

New City Court Inquiry

APPELLANT'S OPENING

A few words of introduction

1. The 1970s and 80s were not kind to the part of St Thomas Street which comprises the appeal site. The Georgian Terrace (Nos. 4 – 16) was botched, the Victorian villa (Keats House) was demolished with just its façade retained, and a ghastly “liquorice allsorts” office block was attached to both.
2. Fast forward 40 or 50 years and the London Bridge area has undergone a remarkable transformation centred on the colossal Shard, just 2 minutes’ walk away from New City Court, and finds itself described in the Southwark Plan as: *“A globally significant central London business district..”*¹.
3. Our layer of history – because let’s face it, that’s what it is - is seen in the growing cluster of tall buildings including Shard Place and the News Building which are even closer to New City Court than the Shard, which is the “pinnacle”² of the cluster. Little wonder the Southwark Plan describes London Bridge as *“a focus for new tall building development”*³ and within an area *“where we expect tall buildings”*⁴ (by which it means, more of them) nor that farther to the east along St Thomas Street new tall buildings have been consented at Capital House (which is underway on site), Edge London Bridge, and Vinegar Yard has been approved by the Mayor of London.
4. As is seen here in Southwark at London Bridge and across the bridge in the City, tall buildings are found cheek by jowl with and in the closer and wider settings of heritage buildings and areas – how could it be otherwise? The contrasts in scale and style this brings are threads in a rich tapestry. They are the threads woven by us in our era.
5. Isn’t it ironic that just a few years ago English Heritage (as was) fought to stop the Shard being consented and yet now we find the Southwark Plan protecting its prominence.⁵ But then again, isn’t it often the way that what is controversial today is cherished tomorrow.

¹ CD E 01 page 90

² Op. cit. page 134

³ Op. cit.

⁴ Op. cit. page 133

⁵ Op. cit. page 90

6. Either of our proposals to replace New City Court, one with a 37 storey, the other with a 26 storey tall building would sit well in the established and growing cluster. The taller and slimmer (2018) scheme at AOD +144 m. would be just a tad lower than Guy's Hospital Tower (+154) and less than half the height of the Shard (+312) while the less tall, wider (2021) scheme at AOD +108 m. would be just a little taller than Shard Place (+101) and about a third of the height of the Shard.

Why are we here?

7. The Council consider the harm they and Historic England conclude each of the proposals would cause to designated heritage assets would not be outweighed by the public benefits of each scheme respectively. In addition, the Council consider both schemes poorly designed and harmful in various ways to townscape and local character. (Plainly, to the extent there is any such harm it too would need to be weighed against the public benefits.)
8. We disagree wholeheartedly.

Heritage

9. There are all sorts of issues of approach which need to be ironed out, such as how does one work out what is less than substantial harm and then what *degree* of less than substantial harm a proposal would cause, and in the case of each of the listed buildings referred to, why is it being said that (either of) our proposals appearing in their settings would lessen the heritage significance / the heritage interest *of the asset itself*. Similar points arise with regards the Tower of London WHS across the river. The site is within a conservation area (so too is Shard Place across the street from us) and as this is an area-based designation, why is it being said that (either of) our proposals would lessen the heritage significance *of the Conservation Area*.
10. Starting with ***the Tower of London***, whereas the Council consider there would be just below mid-level less than substantial harm ["LTSH"] (2018) and low LTSH (2021) while HE conclude it would be low (2018) and (very) low (2021) we don't see any harm. After all, we are talking about the OUV of the WHS and it is hard to see how a tall building in a cluster of tall buildings on the other side of the river from the Tower would diminish the attributes that make the Tower of such significance.

11. The Council consider either proposal would cause towards upper LTSH and HE high LTSH to the heritage significance of ***the Borough High Street Conservation Area***, whereas we see an overall enhancement not least through opening up the site to public access for people to enjoy. Yes, in either case (2018 / 2021) there would be a tall building in the conservation area, to join Shard Place just across the street, and the other tall buildings – not least the Shard – a few paces away from the conservation area but as the Conservation Area Appraisal says: *“Borough High Street has throughout its history had to accommodate change, and part of its character is due to the immense variety that change has brought.”*⁶ That was written in 2006 since when there has been more change and greater variety added to the continuum.
12. Similarly the Council consider either proposal would cause towards upper LTSH and HE high LTSH to the heritage significance of ***Guy’s Hospital*** whereas we say it would be considerably less than this. Guy’s setting includes striking and prominent tall buildings – the point is not one of “precedent” but rather that Guy’s intrinsic heritage interest remains even though in this century it finds itself in the midst of a globally significant and growing business district.
13. The Council consider either proposal would cause towards upper LTSH to the heritage significance of ***Southwark Cathedral*** while HE is a bit more nuanced, with high (2018) and medium (2021). Our view is that in either case it would be considerably less. As the Conservation Area Appraisal says, the Cathedral is *“set within the ever-changing environment of its modern setting”*⁷ and that of course was written in 2006, a few years before the Shard added another layer of change.
14. The Council believe there would be LTSH to several other heritage assets, including 4 - 8, 12 - 16 St Thomas Street, where we see no harm.
15. Whoever you end up agreeing with or whatever conclusions you reach steering your own course, applying the strictures of case law and planning policy any harm would need to be weighed against the undoubted public benefits of either proposal.

Design, townscape, local character

16. Suffice to say in Opening that we consider each proposal to be of exemplary architectural and design quality – this part of Southwark is in safe hands with the

⁶ CD E06 para. 5.2.8 page 57

⁷ Op. cit. 3.4.3 page 31

highly renowned and exceptionally talented Simon Allford and colleagues. The Council's relentlessly negative analysis (well, it's a hatchet-job really) tells us more about the lack of balance in the analysis than it does about the two schemes.

17. The townscape hereabouts has undergone and continues to undergo huge transformation in which taller buildings are an ever-increasing characteristic bringing with them contrasts in scale and style, which is all part of the area becoming a globally significant business district in one of the few true world cities.
18. To the extent that any harm would be caused (and it seems to us, impact is probably a more apt term than harm) to coin a phrase, it would be the shock of *another* new, rather than *the* new as there would be nothing shockingly new about a tall building in an area earmarked for more tall buildings. The phenomenon is well-known, new buildings are loved or loathed - if they are tall the commendation or the condemnation is all the greater - and feelings change over time; the Shard is a great example of this.
19. Meanwhile, you will carry your conclusions forward into the overall balance that needs to be struck.

Public benefits

20. The public benefits either scheme would bring, cumulatively are off the scales.
21. All bar one of the benefits are agreed. The one that isn't is whether architectural and design quality should feature in the list. Where the Council and we really differ is the weight given to each benefit in turn and then to their accumulation overall – the Council consider that overall the benefits amount to something “modest”⁸ (the temptation to insert an exclamation mark here is hard to resist!) whereas we consider them of “very substantial” weight.⁹
22. Either proposal would bring a major improvement in the amount and quality of office space on the site, and thus in the number of jobs and the contribution to the local and wider economy; affordable workspace; a significant boost to the vitality and viability of the town centre; extensive public realm which would truly open up this closed site to use by the public, together with an elevated publicly accessible garden; accessibility

⁸ MG 9.8

⁹ CG 9.38

benefits, and heritage benefits (which should be given great weight¹⁰ in their own right).

23. There is one other public benefit we'd like to single out in these opening remarks and that is the proposed new entrance to the underground station that both schemes facilitate which in either case would mean that rather than passengers dog-legging within the station and joining the tight and congested pavement of Borough High Street (and its corner with St Thomas Street) they would be able to walk straight out of the station into the welcoming public realm on the site. To the Council this is a middling¹¹ public benefit (not much to write home about if you will) whereas to us it's an exceptional¹² public benefit (truly noteworthy if you will). It's not a bad sense-check of the respective assessments to stop and think about this one in particular. It's all very well talking up the harm while talking down the benefits but somewhere along the line we need to get a grip.

Overall

24. It's our case that applying the strictures of case law and planning policies, the cumulative, extensive and very real public benefits either proposal would bring would comfortably outweigh whatever LTSH to heritage you find either of them would cause; and the same would go for any other harm you conclude would arise.
25. Accordingly, we will be asking you to recommend to the Secretary of State that both appeals should be allowed.

Chris Katkowski QC

Alan Evans

19th July 2022

Kings Chambers

¹⁰ E.g. NPPF 199

¹¹ MG 8.15

¹² CG 9.21