would be lost. I consider that the proposed works, particularly in the relationship with the office block, would have an extremely harmful effect on the significance of the Annex Market as an important non-designated heritage asset.

#### *The Red House and Iron Mountain*

426. The distinctive street elevations of the Red House are of considerable importance to the character of the CA, particularly when seen from West Smithfield, although the Iron Mountain infill building is of very limited architectural and historic value. The plain rear walls of the Red House would likely be obscured by any redevelopment of the Iron Mountain site, to which there is no objection. The Red House is in very poor condition and there is little of sufficient interest internally to

justify its retention or restoration as a complete building. I consider that the significance of the Red House now lies primarily in its street elevations and, providing they are conserved, I consider in principle that the appropriate redevelopment of these 2 sites together could make a positive contribution to the character of the CA. [42,181,200,242,297]

427. However, in this proposal, the black-clad office block would rise to almost double the height of the Red House's higher walls and more than triple the height of the lower walls. The offices would dominate the retained walls and would be seen as the predominant feature in important views from West Smithfield. This would undermine the key contribution the walls make to local townscape. Since this is where the main interest of the building now largely lies, I consider that the proposed development would have a harmful effect on the significance of the Red House as an important non-designated heritage asset.

#### *The Engine House*

428. The Engine House is in poor condition. Work would be limited to mostly internal alterations, the repair of its fabric and the replacement of some lost historic features. The proposed restoration would sustain the significance of this relatively minor non-designated heritage asset, and the re-use of the Engine House as a café/retail unit would be consistent with its conservation and with the character of the CA. As an improvement to their shared setting, the restored building would enhance the significance of the listed buildings. [42,182]

#### *The overall impact*

429. The works of major alteration to the General Market would be particularly harmful to its unique character; the completeness and integrity of the Annex Market would be lost; and the contribution made by the Red House walls to local character would be seriously reduced. Despite the benefits of the restored Engine House, I consider that the proposed development would cause substantial harm to the significance of the Western Market buildings, both individually and as an integral part of the Smithfield market complex. This would conflict with the aims of LP policies 7.4, 7.6 and 7.8, intended to protect local character, promote high quality design and conserve heritage assets. The alterations would not properly conserve the significance of the City's heritage, and nor would it take sufficient account of local scale and character, as required by CS policy CS12 and UDP policy ENV6.
430. The partial removal of the canopy between the General and Poultry Markets would disrupt the end-to-end covered linkage. The loss of that covered link would undermine a distinctive characteristic of the market group. However, the alteration, although something of an oddity, in itself would not seriously affect the Poultry Market's key features of special interest so that it would not cause substantial harm to the significance of the listed building.
431. Nonetheless, both office blocks would be very apparent in a range of views from Charterhouse Street, West Smithfield and Holborn Viaduct. [197,198] These intrusive additions within the General Market group would radically change the nature of the shared setting of the listed buildings, directly affecting the integrity of the market group. The visual and historic relationship with Holborn Viaduct would be weakened, and the strong contribution that the shared setting makes to the special interest of the listed buildings would be significantly reduced. I consider that the

disruption of their shared setting would cause substantial harm to the significance of the listed market buildings.

432. The restoration of the external facades of the Western Market buildings would significantly enhance the appearance of the Smithfield CA and the re-use of the perimeter shops would be consistent with the prevailing small-scale mixed use character of the area. However the height and scale of the office insertions would owe more to the modern office blocks outside the CA. They would not reflect their more immediate, smaller scale surroundings in the CA. The General Market office block might be little more than 1 metre higher than the Poultry Market roof [116] but it seems to me that this is a fairly irrelevant comparison – it is the street elevations where the contrast in heights would be seen, and on both Charterhouse Street and West Smithfield the offices would be seen towering above the existing elevations of the market buildings, out of scale with the buildings on both sides of the streets. [240] I consider that, in design terms, the proposed development would not be an appropriate or effective response to local character and history, and nor would it reflect the particular identity of the local surroundings, so it would not make a positive contribution to local character and distinctiveness.
433. Despite being unlisted, the Western Market buildings are an integral part of the Smithfield market complex. This outstanding group of market buildings is of central importance to the distinctive character and appearance of the Smithfield CA and, as its most significant defining characteristic, makes a vital contribution to the significance of the CA as a whole. Bearing in mind that the reason for designating the Western Market buildings as part of the CA in the first place was to prevent redevelopment by large scale offices, the loss of the General Market hall and its replacement by a large block of offices, and the addition of a taller office block at the Annex Market, would seriously affect the character and appearance of the area. I consider that this would cause substantial harm to the significance of the Smithfield CA as a whole.
434. Since it would also affect the character and appearance of Charterhouse Street, the proposal would cause a modest degree of harm to the Charterhouse Square CA. The development would have some effect on longer views of the market although this would have a negligible impact on the character of the Hatton Garden CA.
435. I conclude overall that the development proposal would lead to less than substantial harm to the significance of the Charterhouse Square and Hatton Garden CAs. However I find that there would be substantial harm to the significance of the Smithfield CA and that, through damage to their setting, there would be substantial harm to the significance of listed buildings as designated heritage assets. I also consider that there would be a substantially harmful effect on the significance of the General and Annex Markets and the Red House as non-designated heritage assets.

### ***The planning balance***

436. There is a strong presumption against the grant of planning permission for development which would harm the character or appearance of a conservation area or the setting of a listed building. As heritage assets are irreplaceable, any harm should require clear and convincing justification. As indicated in Framework ¶133, consent should be refused unless it can be demonstrated that the substantial harm to the designated heritage assets is necessary to achieve substantial public benefits that outweigh that harm (the alternative criteria cannot be applied to the conservation area or the undesignated market buildings so it is not appropriate to

take them into account [83]); and under ¶135 it is necessary to balance the scale of the harm to the non-designated assets against their significance.

437. In assessing the balance of harm against the benefits of the proposal, as required by s66 and s72 of the P(LB&CA)A I shall have special regard to the desirability of preserving the listed buildings or their setting and I shall pay special attention to the desirability of preserving or enhancing the character or appearance of the Smithfield CA. [106,184]

438. The principal public benefits claimed for the scheme [76-80,84,132,318] are;

- the repair and restoration of the perimeter walls, the public face of the buildings, and the consequent enhancement of the conservation area;
- the repair, restoration and bringing back into beneficial use of much of the historic building group, bringing life and activity to the area and contributing to the regeneration of the locality;
- greater permeability, with public access around, through and within the market buildings;
- the provision of high quality offices, bringing economic and employment benefits to the area; and
- providing the optimum viable use of the Western Market buildings to ensure their long term survival.

*The repair and restoration of the perimeter walls*

439. The carefully repaired and restored street elevations of both market buildings, the Red House and the Engine House, with their characteristic decorative features, would significantly enhance the appearance of the CA. This would be a clear benefit of the proposed scheme. However, I give this benefit less weight than it might otherwise carry because the need for extensive repair and restoration arises from the deteriorated state of the buildings, which is due in part to the history of deliberate neglect. [39,134,272,319]

*The restoration and re-use of the buildings*

440. The repair, restoration and putting back into use of the street-facing perimeter shops, on 3 sides of the General Market, would be a major benefit of the scheme, bringing activity to the street scene. The restored shop fronts would enhance the appearance of the CA and the range of small-scale uses such as shops, bars and restaurants with offices above would be consistent with the distinctive character of the CA. To that extent it would meet the regeneration objectives of LP policies 4.1 and 7.9 and CS policy CS5. However, the equally important market hall would not be restored or re-used; it would be lost. The loss of such a significant feature of the CA would be a major disadvantage of the scheme, offsetting the benefit of the re-used perimeter shops. The re-use of the market hall space by a large scale office development above a shopping arcade would not reflect the defining small scale, limited height characteristics of the area. [39,40,134,319]

441. The restoration and re-use of the Annex Market hall would also be a significant benefit but that would be undermined by the removal of the rear wall and the loss of the main arcade roof, as primary distinctive features of the hall, and by the incongruous overhang of the adjoining office block. The removal of the nondescript

Iron Mountain building and the re-use of its vacant site, together with the derelict Red House site, would also be a benefit, but that benefit too would be undermined by the harmful impact of the office block on the character of the Red House walls and the contribution they make to the CA. The repair and restoration of the small Engine House and its bringing back into beneficial use as a café/retail unit would be a significant benefit. [41,148]

442. The repair and reuse of some parts of the historic building group would enhance the character and appearance of the CA and would bring significant regenerative benefits to the area. However, those benefits would be heavily compromised by the extensive harm to heritage assets caused by the major alterations to other parts of the building group. Overall, in the particular relationship of old to new, the proposal would not secure high quality design, a core Framework principle.

#### *Permeability*

443. Public access to the market buildings when in use was permitted but was constrained by unsocial operating hours. [72,137] The proposed scheme would include a defined public route through the 2 market buildings, open from morning to late evening. That would be a clear public benefit of the scheme. However, that benefit would be somewhat reduced by the severance of the end-to-end market link, the loss of some original entrances into the General Market in particular, and the reduction in potential permeability from all pedestrian routes, particularly after the Farringdon Crossrail station opens in 2018. [273,320] As the only public entrance on the north, east and west sides of the building, the necessary steps at the Hart's Corner main entrance would reduce accessibility, despite the adjoining lift.

#### *New offices*

444. By adding to the City's cluster of office floorspace, the provision of new offices in this location would broadly comply with the aims of CS policy CS1. However, although office provision is currently below target, after 2016 there is expected to be a net increase in office floorspace in the City with large growth expected over a sustained period. Achievement is expected to exceed annual growth targets by 2017/18 and COL predicts that its additional floorspace target of 1,150,000 sq m will be met during the period to 2026. [140,349]
445. To ensure continuity of supply and to provide occupier choice, COL relies on a pipeline target of 750,000 sq m of office development projects – floorspace with planning permission but not yet commenced. There is a current shortfall in the pipeline figure, which stands at 649,000 sq m, but I heard that an additional 89,000 sq m of office space was granted planning permission in the City as the inquiry sat, so that the pipeline target is close to being met at present. [141,275,322]
446. It seems to me that there is unlikely to be a serious long term office shortfall in the City. There are also major opportunities, encouraged by the Mayor, for office development in the wider Farringdon/Smithfield area, to take advantage of the new station. Proportionally there would be a large increase in B1 office use in Smithfield, contrary to the aim of UDP policy ECON6. Such disproportionate office use would be out of character with the character of the small-scale uses the policy seeks to protect. [143,274,276]
447. There is some tension between the COL policies aimed at increasing City office space and those setting out a positive strategy for the conservation and enjoyment

of the historic environment. In accordance with national heritage policy objectives, I give greater importance and more weight to the conservation of the market halls as heritage assets because they are an irreplaceable resource. The proposed development would not conserve them in a manner appropriate to their individual significance, to their huge value as part of the Smithfield Market group or to the contribution they make to the setting of important listed buildings. I see no pressing need for offices in this particular location, sufficient to justify such a harmful intervention.

*Optimum viable use*

448. HGI considers that one of the major public benefits of the proposal is that it would secure the optimum viable use of the market buildings and thus their long term survival. HGI argues that, since its proposal is the only identified viable use, by definition it represents the optimum viable use for the buildings. There is no dispute that the £160M HGI scheme would be viable. [84,152]
449. The proposal might put the altered buildings to viable use but I consider that the large office blocks in particular, inserted into the market buildings, would be entirely inconsistent with the conservation of designated and undesignated heritage assets. That would conflict with LP policy 7.9. Much of the buildings would not survive - the alterations would lead to an unacceptable loss of historic fabric and too much of heritage significance would be removed. That would not sustain or enhance the significance of the CA, the setting of listed buildings or the undesignated market buildings. Their important group value would be compromised.
450. As PPG explains, if there are other viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset.
451. EH judges that the proposed development would be harmful to heritage assets and that, in line with statutory requirements and planning policy objectives, the scheme requires justification. EH's principal concern is the public benefit to be derived from the scheme, which include securing a long term future for the buildings through economically sustainable uses, facilitating public access and providing a mix of uses to maintain the diversity of character of the CA. EH acknowledges that other schemes could come forward that would cause less or no harm and provide the same public benefits. The key question is whether other options are realistically deliverable. If it is considered that HGI's scheme represents the optimum viable use of the site, then the harm it would cause is justified as the scheme would deliver the best long term conservation of the site and satisfy the objectives of sustainable development. [212]
452. Before the inquiry, SVS submitted a planning application for a scheme of repair and reuse of the market buildings as a mixed use artisan market. [8,219] The SVS scheme itself was not for consideration by the inquiry and I have reviewed the evidence submitted only in the context of conservation approach, viability and deliverability. The SVS scheme essentially stems from a similar scheme submitted to the 2007 inquiry, with the support of EH, updated to current costs and conditions. [203,253,324] That scheme was found to be just viable. [219]
453. The Framework and PPG give little advice on how to assess viability in conservation proposals. HGI appraised their own and SVS's schemes in accordance with the RICS 'Red Book', a formal method of evaluation normally required by banks for assessing institutional loans for development projects. This showed that



the SVS scheme would make a loss. Since it would not be financially viable, it would not receive bank funding. [85-90,153] However, I am not convinced that the 'Red Book' method is entirely suited to a 'repair and reuse' conservation scheme, where value, income and the costs of repair would be generated by the re-use of the existing buildings, rather than by their redevelopment. [251]

454. This is not an enabling development scheme (although there are parallels) but, given the lack of appropriate guidance, I consider that EH's advice on assessing development appraisals in such conservation led schemes does provide helpful guidance in this case. [94,271,317] This warns that the process is a matter of informed professional opinion and that development appraisals by their very nature are prone to inaccuracy because of the large number of variables, particularly building costs and projected end values. This is amply illustrated in the differences in professional judgement between HGI and SVS/CG in assessing such things as the available rentable floorspace, the annual market rents, construction and repair costs, fees and contingencies, and capitalised development value. While the SVS scheme appraisal may be less conventional than the perhaps much more cautious 'Red Book' appraisal, it is not by any means ill-considered and I give it considerable weight because of the backers' long experience and successful track record of similar projects. [324,365-367] SVS/CG's figures show that their £28M scheme would be highly profitable. [326,364,368,369]
455. Nonetheless, as HGI point out, it is not so much viability on paper that counts but the deliverability of the scheme on the ground. [85] SVS proposes to fund its scheme by a mix of 40% venture capital and 60% bank loans. While HGI argue that the scheme would fall at that hurdle, it seems to me that the SVS phased approach is realistic. For a relatively minimal level of investment, substantial parts of the buildings – the perimeter shops, the Annex Market say – could be put into use at an early stage, providing income, producing cash flow and funding repairs for the next phases. The SVS scheme is backed by experienced market developers and I have no doubt that sufficient capital could be available to acquire the lease and fund the initial work. [256,260,328]
456. Thereafter a mix of direct funding and phased bank loans would be needed. There would already have been substantial equity funding, the loans required would be relatively small and the project would be generating income, so I also have no doubt that, given the developers' track record, banks would see investment in the ongoing phased re-use and repair of the market buildings as a relatively low risk prospect. Should the extensive basements become available, there would be the possibility of wider use and increased income. Given the central location and, from 2018, the city-wide ease of accessibility, there would be the potential for substantial growth in tenant demand and customer visits, an attractive prospect. [257,269,370] I am not at all convinced that bank funding would not be made available.
457. I therefore consider that the SVS funding proposals are sufficiently convincing to indicate that such a regeneration scheme would be possible, viable and deliverable. The HGI scheme therefore would not be the only viable scheme. The SVS scheme could secure a long term future for the buildings through economically sustainable uses, provide public access to all parts of the buildings through their original gates and provide a mix of small-scale uses which would maintain the diversity of character of the CA. Since the SVS scheme could do all this and conserve the buildings in their entirety - truly sustainable development - I consider that the HGI scheme would not represent the optimum viable use for the buildings. [323]

### *Conclusion*

458. To reflect the requirement to have special regard to the desirability of preserving heritage assets, in assessing the planning balance I give great importance and weight to the substantial harm the proposed development would cause to the significance of the CA and the setting of listed buildings, reinforced by the substantial harm it would bring to the market buildings themselves.
459. The public benefits of the proposed development would be limited:
- the repair and restoration of the external walls of the market buildings would be a distinct benefit, although it carries less weight in this decision because of the history of neglect;
  - the benefit of the restoration, repair and re-use of some parts the buildings would be offset by the loss of other significant parts;
  - increased public access to the buildings would be a benefit but this would be undermined by their reduced permeability through limited access points;
  - there is no pressing need for new offices in this location so the benefit is minimal; and
  - the proposal does not represent the optimum viable use of the buildings..
460. On balance I consider that the public benefits of the scheme would not be anything like substantial enough to provide a clear and convincing justification for the extensive harm it would cause to Smithfield's historic environment. The proposal would not sufficiently sustain or enhance the significance of heritage assets or put them to viable uses consistent with their conservation. The scale of the harm to the non-designated assets would seriously affect their significance. I consider that it has not been demonstrated that the substantial harm to the designated heritage assets is necessary to achieve substantial public benefits that outweigh that harm.

### ***Obligations and conditions***

461. The s106 Agreement binds the parties to a number of planning obligations and covenants, all intended to effectively mitigate the impact that the proposal would have on local infrastructure. The Agreement would be consistent with the objectives of the COL Planning Obligations SPG and all the provisions are directly related to the proposal, proportionate and necessary to make the development acceptable in planning terms. [386-388] They meet the tests set out in ¶204 of the Framework and comply with Regulation 122 of the CIL Regulations. The Agreement is properly executed as a deed and it would ensure that potentially harmful impacts would be satisfactorily addressed. This would accord with CS policy CS4. To the extent that the wider public would benefit from some of the transport improvements and environmental works, there would be some degree of public benefit.
462. The suggested conditions at Annex A would ensure that the development proposal would meet a detailed range of policy, technical and service requirements. Conditions requiring reconsideration of the design at Hart's Corner and the replacement of a missing roof spirelet might ameliorate some of the harmful impact of the alterations but in my view this would not be enough to overcome the broad-based objections to the scheme. [390-396]

### ***Final conclusion***

463. Although some parts are currently in temporary use, the Western Market buildings have been essentially vacant and unused for many years. While they are structurally stable, their condition has deteriorated. Since they are an integral part of the group of market buildings that is the key characteristic of the Smithfield CA, it is important that they are repaired and put into beneficial use to ensure their long term survival. As heritage assets, that use should be consistent with their conservation. In this case I consider that the significance of the market halls and the contribution the Western Market buildings make, as a whole, to the Smithfield CA, as a whole, has been seriously undervalued. That has led to the wholly unacceptable proposal to demolish important parts of significant market buildings, to the great detriment of the surrounding area. The shared setting of several listed buildings would not be preserved and the character and appearance of the Smithfield CA would be diminished.
464. I consider that the proposed development would not be consistent with Government policies requiring good design or in planning for conserving and enhancing the historic environment. While the proposal would be consistent with some local development plan policies promoting intensification, rejuvenation and regeneration, it would not be consistent with those policies intended to protect the historic environment from harmful development, to which I give more weight. I have considered whether the prospect of the buildings being left vacant should influence my conclusions but I do not consider that any responsible owner/lessee would leave such environmentally and culturally valuable buildings to deteriorate without finding a beneficial use for them. One suggestion is on the table. [267,281] The threat of vacancy does not weigh heavily in favour of the proposal.
465. One of the Framework's core land-use planning principles is to conserve heritage assets in a manner appropriate to their significance. The extent of the damage that would be caused to the important heritage assets at Smithfield runs entirely counter to national and local policy objectives intended to protect such assets from harm. This would seriously undermine any economic, social or environmental benefits otherwise arising from the development, such that the proposal would not represent sustainable development.

### **Recommendation**

#### **Application ref: APP/K5030/V/13/2205294**

466. I recommend that the application for planning permission be refused.
467. Should the Secretary of State disagree with my conclusions and decide to grant planning permission I recommend that it should be subject to the conditions set out in Annex A. I consider that the suggested conditions would be a necessary and reasonable means of controlling the impact of the development and ensuring that it would comply with a range of relevant development plan objectives.
468. The Secretary of State may also wish to verify the provisions of the s106 Agreement, bearing in mind the scheduled adoption of the City Corporation's CIL and the coming into effect of the CIL Charging Schedule [389].

*Colin Ball*

Inspector

## APPEARANCES

### FOR HENDERSON GLOBAL INVESTORS LTD:

Christopher Katkowski QC	Instructed by Linklaters LLP
He called:	
John McAslan CBE MA DipArch	Executive Chairman, John McAslan and Partners.
RIBA FRSA FRICS FRIAS FICE	
Peter Riddington BSc(Hons)	Director, Donald Insall Associates.
BArch(Hons) RIBA	
Andrew Tyler BSc(Dis) MRICS	Partner, Knight Frank LLP.
Alan Simmonds BSc(Est Man)	DP9 Planning Consultants.
FRICS	

### FOR THE CITY OF LONDON CORPORATION:

Neil Cameron QC	Instructed by the City Solicitor.
He called:	
Peter Wynne Rees BSc(Hons)	The City Planning Officer.
BArch BTP HonFRIBA FRTPI	

### FOR THE GREATER LONDON AUTHORITY:

Neil Cameron QC	Instructed by Stephen Gardiner, Principal Solicitor to the GLA.
He called:	
Stewart Murray BA(Hons)	Assistant Director, Planning GLA.
DipPSL MRTPI	

### FOR ENGLISH HERITAGE:

Robert Walton of Counsel	Instructed by Michael Harlow, Legal Director EH.
He called:	
Nigel Barker PhD BA(Hons)	Planning and Conservation Director for London, EH.
DipBuildingCons(AA) IHBC FSA	

### FOR SAVE BRITAIN'S HERITAGE/THE VICTORIAN SOCIETY:

David Cooper Solicitor (part)	Instructed by SAVE/The Victorian Society.
Mr Costelloe and others (part)	Acting for SAVE/The Victorian Society.
Andrew Tabachnik of Counsel (part)	Instructed by Mr Reynolds.
They called:	
Jennifer Freeman OBE	Architectural writer and historian, SAVE committee member.
BA(Hons) DipCons(AA) Hon Doct Arts IHBC FRSA FSA	
Christopher Costelloe BA	Director, The Victorian Society.
Roger Hepher BA(Hons) MTP FRICS MRTPI FRSA	Director of Savills (speaking as an independent professional).
Alec Forshaw MA DipTP RTPI IHBC	Author, retired planning officer.
Eric Reynolds HonFRIBA FAU	Founding Director, Urban Space Management Ltd.
John Burrell MA RIBA FRSA	Founding Partner, Burrell Foley Fischer LLP.

## OTHER INTERESTED PERSONS:

Marina Szanto	Local resident.
Malcolm Hockaday PhD FRTPI	Local resident.
Richard Upton	Chief Executive, Cathedral Group plc.

## CORE DOCUMENTS

### CD1 Planning Application

CD1.1	Planning application, DP9
CD1.2	Conservation area consent application, DP9
CD1.3	Listed building consent application, DP9
CD1.4	CIL form, DP9
CD1.5	Application Plans and Drawings (see Design and Access Statement CD2.2)

### CD2 Application documents

CD2.1	Planning Statement, DP9
CD2.2	Design and Access Statement, John McAslan and Partners
CD2.3	Energy Statement - General Market Building, Long & Partners/RES
CD2.4	Energy Statement - Annex Building
CD2.5	Sustainability Statement, Long & Partners/RES
CD2.6	Statement of Community Involvement, Indigo Public Affairs
CD2.7	Transport Assessment, SKM Colin Buchanan
CD2.8	Framework Travel Plan, SKM Colin Buchanan
CD2.9	Framework Construction and Logistics Plan, SKM Colin Buchanan
CD2.10	Framework Delivery Servicing Plan, SKM Colin Buchanan
CD2.11	Retail Impact Assessment, DP9
CD2.12	Retail Strategy, Bruce Gillingham Pollard/Savills
CD2.13	Waste Management Plan, SKM Colin Buchanan

### CD3 Application documents – Environmental Statement

CD3.1	Environmental Statement Vol 1, Waterman Group EED Volume 1 Figures
CD3.2	Environmental Statement Vol 2, Townscape, Heritage and Visual Impact, Hayes Davidson/Francis Golding
CD3.3	Environmental Statement Vol 3 – Appendices, Waterman Group EED
CD3.4	Environmental Statement – Non Technical Summary, Waterman Group EED
CD3.5	Environmental Statement Addendum, Waterman Group EED
CD3.6	EIA Scoping Report, Group EED dated November 2012

### CD4 Further Application documents

CD4.1	23.05.2013 Letter Waterman EED covering amendments
CD4.2	Highways Appendices Document, submitted in response to Highways comments via email on 21.06.2013

- CD4.3 Heads of Terms submitted via email on 15.02.2013
- CD4.4 12.04.2013 Letter and report Waterman, Smithfield Quarter Response to Environmental Impact Assessment Scoping Opinion
- CD4.5 Amended waste details submitted to the City via email on the 21.05.2013
- CD4.6 Revised drawings and CGI's issued to COL 24.05.13

## **CD5 Applicant's correspondence on application matters**

- CD5.1 DP9 letter 20th May 2013 – Response to the Environment Agency's comments
- CD5.2 DP9 letter 20th May 2013 – Response to City of London Waste and Amenity Planning Manager
- CD5.3 DP9 letter 20th May 2013 – Response to SAVE's comments
- CD5.4 DP9 letter 22nd May 2013 – Response to City of London Access Advisor's comments
- CD5.5 DP9 letter 17th June 2013 – Response to TfL's comments
- CD5.6 DP9 email 18th June 2013 – Response to GLA's Stage 1 Report
- CD5.7 DP9 email 19th June 2013 – Linklaters response to Crossrail objection
- CD5.8 DP9 email 19th June 2013 - Response to Smithfield Market Tenants' Association comments
- CD5.9 DP9 email 20th June 2013 – Response to the Victorian Society's comments

## **CD6-CD8 *not allocated***

## **CD9 Representations not appended to the Committee Report**

- CD9.1 Natural England letter 26th March 2013
- CD9.2 Terry Chown City of London Waste and Amenity Planning Manager memo 4th April 2013
- CD9.3 Thames Water email 8th April 2013
- CD9.4 Environment Agency email 10th April 2013
- CD9.5 Network Rail letter 15th April 2013
- CD9.6 Jean Hewitt, City of London Access Advisor letter 15th April 2013
- CD9.7 Dawn Patel, City of London Environmental Health Officer memo 30th April 2013
- CD9.8 Lucy Cannell, City Transportation Team memo 17th May 2013
- CD9.9 SAVE email 20th May 2013
- CD9.10 Environment Agency 5th June 2013
- CD9.11 Natural England letter 28th May 2013
- CD9.12 Natural England letter 6th June 2013
- CD9.13 Winifred Grinsted email 6th July 2013
- CD9.14 Fiona Hobbs email 7th July 2013
- CD9.15 Philippe Berrah email 8th July 2013
- CD9.16 Anita Strymowicz email 20th July 2013
- CD9.17 Stan Booth email 30th August 2013

## **CD10 Committee Reports**

- CD10.1 City of London Planning and Transportation Committee Report 16 July 2013

CD10.2 City of London Planning and Transportation Committee Report 16 July 2013  
- Background Documents - Part 1  
<http://democracy.cityoflondon.gov.uk/documents/s23370/Background%20papers.pdf>

CD10.3 City of London Planning and Transportation Committee Report 16 July 2013  
- Background Documents - Part 2  
<http://democracy.cityoflondon.gov.uk/documents/s23370/Background%20papers.pdf>

### **CD11 Conditions**

CD11.1 Agreed suggested conditions

### **CD12 Legal Undertakings**

CD12.1 Draft s106 Agreement

CD12.2 Draft Undertaking

CD12.3 Certified copy of executed s106 Agreement

### **CD13 GLA Reports**

CD13.1 GLA Stage 1 report in relation to application

CD13.2 GLA Stage 2 report in relation to application

### **CD14 Background documents**

CD14.1 Certificates of Immunity from Listing dated 15 December 2005 from Director of Planning and Historic Environment in respect of General market Building, Lavatory Block and former Fish Market

CD14.2 Recommendations/Inspector's Reports from English Heritage regarding the listing of the Former Fish Market, the General Market Building and the small lavatory block, all dated 20th September 2005

CD14.3 Recommendations/Inspector's Reports from English Heritage regarding the listing of the Former Fish Market, the General Market Building and the small lavatory block, all dated 25 May 2004 (Updated)

CD14.4 Recommendations/Inspector's Reports from English Heritage regarding the listing of the Former Fish market, the General Market Building and the small lavatory block all dated 24 July 2003

CD14.5 Application to de-list the Red House Cold Store dated 3 June 2005

CD14.6 Recommendation / Inspector's Report in respect of the General Market and Annex Market buildings dated 5 July 1999

CD14.7 Letter from head of Architecture and Historic Environment Division at Department for Culture, Media and Sport dated 3 March 2005 confirming Secretary of State's decisions to list Red House Cold Store as Grade II listed building. Also attaches the amendment to Schedule of Planning (Listed Buildings and Conservation Area) Act 1990: 18th List of Buildings of Special Architectural or Historic Interest dated 3 March 2005: Listing of Red House - [click here to view](#)

CD14.8 English Heritage's recommendations to de-list the Red House dated 16

- August 2006
- CD14.9 Secretary of State's decision letter to de-list the Red House date 6 August 2008
- CD14.10 City of London Retail Study 2010
- CD14.11 City of London Development Information – December 2013  
<http://www.cityoflondon.gov.uk/services/environment-and-planning/planning/development-and-population-information/development/Documents/development-info-sept-2013.pdf>
- CD14.12 *Not allocated*
- CD14.13 Terry Farrell's Smithfield Farringdon: Reinforcing Urban Identity and Character 2007
- CD14.14 English Heritage Report Farringdon/Smithfield An Area Assessment by the Architectural Investigation London and South East Team November 2005

## **CD15 2007 inquiry documents**

- CD15.1 Inspector's report in respect of the applications submitted by Thornfield Properties (London) Limited (May 2008)
- CD15.2 Secretary of State's Decision Letter in respect of the applications submitted by Thornfield Properties (London) Limited (August 2008)
- CD15.3 English Heritage's evidence from the 2007 public inquiry:  
Proof of Evidence of Sir Terry Farrell  
Proof of Evidence of Roger Mascall  
Appendix 2 to Proof of Evidence for Mark Dodds  
Proof of Evidence of David Tomback  
Appendix 7 to Proof of Evidence for David Tomback  
Proof of Evidence of Brian Morton  
Appendices to Proof of Evidence for Brian Morton

## **CD16 Policy Guidance**

- CD16.1 Conservation Principles, English Heritage
- CD16.2 The Setting of Heritage Assets, English Heritage
- CD16.3 Building in Context, English Heritage and CABE
- CD16.4 PPS5: Planning for the Historic Environment Practice Guide (June 2012)
- CD16.5 English Heritage report: Western Buildings London Central Markets  
Smithfield: A report by the historical research and conservation support London team June 2003
- CD16.6 English Heritage report: The Farringdon/Smithfield area assessment by the Architectural Investigation London and South East team 2005

## **CD17 Legislation and national Policy**

- CD17.1 Town and Country Planning Act 1990 (as amended)  
<http://www.legislation.gov.uk/ukpga/1990/8/contents>
- CD17.2 Planning (Listed Buildings and Conservation Areas) Act 1990  
<http://www.legislation.gov.uk/ukpga/1990/9/contents>
- CD17.3 Planning and Compulsory Purchase Act 2004  
<http://www.legislation.gov.uk/ukpga/2004/5/contents>
- CD17.4 Planning Act 2008



- CD17.5 <http://www.legislation.gov.uk/ukpga/2008/29/contents>  
National Planning Policy Framework (March 2012)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)
- CD17.6 Draft National Planning Practice Guidance (September 2013)  
<http://planningguidance.planningportal.gov.uk/sitemap/>
- CD17.7 By Design. Urban design in the planning system: towards better practice (2000)
- CD17.8 *Not allocated*
- CD17.9 *PPS5 Practice Guide - see CD16.4*
- CD17.10 PPG15 (Withdrawn)
- CD17.11 National Planning Practice Guidance (PPG) March 2014

## **CD18 Regional policy**

- CD18.1 The Mayor of London's Spatial Development Strategy (The London Plan, July 2011)  
<http://www.london.gov.uk/priorities/planning/london-plan>
- CD18.2 Revised London View Management Framework SPG (March 2012)  
<https://www.london.gov.uk/priorities/planning/publications/revised-london-view-management-framework-spg>
- CD18.3 London World Heritage Sites - Guidance on Settings SPG (March 2012)
- CD18.4 Revised Early Alterations to the London Plan, "Intend to Publish Version" (August 2013)
- CD18.5 The Mayor's Transport Strategy (May 2010)  
<https://www.london.gov.uk/priorities/transport/publications/mayors-transport-strategy>

## **CD19 Local policy**

- CD19.1 City of London Core Strategy (2011)  
<http://www.cityoflondon.gov.uk/services/environment-and-planning/planning/planning-policy/local-development-framework/Documents/core-strategy-september-2011.pdf>
- CD19.2 City of London Unitary Development Plan (Saved Policies) (2002)  
<http://www.cityoflondon.gov.uk/services/environment-and-planning/planning/planning-policy/local-development-framework/Documents/Conservation%20Area%20Character%20Summary%20Smithfield.pdf>
- CD19.3 City of London Protected Views SPD (2012)
- CD19.4 City of London Planning Obligations SPG (2004)
- CD19.5 Smithfield Conservation Area Character Summary and Management Strategy (September 2012)
- CD19.6 Draft Local Plan  
<http://www.cityoflondon.gov.uk/services/environment-and-planning/planning/planning-policy/local-development-framework/Documents/city-of-london-local-plan-dec-2013.pdf>
- CD19.7 Draft Office Use Supplementary Planning Document – Consultation Draft 2014

## **CD20 Appeal Decisions**

CD20.1 [Bedford DC v Secretary of State \[2013\] EWHC 2847 \(Admin\)](#)

## **CD21 Inquiry documents**

- CD21.1 [Statement of Common Ground](#)
- CD21.2 [Secretary of State's Direction letter 24 July 2013](#)
- CD21.3 [Secretary of State's Call In Letter 3 September 2013](#)
- CD21.4 [Pre-Inquiry Meeting Note issued 20 November 2013](#)  
[Additional Pre-Inquiry Note issued 30 January 2014](#)
- CD21.5 [SAVE \(David Cooper\) letter to Applicant \(Linklater\) 13th December 2013](#)
- CD21.6 [Applicant \(Linklater\) letter dated 20th December 2013 in response to CD21.5](#)
- CD21.7 Letter dated 24 March 2014 closing the inquiry

## **CD22 SAVE Planning application**

- CD22.1 [Application for planning permission](#)
- CD22.2 [CIL Form](#)
- CD22.3 [Email clarifying points on the planning application](#)
- CD22.4 [Planning Statement](#)
- CD22.5 [Design and Access Statement](#)
- CD22.6 [Summary of proposed changes of use](#)
- CD22.7 [Site plan](#)
- CD22.8 [Sections - existing](#)
- CD22.9 [Existing and proposed street elevations - General Market](#)
- CD22.10 [Existing and proposed street elevations - Annex Market](#)
- CD22.11 [Existing basement floor plan](#)
- CD22.12 [Existing ground floor plan](#)
- CD22.13 [Existing first floor plan](#)
- CD22.14 [Existing second floor plan](#)
- CD22.15 [Existing roof plan](#)
- CD22.16 [Sections - Proposed usage](#)
- CD22.17 [Proposed basement plan - 'in abeyance'](#)
- CD22.18 [Proposed ground floor plan - Proposed uses \(Typical Layout\)](#)
- CD22.19 [Proposed first floor plan - 'in abeyance'](#)
- CD22.20 [Proposed second floor plan - 'in abeyance'](#)
- CD22.21 [Proposed roof plan - 'in abeyance'](#)
- CD22.22 [Ground Floor Plan - Access: Pedestrians](#)
- CD22.23 [Ground Floor Plan - Access: Vehicles servicing and delivery](#)

## **HENDERSON GLOBAL INVESTORS LTD DOCUMENTS**

- HGI/SC [Statement of Case](#)
- HGI/OS [Opening Submission](#)
  
- HGI/1/A [Proof of Evidence of John McAslan \(John McAslan & Partners\) - Architecture](#)
- HGI/1/B [Summary of the Proof of Evidence of John McAslan](#)

HGI/1/C	<u>(i) Appendix Volume 1 to the Proof of Evidence of John McAslan</u>
HGI/1/C	<u>(ii) Appendix Volume 2 to the Proof of Evidence of John McAslan</u>
HGI/1/C	<u>(iii) Appendix Volume 3 to the Proof of Evidence of John McAslan</u>
HGI/1/D	<u>John McAslan - Rebuttal of Proofs of Evidence</u>
HGI/1/E	<u>John McAslan - Appendix to Rebuttal of Proofs of Evidence</u>
HGI/1/F	<u>John McAslan - Further Appendix to Rebuttal of Proofs of Evidence</u>
HGI/1/G	<u>Images referred to in the proof of evidence in chief of John McAslan</u>
HGI/1/H	<u>Erratum to proof of evidence of John McAslan</u>
HGI/1/I	<u>John McAslan - Rebuttal to Proof of Evidence submitted by Richard Upton, Cathedral Group</u>
HGI/1/J	<u>Appendix to Rebuttal to Proof of Evidence submitted by Richard Upton, Cathedral Group</u>
HGI/1/K	John McAslan – rebuttal to John Burrell’s EIC
HGI/2/A	<u>Proof of Evidence of Peter Riddington (Donald Insall Associates) – Townscape/Heritage</u>
HGI/2/B	<u>Summary of Proof of Evidence of Peter Riddington</u>
HGI/2/C	<u>Appendix Volume 1 to the Proof of Evidence of Peter Riddington</u>
HGI/2/D	<u>Appendix Volume 2 to the Proof of Evidence of Peter Riddington</u>
HGI/2/E	<u>Appendix Volume 3 to the Proof of Evidence of Peter Riddington</u>
HGI/3/A	<u>Proof of Evidence of Andrew Tyler (Knight Frank) - Viability</u>
HGI/3/B	<u>Summary of Proof of Evidence of Andrew Tyler</u>
HGI/3/C	Appendices to Proof of Evidence of Andrew Tyler: <u>Appendix 1</u> <u>Appendices 2 - 5</u> <u>Appendix 6</u> <u>Appendices 7 - 9</u> <u>Appendix 10</u> <u>Appendix 11</u> <u>Appendix 12</u> <u>Appendix 13</u> <u>Appendices 14 - 19</u> <u>Appendices 20 - 25</u>
HGI/3/D	<u>Andrew Tyler - Rebuttal to Proofs of Evidence</u>
HGI/3/E	1. <u>Andrew Tyler - Appendix 1 - Investment Particulars of Beckett House</u>
HGI/3/E	2. <u>Andrew Tyler - Appendix 2 - Recreation of EGR Appendix III with ALT amendments</u>
HGI/3/E	3. <u>Andrew Tyler - Appendix 3 - Lettings of Whole Buildings</u>
HGI/3/E	4. <u>Andrew Tyler - Lettings of Units of 50,000 sq ft in Large Buildings</u>
HGI/3/F	<u>Erratum to Proof of Evidence of Andrew Tyler</u>
HGI/3/G	<u>Andrew Tyler - Rebuttal to Proof of Evidence submitted by Richard Upton, Cathedral Group</u>
HGI/3/H	<u>Appendix to Rebuttal to Proof of Evidence submitted by Richard Upton, Cathedral Group</u>
HGI/3/I	Erratum to rebuttal proof
HGI/4/A	<u>Proof of Evidence of Alan Simmonds (DP9) - Planning</u>
HGI/4/B	<u>Summary of Proof of Evidence of Alan Simmonds</u>
HGI/4/C	<u>Appendices to Proof of Evidence of Alan Simmonds</u>
HGI/4/D	<u>Erratum to the Proof of Evidence of Alan Simmonds</u>

HGI/5	Procedural Guide – The Planning Inspectorate dated 3 October 2013 – pages 37 and 38
HGI/6	Photograph of roofs taken from Smiths restaurant
HGI/7	<u>Email from Linklater to SAVE dated 18th February 2013 regarding 2002 Whitby Bird survey</u>
HGI/8	General Market area comparisons
HGI/9	Extract from CD10.3 (Design Council letter)
HGI/10	Overlay plans General Market existing and proposed
HGI/11	Correction of View 12 in CD3.2
HGI/12	Note on terms of vacating General Market
HGI/13	Letter dated 20 March 2014 regarding publication of PPG
HGI/CS	Closing Submissions

### **CITY OF LONDON CORPORATION DOCUMENTS**

COL/SC	<u>Statement of Case</u>
COL/OS	<u>Opening Submissions</u>
COL/1/A	<u>Proof of Evidence of Peter Wynne Rees - The City Planning Officer</u>
COL/1/B	<u>Summary of Proof of Evidence of Peter Wynne Rees</u>
COL/1/C	<u>Appendices to the Proof of Evidence of Peter Wynne Rees</u>
COL/1/D	<u>Peter Wynne Rees - Rebuttal to Proofs of Evidence</u>
COL/1/D	Appendices 1-5 to Rebuttal proofs of evidence.
COL/1/E	Corrections to proof of evidence
COL/1/F	Core Strategy Monitoring Paper

### **GREATER LONDON AUTHORITY DOCUMENTS**

GLA/SC	<u>Statement of Case</u>
GLA/OS	<u>Opening Submission</u>
GLA/1/A	<u>Proof of Evidence and Appendix of David Blankson-Hemans – Senior Strategic Planner</u>
GLA/1/A	<u>(i) Qualifications and Experience of Stewart Murray - representing David Blankson-Hemans</u>
GLA/2	London Office Policy Review
GLA/3	Tesco Stores Ltd v Dundee CC [2012] UKSC13
GLA/4	Mount Cook v Westminster CC [2003] EWCA Civ 1346
GLA/CS	Joint COL/GLA Closing Submissions

### **SAVE/VICTORIAN SOCIETY DOCUMENTS**

SVS/SC	<u>Statement of Case</u>
SVS/OS	<u>Opening Submission</u>
SVS/1/A	<u>Summary and Proof of Evidence of Alec Forshaw</u>
SVS/2/A	<u>Summary and Proof of Evidence of Christopher Costelloe</u>
SVS/2/B	<u>Christopher Costelloe - Rebuttal to Proofs of Evidence</u>
SVS/3/A	<u>Summary and Proof of Evidence of Dr Jennifer Freeman</u>
SVS/3/C	Appendices to Proof of Evidence of Dr Jennifer Freeman:

1. Lecture given by Sir Horace Jones on his City Markets, RIBA Transactions, 1877-8, pp.113-124
  2. Letter to Secretary of State, Ms Tessa Jowell M.P., dated 16/11/2004
  3. "Don't Butcher Smithfield", SAVE Britain's Heritage, February 2004
  4. Jennifer Freeman's Proof of Evidence to "Thornfield" public inquiry, 2007/8
  5. Email to City Corporation re Henderson application, 30/4/2013
  6. Address to City Planning Committee re Henderson application, 16/7/2013
  7. Smithfield Conservation Area Character Summary, 1996
  8. Mark Dodd's evidence to "Thornfield" public inquiry on behalf of English Heritage (extract)
  9. Farringdon/Smithfield Area Assessment, produced by English Heritage, 2005 (extract)
  10. Roger Mascall's evidence to "Thornfield" public inquiry on behalf of English Heritage (extract)
  11. Peter Wynne Rees' Proof of Evidence to "Thornfield" public inquiry, 2007/8
- SVS/3/D Illustrations to Proof of Evidence of Dr Jennifer Freeman:
1. Photograph of Hart's Corner in 1895, showing Smithfield Market along Charterhouse Street
  2. Composite drawing of Smithfield Market buildings as if viewed from opposite Hart's Corner c.1899
  3. Plan of arrangement of stalls in General Market and Annexe c.1899
  4. Pre-war aerial view of Smithfield Market site and surrounding buildings
  5. Historic photograph of General Market from direction of Holborn Viaduct in English Heritage's "Western Market Buildings" report, 2003. Ref BB77/6541, Fig.2
  6. Ordnance Survey Map of Smithfield Markets, 1930, reproduced in Smithfield Conservation Area Character Summary, 1996. See APPENDIX VII
- SVS/4/A *Not allocated*
- SVS/5/A Summary and Proof of Evidence of Eric Reynolds  
SVS/5/C Appendices to Proof of Evidence of Eric Reynolds:
1. 2000 – 2007 Evidence of deliberate neglect
  2. Letters relating to post inquiry neglect
  3. Financial Models
    - Area Schedule
    - Income Summary
    - Market Stall Operation Income and Costs
    - Fit Out Cost Schedule
    - Cashflow, Debt, Cost, Phasing and Value of JV
- SVS/5/D Eric Reynolds - Rebuttal of Proofs of Evidence  
SVS/5/E Eric Reynolds – photographs of existing buildings
- SVS/6/A *Witness and evidence withdrawn*
- SVS/7/A Summary and Proof of Evidence of Roger Hepher  
SVS/7/C Appendices to Proof of Evidence of Roger Hepher

SVS/8/A	<u>Summary and Statement of Case of John Burrell</u>
SVS/8/D	<u>Illustrations to Statement of Case of John Burrell:</u>
	<u>Illustration 1</u>
	<u>Illustration 2</u>
	<u>Illustration 3</u>
	<u>Illustration 4</u>
	<u>Illustration 5 (i)</u>
	<u>Illustration 5(ii)</u>
	<u>Illustration 6</u>
	<u>Illustration 7</u>
	<u>Illustration 8</u>
	<u>Illustration 9</u>
	<u>Illustration 10</u>
	<u>Illustration 11</u>
	<u>Illustration 12</u>
	<u>Illustration 13</u>
	<u>Illustration 14</u>
SVS/8/E	<u>John Burrell - Rebuttal of Proofs of Evidence</u>
SVS/8/F	<u>John Burrell - Appendix to Rebuttal of Proofs of Evidence</u>
SVS/9/B	<u>Supporting Written Statement of Philip Davies</u>
SVS/10/B	<u>Supporting Written Statement of Alan Baxter</u>
SVS/10/C	<u>Appendices to Written Statement of Alan Baxter</u>
SVS/11/B	<u>Supporting Written Statement of Adam Wilkinson</u>
	<i>Additional documents</i>
SVS/12	<u>Letter to Secretary of State from Sir Donald Insall CBE, dated 31 July 2013</u>
SVS/13	<u>Email from SVS dated 18th February 2014 withdrawing the evidence of Ian Lerner and confirming that he will not be appearing at the Inquiry</u>
SVS/14	<u>Pictures accompanying evidence from Dr Jennifer Freeman</u>
SVS/15	Newspaper extract dated 17th January 1880 referred to in Dr Jennifer Freeman's evidence
SVS/16	Extract from publication Architectural Record dated April 1959 referred to in Dr Jennifer Freeman's evidence
SVS/17	<u>Court of Appeal Judgment Barnwell Manor Wind Energy Ltd v East Northampton District Council dated 18th February 2014, referred to in Christopher Costelloe's evidence</u>
SVS/18	<u>NIA/GIA table submitted by Eric Reynolds during the cross-examination of Andrew Tyler – this table had been previously discussed at the common ground meeting at Knight Frank's offices on Monday, 17th February 2014</u>
SVS/19	<u>Extract from Smithfield Market Tenants Association website</u>
SVS/20	Additional documents submitted in reference to evidence given by Mr Roger Hepher (planning balance)
SVS/21	Alan Baxter email to Alec Forshaw dated 24 February 14
SVS/22	Bundle of emails referred to in Eric Reynolds' evidence
SVS/23	Illustrations to John Burrell's evidence at cross examination
SVS/24	Email chain Eric Reynolds-Laurie Marsh
SVS/25	Details of Crossrail access at Farringdon Station
SVS/26	Appeal Decision 2172342 Cross Keys, Chelsea

- SVS/27 Letter from EH date 17 February 2014 regarding listing the General Market
- SVS/28 Letter dated 24 March regarding the publication of PPG
- SVS/CS/1 SAVE Britain's Heritage - Closing Statement
- SVS/CS/2 The Victorian Society - Closing Statement

### **ENGLISH HERITAGE DOCUMENTS**

- EH/1/A *Not allocated*
- EH/1/B Written Representation of Dr Nigel Barker
- EH/1/C Appendix to Written Representation of Dr Nigel Barker
- EH/1/D Letter dated 19 March regarding the publication of PPG

### **OTHER THIRD PARTY DOCUMENTS**

- TP/S/1 Ms Szanto' notes.
- TP/O/1 Dr Hockaday's statement.
- TP/O/1A Dr Hockaday's appendices A-F
- TP/O/2 Richard Upton - Cathedral Group statement
- TP/O/2A Cathedral Group - Appendices 1-4
- TP/O/2B Mr Upton's offer of equity finance and pro-forma letter.

### **WRITTEN SUBMISSIONS**

- SVS/9/B Supporting Written Statement of Philip Davies
- SVS/10/B Supporting Written Statement of Alan Baxter
- SVS/10/C Appendices to Written Statement of Alan Baxter
- SVS/11/B Supporting Written Statement of Adam Wilkinson
- WR/S/1 Mark Field MP
- WR/O/1 Cllr Patrick Streeter
- WR/O/2 Steve Daszko
- WR/O/3 Evelyn Cook
- WR/O/4 Peter Schmitt

## ANNEX A: SUGGESTED CONDITIONS

### Schedule of conditions to be attached should planning permission be granted:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings and particulars or as approved under conditions of this planning permission: 1354 P GM JC20 P 00 001; 1354 P GM JC20 P 01 001; 1354 P GM JC20 P 02 001; 1354 P GM JC20 P 03 001; 1354 P GM JC20 P B2 001; 1354 P GM JC20 S AA 001; 1354 P GM JC20 S BB 001; 1354 P GM JC20 E NE 001; 1354 P GM JC20 E NW 001; 1354 P GM JC20 E SE 001; 1354 P GM JC20 EW 001; 1354 P AB JC20 P 00 001; 1354 P AB JC20 P 01 001; 1354 P AB JC20 P 02 001; 1354 P AB JC20 P B2 001; 1354 P AB JC20 S AA 001; 1354 P AB JC20 S CC 001; 1354 P AB JC20 E E 001; 1354 P AB JC20 E NE 001; 1354 P AB JC20 E NW 001; 1354 P AB JC20 E SW 001; 1354 P EH JC20 A AL 001; 1354 P GM JC20 P 00 001; 1354 P GM JC20 P 01 001; 1354 P GM JC20 P 02 001; 1354 P GM JC20 P 03 001; 1354 P GM JC20 P B2 001; 1354 P GM JC20 S AA 001; 1354 P GM JC20 S BB 001; 1354 P GM JC20 E NE 001; 1354 P GM JC20 ENW 001; 1354 P GM JC20 E SE 001; 1354 P GM JC20 E W 001; 1354 P AB JC20 P 00 001; 1354 P AB JC20 P 01 001; 1354 P AB JC20 P 02 001; 1354 P AB JC20 P B2 001; 1354 P AB JC20 S AA 001; 1354 P AB JC20 S CC 001; 1354 P AB JC20 E E 001; 1354 P AB JC20 E NE 001; 1354 P AB JC20 E NW 001; 1354 P AB JC20 E SW 001; 1354 P EH JC20 A AL 001; 1354 P GM G250 E NW 001; 1354 P GM G250 E NW 002; 1354 P GM G250 E SW 001; 1354 P GM G250 E W 001; 1354 P AB G250 E E 001; 1354 P AB G250 E NE 001; 1354 P AB G250 E NW 001; 1354 P AB G250 E SW 001; G710 PUBLIC REALM LANDSCAPE; 1354 P G710 P 101; 1354 P G710 P 102; 1354 P G710 P 103; 1354 P G710 P 104; 1354 P G710 P 105; 1354 P G200 P 00 001; 1354 P G200 P M 001; 1354 P G200 P 01 001; 1354 P G200 P 02 001; 1354 P G200 P 03 001; 1354P G200 P 04 01; 1354P G200 P 05 01; 1354 P G200 P 06 01; 1354 P G200 P RF 01; 1354 P G200 P B2 001; 1354 P G200 P B1001; 1354 P G200 S AA 001; 1354 P G200 S BB 001; 1354 P G200 S CC 001; 1354 P G200 E NE 01; 1354 P G200 E NW001; 1354 P G200 E NW 002; 1354 P G200 E SE 001; 1354 P G200 E W 002; 1354 P GM G200 E Ra 001; 1354 P EH G200 E AL 001.
- 3) No development including demolition shall take place, and no submissions of details to comply with conditions shall be made, until details clearly identifying the different phases of the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved phasing details and the offices and retail accommodation associated with each of the individual buildings - the General Market, the Annex Market and the Engine House - shall not be occupied until all the works of restoration to that individual building have been completed and the local planning authority has confirmed in writing that the works are in compliance with the approved conditions.
- 4) No development including demolition shall take place until details of the provisions for the retention of facilities for a work area and site access to Farrington Station in the basement of the General Market during the construction of the Crossrail project, to be maintained and kept available for temporary use by Crossrail, have been submitted to and approved in writing



- by the local planning authority in consultation with Crossrail to comply with the requirements of the Crossrail Act 2008. The development shall be carried out in accordance with the approved details.
- 5) No development including demolition shall take place until a programme of photographic recording has been implemented in accordance with a written scheme of recording which has been submitted to and approved in writing by the local planning authority. The programme shall include a photographic record of the General Market, Annex Market, Red House, Engine House and the Iron Mountain facility. This record shall include drawings and photographic records.
  - 6) No demolition shall take place until a Deconstruction Logistics Plan to manage all freight vehicle movements to and from the site, identifying efficiency and sustainability measures to be undertaken during demolition of the existing buildings, has been submitted to and approved in writing by the local planning authority in consultation with Transport for London. The development shall be carried out in accordance with the approved Deconstruction Logistics Plan or any approved amendments thereto as may be agreed in writing by the local planning authority in consultation with Transport for London.
  - 7) No demolition shall take place until details of a scheme for protecting nearby residents and commercial occupiers from noise, dust and other environmental effects during demolition has been submitted to and approved in writing by the local planning authority. The scheme shall be based on the Department of Markets and Consumer Protection's Code of Practice for Deconstruction and Construction Sites and the arrangements for liaison set out therein. A staged scheme of protective works may be submitted in respect of individual stages of the demolition process but no works in any individual stage shall take place until the related scheme of protective works has been submitted to and approved in writing by the local planning authority. The demolition works shall be carried out in accordance with the approved scheme.
  - 8) No demolition shall take place until details of the artefacts and other items (for example light fittings, cast iron columns, signage, spiral staircases etc.) to be retained and reused to enhance the character of the development have been submitted to and approved in writing by the local planning authority. The artefacts and other items shall be carefully removed where necessary, stored for the duration of the building works, and reinstated in the new development for the life of the building in accordance with the approved details.
  - 9) No demolition shall take place until details of measures to be taken throughout the period of demolition and reconstruction to ensure the stability of the existing structure to remain have been submitted to and approved in writing by the local planning authority. Such measures shall take into account any rapid release of stress, weather protection, controlled shoring, strutting, stitching, reinforcement, ties or grouting as may occur to be necessary. The development shall be carried out in accordance with the approved details.
  - 10) No development shall take place until a Construction Logistics Plan to manage all freight vehicle movements to and from the site, identifying efficiency and sustainability measures to be undertaken during site construction of the development, has been submitted to and approved in writing by the local planning authority in consultation with Transport for London. The

development shall be carried out in accordance with the approved Construction Logistics Plan or any approved amendments thereto as may be agreed in writing by the local planning authority in consultation with Transport for London

- 11) No development shall take place until a programme of building recording work, to include the former railway structures, has been implemented in accordance with a method statement which has been submitted and approved in writing by the local planning authority.
- 12) No works except demolition to basement slab level shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. This scheme shall include all on-site work, including details of any temporary works which may have an impact on the archaeology of the site, and all off-site work such as the analysis, publication and archiving of the results.
- 13) No works except demolition to basement slab level shall take place until details of the foundations and piling configuration, to include a detailed design and method statement, have been submitted to and approved in writing by the Local Planning Authority. Such details shall show the preservation of surviving archaeological remains which are to remain in situ. The foundations and piling works shall be carried out in accordance with the approved scheme.
- 14) No development shall take place until a detailed surface water drainage scheme for the site, based on the agreed Flood Risk Assessment (FRA) dated January 2013, reference CIV 13986 ES 001 has been submitted to and approved in writing by the local planning authority. The scheme shall include a 50% reduction in run-off and provision of surface water storage on site as outlined in the FRA. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 15) No development shall take place until details of an impact study of the existing water supply infrastructure have been submitted to and approved in writing by the local planning authority in consultation with Thames Water. The study should determine the magnitude of any new additional capacity required in the system and a suitable connection point. The development shall be carried out in accordance with the approved details.
- 16) No development shall take place until details of such measures as are necessary within the site to resist structural damage arising from an attack with a road vehicle or road vehicle borne explosive device have been submitted to and approved in writing by the local planning authority before any works hereby permitted are begun. The development shall be carried out in accordance with the approved details.
- 17) No development shall take place until details of rainwater harvesting and grey water recycling systems have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 18) No development shall take place until an energy statement has been submitted to and approved in writing by the local planning authority. The energy statement shall be based on the detailed design of the proposed development and use an approved standard calculation tool in accordance

with the relevant part of the current Building Regulations. The measures identified as being incorporated into the development shall be carried out in accordance with the approved statement and maintained for the life of the development.

- 19) No piling or construction of basements shall take place until details of a scheme for the provision of sewer vents within the building have been submitted to and approved in writing by the local planning authority. The approved scheme for the provision of sewer vents shall be implemented and brought into operation before the development is occupied and shall be so maintained for the life of the building.
- 20) No impact piling shall take place until a piling method statement (detailing the type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure) and a programme of works has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling works shall be carried out in accordance with the terms of the approved piling method statement.
- 21) No development shall take place until appropriate drawings and/or calculations demonstrating the structural feasibility of supporting the retained fabric have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved drawings and/or calculations.
- 22) No development shall take place until details of a scheme indicating the provision to be made for disabled people to gain access to the retail units and the publicly accessible WC within the General Market building have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 23) The pass doors shown adjacent to or near to the main entrances on the approved drawings shall remain unlocked and available for use at all times when the adjacent revolving doors are unlocked.
- 24) No development shall take place until details of a safety system including appropriate signage, mirrors and optical sensors for use by cyclists entering the ramp from the mezzanine area as shown on the approved drawings have been submitted to and approved in writing by the local planning authority. The safety system shall be implemented in accordance with the approved details before the development is first brought into use.
- 25) No development shall take place at the General Market building until details of the design of the spirelet to be reinstated on the corner of the building at the junction between West Smithfield and Farringdon Street have been submitted to and approved in writing by the local planning authority. The spirelet shall be constructed in accordance with the approved details before the General Market building is first brought into use.
- 26) Notwithstanding the submitted plans and drawings, no development shall take place at the General Market building until revised details of the design of the Harts Corner entrance have been submitted to and approved in writing by the local planning authority. The entrance works shall be carried out in

accordance with the approved details before the General Market building is first brought into use.

- 27) No development shall take place until the following details have been submitted to and approved in writing by the local planning authority:
- (a) particulars and samples of the materials to be used on all external faces of the building including external ground and upper level surfaces;
  - (b) details of the proposed new façades including typical details of the fenestration, entrances and shopfronts;
  - (c) details of the alterations to the retained façades;
  - (d) details of typical bays of the development;
  - (e) typical details of ground floor elevations;
  - (f) details of the ground floor office and retail entrances;
  - (g) details of the flank and return walls of the proposed new building;
  - (h) details of windows and external joinery;
  - (j) details of soffits, hand rails and balustrades;
  - (j) details of all alterations to the existing façades;
  - (k) details of junctions with adjoining premises;
  - (l) details of the integration of window cleaning equipment and the garaging thereof, plant, flues, fire escapes and other excrescences at roof level;
  - (m) details of plant and ductwork to serve the Class A1, A3 and A4 uses;
  - (n) details of ventilation and air-conditioning for the Class A1, A3 and A4 uses;
  - (o) details of all ground level surfaces including materials to be used;
  - (p) details of walkway surfaces including materials to be used;
  - (q) details of external surfaces within the site boundary including hard and soft landscaping; and
  - (r) details of the platform lift on Hart's Corner.
- The development shall be carried out in accordance with the approved details.
- 28) No development shall take place until details of the refuse storage and collection facilities to be provided within the curtilage of the site to serve each part of the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the refuse storage and collection facilities shall thereafter be maintained as approved throughout the life of the building.
- 29) No development shall take place until full details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. All hard landscaping works shall be carried out in accordance with the approved details before the development is first brought into use. All soft landscaping works shall be carried out in accordance with the approved details not later than the end of the first planting season following completion of the development. Trees and shrubs which die or are removed, uprooted or destroyed or become in the opinion of the local planning authority seriously damaged or defective within 5 years of completion of the development shall be replaced with trees and shrubs of similar size and species to those originally approved, or such alternatives as may be agreed in writing by the local planning authority.

- 30) No development shall take place until details of the facing or treatment of exposed party walls have been submitted to and approved in writing by the local planning authority. This work shall be carried out in accordance with the approved details before any part of the development is first brought into use.
- 31) No development shall take place until carbon emission calculations have been submitted to and approved in writing by the local planning authority. The calculations shall show the overall carbon emissions savings and carbon emissions savings in the individual stages of the London Plan energy hierarchy in relation to the relevant part of the current Building Regulations. The development shall be carried out in accordance with the approved calculations.
- 32) No development shall take place until details of the position and size of the green roofs, the type of planting and the contribution of the green roofs to biodiversity and rainwater attenuation have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and maintained as approved for the life of the development.
- 33) No development shall take place until details of the construction, planting irrigation and maintenance regime for the green roofs have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and maintained as approved for the life of the development.
- 34) No development shall take place until details of a scheme which specifies the fume extract arrangements, materials and construction methods to be used to avoid noise and/or odour penetration to the upper floors from any Class A1 or A3 use have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before any unit affected is first brought into use.
- 35) All work in making good shall match the existing adjacent work with regard to the methods used and to materials, colour, texture and profile, unless shown otherwise on the approved drawings or other documentation or required by any condition attached to this consent.
- 36) A post construction BREEAM assessment demonstrating that a target rating of 'Excellent' has been achieved (or such other target rating as the local planning authority may agree provided that it is satisfied all reasonable endeavours have been used to achieve an 'Excellent' rating) shall be submitted as soon as practicable after practical completion.
- 37) The development shall be designed to allow for the retro-fit of heat exchanger rooms to connect into a district heating network if this becomes available during the lifetime of the development.
- 38) No development shall be carried out in advance of the building lines as shown on the approved plans.
- 39) No doors or gates shall open over the public highway.
- 40) No building, roof structures or plant shall project above the top storey shown on the approved plans.

- 41) No office accommodation shall be brought into use until the areas shown for retail purposes on the approved plans have been constructed to shell and core stage.
- 42) No live or recorded music that can be heard outside the retail premises shall be played.
- 43) At all times when not being used for cleaning or maintenance the window cleaning gantries, cradles and other similar equipment shall be garaged within the enclosures shown on the approved drawings.
- 44) No servicing of the premises, including the loading and unloading of goods from vehicles and dealing with refuse outside the building shall be carried out between the hours of 23:00 on one day and 07:00 on the following day from Monday to Saturday and between 23:00 on Saturday and 07:00 on the following Monday and on Bank Holidays.
- 45) Before any mechanical plant is first brought into use on the premises it shall be mounted in a way that will minimise transmission of structure borne sound or vibration to any other part of the building in accordance with a written scheme which has been submitted to and approved in writing by the local planning authority.
- 46) Following installation but before any new mechanical plant comes into operation measurements of noise from the new plant shall be taken and a report demonstrating that the plant as installed meets the following design requirements shall be submitted to and approved in writing by the local planning authority. The level of noise emitted from any new plant shall be lower than the existing background level by at least 10 dBA. Noise levels shall be determined at 1 metre from the nearest window or façade of the nearest premises. The measurements and assessments shall be made in accordance with BS 4142. The background noise level shall be expressed as the lowest LA90 (10 minutes) during which plant is or may be in operation. All constituent parts of the new plant shall be maintained and replaced in whole or in part as often as required to ensure compliance with the noise levels approved by the local planning authority
- 47) No cooking shall take place within any Class A1 or A3 unit until fume extract arrangements and ventilation have been installed to serve that unit in accordance with a written scheme which has been submitted to and approved in writing by the local planning authority. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
- 48) No flues, ductwork, soil stacks, soil vent pipes or any other pipe-work other than rainwater pipes shall be fixed to the elevations of the building other than as shown on the approved drawings.
- 49) A minimum of 1 motor cycle parking space per 750 sq m of floorspace (21 spaces) shall be provided and maintained on the site throughout the life of the building. The motor cycle parking provided on the site shall remain ancillary to the use of the building and shall be available at all times throughout the life of the building for the sole use of the occupiers thereof and their visitors without charge to the individual end users of the parking.
- 50) A minimum of 2 car parking spaces for use by people with disabilities shall be marked out accordingly and provided and maintained on the site throughout

the life of the building and shall be readily available for use by disabled occupiers and visitors without charge to the individual end users of the parking.

- 51) Permanently installed pedal cycle racks shall be provided and maintained on the site throughout the life of the building sufficient to accommodate a minimum of 1 pedal cycle per 125 sq m of floorspace (minimum 124 spaces). The cycle parking provided on the site shall remain ancillary to the use of the building and shall be available at all times throughout the life of the building for the sole use of the occupiers thereof and their visitors without charge to the individual end users of the parking.
- 52) Appropriate changing facilities and showers shall be provided adjacent to the cycle parking areas and maintained throughout the life of the building for the use of occupiers of the building in accordance with the approved plans.

## **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 APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **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) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for permission to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### **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.