

APP/A5840/W/22/3290473 & APP/A5840/Y/22/3290477

APP/A5840/W/22/3290483 & APP/A5840/Y/22/3290490

**NEW CITY COURT, 4-26 ST THOMAS STREET, LONDON**

---

**OPENING STATEMENT - HISTORIC ENGLAND**

---

**Historic England's role and involvement**

1. The Historic Buildings and Monuments Commission for England, known as Historic England, is a non-departmental public body sponsored by the Department for Digital, Culture, Media and Sport. It is the Government's statutory adviser on all matters relating to the historic environment. Its role is to champion and protect England's historic places: the places and buildings that define who we are and where we've come from as a nation. It manages the National Heritage List on behalf of DCMS: the only official and up to date register of all nationally protected buildings and places in England.
2. Historic England provides expert advice to local planning authorities, developers, owners and communities to help ensure our historic environment is properly understood, enjoyed and cared for.
3. Historic England must be consulted on certain planning and LBC applications which may affect the historic environment. It routinely provides advice letters to local planning authorities setting out relevant considerations and, often, giving expert opinion on the likely impacts of a development proposal. Usually, Historic England's involvement in development proposals ends there.
4. Research commissioned to inform the recent Advice Note 4: "Tall Buildings" revealed that, between 2004 and 2017, Historic England only raised serious concerns in 7% of

tall building cases.<sup>1</sup> The organisation is selective in its approach and its use of resources. The step of raising strong objections and appearing at a public inquiry is not taken lightly and is reserved for the most serious cases.

5. This is such a case. The two alternative proposals for a 37 or 26 storey tower on the New City Court site would cause irreversible harm to some of England's most cherished and important historic places.
6. Both schemes were considered by Historic England not only at officer level, but were also subject to consideration by its London Advisory Committee, which is reserved for novel and contentious cases. Historic England's evidence to this inquiry has also been the subject of rigorous internal peer review by senior officers, and represents the settled view of the organisation on the proposals.

### **Scope of Historic England's evidence**

7. As I have already made clear, Historic England's expertise is in all matters related to heritage. Our witness for this public inquiry, Alasdair Young, has worked for Historic England for nine years, first as an Assistant Inspector and since 2016 as an Inspector of Historic Buildings and Areas. He does not purport to have qualifications or specific expertise in matters of design, townscape and visual impact or planning policy – although he does routinely engage with these issues where they overlap or intersect with heritage considerations.
8. Given Historic England's statutory remit, the evidence presented to this inquiry will be focussed on identifying what is of heritage interest and value about the historic places that will be affected by the proposals, and describing the nature and degree of harm that would be caused. Evidence will be given on the policy implications so far as policies relating to heritage are concerned, but Historic England will not otherwise call evidence on matters of planning or design/townscape. For the same reasons, Historic England will not comment on the weight to be given to non-heritage public

---

<sup>1</sup> AY appendix 24

benefits claimed by the Appellant, and will not seek to undertake the planning balance.

9. A proportionate approach has been taken to the evidence in terms of the heritage assets Historic England has chosen to focus on. Tall buildings are visible over a large area and so have the potential to affect how we experience and appreciate many historic places. Furthermore, Historic England is not routinely consulted on development proposals. The requirement to consult is triggered by development proposals affecting Grade I or II\* listed buildings or their settings, and applications for new buildings on sites of over 1,000 square metres in a conservation area (among others).
10. With these points in mind, and consistently with the approach taken in the formal advice letters provided to the local planning authority, Historic England has focussed on the heritage assets which would either suffer the greatest harm, or which are of the highest significance. These are:
  - a. Borough High Street Conservation Area
  - b. Guy's Hospital (Grade II\*)
  - c. Southwark Cathedral (Grade I)
  - d. Tower of London (World Heritage Site)
  - e. St Paul's Cathedral (Grade I)

## **Overarching issues**

### The importance of a clear understanding of significance

11. In reaching a decision as to the acceptability of a development proposal, it is essential to have a clear understanding of what is of heritage interest about the heritage assets which may be affected and, where relevant, what contribution is made by their settings. Aspects of a heritage asset's setting can affect its heritage interest and value positively or negatively, or may be neutral. Change within the setting can similarly be positive, negative, or neutral, depending on how the change affects what is of value about the asset and the ability to understand and appreciate that.

12. The NPPF reflects the statutory duties in s. 66 and 72 Listed Building Act 1990 by focussing attention on whether a proposal causes harm to significance of a heritage asset. A clear understanding of significance is therefore critical to a robust and credible assessment of impact. Starting with a good understanding of significance should point the way to what kind of building might be acceptable on any given site.
13. The Appellant has not demonstrated a good understanding of the significance of the appeal site and the surrounding area, or of other heritage assets which would be affected through change in their settings. This ought to be clear from the very fact that buildings of the proposed height are being promoted in this sensitive location. The Appellant's failure properly to understand significance has led to highly questionable conclusions as to impact – most strikingly the claim that either of the proposed tall buildings would have a *positive* effect on Borough High Street Conservation Area.

#### Relevance of existing tall buildings in the vicinity

14. Historic England is not opposed to tall buildings as a matter of principle. They are a feature of modern London and there is a place for them, indeed they can have positive impacts.<sup>2</sup> However, they can and often do have profound and far-reaching effects on historic places. It is essential that they are located correctly. It is a fact that there are already tall buildings around London Bridge station, which are on the edge of Borough High Street Conservation Area and within the settings of many listed buildings within it, including Guy's Hospital and Southwark Cathedral. The Appellant regards these tall buildings as having become a prominent part of the character and appearance of the Borough High Street Conservation Area, and of the setting of other heritage assets. This leads to the argument that the proposals for the New City Court site would not introduce any effects which are not already present;<sup>3</sup> essentially that it would be 'in keeping' with the character of the Conservation Area. It is suggested that "adding one more large building to an existing group of large buildings" could not lead to a high level of harm.<sup>4</sup>

---

<sup>2</sup> CDF.07 HEAN 4 p.4

<sup>3</sup> PS proof 5.32, 10.23

<sup>4</sup> PS proof 12.25

15. Historic England considers that this approach again demonstrates the Appellant's flawed approach to significance. The fact that tall buildings already exist in the vicinity does not mean that they have a positive impact, or that further such development will not cause harm. Heritage duties and policy are concerned with preserving and enhancing special historic and architectural interest. Existing tall buildings do not contribute anything to the special interest of any of the heritage assets at issue in this case; in most cases they conflict with it. GPA3 reminds decision makers that:

"Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset."<sup>5</sup>

16. Historic England's position is that existing tall building development has harmed the special interest of all the heritage assets it has chosen to focus on in this inquiry. It distracts from and competes with the architectural qualities of these highly important places. The Appellant's proposals would introduce these negative effects into the heart of the Borough High Street Conservation Area. They would create new harmful juxtapositions and relationships with Guy's Hospital, Southwark Cathedral, the Tower of London and St Pauls Cathedral. These harmful effects are in no way mitigated or reduced by the fact that the proposal could be portrayed as "more of the same".

#### Relevance of quality of design to heritage impacts

17. The Appellant's case is that quality of design is a "principal consideration" in determining the effect of the schemes on heritage significance<sup>6</sup>, and that "if a new building is of a high standard of architecture, it is likely to add positively to views in which it appears".<sup>7</sup> As already indicated, Historic England will not be critiquing the proposed designs in evidence. But these statements and others like them raise an important matter of principle. Whilst high quality design is always expected and is critical where heritage assets will be affected, the quality of the design will not of itself

---

<sup>5</sup> CDF.04 p. 4

<sup>6</sup> PS proof 5.3, 10.2

<sup>7</sup> PS proof para 5.25, 10.16

produce a development that has a positive relationship with historic places. Another way of looking at the matter is to say that, however well the architects have done their job, design cannot be regarded as ‘good’ if it causes unacceptable heritage harm. Historic England’s guidance is “there will be locations where the existing qualities of place are so distinctive and the level of significance of heritage assets so great that tall buildings will be too harmful, regardless of the perceived quality of the proposal’s design and architecture”.<sup>8</sup> The New City Court site is one such location.

## **Summary of Historic England’s case on harm to heritage assets**

### Borough High Street Conservation Area (‘BHSCA’)

18. BHSCA has long been recognised as an area of special architectural and historic interest, having been designated in 1968. The High Street is the focus of the conservation area. There are two critical elements of its character which would be seriously undermined by either of the proposed tall buildings:

- a. The consistent three to four storey scale of buildings, which new development is expected to “conform to” and “remain within”.<sup>9</sup>
- b. The distinctive urban grain which has evolved from long thin ‘burgage plots’, subsequently adapted for use by inns set in narrow yards and ways, and later repurposed for commercial activity. The narrow yards add to the visual interest of the High Street and are a reminder of its historic legacy.<sup>10</sup> They create a sense of enclosure. New development should be “in keeping” with this morphological character.<sup>11</sup>

19. Away from the High Street, the St Thomas Street sub-area is significant for the “restrained quality and consistency of its Georgian and Regency architecture”, giving it a “conservative, established tone”.<sup>12</sup> Again, there is a consistent scale of approximately 4 storeys.

---

<sup>8</sup> CDF.07 HEAN 4 p.6

<sup>9</sup> CDE.06 – CAA 5.2.7

<sup>10</sup> CDE.06 – CAA 3.2.11

<sup>11</sup> CDE.06 – CAA 5.2.1-2

<sup>12</sup> CDE.06 – CAA 3.5.1

20. These aspects of the historic and architectural interest of the BHSCA would be seriously harmed by the proposed tall buildings. Either tower would loom over and dominate Borough High Street and St Thomas Street, reducing the ability to appreciate the consistent architectural quality and character of the conservation area. They would exacerbate the visual distraction which is currently provided by the Shard, Shard Place and Guy's Hospital Tower and bring a harmful and radical juxtaposition of scale and character right into the heart the conservation area. Additional harms of a similar nature would be caused to listed buildings within the conservation area, most notably the listed terrace which forms part of the appeal site, and the listed former church at 9A St Thomas Street.
21. Either proposal would also result in the loss of the narrow Kings Head Yard in favour of an open space, which is inconsistent with the existing morphology. Historic fabric which contributes positively to the conservation area would also be lost. This would be harmful to the conservation area as well as the listed Kings Head Pub.
22. Additional harm would be caused by the proposed relocation of Keats House to deliver servicing access for the proposed buildings, with the 2021 scheme being more harmful in this respect.
23. The proposed tall buildings would be seriously damaging to the special architectural and historic interest of the conservation area, the character and appearance of which is supposed to be protected by the designation. There is little difference between the 2018 and 2021 schemes in terms of the degree of harm they would cause. In both cases, it would be at the upper end of "less than substantial harm". The Appellant's conclusion that the proposals would have a positive effect on the conservation area will need to be carefully explored.

#### Guy's Hospital

24. Guy's Hospital is listed at Grade II\* and derives a large part of its significance from its formal architectural composition, with the large forecourt leading into quiet courtyards in a sequence described in the CAA as "quite exceptional".<sup>13</sup> From within

---

<sup>13</sup> CDE.06 – CAA 3.5.5

the forecourt the neoclassical architecture can be well appreciated, and the crowning pediments on each of the three building ranges provide focal points, which are deliberately aligned with the central statue of Sir Thomas Guy.

25. Tall buildings in the vicinity have affected the ability to appreciate the architectural significance of the hospital, but important views of the original central and western ranges from the entrance gates and within the forecourt can still be seen against a clear sky.
26. Either of the tall building proposals would cause serious harm to the architectural significance of the listed hospital complex through a combination of height, proximity and contrasting architectural style. The verified views contained in the Appellant's TVBHIA show very clearly how either of the proposed towers would dominate and seriously undermine the architectural composition of the west wing.<sup>14</sup> The full impact cannot be captured in these images, as the proposed buildings are too tall to fit into the frame – so the effect would be even more extreme than the images suggest. Similar intrusive effects would be experienced in the western quadrangle.
27. The west wing houses the hospital chapel, which is a place for quiet reflection and contemplation. Light coming through the three stained glass windows, which are mentioned in the list description, makes an important contribution to the intangible qualities of the chapel. The Appellant's evidence confirms a 43% (2018) or 46% (2021) loss of overall light levels inside the chapel, assessed using climate-based daylight modelling.<sup>15</sup> Alternative methods of assessment predict "major" reductions in "vertical sky component" and, for the 2021 scheme, major adverse impacts on daylight distribution.<sup>16</sup> However the effect is measured, it is clear that there will be an appreciable loss of light through the stained glass windows, which are an aspect of significance and were designed to be seen and best appreciated in sunlight.
28. The Appellant accepts "some harm" to the significance of Guy's Hospital, but significantly underestimates it. The proposals would undermine important elements

---

<sup>14</sup> CDA.12 p.255; CDB.14 p.229

<sup>15</sup> CDA.47 Appx B, p.2 and CDB.51, Appx B, p.2 (GIA report appended to KMHeritage report on Guy's Chapel)

<sup>16</sup> APP/3/B Chris Goddard appendices, Appx. 5, p.16



of the special interest of the hospital, and the harm would be at the upper end of the range of less than substantial harm. It should be recalled that Guy's Hospital is a highly important element of sub-area 4 of the BHSCA.

### Southwark Cathedral

29. Southwark Cathedral is listed at Grade I and has been a religious landmark and focal point since medieval times. The large square tower with its gothic finials was intended as a striking architectural and religious statement and a visual spectacle. Despite modern development within its setting, it remains prominent and can be seen against a clear sky in many views including from London Bridge, Montague Close, and within Millennium Courtyard. In these views the silhouette of the imposing tower (and, in closer views, the detail of its impressive architecture) is seen unchallenged by visual distraction. It retains a landmark quality notwithstanding that modern tall buildings – in particular the Shard – are present in the wider area.
30. Both proposed towers would cause harm to the significance of Southwark Cathedral by introducing visual distraction and competition. From London Bridge the towers would terminate views and draw attention away from the Cathedral by rising significantly above it, adding to and exacerbating the effect of existing tall buildings by London Bridge station. The 2018 tower in particular would be highly conspicuous in views from Montague Close. The Appellant acknowledges that the relationship between the Cathedral tower and the 2018 proposal seen from Montague Close is “not a positive one” from a purely visual perspective,<sup>17</sup> and “some harm” to significance is acknowledged.<sup>18</sup> Again, Historic England will demonstrate that the Appellant has underestimated the level of harm that will result. It would be at the upper end of the spectrum of less than substantial harm.
31. The 2021 scheme is lower and therefore less assertive and challenging in views, although still visually distracting. It would cause less than substantial harm towards the middle of the range. The harm is to a Grade I listed building and so should be given

---

<sup>17</sup> CDA.12 TVBHIA p.285

<sup>18</sup> CDA.18 Heritage Statement 7.49

very great weight. Again, it should be remembered that Southwark Cathedral is the key listed building in sub-area 3 of the BHSCA.

### Tower of London

32. The Tower of London World Heritage Site is of exceptional historic and architectural importance, both nationally and internationally. Within the Tower complex are a variety of designated heritage assets, including several listed buildings, a conservation area and a scheduled monument. However, the focus of Historic England's evidence is on the effect of the proposals on the Outstanding Universal Value ('OUV') of the WHS. The tall building proposal would have broadly the same type of impact on the other heritage assets, such that a separate assessment was not felt necessary.
33. The 2018 scheme would be clearly visible above the roofline of the Queen's House in the Inner Ward, where it would exacerbate the visual distraction caused by the existing tall buildings. It would further undermine the sense of enclosure and separation felt in the Inner Ward and the protective function of the *concentric defences*. By appearing directly above the roofline, the tower in the 2018 scheme would affect the ability to appreciate the domestic scale architecture of the Queen's House, which is part of the *surviving medieval remains*. The tower would also be seen above the Waterloo Block when seen from the Royal Mint, further undermining the *physical dominance* of the White Tower from this view.
34. Although in 2003 it was decided that the Shard would cause "no material harm to the setting of the Tower of London"<sup>19</sup>, much has changed since then. It is now accepted the Shard did have an impact on the visual integrity of the WHS, and planning policies had to be strengthened to "lessen the risk of inappropriate development with an adverse impact on the Tower's visual integrity".<sup>20</sup> It is now well understood that tall buildings in the London Bridge area may undermine the Tower's OUV.

---

<sup>19</sup> Shard decision 16.86

<sup>20</sup> CDF.15 p.2 of appendix to letter

35. In this context, the Appellant's claim that the 2018 scheme would cause "no harm" is unsustainable. Harm would occur, towards the lower end of the range of less than substantial harm, but this harm is to a heritage asset of the highest possible significance.

#### St Paul's Cathedral

36. Sir Christopher Wren's architectural masterpiece was designed to be seen and appreciated over considerable distances. It is listed at Grade I. It is iconic and remains a defining feature of London's built environment. Whilst the dome is the most recognisable feature, the architectural contrast and relationship between the dome and the west towers is highly important.

37. St Paul's has a very large setting which has been heavily influenced by modern development. Historic England's concern is with the impact of the proposed tall buildings on the significance St Paul's derives from its setting, as experienced from two protected views identified in the LVMF.

38. From Kenwood Gazebo, each of the proposed towers would appear directly behind the north-western tower of St Paul's and would add to the sense of mass behind the Cathedral, as well as adding to the visual severance of the west towers from the dome. The 2018 scheme would break the horizon, which would further draw the eye away from St Paul's. Cumulative harm would be caused to the Cathedral's significance through further reducing the ability to appreciate its distinctive silhouette and the contrasting elements of its architectural composition. The 2021 scheme would be less harmful due to its reduced height and the fact it would not break the horizon.

39. From Parliament Hill there would be some additional cumulative harm arising from further visual distraction and a reduction in the prominence of St Paul's; again the 2018 scheme would break the horizon in this view which would make it more conspicuous. It is considered that the 2021 scheme would not cause any appreciable harm from this viewpoint.

40. The proposed towers would cause a low level of less than substantial harm; however the harm is to one of the nation's most cherished and highly graded historic places.

### **Implications of harm**

#### Development plan policy

41. Findings of harm to the significance of heritage assets are relevant to the application of several policies of the London Plan and Southwark Plan, most notably D9 and P17 on tall buildings and HC1, P19 and P20 on heritage. Historic England will not express a view on overall compliance with these or other policies in the development plan, but notes that findings of harm which cannot be outweighed will inevitably lead to non-compliance with a range of relevant policies.

#### Statutory duties and NPPF

42. The statutory duties in s. 66 and 72 of the Listed Buildings Act 1990 are reflected in the NPPF, which confirms that:
- a. When considering the impact of a development proposal on a heritage asset, great weight should be given to the asset's conservation. Conservation in this context meaning to sustain and where appropriate enhance significance i.e. to avoid harm.
  - b. The more important the asset, the greater the weight that should be given to its conservation.
  - c. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.
  - d. Loss of a building or element which makes a positive contribution to the significance of a Conservation Area treated either as substantial harm or less than substantial harm, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area as a whole.
  - e. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

43. In this case, harm would be caused to several designated heritage assets, which include some of the most important historic places in the country. The greatest possible weight should be given to this harm. The harm is primarily a consequence of the height of the proposed towers, which would make them visible over a wide area and create damaging juxtapositions of scale locally. Tall buildings have a place in modern day London, but this is emphatically not the right place.

44. Historic England does not express a view on the weight to be given to wider public benefits in the balance, but will demonstrate that the heritage-related benefits which are claimed are minimal and are dwarfed by the harm that would be caused. The heritage harm should lead to the refusal of planning permission unless there are other public benefits of sufficient weight to clearly and convincingly justify the serious harm.

**Emma Dring**

**19 July 2022**



● ● ● cornerstone

● ● ● barristers