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**Your Ref:**

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**Date:** 15/05/2018

Dear Ms P Walden-Jones

**TOWN & COUNTRY PLANNING ACT 1990 (as amended)  
PRE-APPLICATION ENQUIRY**

**At:** NEW CITY COURT, 20 ST THOMAS STREET, LONDON, SE1 9RS

**Proposal:** Redevelopment of the site for construction of an office building with public terrace and retail space (including changes to listed St Thomas Street terrace to provide retail units), relocation of Keats House and associated public realm and highway works.

I write in connection with your pre-application enquiry received on 01/06/2017 regarding a scheme to redevelop the site above. This letter summarises the council's written advice on your proposal and whether, based on the details submitted, it meets local planning requirements

**New City Court – Conservation Pre-application Response**

The purpose of this response is to provide a brief overview of the key heritage considerations for the council in respect of the New City Court proposal, being an application for a tall building within the Borough High Street Conservation Area and affecting the setting of statutory listed heritage assets, a number of which are Grade I and Grade II\* listed.

**Background**

In determining a future planning application for a tall building the council has to:

- Have regard to the provisions of the Development Plan and any other material considerations (section 70(2) of the Town and Country Planning Act 1990);
- Have special regard to the desirability of preserving any listed buildings or their settings or any features of special architectural or historic interest which they possess (section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990);
- Pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area (section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990);
- To determine the proposal in accordance with the Development Plan unless material considerations indicate otherwise (section 38(6) of the Planning and Compulsory Purchase Act 2004).

As well as these statutory requirements, the above hierarchy of priorities are embedded in the NPPF which requires local authorities to recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

**Information considered**

The pre-application information submitted to the council includes:

- Opinion by Christopher Katkowski QC of Landmark Chambers dated 8 February 2018 (LC)
- Statement of Public Benefits by DP9 dated February 2018
- Heritage Statement by Peter Stewart Consultancy dated 17 February 2018
- The New City Court Scheme Public Benefits by AHMM dated February 2018

## Considerations

In considering the impact of any proposal in such a historic context, the NPPF requires the council to identify and assess the particular significance of any heritage asset that may be affected by a proposal, and then to consider the impact of the proposal on that significance (paragraph 129) in order to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

The NPPF requires local authorities to identify the 'harm' to the heritage asset and to categorise any harm as 'substantial' or 'less than substantial' and sets out the justification for each (paragraphs 132 – 134).

The council notes the principles in respect of 'substantial' harm as established in the case of *Bedford Borough Council v SSCLG* [2013] quoted in LC where the assessment is that "very much, if not all, of the significance was drained away" or the impact "would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced" (paragraph 25)

The council has considered the evidence provided in the information submitted and at this stage concludes that the proposal will cause substantial harm that is neither justified nor necessary (in accordance with NPPF paragraphs 132 and 133), as set out below.

Taking the views within the Heritage Statement in turn:

- View 22 – This is a view taken close to the boundary of the Borough High Street Conservation Area, showing the vista of the southern river bank. The height of the proposal interrupts the reducing heights from the Shard, The Place and 1 London Bridge, to the western side of the bridge where Southwark Cathedral is the tallest building. It also fills in the gap at the end of the bridge (currently occupied by the low-level viaduct) as it is set away from the foothills of the Shard. As well as its height, the width of the building makes it a dominant and intrusive addition to this view, and is unacceptable.
- View 35 – A view within the Borough High Street Conservation Area and next to the grade II listed Hop Exchange that shows the proposal to be far more dominant than the more distant Shard which is in the backdrop and has a tapering, spire-like form. Together the curved Hop Exchange, and the Borough High Street buildings (some of which are listed) form a set piece, that would be overwhelmed by the proposed building due to its height and width. This is considered to be harmful to the character of the conservation area.
- View 42 – A view at the edge of the Conservation Area with the grade II\* listed Guys Hospital main building and its grade II listed gates and railings, and looking down towards the grade II listed buildings on the New City Court site. There are no other tall buildings in this view as it faces away from the distinct area of the tall buildings cluster around the Shard. The proposal would clearly have a significant, harmful impacts on the setting of a grade II\* listed building. While any proposed tall building on the New City Court site would have an impact on the setting of the grade II\* listed building, the height and massing of this proposal set within the core of the conservation area causes such a magnitude of harm as to be unacceptable.
- View 48 – A view within the Conservation Area looking towards the transept of the grade I listed Southwark Cathedral in a public area where the Cathedral faces on to the Thames. This is one of the main entrances to the Cathedral environs and a location where the Cathedral's relationship with the river is most apparent. The Cathedral is one of only 4 grade I listed buildings in the borough (the others being The George Inn, the Church of St Peter in Walworth, and Tower Bridge) and represents one of the few most protected and most important historic assets in the borough. The proposal would sit above the Choir/Lady Chapel adjacent to the north transept. It would cause harm to the immediate setting of the Cathedral dominating its silhouette and roofline as viewed from this key approach, and its proportions would be similar to that of the bell tower, thus challenging the prominence of this Grade I listed building. This intrusion into the immediate setting of the Cathedral, adversely affecting the appearance of the Cathedral in views along Montague Close as one of the most important historic buildings in this borough, is considered to be substantial harm.
- View 49 – A view from within the conservation area with the grade II listed Glaziers Hall and Bridge House. This shows that the height of the proposal again interrupts the decreasing heights from the Shard and the tall building cluster and suggests the New City Court is not a site where such a high tall building would be considered favourably against policy 3.20.

Only five views have been provided in this version of the Heritage Statement and commented upon individually above. Many more views would be included in the full version to show the impacts from the setting of other listed buildings, other directions and streetscapes surrounding the site as well as showing the consented schemes in the views. It is likely that the proposal would be considered to cause substantial harm to the character and appearance of the Borough High Street Conservation Area due to the cumulative harm on so many public viewpoints across the conservation area.

The information submitted demonstrates that the proposal in its current form will cause substantial and unjustifiable harm to the setting of Southwark Cathedral (view 48). Another significant heritage asset that is

vulnerable to proposal is the Grade II\* listed Guys Hospital (view 42). The above, coupled with the impact on the Outstanding Universal Value of the Tower of London World Heritage Site (shown in views 25 and 52 of the Miller Hare document, November 2017) demonstrate the insensitive approach of the current proposal to a number of heritage assets of greatest order of significance. While the proposal incorporates public benefits, the scheme is causing substantial harm because of its height, and when the statutory considerations are applied, would fail to at least preserve the setting of listed buildings, and fail to preserve or enhance the character and appearance of the conservation area.

Bearing in mind that only the setting of listed buildings have statutory protection, the council will place considerable weight on the special regard required by the Planning (Listed Buildings and Conservation Areas) Act 1990 on the setting of a number of Grade I and Grade II\* listed buildings in the immediate context of this proposal as well as those Grade II listed buildings whose settings are also affected, of which there are a number in the area.

In addition to the Tower of London World Heritage Site (in Tower Hamlets), the affected listed buildings in Southwark (in order of significance) are:

- Southwark Cathedral, Cathedral Street (Grade I)
- The George Inn, 77 Borough High Street (Grade I)
- Guys Hospital Main Building including wings and Chapel (Grade II\*)
- Nos 9, 9A, 11 and 13 St Thomas Street (Grade II\*)
- The Church of St George the Martyr, Borough High Street (Grade II\*)
- Nos 4-18 and 12-16 St Thomas Street (Grade II)
- Bunch of Grapes Public House, 2 St Thomas Street (Grade II)
- Kings Head Public House, Kings Head Yard (Grade II)
- Post Office, 19A Borough High Street (Grade II)
- 3 Southwark High Street (Grade II)
- The Hop Exchange, 24 Southwark Street (Grade II)

The council acknowledges that the information is currently only in draft form, and the recent Peter Stewart document focuses on the impacts on the listed Southwark Cathedral rather than address each of the other listed buildings. Whilst the above list is not definitive, the council would require a more detailed assessment of each of the above. Of significant concern is the substantial harm that the proposal will cause on the setting of the listed buildings of the highest significance. The council notes the assertion of the NPPF (paragraph 132), that substantial harm to these assets should be “wholly exceptional”, and that “any harm or loss should require clear and convincing justification”. This has not been demonstrated, and to date no evidence has been provided to suggest that it is likely to be demonstrated to the council’s satisfaction.

The above list does not include wider London townscape impacts of the proposed tall building on the LVMF that will also require assessment, such as the view of St Paul’s from Kenwood, and the London Bridge river prospect.

### **Precedent**

The council acknowledges that each planning application is considered on its own merits, in the context of the relevant policy framework and other material considerations. As with every planning application the council will determine the proposal both on its own merits and take into consideration its cumulative impact. Indeed, the Inspector’s reasoning in respect of the Shard of Glass referred to the effect that other tall buildings permitted and implemented in the area equally “*cannot possibly act as a precedent for other proposals that would cause such harm.*”

### **Southwark’s Development Plan**

The council has a strong track record in considering tall buildings, including those that affect designated heritage assets.

Policy 3.20 (Tall Buildings) of the Southwark Plan (2007) requires developments that include tall buildings to be located at a point of ‘landmark significance’ which is defined as: “*where a number of important routes converge, where there is a concentration of activity and which is or will be the focus of views from several directions.*” Further, the policy requires in part v. that every tall building proposal must contribute “*positively to the London skyline as a whole consolidating a cluster within that skyline or providing key focus within views*”

The information submitted with this pre-application enquiry does not demonstrate how this proposal will meet the locational criteria in saved policy 3.20. Further, the substantial separation of the proposed tower from other nearby towers in a number of views highlights that the building is likely to be isolated from the London Bridge ‘cluster’.

The emerging policy P14 (Tall Buildings) of the New Southwark Plan Proposed Submission Version (December

2017) reflects the principles of the NPPF and repeats the locational and clustering criteria and adds further requirements including, among other things:

2.2 Respond positively to local character and townscape; and

2.6 Avoid unacceptable harm to the significance of designated heritage assets or their settings.

Whilst we feel there are many aspects of this proposal that attempt to address point 2.2, the overarching principle of point 2.6 remains a significant concern and highlights the difference in sensitivity between the three distinct parts of the proposed development: the base, middle and top.

The base of the proposal includes a number of areas of public realm and proposes a significant enhancement of the yards which are a characterful and distinctive feature of the conservation area, noted in the conservation area appraisal. The middle, insofar as it is limited to the height of other tall buildings like The Place, could be considered to contribute positively to that collection of buildings at the 'foothills' of the Shard given its location near to Fielden House.

However, the information submitted with the pre-application enquiry demonstrates that the top is likely to cause substantial harm to the setting of a number of statutory listed buildings of the highest order of significance, especially Southwark Cathedral and Guys Hospital. This substantial harm, coupled with its substantial and overly dominant impact on the Borough High Street Conservation Area are irreconcilable with the council's adopted and emerging policies (as shown in views 35, 42, 48 and 49). While there are public benefits associated with the proposed scheme as listed in the DP9 note, including the improved pedestrian circulation and ground floor animation, a convincing justification for the harm has not been made. The public benefits identified are insufficient to outweigh the substantial harm that would result. Equally it is not accepted that a scheme of the proposed height is necessary to provide these public benefits.

One view from Montague Close on the northern side of Southwark Cathedral has been provided, and it is suggested a further view taken from just inside the Cathedral's gates on this northern side is also provided to aid further discussion on the harm caused.

Finally, the Shard itself is a building of prominence, an iconic building that has made its mark in the city's consciousness. This proposal, especially the 'top' is likely to have a substantial impact on the way the Shard is appreciated in the round. Set at a height that will match that of Guys Tower, and separated from the public benefits that that provides, the information submitted with the enquiry demonstrates that building of this scale is not likely to contribute positively to an appreciation of Shard especially when viewed from Southwark Street (view 35).

This advice is given to assist you but is not a decision of the Council. Further issues may arise following a formal planning application, where a site visit and public consultation and consultation with statutory consultees would be undertaken.

Please accept this letter as the closure of your current enquiry.

Yours sincerely

***Simon Bevan***  
Director of Planning