Town and Country Planning Act 1990
Planning and Compulsory Purchase Act 2004
Planning (Listed Buildings and Conservation Areas) Act 1990
Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 (SI 2000/1625)

Before: Inspector Mr Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

In the matter of a public inquiry into an appeal by:

Rail for London and Wapping High Street Limited

Against a refusal of planning permission by the local planning authority:

The Council of the London Borough of Tower Hamlets

Concerning land at:

14-16 Clegg Street, 13-15 Cinnamon Street, 125- 129 Wapping High Street, London

PINS Reference: APP/E5900/W/17/3167832
LPA Reference: PA/15/03561

CLOSING SUBMISSIONS

on behalf of the LPA (the Council of the London Borough of Tower Hamlets

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Common abbreviations: App. (Appellants); LPA (Council of the London Borough of Tower Hamlets); LBTH (London Borough of Tower Hamlets); SoC (Statement of Case); SoCG (Statement of Common Ground);Listed Buildings Act (Planning (Listed Buildings and Conservation Areas) Act 1990); MDD (LBTH Local Plan Managing Development Document); WWCA (Wapping Wall Conservation Area); WWCA Appraisal (WWCA character appraisal and management guidelines); NPPF (National Planning Policy Framework); Appeal Site (appeal site as a whole); sub-site A/B/C (sub-sites within Appeal Site); Proposals (the demolition of the existing buildings and the new build); Appeal Scheme (the new build); MP (Main Proof); SP (Summary Proof).

References to Core Documents are in bold square brackets beginning 'CD', i.e. ***[CD/2/xx]****.*
References to Inquiry Documents are in bold round brackets beginning 'ID', i.e. ***(ID:x)****.*

Introduction and structure

1. As the LPA foresaw in its opening submissions **(ID:2)**, despite the volume of written evidence and other materials before this Inquiry, and the extensive oral evidence now heard, the issues are not particularly complicated and the answer to the statutory test to be addressed pursuant to s.38(6) of the Planning and Compulsory Purchase Act 2004 (and s.70 of the Town and Country Planning Act 1990) is straightforward.

2. The Proposals are not in accordance with the statutory development plan and material considerations outside the development plan, not least s.72 of the Listed Buildings Act and the NPPF paragraphs relevant to the three Reasons for Refusal, also point away from a grant of permission.

3. The LPA laid out a number of relatively fine grain propositions in its opening submissions, grouped by what it sees as the main issues and intended to encapsulate LPASoC. The LPA did so in an effort to assist in structuring the debate. It said at the time that it was not necessary for all of the propositions to hold good for the planning balance to be shown as decisively against the Proposals. With the benefit of the evidence having been tested, every one of the LPA's propositions stands.

4. The LPA will not lengthen this closing submission by repeating the text of those fine grain propositions, which are to be taken as repeated here. The Inspector is respectfully cross-referred to **(ID:2)** for their detail.

5. The Appellants have shown themselves to have no answer to the Reasons for Refusal, or LPASoC, or the LPA's propositions, over the two weeks of Inquiry sitting.

6. The Appellants also now have a generous three days in which to respond to these closing submissions. However, that additional time will not and cannot improve the fundamental flaws in the Proposals.

7. The explanation for those flaws lies in the Appellants' misunderstanding of, and inappropriate response to, the local context and the relevant policy matrix. Those missteps span the full range of issues covered by the three Reasons for Refusal, and unpicking them requires consideration of the inadequacies in the Appellants' analysis and evidence base that lie at their heart.

8. To give only a flavour at this stage, it simply will not do to approach heritage fixated on whether or not existing built form is aesthetically pleasing above all else, eschewing both the NPPF's careful breakdown of heritage significance by reference to the four interest attributes at Annex 2 and any effort to transparently apply Historic England guidance or anything like it, all at the expense of the industrial docklands heritage for which the Wapping Wall Conservation Area ("the WWCA") was and remains designated. The result being the Appellants' grave error as to the positive contribution to the significance of the WWCA made by all the Appeal Site

buildings, not just the sub-site A Wapping High Street façade, and the Appellants' consequent failure to recognise the harm to the WWCA caused by both the demolitions and the Appeal Scheme new build.

9. Nor will it do to tackle transport matters based on trip generation figures that are drastically suppressed, with no eye to the interaction with parking pressure in this area of strikingly narrow streets and obvious parking stress and with no respect for the policy encouragement that efficient accommodation for goods/services (which for the Appeal Site in the local context means on-site provision) be designed in. The result being the Appellants had not begun to explore on-site servicing/delivery facilities until the penultimate day of Inquiry sitting and had missed the fairly obvious risk of highway obstruction and consequently heightened risk of accident.

10. Nor, further, will it do to ride roughshod over both the wording of the key development plan amenity policy (MDD Policy DM25) and the BRE guide when assessing loss of daylight. The result being that the Appellants glossed over the very real adverse impacts that local residents will experience, and failed to explore what might be done to improve the Proposals, at least to spare the residents of Ross House from the worst daylighting impacts, until mid-way through the Inquiry.

11. But this is what the Appellants have done, and the Proposals reflect those errors.

12. The Proposals will harm the WWCA and will result in unacceptable transport and amenity impacts. All of which could have been avoided had the Appellants properly understood the context and the policy matrix, and arrived at a different set of Proposals for this Appeal Site. An Appeal Site at which the principle of residential use is very much supported by the LPA.

13. What the Appellants have also done, and done throughout the appeal process, is seek to discount the views of the LPA, through its Planning Committee, in favour of the views of LBTH officers as found in the officer recommendation. They have gone so far as to leave their case and evidence with a strong as well as surprising flavour that it is out of bounds for this LPA to disagree with its officers (see not only AppSoC but also the suggestions in the Appellant's planning evidence that matters are 'agreed' between the Appellants and the LPA, when what is actually being referred to is officers' position with which the LPA has expressly and publicly disagreed,[1] or

[1] Mr Goddard MP Section 5 and similarly Mr Goddard SP.

the suggestion in the Appellants' transport evidence that simply because the LPA rejected officers' advice, the LPA's position has no justification[2]). That is revealing as well as wrong.

14. As the evidence now heard and tested has demonstrated, the Members of the Planning Committee were right to be concerned and were right to reject the Proposals.

15. It is ironic that it was Mr Beard, the Appellants' transport expert whose written evidence was so adamant that the LPA's transport position could have no justification because it went against officer advice,[3] who then had to concede under cross-examination that his firm's transport numbers for trips to be generated by the Appeal Scheme in AECOM TN1, the production of which numbers then saw LBTH highways/transport officers withdraw their longstanding transport objection, were wrong not by a mere one or two, but by the difference between four and thirty-four, so wrong by a factor of around eight and a half. So much for Mr Goddard's surprise that the Planning Committee had 'disregarded' that 'technical evidence'[4]: they were obviously right to do so.

16. It is similarly striking that whereas Dr Miele sought to cast the LPA's refusal as subjectively 'political',[5] it was his own evidence that was shown to be a triumph of the subjective over the structured, rigorous, objective process the NPPF and Historic England guidance expects.

17. Or that Mr Goddard, who disparaged the LPA's position as based on no specialist evidence,[6] on finding the LPA's position thoroughly supported by independent specialists, then fell back on his own subjective impressions in those specialist areas.

18. Indeed, in many respects, Mr Goddard's oral evidence was a telling illustration of the flaws in the Appellants' approach. Similar to his refusal to acknowledge the significance of the shortfall in the Appellants' trip generation numbers in AECOM TN1 (remarkably, he did not recall that Mr Beard had agreed Mr Wisher's figure of 34 at Mr Wisher's MP, Table 3.3 was the correct number)[7], he was quite clear that,

[2] Mr Beard MP, at 2.4.
[3] Ibid.
[4] Mr Goddard XX (Inquiry Day 7).
[5] Dr Miele MP, paragraph 10.6.
[6] Mr Goddard MP, paragraph 5.4.
[7] Mr Goddard XX (Inquiry Day 7).

faced with the hypothetical example of two independent heritage experts who had reached different conclusions, the first having transparently and carefully applied Historic England guidance to reach their conclusion, the second having done nothing of the sort, he would not countenance preferring the evidence of the first. Instead, he described an approach that faithfully applied Historic England guidance as a 'tick box' exercise and sought to insert his own subjective impressions.

19. The contrast with the LPA's approach, which has favoured objectivity, accuracy and even-handed application of policy and guidance, could not be more marked.

20. As regards the structure of these closing submissions, just as it seemed to the LPA sensible to introduce the Appeal Site and the case to the Inquiry through the heritage evidence, so this Closing Submission will follow that order: heritage, transport, then amenity (daylight/sunlight), taking up design issues where appropriate.

21. As to that, the LPA is acutely conscious of the overlap between areas, in particular between the main areas covered by the Reasons for Refusal and the overarching issue of the nature and design of the Proposals. And there is not just overlap between the areas covered by the Reasons for Refusal but also with and between areas where the Proposals are not objectionable or bring planning benefit.

22. Again to give only a flavour at this stage, the Appellants would not have produced a design that so little respected the heritage significance of the WWCA were it not for misunderstanding of that heritage significance. We now know that their architects had, in fact, worked up a design predicated on retention of the sub-site B building (bar its roof) **[CD/3/18]**, only for (flawed) heritage advice from Montagu Evans to see a switch to total demolition. On the other hand, the LPA fully acknowledge that the Appeal Scheme's excessive mass and scale has benefit in so far as it achieves more units than might be realised were it better attuned to the historic and authentic relatively low scale of the Appeal Site. But then again, it is that self-same excessive mass and scale that causes the amenity issues for the occupants of Ross House in terms of loss of daylight (and has an adverse effect, albeit not itself sufficient to justify refusal now the full technical work has been done, on 12 Clave Street).

23. The more the Proposals and their rationale were interrogated during the course of the Inquiry, the more obvious the inherent problems became. These closing submissions will not seek to regurgitate the evidence, but attempt to assist the Inspector through

identification of the points of difference between the main parties that best explain how it is we come to have these flawed Proposals before the Inquiry. As such, much of the focus here is on the oral evidence given, and the concessions made, by the Appellants' witnesses, all of which was revealing.

24. Before turning to the first main issue, heritage, it is worth reflecting briefly on the overarching statutory test and the interaction with the NPPF.

Overarching statutory test and interaction with NPPF

25. The s.38(6) statutory test set by the Planning and Compulsory Purchase Act 2004 is well known, and unchanged by the NPPF. There is a rebuttable presumption in favour of the statutory development plan, which may be overturned by material considerations outside the statutory development plan.

26. What the judgment of the Supreme Court in *Hopkins Homes* (appended to LPASoC at Appendix 3 and see LPASoC paragraph 6.69) made clear beyond doubt is that simply because a development plan policy does not precisely match or mirror the NPPF, does not deprive that policy of weight.

27. Weight is quintessentially a matter for the decision-maker, so in this appeal the Inspector, unless statute expressly intervenes.

28. Here statute does intervene, through s.72 of the Listed Buildings Act (see below).

Heritage (and related design points)

Introduction

29. The differences between the main parties as to heritage could not be more stark, both as to the contribution the existing buildings make to the Wapping Wall Conservation Area ("the WWCA"),[8] the harm to the significance of the WWCA from the demolition of the sub-sites B and C buildings, and the harm to the significance of the WWCA from the new built form of the Appeal Scheme.

[8] As both Mr Froneman and Mr Humphreys explained in their MPs, the Proposals will also cause harm to the setting of nearby listed buildings, but the WWCA is rightly the focus.

30. The most striking difference is the Appellants' denial that, save for the Wapping High Street façade of sub-site A, the existing buildings make no positive contribution to the significance of the WWCA. As the evidence has confirmed, that is simply wrong.

31. And it is more than merely wrong as a matter of judgment. It is flat wrong. The Appeal Site holds historic industrial buildings dating from the 1920s and earlier that are characteristic of the WWCA's industrial docklands special interest and the very reason for its designation and, importantly, are markedly rare in the WWCA. Beyond that, they also have a harmonious relatively low scale and, still further, they have group value. Quite how the Proposals have been worked up on the basis that all but the façade of sub-site A could be discounted as valueless would be inexplicable, were it not that we now have the explanation laid bare as a result of this Inquiry.

32. Heritage is not and should not be a contest between entirely subjective opinion as to whether built form has aesthetic appeal. But that is how the Appellants have approached matters. In the course of doing so, they have eschewed even the basic framework of the four interest attributes that make up heritage significance set by the NPPF, Annex 2, as well as sidestepping the application of Historic England guidance without seeking to replace it with any remotely acceptable alternative. What they have relied upon instead is a description of the present buildings as 'eyesores' and a fixation within whether they are 'attractive'.

33. How and why the Appellants came to settle on that approach is ultimately a matter known only to them, but it is quite clear that any thorough and objective analysis that adheres to the approach to significance laid down by the NPPF and the guidance produced by Historic England leads inevitably to the conclusion that the buildings on all the sub-sites, sub-sites B and C as well as sub-site A, make a positive contribution to the significance of the WWCA.

34. Mr Froneman alone has carried out and presented just such a rigorous and transparent analysis, assessing significance in line with the NPPF and Historic England guidance and leaving no room for ambiguity as to his approach. In so doing, Mr Froneman has ensured that the heritage interest of the existing buildings at issue is properly understood and also that his workings and conclusions are both limpid and capable of being objectively tested. He has done the Inquiry an

invaluable service. That Mr Goddard was driven to describe an approach based on the guidance given by the Government's statutory heritage advisor as nothing better than a 'tick box' exercise says everything about the deficiencies in the Appellants' method.[9]

35. The upshot is that, perhaps unusually, the Inquiry does not face a choice between two equal but different sets of heritage evidence, similarly rigorous in approach but ultimately reaching different conclusions, but between heritage evidence for the LPA that stands scrutiny and heritage evidence for the Appellants that does not. Even standing back and reflecting on the oral heritage evidence heard and tested, whereas Mr Froneman's cross-examination merely served to confirm the solidity and rigour of his written evidence, the Appellants' oral evidence saw attempt after attempt to explain away and patch-repair holes in the Appellants' written material.

36. Because Mr Froneman's MP was only confirmed and strengthened by cross-examination, whereas Dr Miele's MP was substantially adjusted in the course of his oral evidence, the focus in this heritage section of these closing submissions is on the oral evidence given by Dr Miele (Mr Froneman's written proof standing very much undisturbed, Mr Humphreys' written evidence likewise).

37. The Appellants' errors as to heritage have had a direct impact on the Proposals, both in terms of the treatment of the buildings on sub-sites B and C, and also in the design of the Appeal Scheme new build.

38. It is instructive to begin with the relevant statutory and policy tests and related guidance and the main parties' differing approaches to the same. Here the Appellants' have many of their numerous missteps.

<u>Statutory duty, policy framework and other material considerations and main parties' differing approach</u>

39. The duty imposed by s.72 of the Listed Buildings Act speaks of both "character" and "appearance". So those things that comprise the special interest of a conservation

[9] Mr Goddard XX (Inquiry Day 7).

area (put another way, its heritage significance) are not simply its visual appearance.[10]

40. Further, character may include what *was* present, as well as what is present. That is something that Dr Miele disavowed in his written proof but then conceded in cross-examination (when confronted with the definition of "character" in Historic England's Good Practice Advice in Planning, Note 3, 1st edition (2015), page 1, paragraph 3 **[CD/4/8/d]**[11]).[12]

41. The Appellants' failure to accept this until cross-examination is not without consequence, not least given the 2008 demolitions conducted on sub-site A by Transport for London (the operating sibling of at least one of the Appellants).

42. As Dr Miele also ultimately acknowledged, the statutory duty means there is a *'strong'* presumption against development causing harm, not merely a presumption (as Dr Miele had said in his MP at paragraph 1.31).[13] That, though, was a minor error. There is no dispute that the s.72 Listed Buildings Act duty does, unusually, pre-weight heritage matters in the planning balance, so binding the decision-maker to give as a minimum considerable importance and weight to, for example, harm.

43. More significant was and is Dr Miele's failure to recognise the consequences of the fact that both national and local policy set the bar higher than s.72.

44. National policy seeks high quality design and the conservation of heritage assets, *'in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations'* (see the twelve core planning principles at NPPF paragraph 17, fourth and tenth bullets, and NPPF Sections 7 and 12 as a whole). The NPPF makes clear the importance of ascertaining heritage significance, and gives direction as to how that is to be done, not least by reference to the four interest attributes that go to significance (architectural, historic, archaeological and artistic interest) (NPPF Section 12 as a whole, but in particular

[10] Dr Miele XX (Inquiry Day 5, pre-lunch).
[11] Note that on 22 December 2017 Historic England published the second edition of Good Practice Advice in Planning, Note 3, and that the definition of "character" is now at page 3. Note also the ever-greater emphasis on the connection between character in the present and the way in which that has been shaped by the past: *'The historic character of a place is the group of qualities derived from its past uses that make it distinctive...'* and that, once again, the second edition includes reference to *'features, materials, and spaces associated with its [the asset's] history, including its original configuration and subsequent losses and changes.'*
[12] Dr Miele XX (Inquiry Day 5, pre-lunch), albeit Dr Miele attempted to excuse his written proof on the basis of 'practical application'.
[13] Dr Miele XX (Inquiry Day 5, pre-lunch).

paragraphs 128-129, and Annex 2). It encourages LPAs when plan-making to have regard to the desirability of sustaining *'and enhancing'*[14] the significance of heritage assets (NPPF paragraph 126, first bullet).

45. As for the development plan, the LBTH Local Plan, through MDD Policy DM24(1), requires that development be designed to the *'highest'* quality standards (setting the design policy bar a little higher even than the NPPF) and this includes *'ensuring design is sensitive to and enhances the local character'*.[15]

46. As regards heritage specifically, MDD Policy DM27 takes its cue from NPPF paragraph 126, first bullet. Policy DM27 requires that development *'protect and enhance the borough's heritage assets, their setting and their significance'* and states that development will only be approved where, amongst other things '*it enhances or better reveals the significance of the asset or its setting'*.[16] That is on all fours with the NPPF.

47. Importantly then, and as Dr Miele was eventually bound to concede, the NPPF and the development plan go further than the statutory duty imposed by s.72 of the Listed Buildings Act. They set the benchmark at positive *enhancement* of the significance of heritage assets.[17] That is a demanding threshold for any proposal to pass over.

48. Put simply, if the Proposals do not better reveal the special interest in the WWCA then they fail the policy tests. Dr Miele's written proof did not reflect this, as he acknowledged, before proceeding to give particularly revealing evidence: Dr Miele's view is that this policy imperative has to be read in a 'practical' way, mindful that 'statute is superior to the policy'.[18] So the Inquiry had from Dr Miele the clearest possible acknowledgment that he was reading down the policy imperative to the lower bar set by the statute. Although Dr Miele at first sought to row away from that, behind explanations that he was talking in terms of 'practical application', he then sought to re-assert and re-apply the lower statutory hurdle, so confirming his dilution of the policy test.[19] The Appellants' mistaken approach to the demanding threshold

[14] Emphasis added.
[15] Emphasis added.
[16] Emphasis in quotes again added.
[17] NPPF paragraph 126, MDD Policy DM24(1) and Policy DM27.
[18] Dr Miele XX (Inquiry Day 5, pre-lunch).
[19] Dr Miele XX (Inquiry Day 5, pre-lunch).

set by national and local heritage policy revealed by this section of cross-examination shines a fierce light on the flaws in the Proposals. Given the numerous problems elsewhere in Dr Miele's evidence, his opinion that the Proposals will enhance the WWCA does not save the Appellants or their case from the reality that they have worked to a bar lower than that demanded. It is not surprising, then, that the Proposals fall short.

49. Note, also, that subjective attractiveness is not part of the NPPF Annex 2 quartet of interest attributes. Yet Dr Miele has relied heavily on "attractiveness" as a test of whether the buildings on sub-sites B or C have heritage merit. That was and is surprising, likewise the Appellants' heritage case as put to Mr Froneman in cross-examination that the existing built form is an "eyesore" and in the circumstances could not possibly make a positive heritage contribution. As with other parts of his proof, Dr Miele sought to distance himself from his written evidence here, seeking to explain away the references in his MP to whether built form was "attractive" on the basis that they should in fact be read as referring to "architectural" or "artistic" interest as set out by the NPPF, Annex 2.[20] That inadequate explanation was one of several occasions during Dr Miele's oral evidence in which he attempted to revisit and repair his proof. But Dr Miele's written assessment was and is obviously out of line with the approach advocated by the NPPF and no amount of oral patch-repairing can make it otherwise. The Appellants' fixation on aesthetic appeal and eschewal of any analysis by reference to the NPPF interest attributes marks a further significant difference between the main parties' approach to heritage policy.

50. As with the standard demanded of new development, national and local policy are also aligned in seeking the re-use of heritage assets where possible. See in particular the first bullets of NPPF paragraphs 126 (plan making) and 131 (decision taking) *'the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation'* and London Plan Policy 7.9 *'Wherever possible heritage assets (including buildings at risk) should be repaired, restored and put to a suitable and viable use that is consistent with their conservation and the establishment and maintenance of sustainable communities and economic vitality'.*

[20] Dr Miele XX, Inquiry Day 5, pre-lunch.

51. There was another revealing exchange with Dr Miele regarding this policy test, in which he suggested that London Plan Policy 7.9 was aimed at redevelopment of an element in the conservation area, as opposed to the element's repair or restoration.[21]

52. Once more, the Appellants' approach to heritage policy was shown to be flawed. The application of policy to the designated heritage asset at issue, the WWCA, means that an element of the conservation area that makes a positive contribution to the significance of the WWCA should be handled in such a way as to enhance the significance of the WWCA. If that means repairing and restoring the element in question then that should be done if viable.

53. Interestingly, at a later stage in his cross-examination Dr Miele accepted that the WWCA character appraisal and management guidelines document, adopted 2009 (prepared in 2007) ("the WWCA Appraisal") encourages the re-use of the few surviving industrial buildings in the conservation area.[22] And as we shall see below, the development plans puts the WWCA Appraisal at the heart of decision-making regarding development in the WWCA. Which makes Dr Miele's disavowal of the policy preference for re-use of existing built form particularly misplaced.

54. Beyond the public policy set out above, guidance published by Historic England, the Government's statutory heritage advisor (also occasionally referred to here as "HE"), places flesh on the bones and provides a consistent and transparent structure for heritage assessment.

55. The Historic England guidance begins with the 2008 document, Conservation Principles, Policies and Guidance **[CD/4/8a]** (and what is said regarding illustrative value at paragraphs 39 to 41, which Dr Miele agreed with,[23] is pertinent here), but of particular relevance is the February 2016 Conservation Area Designation, Appraisal and Management Advice Note 1 **[CD/4/8b]** ("HE Advice Note 1") and Historic England's Good Practice Advice in Planning, Note 3, 1st edition (2015) ("HE GPA3") **[CD/4/8d]**.[24] Just as the NPPF Annex 2 interest attributes allow for a transparent approach to heritage that can be tested, so Dr Miele agreed that the 'useful' checklist at page 16 of HE Advice Note 1 imposes structure, rigour and

[21] Dr Miele XX (Inquiry Day 5, pre-lunch).
[22] Dr Miele XX (Inquiry Day 5, post-lunch).
[23] Dr Miele XX (Inquiry Day 5, pre-lunch).
[24] As noted above, on 22 December 2017 Historic England published the second edition of Good Practice Advice in Planning, Note 3.

transparency, allowing for testing.[25] Similarly, Dr Miele acknowledged the comprehensive framework offered by HE GPA3 as 'useful', and an aid to a transparent process.

56. Putting this in context, Dr Miele of course agreed in cross-examination that the heritage analysis should be consistent, transparent and guided by public policy, thereby allowing it to be tested.[26] Yet he had adhered to none of that, and the Appellants' heritage analysis as a whole falls some way below the mark. Not only had Dr Miele failed to analyse the significance of the WWCA by reference to the NPPF Annex 2 interest attributes, neither the Appellants' Heritage and Townscape Statement nor Dr Miele had sought to apply the HE Advice Note 1 page 16 checklist (or anything like it) when considering the sub-site C building. Nor had they sought to apply the comprehensive framework offered by HE GPA3 (or anything like it) when considering the sub-site B building. Dr Miele said he did not think it necessary to do so as the sub-site B building was obviously within the setting of the WWCA.[27] As if that were an end to the matter, when it obviously is not. Across the board, the Appellants' approach can be contrasted with that of Mr Froneman, and at no point does the comparison favour the Appellants.

57. Turning to specific spatial policy and related guidance, principle 2 of the LBTH Core Strategy's 'Vision for Wapping' (Core Strategy page 107) requires new development to be *'informed by the scale and character of historic warehouse buildings'*. That principle is not aimed exclusively at the WWCA. But it must apply with particular force to the WWCA, where the historic warehouse buildings are at the heart of the reason for the designation. The Appeal Site offers the rare opportunity of historic warehouse buildings actually still present on part of the site. That is what any new development on the Appeal Site should be informed by. Not by the scale and character of adjacent more recent purpose-built residential. Yet that is precisely what the Appeal Scheme does (of which more later).

58. Narrowing the focus to the WWCA itself, the MDD, at paragraph 27.6 of the supporting text to Policy DM27, makes clear the importance that the LPA attaches to its conservation area character appraisals and management guidelines:

[25] Dr Miele XX (Inquiry Day 5, pre-lunch).
[26] Dr Miele XX (Inquiry Day 5, pre-lunch).
[27] Dr Miele XX (Inquiry Day 5, pre-lunch).

'The LPA will use the relevant Conservation Area Character Appraisals and Management Guidelines as the basis to assess any application within a Conservation Area or its setting. Not all elements of a Conservation Area will necessarily contribute to its significance. When considering proposals the LPA will take into account the relative significance of the area affected and its contribution to the significance of the Conservation Area as a whole.'

59. As to that MDD paragraph 27.6, we have the benefit of the WWCA Appraisal. Dr Miele accepted that the pithy nature of the WWCA Appraisal, by comparison with the 'very thick' appraisals produced by some other local planning authorities, is a good thing, and that a feature of that pithiness is that the WWCA Appraisal chooses its words carefully and selectively, and goes to the gist of why the WWCA is important.[28] Just as the Appellants' erroneous approach to national and local policy stands in marked contrast to that of the LPA, so too the Appellants' erroneous approach to the WWCA Appraisal. Beginning with the surprising feature of the Appellants' internally contradictory position over whether the WWCA Appraisal has anything specific to say about the Appeal Site (it does, and the Appellants' Planning Statement at paragraph 6.65 is wrong to say it does not **[CD/2/2]**). More of the WWCA Appraisal below.

60. The shortcomings in the Appellants' approach to heritage as a matter of principle play out in a series of substantive errors.

61. It is appropriate to begin the analysis with the WWCA itself and its significance. A proper understanding of which, that Mr Froneman's MP achieves but the Appellants' evidence does not, leads inevitably to a proper understanding of the positive contribution made by (all) the Appeal Site buildings.

Significance of the WWCA in context of Appeal Site

62. To view the case through the prism of the Appellants' heritage evidence would be to risk the impression that the significance of the WWCA lies as much in the 1980s and 1990s built form erected under the aegis of the London Docklands Development Corporation ("the LDDC") as it does the WWCA's 18th, 19th and 20th century industrial docklands heritage. But that would be wrong.

[28] Dr Miele XX (Inquiry Day 5, post-lunch).

63. The regeneration the LDDC encouraged here is undoubtedly a part of the story, but the WWCA's primary special interest is its industrial docklands past, which industrial character remained the principal character well into the 20th century.[29] Dr Miele accepted that, and also that the area's industrial docklands past 'probably' explained the WWCA's designation in the first place.[30] With respect to that answer from Dr Miele, there is no 'probably' about it. Dr Miele later agreed, rightly, that the position is as set out at Mr Froneman's MP at paragraph 3.44 (as slightly corrected by Mr Froneman in XiC)[31], namely that the significance of the WWCA stems:

> *'primarily from the historic interest of the area as part of the former London Docklands, and the architectural interest derived from the surviving warehouses and industrial buildings associated with this history'*

64. That concession from Dr Miele was both correct and highly pertinent, as was Dr Miele's acceptance that the historic docklands industry characteristic of a stretch of the river Thames that includes the WWCA was not just the facilities for loading and unloading and storing goods, but also the other industry associated with and ancillary to it (as Dr Miele said, unprompted, often manufacturing is drawn to the docklands and they become industrial areas in their own right).[32] As was Dr Miele's agreement that the whole temporal sweep of built form from 1800 to the early 1960s is illustrative of that industrial docklands past.[33]

65. When Mr Froneman's MP paragraph 3.29 was put to Dr Miele, his basis for disagreeing with it was that the WWCA was 'more varied' than the paragraph implied due to King Henry VII park and the Thameside path, along with the LDDC development.[34] But, clearly, the area of the WWCA that contains the Appeal Site is not one whose character is marked by anything like the King Henry VII park, nor even the Thameside path, and its character is primarily of the robust and functional, sometimes austere, built form stripped to the bare essentials that Mr Froneman's evidence describes. It is that which should be emulated, not the (often flawed) LDDC development. Dr Miele ultimately had no disagreement with what Mr Froneman had said in that paragraph, querying only the connotations of the word

[29] Discussed with Mr Froneman in XX and agreed by Dr Miele in XX (Inquiry Day 5, post-lunch).
[30] Dr Miele XX (Inquiry Day 5, post-lunch).
[31] Mr Froneman XiC (Inquiry Day 1) "London Docklands" rather than "London Docks".
[32] Dr Miele XX (Inquiry Day 5, post-lunch).
[33] Dr Miele XX (Inquiry Day 5, post-lunch).
[34] Dr Miele XX (Inquiry Day 5, post-lunch).

'erode' (in that some areas are evocative of the industrial docklands character, whereas in others it has been eroded), and thought Mr Froneman's description of starkness and austerity and bare essentials 'fair'.[35]

66. Dr Miele then went on to accept that, as per Mr Froneman's MP at paragraph 3.32, it is 'quite right' that the WWCA boundary takes in the more modest ancillary warehouses or industrial buildings behind the river frontage, of which today there are very few surviving examples.[36] As Dr Miele agreed, those few surviving examples in fact comprise just a handful in the WWCA, consisting of Baltic Court and the buildings on sub-sites A and C, whilst in the adjoining Wapping Pierhead Conservation Area Dr Miele could point only to the C and L building (the Pizza Express).[37] Along with, lest we forget, the sub-site B building immediately outside the WWCA boundary. Dr Miele also agreed that the WWCA Appraisal's comment at page 5 regarding the scarcity of the surviving industrial buildings in the docklands is one of only a relatively few comments in the appraisal that note with approval the contribution to the character of the WWCA made by particular buildings or areas.[38]

67. Although Dr Miele continued to seek to promote the contribution made by the LDDC development (tellingly, given Dr Miele's strong support for the flawed Appeal Scheme, he did so despite the manifest shortcomings of much of the LDDC development), in fairness to him the flavour of his evidence was that the significance of the LDDC development lay in its historic interest as representative of what the LDDC stood for, rather than in its architectural interest. And certainly not as something to be consciously emulated in preference to the actual historic industrial building stock. Moreover, Dr Miele accepted that when the WWCA was designated in 1983 nothing of the LDDC-inspired built form existed.[39]

68. Nor could Dr Miele point to a single example of historic residential development in the WWCA (and he was given ample time to think on his answer).[40] In short, there was and is nothing to dilute the primacy of the industrial docklands character and no heritage hook that can justify the removal of what little remains, of which the

[35] Dr Miele XX (Inquiry Day 5, post-lunch).
[36] Dr Miele XX (Inquiry Day 5, post-lunch).
[37] Dr Miele XX (Inquiry Day 5, post-lunch).
[38] Dr Miele XX (Inquiry Day 5, post-lunch).
[39] Dr Miele XX (Inquiry Day 5, post-lunch).
[40] Dr Miele XX (Inquiry Day 5, post-lunch and Dr Miele confirmed on Day 6 he had thought of nothing).

Appeal Site buildings represent a material proportion, as somehow enhancing the WWCA.

69. When pressed repeatedly Dr Miele finally agreed that part of the special interest in the WWCA is the few surviving industrial buildings, which include the sub-site C and sub-site A buildings.[41]

70. As such, the Inquiry ultimately saw agreement from Dr Miele regarding both the primary special interest in the WWCA and the role that the few remaining industrial buildings, including the Appeal Site buildings, have to play in that special interest.

71. With all this in mind, the absence of any acknowledgment of the importance of the industrial (or similar) in Dr Miele's written assessment of the WWCA's heritage significance at Dr Miele's MP Section 7 is striking. It becomes particularly so when one considers the way that paragraphs 7.11 and 7.15 of Dr Miele's MP simply pass over the early 20th century. Whether by accident or design, the very stage of the industrial docklands heritage that the existing buildings on the Appeal Site represent and illustrate is glossed over by Dr Miele's written evidence. Dr Miele was forced to offer the explanation that he should 'in fairness' have 'made the reference more explicitly'.[42] That was an understatement. Quite clearly, the early 20th century buildings in the WWCA have illustrative value, as Dr Miele accepted, and, in fact, some of the most prominent (and characterful) buildings in the WWCA, such as Gun Wharf, are 20th century (as Dr Miele also accepted).[43] Whether the early 20th century buildings represent a period of significant expansion of the docklands, as opposed to consolidation (a further fall-back argument deployed by Dr Miele), is not some binary pass/fail test so far as their historic interest is concerned (and note also the reminder given by HE Advice Note 1, at paragraph 50, regarding the regrettable tendency to undervalue the 20th century). All of this applies to the Appeal Site buildings.

72. It was also a feature of Dr Miele's evidence under cross-examination that he denied absolutely that the WWCA Appraisal was giving any *guidance* at all when it remarked upon the scarcity of surviving industrial buildings and encouraged their re-

[41] Dr Miele XX (Inquiry Day 5, post-lunch).
[42] Dr Miele XX (Inquiry Day 5, post-lunch).
[43] Dr Miele XX (Inquiry Day 5, post-lunch).

use.[44] That interpretation, which is wrong, explains a lot about the Appellants' dismissive approach to the Appeal Site buildings.

73. So far as the historic townscape in this part of the WWCA is concerned, there is no dispute that although there is a 'gap' west of Prusom's Island, the historic townscape re-emerges with the Appeal Site, in fact a little before it with Baltic Court, and continues seamlessly into the Wapping Pierhead Conservation Area.[45] More importantly, Dr Miele agreed that the sub-site A and C industrial buildings are part of the historic townscape and 'relate to the core of the area'.[46]

74. As regards features that reinforce local distinctiveness, and in particular reinforce the primary industrial docklands interest in the WWCA, it is common ground that a non-exhaustive list would include (i) buildings built close to the kerbline, enclosing the street (even at only 1-2 storeys, such as the C and L Storage building) (ii) narrow pavements (iii) elevations that go straight up.[47] Which the Appeal Site presently offers, but the Proposals would dilute or remove.

75. All of the above lays the foundation for a proper understanding of the positive contribution to the significance of the WWCA made by the Appeal Site buildings.

Contribution to significance of WWCA made by Appeal Site buildings

76. Mr Froneman's conclusion regarding the positive contribution made by the existing buildings on the Appeal Site is not only reasonable (as Dr Miele acknowledged),[48] it is the only reasonable conclusion.[49] Mr Froneman's evidence that any other view is unreasonable was undoubtedly a strong statement, but it was and is justified.

77. The buildings on all three sub-sites are historic, are characteristic of the docklands industry for which the WWCA was designated, are rare in the WWCA (a feature the WWCA Appraisal (unusually) remarks upon as meriting retention), offer an area of low-scale relief from the built form to east, west and south, and have group value, in particular in the buildings at sub-sites B and C which form a distinctive gateway into/out of the WWCA.

[44] Dr Miele XX (Inquiry Day 5, post-lunch).
[45] Dr Miele XX (Inquiry Day 5, post-lunch).
[46] Dr Miele XX (Inquiry Day 5, post-lunch).
[47] Dr Miele XX (Inquiry Day 5, post-lunch).
[48] Dr Miele XX (Inquiry Day 5, post-lunch).
[49] Mr Froneman XX, Inquiry Day 1.

78. It is only necessary to state those simple matters against the context of the discussion of the significance of the WWCA above to see the obvious correctness of Mr Froneman's position and the obvious error in the Appellants' assessment.

79. Of course, neither the Appellants' Heritage and Townscape Statement nor Dr Miele had recognised or commented on the rarity of the Appeal Site buildings.[50] That was and is an astonishing omission.

80. In the most immediate context, this area of the WWCA and its close surroundings, it is also the case that the Appeal Site buildings are the survivors of the formerly dense area warehouse/industrial built form here. Dr Miele sought to dismiss this, arguing that as the buildings are survivors they have no importance due to lack of context. He also denied that there is any cluster of rare modest historic industrial buildings here, with the sub-sites A, B and C buildings and Baltic Court.[51] Dr Miele had to advance that argument and issue that denial to maintain his position, but they were and are wrong. The Inspector will see on the site visit (and the Inspector will have seen already on his unaccompanied site visit) that the buildings on the Appeal Site and at Baltic Court all have group value together. A characterful group value that shows the time depth of this part of the WWCA and allows one to understand the history. We recall the earlier discussion of the importance of the Historic England guidance that "character" was include what *was* present, not just what is present, and the shift in Dr Miele's evidence there from his MP to his oral concession.

81. All of this is before we come to what the WWCA Appraisal says about the Appeal Site specifically, at page 8:

> *'The tunnel's vent shaft and surrounding buildings contribute to the character of the area. Their relatively low scale provides visual relief from the corridor of buildings extending either side along Wapping High Street.'*

82. It is now common ground that the Appellants' Planning Statement is wrong at paragraph 6.65 to assert that the Appeal Site 'is not identified specifically' within the WWCA Appraisal.[52] It is also now common ground that those two sentences quoted above are referring to the same built form and that they are, at the very least, talking about part of the Appeal Site. Remarkably, despite the pithy nature of the WWCA

[50] Dr Miele XX (Inquiry Day 5, post-afternoon break).
[51] Dr Miele XX (Inquiry Day 5, post-lunch).
[52] Dr Miele XX (Inquiry Day 5, post-afternoon break).

Appraisal, and what is said in the appraisal's concluding paragraph at its page 9, Dr Miele denied that those sentences were marking out the built form they describe as making a positive contribution to the WWCA.[53] That is plainly wrong, and further cross-examination of Dr Miele illustrated.

83. Dr Miele proceeded to accept that *'contribute'* in the first sentence quoted reflects a judgment, and also that 'there could be another interpretation' of the first sentence different to his interpretation and then, a little later, that he 'could see how' the words *'visual relief'* in the second sentence could be seen as complimentary.[54] As with Dr Miele's other concessions, those were very much merited. Unusually, and as with the WWCA Appraisal's treatment of the few surviving industrial buildings, the Appeal Site is singled out for special and positive mention in the WWCA Appraisal. Yet both the Appellants' Heritage and Townscape Statement and Dr Miele had failed to see that too. Another astonishing omission. Dr Miele conceded that if the LPA's view was to be preferred, then this quote from page 8 of the WWCA Appraisal was to be added to the pile of guidance offered by the WWCA Appraisal pertinent to the Appeal Site.[55] And none of that guidance favours the Proposals.

84. The Appellants dismissed the importance of these words in the WWCA Appraisal at their peril, to the detriment of the Proposals.

85. As to what is meant by *'surrounding buildings'* in the quote, the Inspector will reach his own view. The LPA considers the position tolerably clear. As confirmed by both Mr Froneman and Mr Humphreys, those words capture the buildings on sub-sites B and C as well as sub-site A. But in truth it does not matter if the point is moot, given that the buildings on sub-sites B and C clearly do fall within the quote as a matter of fact, even if the author of the WWCA Appraisal did not intend them to do so. Both are relatively low scale, at 1-2 storeys, and, together with the sub-site A buildings, relieve the built form to east, west and south.

86. On top of the Appellants' failure to correctly assess the significance of the WWCA and the role of the few surviving modest industrial buildings within it, and their failure to appreciate the guidance the WWCA Appraisal offers that bears directly on the Appeal Site, there were also more specific errors in the Appellants' analysis.

[53] Dr Miele XX (Inquiry Day 5, post-afternoon break).
[54] Dr Miele XX (Inquiry Day 5, post-afternoon break).
[55] Dr Miele XX (Inquiry Day 5, post-afternoon break).

87. So far as the Appeal Site as a whole is concerned, these included the failure to appreciate the Appeal Site was all in the common ownership of the East London Railway, following the acquisitions necessary for the 1860s train tunnel extension of the Brunel tunnel (see Mr Froneman's MP Appendix 2.1 and Appendix 2.2, which Dr Miele conceded both he and the Appellants' Heritage and Townscape Statement had missed).[56]

88. As regards the particular buildings on the individual sub-sites, the errors in the Appellants' analysis included the misdating by as much as 30 years of the sub-site B building. That was by reason of the Heritage and Townscape Statement, and Dr Miele, having missed the 1929 aerial photograph at Mr Froneman's MP Appendix 2.6. Dr Miele sought to dismiss the difference between a 1920s build date and the up-to-1950s build date he had postulated as 'a few years here or there'.[57] It is not a few years here or there, but puts the sub-site B building in the same period as, for example, Gun Wharf. Yet again, that attempted dismissal is of itself revealing of the Appellants' approach to heritage in this case.

89. Dr Miele then conceded that for all his criticism of the sub-site B building, his own written list of positives for the Appeal Scheme (at Dr Miele's MP paragraph 9.24) could equally apply to it.[58] It has a limited palette of materials, an industrial character, stock brick, a dark engineering plinth, metal and glass windows with multi pane glazing (and Dr Miele accepted that the Crittal windows are particularly evocative of the 1920s in which the sub-site B building was constructed).[59]

90. As regards sub-site C, the Appellants' errors included Dr Miele's argument that the significance of the sub-site C building was reduced by the fact that the southern elevation door opening was wider than shown on the original drainage plans, when those self-same aerial photographs show that if the building was indeed built in accordance with the plans and then altered, that alteration had taken place prior to 1922.[60]

91. Dr Miele also conceded that when held up against the HE Advice Note 1, page 16 checklist (which he had not done until cross-examined), the sub-site C building

[56] Dr Miele XX (Inquiry Day 5, post-lunch).
[57] Dr Miele XX (Inquiry Day 5, post-lunch).
[58] Dr Miele XX (Inquiry Day 5, post-afternoon break).
[59] Dr Miele XX (Inquiry Day 5, post-afternoon break).
[60] It was necessary to confirm this with Mr Beard.

achieved positive responses to at least three of the questions Mr Froneman had picked out at his MP paragraph 3.71, albeit heavily caveated positive responses so far as Dr Miele was concerned.[61]

92. It was also notable that for Dr Miele the fact that part of the sub-site C building represents the only structure built as a stables that remains in the WWCA is of no consequence. The LPA takes a different view, and in circumstances in which the Appellants are now suggesting some form of plaque, or even a brick bas-relief built into an elevation, celebrating the Brunel tunnel, it is rich that they scoffed at Mr Froneman's entirely sensible suggestion that by naming the sub-site C building 'The Old Stables', or similar, its historical use would be drawn out. Dr Miele did concede that the sub-site C blank wall and narrow pavement along Clegg Street were both authentic and characteristic, but he then turned transport witness to emphasise the pavement's shortcomings for pedestrians.[62]

93. As regards the 'gateway' that the sub-sites B and C buildings offer to and from the WWCA, Dr Miele's implausible denial of that included an argument that the sub-site C building 'looks like a house' and complaints that the brickwork of the two does not match. The Inspector will judge for himself whether the sub-site C building presents as a house, and equally whether the acknowledged difference between the brick stock of the sub-sites B and C buildings robs them of their obvious industrial character and consequent historic and architectural interest. That they form a historic industrial gateway to/from this historic industrial conservation area is indisputable.

94. Ultimately, what the testing of the evidence confirmed in spades was that Dr Miele has placed his own subjective view of these existing buildings' "attractiveness" above their actual heritage interest judged against the NPPF's four interest attributes and above proper objective assessment. As noted, Dr Miele seemed to realise the weakness in his own position in the course of his oral evidence, when he sought to substitute the NPPF interest attributes of architectural and artistic interest for his written references to "attractive".

95. The Appellants' attempts to extract benefit from the fact that the Appeal Site buildings are not on a local list, when there is not a single locally listed building in the WWCA (and the Inspector has **(ID:12)** and Mr Humphreys' explanation of how

[61] Dr Miele XX (Inquiry Day 5, post-afternoon break).
[62] Dr Miele XX (Inquiry Day 5, post-afternoon break).

the local list came about[63]), or from Historic England's consultation response, when that letter is patently neutral and leaves it to the LPA to reach its own determination, or, indeed, from second and third hand hearsay (bereft of any detail whatsoever) as to what LBTH's Mr Hargreaves might or might not have said, when all we actually have from Mr Hargreaves is an emailed confirmation of viewpoints **(ID:5)**,[64] are a rather desperate attempt to shore up their deeply unattractive denial of the positive contribution made by the Appeal Site buildings to the significance of the WWCA.

96. Indeed, the Appellants seem to believe that because officers' recommendation aligned with the Montagu Evans work, as do the views of Dr Miele and Mr Goddard, and Historic England maintain a neutral stance, then that must inevitably win the heritage day against the Members of the Planning Committee and Mr Froneman and Mr Humphreys. But heritage significance is not assessed on the basis of majority vote. It is assessed by an objective process, through a broad framework laid down by policy and given further detail by Historic England guidance (or possibly some equivalent substitute), that is intended to result in structured and transparent analysis that leads to objectively well-founded conclusions. That is what Mr Froneman's evidence delivers and what the Appellants' heritage analysis signally does not.

97. The existing buildings on all three of the Appeal Site sub-sites make a positive contribution to the significance of the WWCA, both individually and collectively, and should rightly benefit from the WWCA Appraisal's praise for the few surviving industrial buildings (which they are) and for the relief their relatively low scale offers in the immediate area. The Appellants were and are wrong to argue otherwise and to develop the Proposals on that basis. Unfortunately, the officers whose work informed the committee reports (notably not the Place Shaping Team, which deals with conservation matters and whose only substantive written consultation response was plainly not represented **[CD/3/16]**) followed the Heritage and Townscape Statement,[65] and were similarly wrong.

[63] Mr Humphreys XX (Inquiry Day 4).
[64] There was one curious moment in the course of cross-examination of Mr Goddard (Inquiry Day 7) when that was interrupted by a question/statement across the Inquiry floor as to whether Mr Hargreaves was still employed by LBTH (and pursued further through Mr Goddard). Quite what the purpose of that was, other than prejudicial, is unclear: if the Appellants wished to rely upon evidence from Mr Hargreaves then no doubt they would have asked him for it.
[65] Dr Miele XX (Inquiry Day 6).

Flaws in the Proposals due to the flaws in the Appellants' heritage analysis

98. It is common ground that an understanding of the context is the beginning of any proper design process.[66]

99. Had the Appellants correctly identified the positive contribution made by the sub-sites B and C buildings, then they would at least have had to consider their retention as a possible option. Doubly so had the Appellants appreciated the importance the WWCA Appraisal attaches to the retention and re-use of the few surviving industrial buildings in the conservation area.

100. Equally, had the Appellants had regard to the praise the WWCA Appraisal affords the Appeal Site for the relatively low-scale relief it offers in the immediate context, then they would at least have had to consider options for a relatively low-scale scheme, and acknowledged the harm that a material increase in scale might bring.

101. As to those two, first, as we now know through a fascinating revelation, Darling Associates very much had considered the retention of the sub-site B building, prior to Montagu Evans' intervention. In fact, Darling Associates had done more than that: they had worked up the pre-application submission on the basis of the retention of the sub-site B building bar the roof **[CD/3/18]**. Then Montagu Evans had their input, which it can only be assumed was that the existing buildings on sub-sites B and C made no positive contribution,[67] and the design evolution changed course.

102. In this context, it is worth pausing to reflect on yet another striking part of Dr Miele's oral evidence: his statement that if the LPA was right, and the buildings on sub-sites B and C do make a positive contribution to the significance of the WWCA, that would be 'a planning consideration not a design consideration'.[68] But Dr Miele said that before we heard this evidence from Mr Watkins. Quite clearly, whether the buildings on sub-sites B or C had heritage merit was a design consideration, as neatly demonstrated by the fact that until Montagu Evans incorrectly told Darling Associates that the sub-site B building had no merit they were designing-in its substantial retention.

[66] Dr Miele XX (Inquiry Day 6).
[67] Dr Miele XX (Inquiry Day 6) and Mr Watkins XX (Inquiry Day 6).
[68] Dr Miele XX (Inquiry Day 6).

103. Second, the Appellants' had completely failed to consider options for massing that included relatively low-scale at 1-2 storeys, instead sticking within a narrow compass of markedly increased scale and massing (that at least doubles the existing 1-2 storeys to 3 storeys and more).[69] The Design and Access Statement **[CD/2/26]** makes clear that continuing the scale of the existing building was no part of the Appellants' thinking: at page 28 under *'massing and scale'* we are told that *'the general principle is for the new mass to be equivalent to adjacent buildings'*. Adjacent buildings, rather than those on the Appeal Site.

104. We see the consequence of this significant increase in scale and mass across the Appeal Scheme, on all three sub-sites.

105. On sub-site A this is seen not just in the incongruous five-storey protrusion (of which more below) (and in fact five-storey-plus, once one adds the flood risk increase), but also the four-storey (in fact, four-storey plus, once one adds the flood risk increase) element on Cinnamon Street, which would markedly overtop the parapet of Falconet Court and create a corridor where historically there has been relief, the unnecessarily high blank walled recess around the vent shaft (which would be the height proposed only because of the height of the Appeal Scheme, not because of operational reasons, as Mr Watkins confirmed[70]), and the three-storey element on the north-east corner (in fact three-storey-plus, once one adds the flood risk increase) that would raise its head above Baltic Court to the south and would loom over Clave Street. As regards the blank walled recess around the vent shaft, it was telling to hear the Appellants' witnesses seek, at the eleventh hour in oral evidence, to explain how this unprepossessing expanse might be improved with a plaque[71] or even some form of mural[72] to celebrate Brunel's tunnel of which the vent shaft in fact forms no part. But that would surely be to attempt to dress the dead facade up with a fig leaf both inadequate and misleading.

106. On sub-site B it is seen in the overdone five-storey part (five-storey-plus, once one adds the flood risk increase) of this schizophrenic form, which will appear to anyone at street level as taller even than Ross House.

[69] Mr Watkins XX (Inquiry Day 6).
[70] Mr Watkins XX (Inquiry Day 6).
[71] Dr Miele.
[72] Mr Watkins.

107. Even on sub-site C, the most respectful of the existing scale and mass, it would result in a built form that sends an oppressive second storey protrusion over a metre out over the heads of pedestrians on Clegg Street below, whilst presenting a dead but plainly not industrial three storey (three-storey-plus, once one adds the flood risk increase) rear façade to the east.

108. The Appellants' move away from at least consideration of the retention of the sub-site B building and failure to at least consider a relatively low-scale option, or acknowledge the potential harm from a significant increase in scale, are two of several significant missteps in the design evolution of the Proposals.

109. As regards the other significant missteps, these include the belief that the five-storey element of the Appeal Scheme on sub-site A would be 'subservient' to adjacent buildings. That is the rationale presented in the Design and Access Statement (at page 4, under 'Proposals' **[CD/2/26]**), yet the five-storey element plainly would not be subservient, and Mr Watkins acknowledged as much under cross-examination.[73] Instead, it would stand a full storey, if not two storeys once one counts the roof form (and not forgetting the height increase caused by the flood risk measures), above Falconet Court to the west, and multiple storeys above Baltic Court to the east. Where presently the built form steps down to the Appeal Site from the east, west, north and south, it would now step up. Although Dr Miele sought to argue against the five-storey element seeking to present as a warehouse,[74] that is the language its architecture attempts to speak, yet there is no precedent for a set-back warehouse in the WWCA, and neither precedent nor legible sense behind one without obvious vehicular access to a courtyard. It would be at best illegible, at worst confusing, and either way an incongruous element that would of itself remove much of the relief that the Appeal Site presently offers, with nothing to justify or explain it.

110. That is before we come to the revelation of the pre-application proposals, in which the five storey element first appears yet is depicted as no higher than Falconet Court to the west. Because at the very beginning the designer or designers misunderstood Falconet Court as a five storey rather than a four storey building **[CD/3/18]**. There we have a possible explanation for this otherwise unfathomable five-storey element: when whoever was working up the initial pre-application designs (it was not Mr

[73] Mr Watkins XX (Inquiry Day 6).
[74] Dr Miele XX (Inquiry Day 6).

Watkins) came to consider the immediate context, they mistakenly believed Falconet Court to stand a storey higher than it does and drew the adjacent part of the Appeal Scheme to that match the level of that erroneously inflated baseline. At five-storeys. Where it has remained, despite the subsequent appreciation of the true height of Falconet Court. Certainly, that explanation has more to commend it than the strained comparisons at Dr Miele's MP paragraph 1.71, which were put in their proper place in discussion with Dr Miele.[75] In this context, the error in the Planning Statement **[CD/2/2]** at paragraph 6.54 is also notable, claiming as it does that on sub-site A *'the massing of the buildings on the Site will be a maximum of 4 storeys against the flank wall of Falconet Court, reducing progressively as the neighbouring buildings decrease in height'*.[76]

111. The LPA does not say the roof infills on the sub-site A Wapping High Street frontage are of themselves a significant misstep in the context of the Appeal Scheme as a whole, though they are incongruous and will add to the harm as they will be visible from the street (which Dr Miele denied, but Mr Watkins confirmed).[77]

112. Then we have the curious sub-site B proposed building, which is not only schizophrenic (Mr Watkins' word) due to its two-faced five-storey and two-storey uncharacteristic stepped nature, but also fails to enclose the street when it steps away from the corner. For all that the Appellants sought to draw parallels with Ross House, the clash with the features that Dr Miele agreed went to local distinctiveness (elevations rising straight up and enclosure of the street) is obvious.

113. As for sub-site C, the second storey overhang, extending to well over 1 metre at the window recesses, would represent a stepped form that would be both bizarre in terms of built morphology and oppressive to pedestrians on the pavement below. It is no surprise that this formed no part of the original design submitted with the application, but is a reaction to a highways request that the pavement be widened. That request should not have been answered with a looming overhang. Even without the overhang, the sub-site C building would present as an uncharacteristic terraced housing form.[78] With the overhang, it would present as simply alien.

[75] Dr Miele XX (Inquiry Day 6).
[76] Emphasis added.
[77] Dr Miele XX (Inquiry Day 6), Mr Watkins XX (Inquiry Day 6).
[78] Dr Miele XX (Inquiry Day 6).

114. Again, just as the Appellants were wrong, so too the officers whose views produced the recommendation.

Summary of harm to heritage and NPPF paragraph 134 balance with planning benefits

115. As with any process, the quality of the ultimate product depends on the quality of the raw material fed in and its treatment as matters proceed. The Appellants' heritage analysis was and is flawed in numerous respects and those flaws have fed through to the Proposals.

116. The Proposals will cause harm to the WWCA.[79] That will begin with the demolition of the existing buildings on sub-sites B and C, for which the test is emphatically not one that boils down to whether they are "attractive".

117. As to the Appeal Scheme new build that will replace the demolitions, that will cause harm for a multitude of reasons, as considered above.

118. The recognised benefit to the WWCA from the regeneration of a partially demolished site and restoration of its Wapping High Street facade (sub-site A) is comprehensively outweighed by the harm to heritage from the demolitions at sub-sites B and C and the various incongruous and harmful features of the Appeal Scheme. That the Proposals will cause heritage harm is obvious from consideration of the WWCA Appraisal alone. The Proposals will also fall a long way short of the demanding test set by policy: that they must *enhance* the WWCA.

119. The harm to heritage must be given considerable importance and weight/great weight by dint of the Listed Buildings Act and also policy, and is not outweighed by the public benefits of the Appeal Scheme, which public benefits must not be overstated given the compromised nature of some of the Appeal Scheme units and the reality that there is no binary choice between these Proposals and no development at all at the Appeal Site.

120. The Appellants' approach has led them to a position where Dr Miele denies any harm from demolition of the sub-site B and C buildings, and denies any harm overall, and the only provision he makes for the event that he is wrong on that is to

[79] As noted, they will also cause harm to the setting of nearby listed buildings, but the WWCA is rightly the focus.

point the Inquiry to the evidence of Mr Goddard who is said to accord *'appropriate great weight to any putative harm'* (Dr Miele's MP, paragraph 1.39). Yet that does not assist, as Mr Goddard has at no point approached the case on the hypothetical basis that the LPA might be right. Instead, the meagre most he has done is asked whether undefined "less than substantial" harm would be offset by the public benefits. To make that hypothetical exercise of any value, Mr Goddard would have had to identify the "less than substantial" harm in issue (as Mr Froneman has in his MP at paragraph 6.24 onwards, so allowing Mr Humphreys to strike the proper balance). But Mr Goddard has not.[80] His exercise is valueless as a result.

121. As regards the quality of accommodation proposed, Mr Humphreys analyses the qualities of the Appeal Scheme in terms of living accommodation in his MP at paragraphs 6.116 to 6.120. He returned to the topic in the course of his oral evidence.

122. Quite clearly, the Appeal Scheme would deliver units on sub-site A that will be deeply compromised in terms of daylighting and sunlighting, including two units where the Average Daylight Factor would fall below the *minimum* levels set by the British Standard **[CD/4/15]** (and repeated by the BRE guide **[CD/4/14]**), and also outlook, where occupants would look up from their ground floor living rooms at whoever happened to be in the courtyard, with nothing by way of defensible space between them.

123. We can, of course, discount Mr Watkins' suggestion that one could offset against the number of units that will fall short of recommended daylight/sunlight levels the public benefit of a courtyard *'the local community may enjoy'* (Mr Watkins MP, page 76). The courtyard will not be open to the public (further diminishing any argument that might be attempted to suggest that heritage harm might be offset by the sculptural forms that are proposed for the landscaping).

124. There is no reason to think that the deficiencies in the quality of accommodation are the inevitable result of the redevelopment of sub-site A (on the contrary, there is every reason to think they are not).

125. The Appellants have sought repeatedly to argue that as these would be private market dwellings, people should be allowed to make their own choice. But that

[80] Mr Goddard XX (Inquiry Day 7).

makes a mockery of not only the 'minimum' nature of the Average Daylight Factors set by the British Standard, but also the Mayor's Housing SPG **[CD/4/6b]** and the standards it sets (itself by reference to the British Standard and the BRE guide). The Mayor's Housing SPG is there for a reason, not to be ignored simply because a purchaser might have a "choice" as to whether they buy. As to that "choice", Mr Humphreys said it all when he gave his oral evidence.[81] The fact is that the market is such people will buy substandard properties. Which makes it all the more important planning decision-makers prevent the development system delivering substandard properties.

126. As for the Appellants' suggestions that because the units have balconies that cures matters, this Appeal Site is in Wapping, London, not some balmy tropical locale.

127. Plainly, the housing, including affordable housing, that would be delivered by the Proposals to address London's chronic housing shortage carries significant weight (as per the SoCG at paragraph 8.10).

128. But the choice is not some binary one between no housing delivery and the Proposals, with nothing in between (nor have the Appellants produced any viability evidence to suggest that it is).

129. The refreshingly candid evidence given by Mr Watkins the Appeal Scheme architect was particularly telling: architecturally, a scheme that responded to the LPA's concerns would not only be possible but would still deliver in excess of 30 units. Quite what the precise number would or could be is a matter of speculation, and it is emphatically not the LPA's job to design an acceptable scheme for the Appellants, just as it is no part of the LPA's role to seek to impose particular design tastes. But based on nothing more than Mr Watkins' oral evidence,[82] the Inquiry was allowed a glimpse of what a more acceptable scheme might deliver in terms of units as against the Appeal Scheme (and here we stray away from heritage-specific issues): a lowered 5 storey element on sub-site A for the loss of three units, a step down on the sub-site A Cinnamon Street elevation for the loss of one unit and perhaps a room from another unit, some accommodation of on-site servicing to sub-site A, possibly with the loss of one or two units (albeit the Appellants were able to offer no explanation as to why there should not be undercroft type servicing in line with the

[81] Mr Humphreys ReX (Inquiry Day 4).
[82] Mr Watkins XX (Inquiry Day 6).

undercroft type facilities at Falconet Court and Baltic Court, which would see little or no loss of units, addressed further under transport below), a reduction in the scale and massing of the schizophrenic building on sub-site B, possibly with the loss of one or more units, possibly not, and a reduction in the scale of the north-east corner of sub-site A and sub-site C, with no loss of units but a loss of rooms. As to whether such a scheme would be viable, the Appellants might like to hint it would not, but they have no viability evidence to make that hint good.

130. The Appellants also seek to point to a loss of affordable housing by reason of a scheme that goes to meet the LPA's concerns. Again, they do so without evidence, and recall Mr Humphreys' evidence in cross-examination: the Proposals include a 'fairly good' offer of affordable housing, and one would 'probably end up with a policy compliant amount of affordable housing in a revised scheme albeit less units'.[83] But even if a significant reduction in affordable were to be assumed, provision of affordable housing is not a trump card that overturns other material planning considerations, particularly when those include heritage considerations with the weight of statute behind them.

131. Finally, the Appellants appeared to run an argument in cross-examination of Mr Humphreys that because the Proposals would generate employment through the demolition and construction work required, that was a weighty factor. But the reality is (lest we forget) the Proposals involve the loss of employment land.

132. In short, the public benefits of the Appeal Scheme must not be overstated and what will be delivered must be recognised for what it is: residential that in the case of some units is severely compromised.

133. The public benefits do not come close to outweighing the harm to heritage for the purposes of NPPF paragraph 134. The result being that in terms of the NPPF, the harm to heritage, which must be afforded great weight, is to be carried into the NPPF paragraph 14 planning balance.

Transport (and related design points)

Introduction

[83] Mr Humphreys XX (Inquiry Day 4).

134. The Appeal Site is surrounded by narrow streets and sits in an area of marked parking stress, in a controlled parking zone (CPZ C4) that is the most oversubscribed in LBTH, with more than 1.6 permits competing for each space. Although the Appeal Scheme is "car-free", it would undoubtedly generate vehicular trips. Historically, all three sub-sites A, B and C have provided facilities for vehicles to drive off the street. Unsurprisingly, LBTH highways/transport officers originally insisted on on-site servicing/delivery provision **(ID:13)**.

135. That insistence was before the August 2016 technical note produced by AECOM known as "AECOM TN1", which significantly underestimated the daily vehicle movements the Appeal Scheme would likely generate, putting those movements at a mere 4 a day (2 vehicles in and out). Officers then withdrew their insistence on on-site servicing. The LPA, on the basis of the Planning Committee's superior local knowledge and feel for actual likely trip generation, did not. Rightly so.

136. The reality is that the Appellants' trip generation figures presented in AECOM TN1 have been shown to be wildly out. They underestimated likely trip generation by a factor of some 8.5: the difference between 4 and 34. The Appellants' evidence base in support of its transport case is deeply flawed for that reason alone, even before we come to the deficiencies in the parking survey work Mr Beard had commissioned and the Appellants' failure to appreciate the likely interaction between trips generated and the lack of space to park: obstruction of the highway with attendant safety risks. Judging by the way cross-examination of Mr Wisher began with criticism of the Planning Committee for rejecting the technical analysis that officers had relied on when making their recommendation,[84] which technical analysis was, essentially, AECOM TN1, it seems that the Appellants did not appreciate this until Mr Beard's oral evidence. Mr Beard's oral evidence, of course, confirmed that Mr Wisher's 34 trips at Mr Wisher's MP Table 3.3 was the right number (albeit Mr Goddard seemingly did not catch that evidence from Mr Beard[85]).

137. Given local parking stress levels, and current delivery/servicing practices faithfully observed and recorded by Mr Wisher and his team from hours of video footage, the Appeal Scheme will likely lead to unauthorised parking associated with the vehicular trips generated, with an inevitable increase in the risk of obstruction of the

[84] Mr Wisher XX (Inquiry Day 3).
[85] Mr Goddard XX (Inquiry Day 7).

highway and, critically, consequential safety issues for vehicular and pedestrian traffic.

138. There is no policy justification for those transport impacts, and no excuse for the failure to provide an on-site facility to receive such passing vehicles, in line with the offer made by all three of sub-sites A, B and C until the 2008 development carried out by Transport for London at sub-site A, and still made by sub-sites B and C.

139. As with heritage, the errors in the Appellants' transport evidence base and analysis are not restricted to misunderstanding the local context, but also include a flawed approach to policy.

140. Similarly, as the LPA's transport evidence given by Mr Wisher (and Mr Humphreys) was essentially undisturbed by cross-examination, whereas the Appellants' transport case was thoroughly altered by Mr Beard's oral evidence, the focus in this section of the closing submissions is very much on Mr Beard's oral evidence. As with heritage (above), and amenity (below), Mr Humphreys' oral evidence was a lucidly pithy explanation of why, based on the topic-specific specialist evidence, the Proposals are unacceptable.[86]

141. As before, the framework of development plan policy and other material considerations is tackled first.

Policy framework and other material considerations

142. Unlike heritage policy, there is a real difference between the test set by development plan transport policy and that set out in the NPPF.

143. Whereas the development plan sets the bar at no "unacceptable" impacts (MDD Policy DM20), against which the earlier Core Strategy Policy SP09 no "adverse" impacts is to be read as updated, the NPPF at paragraph 32 sets the bar at no "residual cumulative…severe" impacts.

144. However, the differences between the main parties as to the policy framework do not turn on that difference of wording.

[86] Mr Humphreys' oral evidence (Inquiry Day 4).

145. Rather, the most significant difference between the main parties turns on the Appellants' failure to grasp the significance of NPPF paragraph 35, first and third bullets (and the development plan policy of similar voice) and apply the same. The design requirements at those NPPF paragraph 35 bullets must, of course, be read in the context of the development plan and national policy that requires the "highest" and "high" (respectively) quality design. The Appellants' failure, exemplified by the written evidence of the Appellants' planning witness Mr Goddard that makes not a single mention of NPPF paragraph 35, has important ramifications.

Flaws in Appellants' approach and flaws in Proposals

146. Beginning at the beginning, the Appellants had not asked and answered the simple but important questions posed by NPPF paragraph 35, first and third bullets.

147. They had not asked whether a scheme could (practically) be designed so as to *'accommodate the efficient delivery of goods and services'*. Nor had they asked whether a scheme could (practically) be designed so as to *'minimise conflicts between traffic and cyclists or pedestrians'*. Had the Appellants taken steps in that regard, the Inquiry would know about it. Instead, it was not until Mr Beard's **(ID:18)**, introduced at Inquiry Day 6,[87] that the Appellants turned their mind to whether it might be possible to deliver on-site servicing/delivery facilities, so accommodating efficient delivery of goods and services and minimising conflict between traffic and cyclists or pedestrians.

148. Even then **(ID:18)** is very much a document prepared in the context of what the Appellants had already worked up for sub-site A through the Appeal Scheme, with no explanation as to why a subsurface facility could not be delivered, nor even why such had not been considered (Mr Beard simply said this was a 'viability issue' and deferred to Mr Goddard,[88] yet though Mr Goddard's XinC was lengthy he said nothing on this point, and certainly nothing to suggest that the option had been considered but rejected on viability grounds.[89] When the topic was then addressed in cross-examination he said nothing to suggest otherwise, rather he confirmed there

[87] Mr Beard XinC (Inquiry Day 6).
[88] Mr Beard XX (Inquiry Day 7).
[89] Mr Goddard XinC (Inquiry Day 7).

was no highways reason it could not be done[90]). That is particularly striking given the undercroft/basement vehicular arrangements at Falconet Court or Baltic Court to either side of sub-site A (and also at Gun Wharf, as the Appellants pointed out in XX of Mr Wisher[91]).

149. To compound those failures, the Appellants dramatically underestimated the vehicular trips likely to be generated by the Appeal Scheme, underestimated (albeit not so drastically) local parking stress, downplayed or simply failed to observe current delivery/servicing behaviour, and failed to appreciate the likely interaction between these.

150. The Appellants' transport evidence even managed to proceed on the basis of widths for Cinnamon and Clegg/Clave Street that were inflated by reference to the carriageways actually by the Appeal Site. As cross-examination of Mr Beard confirmed, so far as relevant to the Appeal Site, Cinnamon Street is between 5.7m and 5.9m across, not the 7.3m Mr Beard's MP states at page 23.[92] Similarly, Clave Street is 4.4m across, not 4.7m.

151. As to existing levels of parking stress and observable current delivery/servicing behaviour, in order to understand whether the vehicles generated by the Appeal Scheme would be able to park safely, however briefly, it is necessary to look at the existing behaviour in the context of the existing provision (in terms of parking, loading and other bays, single yellow lines, double yellow lines, loading/unloading restrictions etc).

152. Here we have two competing surveys, a parking-only survey commissioned by Mr Beard utilising the "Lambeth method", which involves four one-hour snapshots, taken over a wide study area that extends even as fa as Garnet Street in the east (Mr Beard's MP, Appendix J-2), and a kerbside activity survey commissioned by Mr Wisher, involving continuous video footage from a number of cameras spanning a 48 hour period and concentrated on the streets around the Appeal Site, that allows for capture of the full range of behaviour.[93]

[90] Mr Goddard XX (Inquiry Day 7).
[91] Mr Wisher XX (Inquiry Day 2).
[92] Mr Beard XX (Inquiry Day 6).
[93] Despite Mr Wisher's mis-step in XX as to the time period, it was and is 48 hours of footage, as the Appellants know as they have it too.

153. There is no comparison between the two surveys. Mr Wisher's is manifestly superior. That is not only because there is no comparison between Mr Wisher's 48 hours of continuous footage from multiple cameras that allows for an understanding of not just where vehicles are parking, but in what manner, for what apparent purpose, and for how long, and also the behaviour of other road users, including pedestrians, as against Mr Beard's four one-hour snapshots of where vehicles are parking. It is also because Mr Beard's survey area was manifestly too large for the purpose so far as most if not all categories of generated trips is concerned (as Mr Beard agreed, delivery/servicing vehicles would not seek to park other than in the area Mr Wisher had studied,[94] similarly Blue Badge holders,[95] whilst even as regards the outstanding category of vehicular trips, residents with transferred permits, they too would look to park in Mr Wisher's area[96]).

154. As to the results of the two surveys, firstly, and probably most importantly, the Appellants simply do not challenge the results of the 48 hours of video footage set out in Mr Wisher's proof at Section 4.2. They had the entirety of the footage along with Mr Wisher's MP and had every opportunity to challenge it if they wished. That they did not means the Inspector can and should take it that all the problems with parking on, for instance, double-yellow lines that Mr Wisher records are part of the existing context around the Appeal Site, similarly that the narrowness of the pavements means that on Clave Street, for example, pedestrians do tend to walk down the carriageway.

155. Even Mr Beard's own survey, for all its faults, confirmed that in the day time Clegg Street and Clave Street were fully occupied, whilst Cinnamon Street and Wapping Dock Street had one spare space each. Quite what the position was for the length of Wapping High Street that was and is actually relevant to the trips the Appeal Scheme will generate we do not know (Mr Beard's MP Table 15 does not tell us, as it presents a figure for the whole of Wapping High Street, and in Mr Beard's words it would 'take a bit of effort' to extrapolate a figure for the relevant section of Wapping High Street[97]).

[94] Mr Beard XX (Inquiry Day 6).
[95] Mr Beard XX (Inquiry Day 6).
[96] Mr Beard XX (Inquiry Day 7).
[97] Mr Beard XX (Inquiry Day 7).

156. As regards the generated trips that would then be added to this present situation, at risk of repetition it remains remarkable that the Appellants' AECOM TN1 so radically underestimated likely vehicular trips that the context is between its 4 movements per day and the now-agreed 34 movements per day at Mr Wisher's MP Table 3.3.

157. Mr Beard refused to say whether his firm's tag 'negligible' for some 6 trips per day in the Transport Statement, paragraph 8.2 **[CD/2/8]**, or his own dismissal as 'negligible' of up to 10 trips per day in his MP, page 18, would hold good once one got above 10 trips per day, let alone to 34 trips per day.[98] He was given repeated opportunity in cross-examination to state his position there and explain where he said 'negligible' ended and some more than 'negligible' began, but would not do so. That was and is telling. 34 trips per day, particularly in this local context, is not 'negligible'. Not remotely.

158. It is also, notably, a figure that if anything underplays likely trip generation, as Mr Wisher has rounded his figures in Table 3.3 down and also included the retail unit trip generation.[99]

159. As for the Appellants' suggestions that the element of trip generation referable to transferred permits from social housing tenants should be discounted as LBTH should refuse to accept such transfers, that was and remains an unjustified case of special (and unrealistic) pleading.

160. Nor, contrary to Mr Beard's suggestions (at Mr Beard's MP, page 18), is there any fallback that avails the Appellants. Even if B1 use was to resume here (and Mr Goddard confirmed the existing use is B1[100]), which seems most unlikely and is of course not how the Appellants had approached the transport analysis in the first place, this being a new feature in Mr Beard's proof unheralded in the Transport Statement, Mr Beard had taken no account of the fact the premises have, in the case of sub-sites B and C (which are the only ones that could resume B1 use without development), off-street facilities. This joins the ranks of the many strained arguments the Appellants clearly felt bound to deploy in defence of the Proposals.

[98] Mr Beard XX (Inquiry Day 7).
[99] Mr Wisher XinC (Inquiry Day 2).
[100] Mr Goddard XX (Inquiry Day 7).

161. Those 34 daily trips must now be set against the context of the existing levels of parking stress (put another way, of parking availability) and existing driver (and pedestrian) behaviour observed by Mr Wisher and discussed above. The Appellants, through Mr Beard, appeared to proceed on the basis that if there was an opportunity to park in an authorised way, anywhere in a certain area, then a driver would take that opportunity. That, unfortunately, is unrealistic. If, for example, a delivery driver wishes to park to reach a premises on Wapping High Street, say the retail premises proposed by the Appeal Scheme, they could hardly be relied upon to take an authorised parking opportunity on Cinnamon Street, as opposed to an unauthorised parking opportunity closer to their target.[101] The proof of the pudding is in what Mr Wisher has actually observed by way of driver behaviour at present, all as set out in his MP and unchallenged.

162. The upshot is that the Proposals will, as presently designed, lead to increased haphazard "parking" (in the broadest sense of the word) with adverse implications for the risk of obstruction and highway safety. It is all very well for the Appellants to point to the existing favourable accident history here, when their Proposals give rise to unacceptable safety risks that could and should have been avoided through good design. As Mr Wisher said in cross-examination, the Proposals would be adding to existing problems, the issue being safety, because, even when viewed through the demanding lens of NPPF paragraph 32, in terms of the impact of the scheme on parking/servicing, the residual cumulative impact would, indeed, potentially be severe.[102] And the Appellants seemed consistently to ignore the importance of the word 'cumulative' there.

163. For whatever reason, it was not until proof stage that the Appellants began to give some thought to whether on-street provision could render the impacts acceptable, so practically engage with NPPF paragraph 35. That was Mr Beard's Appendix H, the Stage 1 safety audit (not Mr Beard's audit), and Mr Beard's Appendix E (the on-street loading bay on Cinnamon Street), combined with his Appendix I (the

[101] Perhaps the writer should have phrased the question put to Mr Beard in XX regarding 'ducking into bays they shouldn't be in' more precisely so as to avoid ambiguity (Inquiry Day 7), given the Appellants' presumption in Mr Beard ReX that by 'bays' was meant pay-and-display places (Inquiry Day 7), but it was thought the meaning was perfectly clear: the likelihood is that drivers will park where they are not authorised to do so.

[102] Mr Wisher XX (Inquiry Day 2). The Appellants may seek to make something of Mr Wisher's entirely appropriate use of 'potential' here, but they would be wrong to do so: we are not here operating in a world where certainty is possible.

suggested three new parking bays). That exercise, which evolved through the course of the Inquiry to the suggestion of an on-street but inset/recessed loading bay on Cinnamon Street which would require some of sub-site B for the relocated pavement (**ID:20)**, amply confirmed the good sense behind the LPA's concerns.

164. Firstly, the proposed on-street loading bay could not, of necessity, be a space guaranteed to be available for any vehicle connected with the Appeal Site. Even assuming a level of coordination between Appeal Scheme-generated vehicles that is unrealistic, given the lack of concierge provision, even if it was dedicated to the Appeal Site (unlikely) any other vehicle could use it without authorisation, just as vehicles frequently park without authorisation elsewhere on Cinnamon Street (see Mr Wisher MP Section 4.2). It would be a different matter with on-site provision.

165. Secondly, the proposed on-street loading bay will do nothing for the Wapping High Street retail unit (unless one adopts the most unrealistic view of the behaviour of delivery drivers, and Mr Beard confirmed he would not expect the retail unit to be serviced from such this proposed bay[103]).

166. Thirdly, the proposed on-street loading bay will fall foul of fire brigade guidance for clear running widths unless inset into the present pavement: Manual for Streets page 75, confirmed by **(ID:19)**. Quite how Mr Beard could have read the email from Mr Arnold in any other way, given the words *'this would allow only 3.2m for brigade access and is contravening the advice provided by GEN.29'*, remains a mystery,[104] but Mr Beard eventually explained that he had taken the 3.2m requirement 'on board', hence the relocation of the bay northwards.[105]

167. Fourthly, even if the loading bay was inset into the present pavement, even then the visibility splay would still be inadequate, so requiring a move westwards that would take at least one existing parking bay. As to the Appellants' arguments that the visibility splay will comply with Manual for Streets guidance, at page 91-92, the obvious problem the Appellants face is that highway officers are (justifiably) clear that they require a design that reflects the (modest) 20mph speed limit, as opposed to the 15mph 85 percentile speed, on this cobbled road with lower skid resistance[106]. Further, and as discussed with Mr Beard in cross-examination, the Manual for

[103] Mr Beard XX (Inquiry Day 7).
[104] Mr Beard XX (Inquiry Day 7).
[105] Mr Beard XX (Inquiry Day 7).
[106] Mr Wisher ReX (Inquiry Day 2).

Streets itself recognises that if visibility splays are less than 20m, as the Appellants' proposed splay would be, then something in the way of 'speed reducing features' (i.e additional traffic calming measures) would be needed.

168. Fifthly, that move westwards, because it would take at least one parking bay, would require yet further reorganisation of this heavily oversubscribed CPZ, on top of the need to provide three dedicated disabled spaces somewhere close to the Appeal Site, if such reorganisation is possible. That is not known, and will not be until the feasibility work is done, but given the existing permit: space ratio of over 1.6:1 there can be no reason for optimism.

169. As to the proposed new bays, that the Appellants have suggested one at the western end of Cinnamon Street, an area under very obvious stress due to Wapping Lane (see Mr Wisher MP, paragraph 4.2.5) and another in front of the Hilliards Court walkway, strongly suggests that in fact at least two if not three existing parking spaces will have to be lost to accommodate the disabled bays, and, somehow, reinstated elsewhere.

170. Why, one might ask, should the local traffic and highway authorities be required to attempt to reorganise the highway network and an already markedly oversubscribed CPZ simply to accommodate this one development that has made no apparent effort to comply with policy and seek to design-in accommodation of *'the efficient delivery of goods and services'* so as to *'minimise conflicts between traffic and cyclists or pedestrians'* by the simple step of on-site servicing provision. The answer is that they should not (and note that the Appellants' unannounced attempt in opening submissions to draw a favourable comparison with the treatment of the Galliard development on the southern side of Wapping High Street rightly fizzled out after Mr Wisher's XinC explained that development's good fortune at having a length of single yellow line in front of it[107]).

171. As with both heritage and daylighting issues, the Appellants' flawed approach to policy and local context has led to a flawed set of Proposals in the case of transport. They make no provision for on-site servicing, when if nothing else Mr Beard's **(ID:20)** shows that they could do so at sub-site A, and that is even before one considers what they could do to minimise the ground level land take if an undercroft

[107] Mr Wisher XinC (Inquiry Day 2).

arrangement was pursued and/or a concierge (cum deliveries-coordinator/banksman) provided. Without such on-site provision, the likely transport impacts would be unacceptable, contrary to the development plan, and the residual cumulative impacts severe, contrary to the NPPF.

Neighbours' amenity (and related design points)

Introduction

172. Daylighting across a number of neighbouring homes will be noticeably reduced by the Appeal Scheme, in some cases by reductions in VSC of over 30%,[108] and of daylight distribution of over 40%,[109] (including at the same properties) and reduction in sunlight, albeit BRE guide compliant, will aggravate the situation.

173. As the LPA observed in opening, nothing in policy excuses these adverse impacts. On the contrary, the development plan sets itself firmly against them.

174. The evidence has further confirmed the merit in the LPA's third Reason for Refusal and the deep flaws in the Appellants' case as to daylight.

175. As with the other main areas, the framework of policy and other material considerations is addressed first. Again, the Appellants' errors include mis-steps there, not least as regards the interpretation of the BRE guide (see below).

176. Similarly, as Mr Harris' evidence was undisturbed by cross-examination, whilst that of Mr Dunford was thoroughly exposed, the focus in this section of the closing submissions is on Mr Dunford's oral evidence.

Policy framework and other material considerations

177. The development plan policy test is clear: neighbours' levels of daylight must not be reduced to an "unacceptable" level. London Plan Policy 7.6b speaks of "unacceptable harm", which is further explained by the Mayor's Housing SPG **[CD/4/6b]**. MDD Policy DM25 speaks of "unacceptable material deterioration". Note that, contrary to Mr Goddard's position, the word 'by' in the stem paragraph to DM25 is important, and means that one cannot read the policy words as Mr Goddard

[108] Mr Harris MP, paragraph 8.2.1.
[109] Mr Harris MP, paragraph 8.3.

would have liked, so as to somehow offset or net off a failure to avoid an unacceptable material deterioration in daylighting against, for example, an improvement in some other amenity factor not discussed in the policy. Mr Goddard did eventually concede the point[110]).

178. There is no dispute that what is "acceptable" or "unacceptable" is quintessentially a matter of planning judgment, for the Inspector.

179. Development plan policy and related guidance is also clear that Professor Littlefair's Site layout planning for daylight and sunlight: a guide to good practice produced for the BRE (2nd edition, 2011) ("the BRE guide") **[CD/4/14]** is to be applied in order to inform that assessment (see in particular the Mayor's Housing SPG, Part 1, and paragraph 25.5 of the MDD).

180. There is nothing between the main parties on the raw numbers in terms of the daylight, and to a lesser extent sunlight, that will be lost by reason of the Appeal Scheme.

181. The differences between the LPA and the Appellants turn on what neighbouring residents will notice by way of impact and what is an "acceptable" level of daylighting this location. Those differences turn on the main parties' respective approaches to the BRE guide and to the local context, where the Appellants' case has been revealed as deeply flawed.

Flaws in Appellants' approach and flaws in Proposals

182. Contrary to the impression one might gain from the Appellants' case, this is not a site in an area marked for or experiencing comprehensive high-rise redevelopment, still less to be treated as such when assessing "acceptable" daylighting levels. This is a site in a conservation area, where the Appeal Site not only represents an area of notably low-scale built form, but is approvingly singled out by the WWCA Appraisal for that self-same relatively low scale (see heritage section above).

183. Beginning at the beginning, although it was agreed on both sides that the BRE guide should be applied to the daylighting impacts of the Appeal Scheme, the Appellants' expert, Mr Dunford, consistently misunderstood or misapplied that document.

[110] Mr Goddard XX (Inquiry Day 7).

184. First, Mr Dunford's written evidence was that a loss of VSC to 0.8 its former level, under 27%, 'could' be noticeable to residents (Mr Dunford's MP, paragraph 3.11). His position is flatly contrary to the BRE guide, paragraph 2.2.7, which is quite clear that such a loss 'will' be noticeable. Mr Dunford ultimately conceded this. When he then sought to defend his 'could' he fell back on talk of windows the size of 'postage stamps'. His position was contrived, as he then had to concede that not a single window at Ross House fell into the bracket at which 'could' might be appropriate.[111]

185. There is not a shadow of a doubt that the loss of daylight experienced by the various flats at Ross House that suffer BRE guide transgressions will be noticeable. In fact, as Mr Harris said it will be 'very noticeable'.[112] Tellingly, Mr Dunford himself ultimately admitted that it would be noticeable under cross-examination.[113]

186. The point in fact goes a little further. Mr Dunford is adamant in his proof that all of the windows at his MP paragraph 4.5 *'will not experience a noticeable reduction in daylight'*. This includes windows that will see VSC reductions of close to 18% (W10/53, a living room (reduction 17.70%), W9/52, a bedroom (reduction 17.66%)). But as Mr Harris pointed out, simply because the reduction in VSC will be a little less than 20% does not mean it will not be noticeable.

187. The Inquiry had a further insight into Mr Dunford's approach to the BRE guide when discussing the flowchart at page 10 of the BRE guide not long into cross-examination. He said that he 'disagreed' with the flowchart on page 10 of the BRE guide. But what he did agree is that the BRE guide is clear that (a) reductions of VSC by more than 20% (assuming it is below the 27% target) 'will be noticeable' and (b) are 'likely to be significant'. He also agreed that by 'likely to be significant' we are concerned with an assessment at least part of which is concerned with whether the reductions will be significant to occupiers.

188. Secondly, Mr Dunford sought to rely upon Section 2.3 of the BRE guide, particularly paragraph 2.3.5, to justify his view that a reasonable target level for retained VSC in this area was around 17%, as opposed to the 27% the BRE guide suggests or the 22-23% Mr Harris has arrived at given the site context. Mr Dunford's position is, respectfully, bizarre.

[111] Mr Dunford XX (Inquiry Day 4).
[112] Mr Harris XinC (Inquiry Day3).
[113] Mr Dunford XX (Inquiry Day 4).

189. Section 2.3 is concerned with "adjoining development land". It is not concerned with existing properties, nor with setting a reasonable VSC targets for existing properties. On the contrary, the BRE guide deals specifically with that topic at Appendix F. If Section 2.3 was intended to offer guidance as to a reasonable VSC target for existing properties, it would have said so. Instead, the subparagraphs make abundantly clear that is in no way its purpose. Paragraph 2.3.1 explains the aims of Section 2.3, namely to avoid reducing the quality of adjoining development land by building too close to the boundary. Put another way, to avoid developers constructing too close to the boundary such that one cannot sensibly and properly develop adjoining land at some future point due to the windows now installed on the new development. Self-evidently, that has nothing to do with this appeal.

190. Most pertinently, Mr Dunford sought to rely upon paragraph 2.3.5. That paragraph repays careful reading, but once done it is tolerably clear that it is suggesting that overall the adjoining development site should *'normally retain the potential for good daylighting if every point 1.6m above the boundary line is within 4m (measured along the boundary) of a point with a VSC of 17% or more'*. Crucially, these are points measured on the boundary line, not further back from the boundary line where the buildings, and so the walls and notably the windows will be positioned. Inevitably, if one is seeking to achieve '17% or more' at the boundary, one will then achieve a higher VSC figure where the windows are actually positioned, because they will be set further back from the boundary line.

191. This misreading of paragraph 2.3.5 of the BRE guide is particularly striking given the 17% retained VSC figure Mr Dunford has suggested should apply here. It is a striking coincidence that his figure matches that in the sections of the BRE guide he has misread. It is certainly not borne of a proper appreciation of the context.

192. As to that failure to properly understand the context, Mr Dunford compounded the errors in his understanding of the BRE guide by offering up as locally representative VSC levels drawn from a highly selective sample and seeking to favourably compare the retained VSC at Ross House against them and then by drawing on 'comparators' from further afield that manifestly do not serve the purpose.

193. As to the sites advanced by Mr Dunford as locally representative, Mr Dunford selected the lowest windows on the very odd form that is the west side of Falconet

Court in narrow Wapping Dock Street and, moving further from the Appeal Site, also selected windows on the Caronade on the high sided southern end of Wapping Lane. His proof presented the average VSC along the lowest floor of Falconet Court west side of 9.5% (see Mr Dunford's MP, at paragraph 4.16), that for the Caronade south elevation of 20.4% (Mr Dunford's MP, at paragraph 4.16) and that for the Caronade north facing elevation of 9.3% (Mr Dunford's MP, at paragraph 4.17) as if those averages together represented a fair reflection of the area. They do not remotely.

194. Mr Dunford did not seek to draw a comparison for Ross House with any of the local properties for which Point 8 had already prepared detailed figures. In doing so, in avoiding the other properties that actually surround the Appeal Site, he omitted room after room that enjoy windows with VSC at 30% and above. The Inspector can see them all laid out and it is abundantly clear that the 'averages' Mr Dunford presents at his MP paragraphs 4.16 and 4.17 miss the mark.

195. Intentional or not, Mr Dunford's selection was and is unrepresentative and simply unfair as a guide to the daylight that residents of Ross House might be entitled to expect.

196. As to Mr Dunford's comparators away from the area around the appeal site, these equally advance his case not one iota and again spring from a failure to understand the context. The idea that the Appeal Site and Ross House bear comparison with the circumstances at issue at Royal Mint Street, or South Quay Plaza, or Centre Point House, or even the curious back-frontage site by the neighbourhood centre at Cambridge Heath Road, is fanciful.

197. Instead, what was most revealing was Mr Dunford's confirmation in cross-examination that he considered the Appeal Site, of 1-2 storey warehouses, to be representative of the area.[114] Quite how he could accept that willingly, yet have selected Falconet Court and the Caronade as locally representative and his comparators from further afield as valid, is mystifying. That freely offered admission, though, speaks volumes as to what residents of Ross House are in fact entitled to expect, which is very much more than Mr Dunford's 17%.

[114] Mr Dunford XX (Inquiry Day 4).

198. Mr Dunford had plainly not approached matters on the basis that the residents of Ross House were entitled to expect low scale on sub-site A opposite. Yet that is precisely what the WWCA Appraisal celebrates at page 8 (as charted in detail above). And even if the LPA is wrong that is what the WWCA Appraisal celebrates, it is an undeniable truth that the Appeal Site, all of it, has been low scale for every year that Ross House has been present. That of itself is relevant to what it is reasonable residents of Ross House might expect.

199. Mr Dunford did, at least, make clear he was not suggesting Ross House should be treated as if it was in a mews street, in line with the example given by Appendix F of the BRE guide.

200. The Appellants have attempted to argue by reference to the effect of net curtains and trees, or the availability of artificial lighting.[115] This was yet another case of straws being clutched at, and in due course Mr Dunford distanced himself from those arguments under cross-examination. He agreed that artificial light is not an adequate substitute for natural daylighting in a residential circumstance. His attempt to claw back his position regarding trees by pointing to Appendix H of the BRE guide during cross-examination fell instantly flat as soon as the words were read out to him: it positively discourages any attempt to factor in trees when assessing impact on existing neighbours and only encourages it for new build (see H1.2 and H2.1).[116]

201. In his grasping at Appendix H of the BRE guide, there were echoes here of Mr Dunford's attempt to argue that a decent level of daylighting was 17% by reference to Section 2.3 of the BRE guide (see above).

202. In relation to another point put to Mr Harris in cross-examination, Mr Dunford acknowledged that had he modelled the impacts of the Appeal Scheme on the basis that sub-site A was a cleared site then the VSC reductions would have been higher.[117] The LPA takes no issue with the way the modelling has been done, in line with Mr Harris' expert view, but clearly, in terms of VSC reductions, modelling on the basis that the pre-existing buildings still stand will tend to suppress the VSC reductions in the Appeal Scheme's favour.

[115] Mr Harris XX (Inquiry Day 3).
[116] Mr Dunford XX (Inquiry Day 4).
[117] Mr Dunford XX (Inquiry Day 4).

203. The Appellants' arguments in respect of the three sub-balcony windows at Ross House do at least have the benefit of some support from the BRE guide, but as Mr Dunford eventually (reluctantly) conceded,[118] it is relevant that Ross House and the balcony has been present for a very long time, rather than this being a balcony on a new-build in a place and purchased at a time in which one might reasonably expect significant redevelopment opposite. During the time Ross House has stood, of course, there has been no more on sub-site A than 1-2 storey warehousing. But if anything Mr Dunford's approach in his proof to the sub-balcony windows neatly illustrated a problem that ran through his evidence: he appears to apply the BRE guide strictly when a strict application worked in favour of his ultimate conclusion, yet flexibly when a strict application would not.

204. For the Appellants to fall back in re-examination on whether Mr Dunford had known a scheme refused for daylighting impacts such as those neighbours will suffer here was desperate[119]. The question is not what Mr Dunford, who appears to act almost exclusively for developers (note that even the 5% of his work that is for local authorities includes work for local authorities as developer), can tell us about what has happened at other locations. It is what is acceptable at this location.

205. Mr Harris' evidence stood in stark contrast to that of Mr Dunford. Mr Harris suggested, entirely reasonably, that for Ross House the right level of retained VSC, bearing in mind the area, was some 22-23%. The writer's note is that figure was not challenged under cross-examination,[120] though it is understood the Appellants disagree.[121] The Inspector will have his own note. Bearing in mind that Mr Harris' figure is 4-5% below the BRE guide target of 27%, it is remarkable the Appellants should complain at all. Yet complain they do, and as noted Mr Dunford sought to suggest 17% instead. The merits, or rather demerits, of Mr Dunford's arrival at 17% have been canvassed above. Clearly, Mr Harris' eminently fair and reasonable 22-23% would still mean multiple rooms left with daylight below that level, whereas Mr Dunford's 17% would not. But that is because Mr Dunford's 17% is contrived.

206. Whether these rooms are bedrooms or living rooms (and Mr Dunford correctly conceded that natural light is more important for a bedroom in modest

[118] Mr Dunford XX (Inquiry Day 4).
[119] Mr Dunford ReX (Inquiry Day 4).
[120] Mr Harris XX (Inquiry Day 3).
[121] Interjection during Mr Dunford XX (Inquiry Day 4).

accommodation like the flats at Ross House)[122] the reductions will be very noticeable to residents, are not just non-compliant with the BRE guide's suggested target of 27% VSC but Mr Harris' more accommodating 22-23%, and are unacceptable.

207. It should not have taken Mr Harris' oral evidence to prompt the Appellants to look at what would be needed by way of changes to reduce the impacts on Ross House to a level compliant with the BRE guide. Yet that is what happened and the result is fascinating: no more than a shaving of half the top floor of the Cinnamon Street four storey block and something from the lift shaft to make the impacts on Ross House fully BRE guide compliant **(ID:15)**. That is before one factors in Mr Harris' reduced 22-23% retained VSC target. We do not know what the reduction required to achieve Mr Harris' 22-23% VSC target would be, but it seems a fair assumption that it would not even be as much as Mr Dunford's recent drawings show.

Planning balance

208. Despite Mr Goddard's attempts to run the point in his MP (and, most surprisingly, to resurrect the point in his XiC despite the agreed SoCG at paragraph 8.10)[123], this is not a case in which the NPPF paragraph 14 first bullet so-called 'tilted balance' applies.

209. On the contrary, the harm to heritage from the Proposals means that the decision comes pre-weighted by dint of statute, as that harm must be given 'considerable importance and weight' in accordance with high authority as to the meaning of s.72 of the Listed Buildings Act.

210. Nor, contrary to another surprising part of Mr Goddard's written proof, Mr Goddard's MP, paragraph 7.42, is there a 'statutory presumption in support of the grant of planning permission' (cross-examination of Mr Goddard on the point offered no cause to explain that away as a mere typo[124]).

[122] Mr Dunford XX (Inquiry Day 4). We will draw a discrete net curtain over Mr Dunford's flippant suggestion that a child's bedroom might be treated as an office if they did their homework there.
[123] Mr Goddard XiC (Inquiry Day 7).
[124] Mr Goddard XX (Inquiry Day 7).

211. The statutory test is that set by s.38(6), which lays down a rebuttable presumption in favour of the statutory development plan, rebuttable by other material considerations, and into which the s.72 conservation area duty must be woven.

212. Nor can the Appellants present this area of LBTH as one marked out to deliver notably high residential growth over the Local Plan period. Nor is it an opportunity area. Rather, it is a conservation area that is within an area that, over the Local Plan period as a whole, is marked for low growth (see Core Strategy, Figure 24 and paragraph 44, as explained by Mr Humphreys[125]).

213. The implication that anything but the Proposals might not be viable or might not deliver affordable housing (already addressed above) are only two of the various straw men the Appellants have sought to raise to offset the harm to heritage, the transport impacts and the harm to neighbours' amenity caused by the Proposals. Another is the threat that without the Proposals sub-sites B and C will both be put to garage use offensive to local amenity. Not only does that have no foundation, there being no evidence of problems with the previous businesses (see the comments of local residents made to the Inquiry) and that lawful use being B1, so by its nature considered to be compatible with residential areas, and not only does this conveniently ignore the on-site servicing facilities available at sub-sites B and C, and potentially also at sub-site A with a suitable opening in the Cinnamon Street wall as per Mr Beard's **(ID:18)** but to command any weight a fallback must be realistic: it is simply not realistic to suggest that the Appeal Site will not be put to residential-led use. One thing the Appellants' garage-use fallback argument does do, though, is put firmly into perspective their reliance upon the Appeal Scheme's ability to generate employment as a public benefit in favour of the Proposals. As noted, it must not be forgotten that the Proposals do, inevitably, involve a change from employment use to residential (to which the LPA does not object).

214. The harm caused by the Proposals is simply too great to justify their contribution to the housing supply when measured against the statutory s.38(6) test.

Other matters

[125] Mr Humphreys XinC (Inquiry Day 4).

215. The conditions and obligations session raised a number of queries. In particular, it threw up a query regarding the finished floor levels in light of flood risk. Please see the separate note on the point.

216. Finally, one of the interesting tangential points for both the Appellants and the LPA to reflect on here is what the community had to say about community involvement with the scheme design and the planning application process.

217. The Inquiry heard it put to Mr Harris in cross-examination that, on the basis of the officer report, there had been no objection from Ross House.[126]

218. The Inquiry then heard Mrs Chan explain that, to the contrary, sizeable petitions had been raised in relation to the previous withdrawn applications, including signatories from Ross House, and as the changes were minor the case officer had advised that there was no need to raise another petition.

219. The Inquiry also heard from more than one resident as to their disappointment with the engagement that had taken place and their pleas that the Appellants do meaningfully involve them next time in the event, as the LPA submit should be the case, the appeal is dismissed.

Conclusion

220. The LPA respectfully requests that the Inspector dismiss the appeal.

James Burton

39 Essex Chambers, WC2A 1DD

5 January 2018

[126] Mr Harris XX (Inquiry Day 3).