

**Bishopsgate Goods Yard
Final Heritage Impact Assessment and Advice**

Barker-Mills Conservation

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Ref: NPBM 19/15 November 2020

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1.0 Introduction and background

- 1.1 Barker-Mills Conservation is an independent, expert consultancy advising on the historic environment. Barker-Mills Conservation has been commissioned by the GLA, with the agreement of the applicants for the proposals at the Bishopsgate Goods Yard (Hammerson and Ballymore) to provide heritage advice to the GLA based on an independent appraisal of the applications from a heritage perspective. The provision of this advice is part of the Planning Performance Agreement between the applicants and the GLA and is intended to assist with the efficient and diligent consideration of the applications.
- 1.2 Barker-Mills conservation has been involved in the pre-application discussions between the applicants and the GLA since December 2019 and has also contributed to discussions about heritage assessment within the ES and the proposed application documentation. In addition, following a recommendation for independent specialist engineering advice (the Conisbee Report) Barker-Mills Conservation has been involved in discussion of the structural implications of the proposals upon two designated Heritage assets: The Braithwaite Viaduct and the Oriel Gateway, which has taken place with the London Boroughs of Tower Hamlets and Hackney during the course of 2020.

2.0 The purpose of this report

- 2.1 The purpose of this report is to provide final advice to the GLA on the heritage impacts of the proposal for inclusion in the officer assessment of the applications, prior to determination by the Mayor. The final advice is based on a review of the consultee responses on heritage impacts (*Appendix NPBM 1*) and should be read in conjunction with the earlier appraisals and advice notes provided.¹ (*Appendix NPBM 4*)
- 2.2 The initial appraisal of the application documentation by Barker-Mills Conservation (*December 2019*) identified several key points for resolution. The issues relating to the adequacy of the assessment of setting and validating engineering assumptions have been addressed. The recording of archaeological features and methodology for

¹ These earlier appraisals and notes comprise:

- Initial appraisal of heritage information and issues *December 2019*
- Appraisal of proposed heritage conditions *February 2020*
- Appraisal of EIA Heritage Information and LUC Review *May 2020*
- Advice Note #1 on proposed structural condition *May 2020*
- Note on the curtilage listing issue *June 2020*
- Advice Note # 2 Analysis of heritage concerns regarding structural issues raised by LBTH and LB Hackney *June 2020*
- Heritage Impact Assessment and Advice Barker-Mills Conservation October 2020

re-use of existing and unknown archaeological features can be resolved by condition, as can the management of the archaeological potential of above ground structures.

3.0 Review of Consultation Responses

3.1 As part of the final consideration of the potential impact of the proposals upon the historic environment and the heritage assets within it, the responses from national and local amenity bodies and the relevant local planning authorities, have been assessed. This is to ensure that any potential omissions in earlier assessments by Barker-Mills Conservation can be identified and also to ensure that conclusions regarding impact can be compared and reviewed where necessary in light of any further information. The relevant consultation responses are set out in Appendix NPBM I but, in summary the responses of the following organisations covered heritage issues:

- Historic England
- London and Middlesex Archaeological Society (LAMAS)
- Georgian Group
- Historic Royal Palaces
- Society for the Protection of Ancient Buildings (SPAB)
- Victorian Society
- Spitalfields Trust
- Shoreditch Conservation Area Advisory Committee (SCAAC)
- Reclaim the Goodsyards Campaign (founded by Weavers Community Action Group)
- London Borough of Tower Hamlets
- London Borough of Hackney

3.2 The various responses cover different assets, although some are common to several consultees. In summary the following consultees object to the proposals wholly or in part on the basis of heritage impacts:

- *Victorian Society* – strongly objects on the basis of scale of development and specifically cites setting of adjacent conservation areas;
- *Spitalfields Trust* – objects on basis of proposed demolition of elements of properties on Sclater Street. Although not referenced in their letter of November 2019 they also object on the basis of height, scale and massing and the justification for proposed demolitions (*as detailed in LBTH planning report 4.6 and LB Hackney Report p13*)
- *SPAB*- objects on basis of height of the building on Plot 2 dominating fine grain of adjacent streets, harming five conservation areas and harming the setting of other (unidentified) heritage assets;

- SCAAC objects on the basis of demolition of buildings of interest within the site (unspecified) and also harm caused by scale of development on conservation areas and local heritage (latter unspecified);
- LAMAS object on the basis of the design, scale and density of the towers on the western part of the site and specifically the relationship of the building on plot 2 which fails to engage with and dominates the Oriel Gateway. There is also a question raised regarding the justification for the demolition of approximately 10m of listed wall along Commercial Street. The impact of tall buildings on the adjacent conservation areas is also raised;
- *Reclaim the Goodsyards*- Object in part on the basis of heritage impact (they raise several other issues regarding mix of uses, waste disposal etc). The harm is caused by the tall buildings on the western part of the site to several conservation areas, many statutory listed buildings and numerous non-designated heritage assets. These heritage assets appear to be the ones identified in the ES Built Heritage Addendum. In noting the response of other consultees *Reclaim the Goodsyards* identify the impact of the development on South Shoreditch CA and the Boundary Estate CA; the setting of St Leonards Church (Grade I listed) and buildings along Great Eastern Street. In addition, harm is identified to Wentworth Street CA; Fournier St/Brick Lane CA; Elder Street CA; and Artillery Passage CA.
- *London Borough of Hackney*- Object on Design and Heritage grounds. The substantial heritage issues identified are (pages 71-3): the proposals for the use (as distinct from the repair) of the Oriel Gate; provision of trees in the immediate vicinity of the Oriel Gate; and the exposed concrete curve at the end of wall B2. The impacts upon setting (para 6.2.24) arising from location, plot coverage, massing, height, design and materiality of the new development raise a conservation (*sic*) objection. These concerns are identified in two appendices identifying heritage assets affected and an assessment of impact using a parallel methodology to that in the application TVIA but distinct from it. In relation to impact upon setting it is stated that the impact is major and adverse, although at para 6.2.101 the harm is identified as less than substantial harm in terms of the NPPF although at differing levels on the scale.

3.3 The following consultees do not object:

- *Historic Royal Palaces*- but only on the basis that impact in the background of the Tower of London World Heritage Site has now been removed;
- *London Borough of Tower Hamlets*- although not objecting they identify less than substantial harm to heritage assets arising from development. This harm arises from the height of development and particularly that on plots 1,2 and 3;

- *Historic England*- they do not object to the proposals but identify harm to Elder Street CA and its listed buildings; South Shoreditch CA and its listed buildings; Boundary Estate CA and its listed buildings. They also identify a need to control structural intervention into the viaduct and similarly to control works to the Oriol Gate. The harm identified is regarded as less than substantial in terms of the NPPF.

3.4 The review of responses has identified three heritage assets where harm is asserted, which do not appear to have been assessed as part of the ES or previously. These are:

- *Artillery Passage CA; St Leonards Church; and Allen Gardens*

These assets are considered in turn below.

3.5 *Artillery Passage CA* Harm to the conservation area in views north across Bishop's Square has been identified by *Reclaim the Goodsyards* (p 4). The relevant Character Appraisal and Management Guidelines (Adopted March 2007) have therefore been consulted. The view identified is obtained from the NW part of this small conservation area, looking beyond the boundary as it adjoins Brushfield Street. The western section of the BGY site lies a considerable distance to the north, beyond Spital Square and the Elder Street Conservation area to the north. The foreground of this view is framed by the modern commercial developments of significant scale either side of the pedestrian area of Brushfield Square, which leads eventually to Spital Square. The special character of the conservation area which justifies designation is described as being a tight grained survival of 17th century development with clearly defined enclosure to the street. Views in general are described as restricted to short lengths and the view north over Bishops Square is not identified as significant in the list of views or glimpses explicitly referenced on page 8 of the appraisal.

3.6 Spital Square to the north lies within the Elder Street Conservation Area where the impacts of the tall buildings have been assessed as part of the ES and the contribution of setting to the conservation area has been described in the Heritage Statement (Appendix B pp 19-22). The new development will rise above the cutting which currently terminates views north. Whilst these proposed buildings may be visible from the southern end of Bishops Square and within Artillery Passage CA, the distance and context in which they are viewed affects their impact. The character of the current setting to the north of the Artillery Passage Conservation Area is primarily commercial and contemporary (with the exception of the Market) and in that context the visibility of the proposed development would not make a material change to the contribution made by the setting to an appreciation of its special character and appearance.

- 3.7 Allen Gardens looking west across Brick Lane: This is green space immediately east of the development site within the Brick Lane Conservation Area. The conservation area appraisal and management guidelines (adopted in 2009). Allen Gardens are identified (not by name) as a green space east of Code Street and north of Buxton Street, which was created by demolishing houses formerly on the site. Views from the green space are not explicitly identified as important, although the long straight views east and west along Buxton Street immediately to the south including the ability to appreciate consistent rooflines are described as important. The ES and the Heritage Statement both identify the Brick Lane and Fournier Street CA as designated heritage assets to be assessed, although this specific view across the green space of Allen Gardens with the elevated viaduct structure rising above Brick Lane to west is not specifically referenced. The scale and height of the westernmost buildings of the proposed development will be appreciated behind the eastern blocks of development as they approach the eastern boundary of the Goodsyrd site adjacent to Brick Lane. The scale and proportions of these buildings will have the greatest impact in these views. In assessing the further potential impact from the more open views across the Gardens, the current varied character of the setting of the conservation area appreciable in these views is a factor to be considered. In my judgement the magnitude of impact arising from the proposed development on that character in these views does not significantly increase from that already identified, which is clearly harmful, although less than substantial in the terms of the NPPF.
- 3.8 Church of St Leonards. An impact upon the setting of this important church has been identified in relation to view 29 (pp 139-141) of the submitted TVIA. (Reclaim BGY page 3). The impact is identified as discrete from the impact identified for the South Shoreditch Conservation Area, recently extended (2019). The viewpoint is taken from the west side of Kingsland Road at its southern end and is oriented to look SE. This is one of the best views in which to appreciate the form and design of the listed building and particularly the relationship between the spire and the body of the church. It is also one of the best townscape views of the listed building. The setting of the church has changed significantly from when it was first building, but the spire and portico visually dominate assisted by the expanse of clear sky space around the western end of the building. The new development will be a visual intrusion into the setting of the church but at some distance to the south. It will be noticeable, but in terms of the contribution made by the setting to the significance of the church and the ability to appreciate that significance, the distraction or intrusion is modest.
- 3.9 In Hackney Road, opposite the Kingsland Road and to the immediate north of the church views south are available. These are framed by and partially obscured by significant trees, although it is still possible to appreciate existing tall buildings beyond the church. These disappear from view as you move north east towards the George and Dragon. Views south, looking at the north side of the church are not apparently going to be affected by the proposed development as you move east into Austin

Street, a narrow lane. As the east end of the church is reached it is possible to appreciate existing tall development some way to the south and adjacent to the Goodsyards site.

- 3.10 The impact of the taller development proposed on the western end of the BGY site on the contribution made by the setting to the significance of St Leonards Church is therefore largely appreciated in the view identified in the TVIA. The change to the contribution made by the setting to the ability to appreciate the architectural quality of the church, and in particular the dramatic and imposing portico and spire at the west end, is modest and a minor distraction.
- 3.11 With the exception of the Church of St Leonard, the identification by the applicants of heritage assets potentially affected by the proposal is comprehensive and an appropriate basis on which to carry out the assessment of impact.

4.0 Advice and Assessment of Impact

- 4.1 The impact upon the historic environment and heritage assets is both direct, i.e. physical involving fabric and indirect, i.e. affecting the contribution that setting makes to the significance of heritage assets or the ability to appreciate that significance. For those assets where harm is indirect, I have followed the HE GPA#3 guidance on Setting and adopted the stepped approach. I have also carried out my assessment on the basis of the current maximum development parameters identified in the application for those plots where proposals are currently in outline form. The impact is also both adverse, i.e. harmful, but also beneficial with regard to heritage.
- 4.2 The earlier conclusions arising from an assessment of impact were set out in my report of October 2020 (*Extract in Appendix NPBM 3*) and in general remain valid. However, following assessment of all of the consultation responses one further heritage asset should be added to the list of those adversely affected. This is the Church of St Leonard, Shoreditch (listed Grade I) where the impact is indirect, and less than substantial at the lowest end of the scale.
- 4.3 The primary direct impact arises from the demolition of a section of boundary wall along the Commercial Road and the demolition of the later, unlisted vaults. There is also direct harm in the proposed demolition of the earlier station buildings below the existing structures. The justification for the demolition of the boundary wall has been questioned, although the LB of Hackney consider the demolition justified in part by the access provided to public space. The extent of potential demolition of the earlier station buildings can be managed through a robust Written Scheme of Investigation and explicit approval of mitigation measures to retain structures in-situ wherever possible during the development process. Suitable archaeological experience and advice will therefore be required if the proposals are permitted.

There is a similar requirement for appropriate expert structural engineering advice with regard to the proposed interventions into the Braithwaite viaduct and the Oriel Gate should permission be granted. Important details including the proposed repair and detailing of the track deck and elements of landscaping will also need to be controlled through approval of reserved matters.

- 4.4 Both LBTH and LB Hackney consider, albeit reluctantly, that detailed repairs and interventions into the viaduct and Oriel Gateway can be dealt with via conditions; the retention of historic features and fit-out of exhibition space in the LB Hackney area of the site can also be managed by condition.
- 4.5 The objections raised by LB Hackney regarding the lack of “use” for the Oriel Gate which is claimed to represent harm to the heritage asset are slightly problematic. Consolidation/appropriate repair of the remaining structure of itself is beneficial, as accepted by HE and both councils. The suggestion of an active use for the structure, by re-instating the roof and making the suggested adjustments to levels etc would enhance the benefit of repair and are compatible with the overriding objective to provide viable uses for heritage assets wherever possible, but failure to do so in this case is not a robust basis for an objection on heritage grounds. The concerns regarding the proposed trees and whether they represent an appropriate response to the significance of the gateway are well founded but could be controlled as part of approval for the detailed landscaping proposals should permission be granted.
- 4.6 The greatest harm arises from the impact of the height of development proposed at the western end of the site, which is still considerable. This is an aspect of the proposals that has drawn considerable criticism from the majority of consultees. The extent of the harm has been underestimated by the applicants. The harm arising from the visual dominance of the new development is at its most acute in plot 2, where the oversailing nature of the design totally dominates the retained Oriel Gateway. This visual dominance undermines perception and appreciation of the role of the historic structure as a gateway to the site, both historically as the screen for the weighbridge, and currently as the gateway to the repaired public realm. The harm though less than substantial is towards the upper end of the range. I note that the Design Review Panel also raised this concern and suggested a reconsideration of the relationship between the two structures.
- 4.7 The impact upon the setting of other listed buildings varies, although is greater where architectural uniformity and consistency is an important feature of the historic architectural interest e.g. in the Georgian houses in Fournier Street or the later historic development in the Boundary Lane Estate. The contrast between the scale of the current development and these historic buildings is striking and visually harmful. For the listed buildings on the Boundary Lane Estate, there is an additional impact on their design development and the objectives of light and space which underpin their significance. The role of the estate in contributing to the significance

of the Registered landscape of Arnold Circus is also affected. The harm, whilst still less than substantial is at the middle of the range and rises when these assets are considered, appropriately, as a group.

Unresolved issues

- 4.8 There remains a potential issue regarding the Weavers Houses on Sclater Street. At present these buildings have not been listed, but are under consideration for designation by Historic England. They are, in any event, undesignated heritage assets. They have therefore, not been considered in the ES, although they are included within the Heritage Statement. Depending upon the timing of any decision on designation by Historic England it is important that impact of proposals upon them are explicitly assessed at this stage. In the planning balance if the buildings remain unlisted then paragraph 197 would apply and in light of the scale of the harm and the significance of the asset it would not be a major issue. If the buildings were to be listed, then the potential impact of the alterations on the historically modest architectural form and design would be regarded as a more substantial issue. Mitigation through design would be appropriate to reduce the visual challenge of the new extensions.
- 4.9 The consideration of significance of the Boundary Estate was an area where further work by the applicant was required. I have assessed nevertheless that whilst individual blocks are listed, much of their significance is derived from the group value and the planned nature of the estate. The buildings do need to be considered individually in some cases because of the different impact caused by the development, which is not consistent across the estate. Given the driving forces behind the design and layout of the estate- which included provision of light and airy development, with improved environmental conditions and setting as model social housing, the extent to which those elements of significance will be affected by substantial development closing off perceptions of space and coherence do need to be addressed properly.
- 4.10 At this stage and taking the caveats above into account, my assessment of harm is that it is less than substantial in NPPF terms, but rising slightly in terms of cumulative impact.

5.0 Conclusions

- 5.1 The proposals will cause harm to several heritage assets both designated and undesignated but generally that harm is less than substantial in terms of the NPPF. However, the impact is extensive and in the case of some heritage assets at a significant level. There are also a number of heritage benefits to both designated and undesignated heritage assets.

- 5.2 The assets that are likely to be affected appear to have been correctly identified and no significant omissions have since been discovered. There has been some further work by the applicants following the initial submission of documents on the assessment of setting and the contribution it makes to significance or the ability to appreciate significance, although this has been a retrofitting exercise. This means that the applicant's assessment of potential impact is not as robust as it could have been and whilst not fundamentally flawed, it is not a reliable assessment. In reaching conclusions on the extent of harm I have therefore placed limited reliance upon their conclusions.
- 5.3 The archaeological/industrial interest of the above ground structures remains to be robustly addressed but the proposal for a Written Scheme of Investigation to enable localised surviving remains to be recorded will mitigate the impact of their demolition. However, that will not mitigate the harm arising from the loss of their contribution to the ability to understand the significance of the designated heritage assets as features within the setting of the Viaduct and the Oriel Gate. This aspect has to be considered as part of the cumulative harm caused by the proposals.
- 5.4 With some exceptions the general view is that the harm caused to the historic environment and heritage assets by the current proposals is less than substantial in terms of the NPPF. There are also opportunities to further minimise those elements of harm arising from materiality, or other aspects of design, as individual plots being considered in outline as part of this hybrid application, come forward for detailed consideration. Ensuring that any risk of additional harm by exceeding the currently identified maximum development parameters at a later stage is avoided is also important as part of the determination of the application.
- 5.5 Where harm is identified to heritage assets there is a presumption against granting permission. It will therefore be for the Mayor, as decision taker, to be satisfied that this harm can be convincingly justified by the wider public benefits arising from the proposals and ensuring that these benefits, some of which are heritage benefits, are secured.

Appendices

APPENDIX NPBM I: Consultation Responses on heritage issues

The following organisations submitted responses following consultation by the GLA

Historic England: Formal advice letters dated 3 February 2020; 27 March 2020; and 19 August 2020; (*reference was also made to earlier advice on the 2015 proposals in letters from HE dated 4 December 2014*)

Victorian Society: Letter dated 20 December 2019

Society for Protection of Ancient Buildings: Undated letter (ref I59982) (*reference also made to earlier letter and objections submitted in 2015*)

Georgian Group: Comment via email 10.12.2019 by Edward Waller

Historic Royal Palaces: Letter dated 20 December 2019 (*reference also made to earlier representation in 2016 which are attached to the current response*)

Reclaim the Goodsyrd Campaign: Letter and report dated 26 October 2020

Spitalfields Trust: Letter dated 21 November 2019; further letter post August 2020

Shoreditch CAAC: Letter dated 3 September 2020

London and Middlesex Archaeological Society: Letter 6 September 2020

London Borough of Tower Hamlets: Report by Corporate Director of Place 19 November 2020

London Borough of Hackney: Report to Planning Sub Committee 13.10. 2020

APPENDIX NPBM 2: Additional Documents consulted in this assessment and advice

LUC final review of the EIA March 2020

Amended EIA

Re-issued drawings for plot 7 (LBC and PP) September 2020

Oriel Gateway (and Viaduct) Applicants report September 2020

Appendix NPBM 3 Assessment of Heritage Impact in October 2020 Extract

- **Oriel Gateway Grade II** – direct and indirect harm. Indirect harm arising from loss of positive features within its setting that contribute to its architectural and historic significance (later vaults and the ramp) and the visual impact and relationship of proposed Building 2 in terms of its proximity. The overhanging of this new development and its visual dominance of the Gateway erodes the ability to appreciate the architectural significance of the Gateway itself, which was deliberately designed as an eye-catching façade to screen a functional, industrial structure behind the Weighbridge. Direct impact arises from the demolition of a section of attached boundary wall to provide steps. At present, on the basis of the submitted information that harm is less than substantial and towards the middle of the range.
- **Braithwaite Viaduct Grade II-** Indirect harm arising from the demolition of structures within its setting to the south west (later vaults) that contribute to its historical significance as evidence of its incorporation into the goods yard. The potential loss of below ground remains of the earlier station building to which the Braithwaite Viaduct was originally connected also represents harm. On the basis of known information, I would assess the harm as less than substantial and slightly lower than middle of the range.
- **Commercial Road- The Commercial Tavern Grade II-** Indirect harm arising from the proximity and visual distraction of building 2 affecting appreciation of the listed building as a carefully composed architectural composition rounding the corner and intentionally visually prominent. The harm is less than substantial although middle of the range.
- **Nos 28-30; 17; 15; 5&7; 1&3 Elder Street Individually Grade II-** Indirect harm arising from new development rising abruptly above the roofline in views of the buildings. Individual impacts will vary in scale for each asset but they also derive group value from their consistency of scale and character, which has to be factored in. At present this is less than substantial harm at middle end of the range which could rise a little further when considering them as a group. The harm could be mitigated by design and the careful choice of materials for the new development, e.g. reducing reflectivity but the impact arising from the scale and height of the buildings themselves will remain as a distraction to the ability to appreciate the original architectural intentions that underlies the listed buildings.
- **Molesey House and Lakenham House Camlet Street Boundary Estate Grade II-** Indirect harm from the new development in setting and visually challenging appreciation of architectural composition and intentions behind the layout. The careful placement of buildings to provide light, space and air illustrating the philanthropic intentions behind the development of this model estate are the aspects of significance that will be affected by the intrusion of new development of significant height and visual prominence. Individual impact, as experienced from along the street, varies and is different from the impact as experienced from the

central steps of the bandstand. Less than substantial harm arises in all cases but given the group value of the heritage assets and the particular nature of their significance cumulatively the harm is in the middle of the range.

- **Elder Street Conservation Area**-see analysis above for the individual listed buildings but in light of their important contribution to the reasons for designating the CA and also the additional impact in other views from within the CA the harm is indirect on the setting of the CA, less than substantial and middle of the range.
- **Arnold Circus Registered Landscape**- Indirect harm from the impact on the sense of a designed development with the garden at its centre providing high quality buildings and public space for workers and lower classes in the area. The sense of the consistent character and grain, with green spaces an important element is affected by the visual intrusion of tall buildings that appear arbitrary in relation to the grain and layout of the estate. The elevated nature of the circus adds to the ability to appreciate this visual intrusion.
- **Boundary Estate Conservation Area**- the congruence between significance of individual buildings and the character and appearance of the conservation area is very high. As conservation area designation is about areas rather than individual buildings and the area is clearly appreciated as coherent carefully planned and a model community based on generous space, light and air, the impact of substantial new development rising above the buildings in two of the streets when viewed from the heart of the area is a major change. The harm is less than substantial but at least middle of the range.
- **Later vaults to south and south-east of the Oriel Gateway**- Undesignated heritage assets whose significance is not fully understood at present. Clearly an important relation to the surviving elements of the Goodsyrd that are designated (see above). In the context of the loss of the vaults to the north in creating the overground train box, their loss will result in over 50% of the structures that survived the fire being removed. The harm is direct and significant.
- **Weavers Houses Sclater Street**: currently undesignated heritage assets and at risk. Some direct harm through loss of the rear additions and some harm to the setting by the visually more prominent proposed extension to the side.

The following assets are enhanced by the proposals:

- **Oriel Gateway Listed Grade II**- Currently a Building at Risk requiring urgent action and significant investment to repair. Proposed to be repaired and used once again as a gateway to the site better revealing its significance.
- **Braithwaite Viaduct Listed Grade II**- Currently a building at risk requiring repair. Opportunities to improve the experience of the asset by providing a

sympathetic new use and public access. Potential to further enhance or better reveal significance through interpretation

- **Later Vaults to south-** undesignated heritage assets requiring considerable investment into repair. New sympathetic uses and opportunities for interpretation and improved access. Heritage centre in Accumulator building- if secured also beneficial
- **Boundary walls-** undesignated heritage assets- significant repair and investment and partly accommodating new uses
- **Weavers Houses Sclater Street-** currently undesignated and at risk. Repair and new uses and opportunities to enhance or better reveal their significance
- **19th Century Mission Chapel-** repaired and put to use

Appendix NPBM 4: Previous Appraisals and Advice Notes

I: Initial Appraisal of Heritage Information and issues raised by the applications

Bishopsgate Goods Yard

Initial appraisal of heritage information and issues raised by the applications

Barker-Mills Conservation

Author: Nigel Barker-Mills BA (Hons, PhD, Dip Cons AA; IHBC; FSA

Ref: NPBM 19/15 v1 December 2019

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Appendix I Documents consulted in this appraisal

1.0 Introduction

- 1.1 Barker-Mills Conservation is an independent, expert consultancy advising on the historic environment. Nigel Barker-Mills, the author of this report, trained as an architectural historian and has a degree and doctorate awarded by the University of Reading. Following appointment as a Fieldworker for the Accelerated Resurvey of the Lists of Buildings of Special Architectural or Historic Interest for the county of Surrey, he was employed by Surrey County Council as a specialist historic environment officer advising on all aspects of the management of historic buildings and areas. He founded and subsequently chaired the Surrey Conservation Officers' Group and commissioned the first Buildings at Risk survey for the county. During his time in Surrey he obtained a Post Graduate Diploma in Building Conservation from the Architectural Association of London, which included preparing a thesis on the issues around education of construction professionals working on historic buildings.
- 1.2 In 2000 he joined the south-east region of English Heritage in the role of Historic Areas Adviser during which time he advised on new development and regeneration issues across Kent, Surrey, Sussex and Oxfordshire. He provided expert monitoring for the Heritage Lottery Fund on area grant schemes and was the national lead for English Heritage in Developing the "Building in Context Toolkit". This training programme, delivered by the national network of Architecture Centres in collaboration with the Commission on Architecture and the Built Environment (CABE) won a national planning award in 2008.
- 1.3 In 2009 Nigel joined the London Region of English Heritage (later Historic England) as Head of Partnerships and subsequently Head of Development Management, with responsibility for strategic relationships with the Greater London Authority and managing the London Historic Environment Record. In 2011 he was appointed Planning Director for the London Region, leading a team of 40 specialist Inspectors and advisers, including architects, planners and surveyors providing the statutory advice and grant assistance across the capital. He retired from Historic England in 2016. He subsequently established Barker-Mills conservation to provide expert heritage advice for clients in both public and private sectors. These have included Historic England in the NW and SE regions; Hart District Council; The Greater London Authority; Guildford Borough Council; Gascoyne Cecil Estates; JCB Ltd; and a number of other private developers across the south of the country.
- 1.4 Nigel is a full, founder, member of the Institute of Historic Building Conservation (IHBC) and has served on both the south-east branch, as Chairman and Secretary, and also the national committee. He was Chairman of the Editorial Board of "Context" the Journal of the IHBC to which he has contributed several articles. In 2013 he was elected as a Fellow of the Society of Antiquaries of London.

- 1.5 Nigel has been a member of several expert design panels, including those in Oxford and the London Borough of Haringey and has also published on architectural history and conservation. In 2015 he presented a paper at the 43rd Oxford Joint Planning Law Conference, an annual event organised by the Law Society, the Bar Council, the RTPI and the Royal Institute of Chartered Surveyors (RICS). The paper on “Heritage Assets and their Setting” has been published in the Journal of Planning and Environment Law: Occasional Papers No 43 (*pub Sweet & Maxwell*).

2.0 The purpose of this report

- 2.1 Barker-Mills Conservation has been commissioned by the GLA, with the agreement of the applicants for the proposals at the Bishopsgate Goods Yard (Hammerson and Ballymore) to provide heritage advice to the GLA based on an independent appraisal of the applications from a heritage perspective.
- 2.2 The provision of this advice is part of the Planning Performance Agreement between the applicants and the GLA and is intended to assist with the efficient and diligent consideration of the applications. This initial appraisal is the first step in the process.

3.0 Summary of analysis

- 3.1 The analysis of the information within the applications has been supported by a site visit on 19 December 2019 to ensure that the physical context of the site has been well understood. The following key points have emerged from the analysis:
- ***Internal Heritage Balance (IHB)***

It is unfortunate that the HS is based on this approach and in light of the recent Bramshill Court Judgement (December 2019). This approach should be re-visited by the applicants’ heritage advisers and an NPPF complaint approach to assessing impact should be followed.
 - *Using the IHB approach unfortunately leads to phrases including “there is no overall harm” within the HS which is misguided and incorrect. Whilst it is absolutely right for the HS to identify heritage benefits arising from the proposals, these should be carried forward and considered as part of the planning judgement by the decision maker if para 196 is triggered because harm is being caused.*
 - *In order for the GLA as decision maker to take an approach that is not vulnerable to challenge they should follow the well-established method set out by the NPPF which the courts have stated clearly provides a bundle of policies that, if taken as a whole, discharge the duty to have special regard to preserving from harm heritage assets. In that approach harm is avoided or minimised and then any harm remaining, if less than substantial, is weighed against public benefits which include any identified heritage benefits.*

Consideration of setting –

- *in the HS there is inconsistent and partial analysis of the current contribution of setting to the various heritage assets. Without robust analysis (Step 2 of the HE GPA) the conclusions regarding impact on setting are only assertions and not evidenced.*
- *There is considerable analysis of the extent of listing and whether therefore LBC is required for elements of the work. This is ultimately a matter for the LPA as decision maker to determine, based on the facts of the case, but in light of the date of the listings and the complexity of the proposals it is surprising that clarification the extent of listing has not been sought by the applicant via the HE enhanced advisory services. Definitive listings under the ERRA would have been extremely useful in this case- but given where we are in this process it is probably too late to pursue this now.*
- *Whatever the status of the boundary walls and associated vaults and those structures encasing or adjacent to the Braithwaite Viaduct, what seems to have been missed is recognition that they form part of and are features of the setting of the designated heritage assets and therefore their contribution to the significance of those assets has to be considered- rather than just dismissed or ignored because they are deemed not listed.*
- *Para 5.18 of the detailed Heritage Audit is absolutely right- the physical evidence of sequential growth of the site is of considerable interest – so therefore the later structures contribute to an understanding of the earlier structures and also provide context for the later structures such as the Oriel Gate with which they are contemporaries...but that recognition of their importance has unfortunately not been carried through to the main HS analysis.*

- ***Consideration of Railway/Industrial heritage significance***

Whilst not criticising the experience of the heritage consultants it would have been appropriate to have engaged some railway heritage expertise in the assessment of significance of the currently unlisted structures- I am not sure how robust the conclusion is regarding the importance of the later structures, as effectively ordinary and standard, in terms of their significance in a national context. I am not a railway expert but it seems to me that as part of the largest and most impressive goods yard in London, at the very least there should have been an analysis of other comparators- i.e. other large urban railway goods yard to establish the hierarchy of this one and justify the statements regarding importance.

- *The HS does not incorporate any discussion of the conclusions regarding the potential of survival of the industrial heritage on the site relating to the railway- which is found in the MOLA archaeological report. This is identified as high. Earlier excavations in 2003 and 2008 have uncovered structures relating to the original and later stations. The alterations to the Braithwaite Viaduct have also not totally removed all of the fabric to the north- the foundations of the original piers survive- and being attached and an integral part of the structure, albeit currently hidden, they form part of the listed building. There is no analysis of impact of the proposals upon this element of significance.*

4.0 Detailed analysis of application documentation.

KM Heritage Statement

- 4.1 The statement is considering new development on plot 2 that ranges from 17-29 storeys. This is a wide variation and in outline at present. There is a similar issue for plot 5. How has the statement considered the range of potential impacts upon the setting of heritage assets within the context of the site given the outline application is based on parameter plans? The TVIA explicitly states that it has taken the maximum parameter for the outline applications as the basis of assessment. Chapter 15 of the ES in relation to Built Heritage confirms that the maximum parameter has been taken (para 16.5.3) It would be helpful to confirm whether the HS has similarly used the maximum height as its baseline for assessment and whether the cumulative impact of the taller buildings at the western end of the site as a whole have been considered- i.e. how far they are read as individual buildings within the setting of designated heritage assets.
- 4.2 Being clear on the impact within the site as opposed to outside the site is also important and there does not seem to be any detailed assessment of the impact of the new towers on the setting of the oriel gateway.
- 4.3 The Summary Statement of significance in the introductory section of the HS does not deal with the technological/industrial archaeological significance and/or potential of the buildings- it needs to be woven in. Some of that industrial archaeology is below ground, or consists of tracks and ramps in the public realm but the structures themselves possess industrial heritage interest which is currently falling between the MOLA assessment and this assessment.
- 4.4 Paragraph 3.27 of the HS cannot be correct- the other structures could not operate without the viaduct so they are interrelated- the viaduct is not ancillary and it is somewhat artificial to talk of primary and secondary in relation to the assets in this way. As set out in para 5.18 of the detailed heritage audit, the later structures are an important part of illustrating the history of the whole site and the evolution of the goods yard. If the intention behind this discussion is to justify the application of LBC then this needs to be more clearly expressed as this is a separate issue.
- 4.5 The discussion in para 3.33 of the HS is not a robust argument because it seems to miss the point that the vaults or arches to the south are in the setting of the Oriel building and also contribute to an understanding of how the Braithwaite Viaduct was re-purposed to service the Goods Yard. They are clearly features which make an

important contribution to the significance of both assets and therefore need to be considered in detail and with appropriate weight given to them.

- 4.6 In terms of benefits in paragraph 4.18, caution needs to be applied to the claims regarding “Confidence”, landmark design (which is subjective) and potential uplifts- they may not happen. The HS should in any event only be dealing with identified Heritage Benefits, it is for the decision taker to identify and consider other benefits in the round,
- 4.7 The conclusion in para 4.36 is not correct- there is some harm – it may be minor but it is there.
- 4.8 The demolition of the ramp described in para 4.42 represents loss of industrial significance and historical interest and as part of the setting contributing to an understanding of how the Oriel gate was used. It also represents a loss of significance to that designated heritage asset- none of this is set out and needs to be analysed and assessed.
- 4.9 Paragraphs 4.44 and 4.48 are very tortuous and do not make sense in parts. They seem to be attempting to avoid identification of harm. It is more credible to acknowledge harm, accurately assess the extent of that harm and to clearly set out the countervailing heritage benefits to be carried forward to the planning balance judgement. The unlisted structures are non-designated heritage assets and so a material consideration in the planning balance and the best approach is to be clear on the extent of the harm or loss and their significance to enable the decision taker to reach the balanced judgement as set out in the NPPF.
- 4.10 Paragraph 4.54 is an example of the limitations of the approach to setting within the HS (others are 4.98 and 4.121)- the structures being considered are within the setting of designated heritage assets and the first step should be to assess their contribution – whether that is positive, negative or neutral and then to assess what is the result following the development. The identification of contribution is the missing step in all nearly all of the assessment of setting and needs to be clearly and logically approached.
- 4.11 Paragraph 4.72 and the section of the Design and Access Statement on the 2015 proposals are central to an argument regarding the requirement to avoid or minimise harm and therefore meeting the policy and statutory tests. Closer cross references between the documents and consideration of why further steps cannot be taken, especially with regard to the loss of the unlisted vaults to the south, needs

to be provided and will assist in convincing the decision taker that the harm is justified.

Heritage Statement Appendix A- Audit

- 4.12 Reference is made to wood paved roadway on the Goad Plan- does this survive in the vaults? Platforms have been removed but has an audit of other tracks and machinery been carried out- is there a plan of their location and how they will be affected by the new landscaping proposals? If the foundations of the original vaults of the Braithwaite Viaduct survive what is the impact (if any) of the landscaping proposals upon them?
- 4.13 Para 4.7 of the audit is slightly confusing – it is not clear to what the phrase “later buildings” relates. In paragraph 4.8 the southern viaduct is assessed as medium/high significance so the loss of these elements would represent harm- yet this is not reflected in the assessment within the main HS text.
- 4.14 Para 5.4 of the Audit is too dismissive and reductionist when considering significance in such a complex, rich and extensive historic environment as here. There is no consideration of how the illustration and evidence of the expansion of the good yards in the early C20 when it was at the height of its extent and impact, will be affected by the proposals.
- 4.15 Paragraph 5.12- what does this mean? In paragraph 5.15 if the structures illustrate the original extent and design then they are important historically and are not diminished, so should not be assessed as low significance- compare this with the comments at para 5.18 of the same audit which states clearly that as physical evidence of the sequential growth of the site they are of considerable interest.

Heritage Statement Appendix B Context Appraisal

- 4.16 The method for identification of heritage assets is a desk-based exercise so the question is how confident are KM heritage that without a ZVI or ZTV they have actually a robust analysis? – and given the proposed variation in heights on what basis have they approached establishing the diameter of the study area? (see para 1.1.2)
- 4.17 Para 2.17 States in relation to South Shoreditch Conservation Area that it is “strong and robust and largely undiluted by more recent development within its boundary and setting”. Is this still correct in their judgement- and what is the impact of tall

- buildings in the setting diluting the character? – and how does this development affect that setting further- no robust analysis is provided.
- 4.18 Paragraph 2.21- what we are not provided with is information on how the site contributes currently, what is the relationship – it is an unfinished assessment.
- 4.19 Redchurch Street CA para 2.46 deals with the setting of the CA- if the sheer size and form of the Bishopsgate Goods Yard renders it immediately at odds as quoted- does that contrast detract- or is it a positive in the same way that perceived contrasts in other areas is regarded as positive? If it is negative what are the implications for the scale and height and form of the development- without a logical approach to assessment of setting these issues are not properly analysed.
- 4.20 Paragraph 2.59 – there is no description of the setting for Brick Lane and Fournier Street conservation area- which is provided for other conservation areas- why is that?
- 4.21 Paragraph dealing with Elder Street conservation area- there is a description of the setting but no analysis of the contribution made by the goodsyard as part of that setting both now and as developed.

Heritage Statement Appendix C Fabric Assessment

- 4.22 Paragraph 3.2 I am no engineering expert but the proposed principles of the structural approach appear reasonable. However, there are a set of assumptions underlying the approach and the margin of error is 10%. The GLA should consider validating both the assumptions and the suggested approach with their own external expert engineers- e.g Deborah Lazarus at Arup (or equivalent) to demonstrate that the risk has been appropriately considered. The approach to delivering the public realm over the listed viaduct depends upon the accuracy of the assumptions as well as the delivery of the proposed hotel
- 4.23 Paragraphs 3.6.132 and 3.6.133 raises the issue of archaeological monitoring of trial pits post RIBA stage 3. This flags up the need to ensure that the archaeological potential of the structures has been considered within the HS (see above).
- 4.24 The related issue is the consideration of the existing public realm and historic features currently existing. An accurate recording of the current survivals and schedule of method for removal and re-use is required as is consideration of monitoring and recording any further features that may lay currently hidden by later surfaces.

ES Addendum- Volume 2 Chapters 15 and 16

Chapter 15 Archaeology

- 4.25 Figure 15.1 and reference to the 2005 Archaeological investigation revealing structural evidence of the original terminus- has that been considered and looked at in terms of potential impact from the new development as part of the Heritage Statement?
- 4.26 Para 15.5.32 refers to archaeological remains of C19 railway structures- how are they factored into consideration of heritage impact?
- 4.27 Table 15.9 shows major adverse effect on heritage assets' archaeological potential which needs to be brought together and considered holistically in light of the particular significance of the designated heritage assets- this is a case where archaeology and architecture/ history overlap.
- 4.28 The HS does not accord with the assessment of impact in table 16.12.1 - which has minor adverse...

Chapter 16 Built Heritage

- 4.29 The baseline receptors only include designated heritage assets and not all heritage assets- locally listed or non-designated heritage assets have not been included in the anticipated effects in para 16.8.7. This is despite the introduction to the ES chapter at 6.2.1 stating that it covers built heritage assets (i.e. does not confine itself to Designated built heritage assets). The Scoping Opinion response of 2014 to the original application (para 16.4.5) reported in table 16.1 of the current document required all heritage assets to be assessed including their settings so this does not appear to have been done within this revised ES.
- 4.30 The assessment of magnitude of impact within the ES does not appear to follow the gradation set out in para 6.5.13 where the category of **Major** is defined as
“Substantive change to or transformation of the fabric or setting of the built heritage asset in complete contrast to the existing situation”
- In light of the open, undeveloped nature of the site and the quantum of development being proposed I would expect to see “major” appearing in the tables assessing impact rather than moderate or minor in relation to the designated heritage assets on the site at the very minimum.

- 4.31 The assessment of sensitivity to change is also of concern (para 6.5.11) in that it states that the list description is used as a measure of significance- whereas the list entries are simply descriptions and explicitly not statements of significance- unless compiled under more recent legislation (ERRA) or are enhanced versions where reasons for designation are provided. It is therefore important that a full understanding of the significance of the designated heritage assets is used as part of assessing impact.
- 4.32 A straightforward comparison of just the townscape impacts illustrated in the TVIA and the conclusions reached in the ES Chapter for the same asset seem to confirm that impact is being underestimated and as examples I refer to Elder Street/ Folgate Street (TVIA view 49); Commercial Tavern (view 46) and; individual listed buildings within the boundary estate (TVIA 9 view 32w).

ES Addendum Volume 3 Townscape and Visual impact Assessment

- 4.32 This chapter is primarily where visual impact of the new development can be assessed through the provision of verified views. The selection of views appears to provide an extensive and appropriate framework. Assessment of setting is a separate consideration and therefore the general conclusions regarding townscape are only of limited assistance for individual listed buildings. However, where the designated heritage asset is a conservation area then there is often greater convergence and the conclusion in the TVIA needs to be carefully assessed.
- 4.33 The TVIA conclusions regarding impact upon the Boundary Road Estate do not appear to be rational given the obvious visual impact illustrated in View 32w on a townscape of strong coherence and consistency. It should also be noted that the planned nature of the estate, and its architectural coherence lie at the heart of its historic interest and appearance. To suggest that the introduction of substantial new development that is visually challenging and clearly visually prominent and in contrast to the established townscape character is neutral in this case is simply not credible.
- 4.34 The consideration of the townscape impact of view 49 Folgate Street and Elder Street is similarly lacking in credibility and the text is evasive. The impact at the very least is moderate adverse given the strong coherence in building line, height, scale and architectural character in this view.

5.0 Issues Arising

- 5.1 The principal issue arising from the detailed analysis of the Heritage Statement and the ES information is the integrity and adequacy of the consideration of significance. There are two main areas of concern. The first is the extent to which the

archaeological potential of the above ground structures has been considered (or not) by the Heritage Statement. The second main issue is the robustness of the analysis of contribution made by setting to significance. Both of these issues are integral to a proper understanding of impact and if the analysis is lacking then the conclusions of impact are not robust.

- 5.2 There is a third issue in the lack of consideration of undesignated heritage assets within the ES, although these are referred to in the heritage statement. The most important example is the later vaults proposed for demolition.
- 5.3 There is also a potential issue regarding the Weavers Houses on Sclater Street. At present these buildings have not been listed, but are under consideration for designation by Historic England. They are, in any event, undesignated heritage assets. They have therefore, not been considered in the ES, although they are included within the Heritage Statement. Depending upon the timing of any decision on designation by Historic England it is important that impact of proposals upon them are explicitly assessed at this stage to mitigate the risk of later amendments being required.
- 5.4 The consideration of significance of the Boundary Estate is an area where further work is required. The individual blocks are listed, although much of their significance is derived from the group value and the planned nature of the estate. Nevertheless, the buildings do need to be considered individually in some cases because of the different impact caused by the development, which is not consistent across the estate. Given the driving forces behind the design and layout of the estate- which included provision of light and airy development, with improved environmental conditions and setting as model social housing, the extent to which those elements of significance will be affected by substantial development closing off perceptions of space and coherence do need to be addressed properly.

6.0 Initial Assessment of impact

- 6.1 Notwithstanding the issues identified with the information within the application, it is possible to provide an initial assessment, suitably caveated, regarding the potential heritage impacts of the current applications. This is set out below. Having considered the information and walked the site and surrounding area, subject to the explicit confirmation regarding the queries about the ZVT and the basis of assessment of the outline applications in the Heritage Statement, I have not identified any obvious omissions with regard to additional heritage assets that could be affected by the development.
- 6.2 The following assets are harmed by the proposals:

- **Oriel Gateway Grade II** – direct and indirect harm. Indirect harm arising from loss of positive features within its setting that contribute to significance (later vaults and the ramp) and the visual impact and relationship of Building 2 in terms of proximity. Direct impact arises from the demolition of a section of attached boundary wall to provide steps. At present, on the basis of the submitted information that harm is less than substantial and towards the middle of the range
- **Braithwaite Viaduct Grade II-** Indirect harm arising from the demolition of structures within its setting to the south west (later vaults) that contribute to its historical significance as evidence of its incorporation into the goods yard. The potential loss of below ground remains of the earlier station building to which the Braithwaite Viaduct was originally connected also represents harm. Currently on the basis of known information I would assess the harm as less than substantial and slightly lower than middle of the range.
- **Commercial Road- The Commercial Tavern Grade II-** Indirect harm arising from the proximity and visual distraction of building 2 affecting appreciation of the listed building as a carefully composed composition rounding the corner and intentionally visually prominent. The harm is less than substantial although middle of the range
- **The TEA Building Grade II-** Indirect harm arising from the proximity and visual dominance of new development including building 2 in views from Bateman Row and Shoreditch High Street. However, the current visual dominance of the Tea Building is an historical anomaly as it would have been seen in conjunction with the original Goods Yard development for a considerable period. The new design has also sought to establish a visual relationship in the immediate context (the “shoulder”) so the harm is less than substantial towards the lower end of the scale.
- **Nos 28-30; 17; 15; 5&7; 1&3 Elder Street Individually Grade II-** Indirect harm arising from new development rising abruptly above the roofline in views of the buildings. Individual impacts will vary in scale for each asset but they also derive group value from their consistency of scale and character which has to be factored in- at present this is less than substantial harm middle end of the range which could rise towards upper end when considering them as a group.
- **Molesey House and Lakenham House Camlet Street Boundary Estate Grade II-** Indirect harm from the new development in setting and visually challenging appreciation of architectural composition and intentions behind the layout. Individual impact as experienced from along the street varies and is different from the impact as experienced from the central steps of the bandstand. Less than substantial but given the group value middle of the range.
- **Elder Street Conservation Area-**see analysis above for the individual listed buildings but in light of their important contribution to the reasons for designating the CA and also the additional impact in other views from within the CA the harm is indirect on the setting of the CA, less than substantial and middle of the range.

- **Boundary Estate Conservation Area-** the congruence between significance of individual buildings and the character and appearance of the conservation area is very high. As conservation area designation is about areas rather than individual buildings and the area is clearly appreciated as coherent carefully planned and a model community based on generous space, light and air the impact of substantial new development rising above the buildings in two of the streets when viewed from the heart of the area is a major change. The harm is less than substantial but at least middle of the range.
- **Later vaults to south and south-east of the Oriel Gateway-** Undesignated heritage assets whose significance is not fully understood at present. Clearly an important relation to the surviving elements of the Goodsyrd that are designated (see above). In the context of the loss of the vaults to the north in creating the overground train box, their loss will result in over 50% of the structures that survived the fire being removed. The harm is direct and major.
- **Weavers Houses Sclater Street:** currently undesignated heritage assets and at risk. Some direct harm through loss of the rear additions and some harm to the setting by the visually more prominent proposed extension to the side.

6.3 The following assets are enhanced by the proposals:

- **Oriel Gateway Listed Grade II-** Currently a Building at Risk requiring urgent action and significant investment to repair. Proposed to be repaired and used once again as a gateway to the site better revealing its significance.
- **Braithwaite Viaduct Listed Grade II-** Currently a building at risk requiring repair. Opportunities to improve the experience of the asset by providing a sympathetic new use and public access. Potential to further enhance or better reveal significance through interpretation
- **Later Vaults to south-** undesignated heritage assets requiring considerable investment into repair. New sympathetic uses and opportunities for interpretation and improved access. Heritage centre in Accumulator building- if secured also beneficial
- **Boundary walls-** undesignated heritage assets- significant repair and investment and partly accommodating new uses
- **Weavers Houses Sclater Street-** currently undesignated and at risk. Repair and new uses and opportunities to enhance or better reveal their significance

7.0 Conclusions and next steps

7.1 The proposals will cause harm to several heritage assets both designated and undesignated but generally that harm is less than substantial in terms of the NPPF.

There are also a number of heritage benefits to both designated and undesignated heritage assets.

- 7.2 At present whilst the assets that are likely to be affected do appear to have been identified, more work is required to establish the significance of the elements of the vaults that are proposed for demolition. That work should also include an audit of the features such as turntables tracks etc (if not already carried out) to ensure that a methodology for the meaningful re-use of these features within the landscape can be achieved. The archaeological/industrial interest of the above ground structures is also not adequately addressed at present. Until these elements of work are carried out then the conclusions regarding extent of harm can only be provisional.
- 7.3 In addition to this piece of work for the structures on the site the assessment of impact of development upon the setting of adjacent heritage assets requires further work to ensure consistency and robustness. In particular the assessment of the impact upon the individual listed buildings in Elder Street and Camlet Street needs to be considered.
- 7.4 The Heritage Statement should follow an NPPF compliant approach with regard to setting out impacts and benefits to enable the decision taker to have a clear, robust and evidence-based understanding of the heritage issues to take forward into the planning balance. The justification for any harm is particularly important and demonstrating how the special regard for appropriate conservation of the historic environment has informed some of the amendments should be clearly drawn together.
- 7.5 The follow steps are recommended:
- 1 ***Rapid review of the industrial archaeological potential and significance of the upstanding structures by appropriate expert to validate or challenge the conclusions regarding their significance;***
 - 2 ***HS to incorporate consideration of this aspect of technological or historic interest***
 - 3 ***HS to set out significance of contribution of setting to designated heritage assets in accordance with suggested approach by GPA 3, or in a way that achieves the same objectives- currently the TVIA has much of the visual information.***
 - 4 ***GLA to consider independent engineering evaluation of assumptions regarding structural capability of the Braithwaite Viaduct as the assumptions are based on the role of the viaduct when encased on both sides supporting the superstructures, whereas the viaduct is now to be largely stand-alone.***

5 *Amendment of proposals for extensions to Weavers cottages on Sclater Street to respect existing scale and hierarchy*

APPENDIX I: Documents consulted in this appraisal

Heritage Statement (revised) *KM Heritage September 2019 including appendices A (Audit); B (Context Appraisal); C Fabric Assessment*

Design and Access Statement parts 1-21 *Ballymore and Hammerson September 2019*

Environmental Statement Addendum Volume 2 *Ballymore and Hammerson September 2019- Chapter 15 Archaeology (MOLA) and Chapter 16 Built Heritage (KM Heritage)*

Environmental Statement 2015 Chapter 15 *MOLA*

Environmental Statement Addendum Volume 3 (Revised) *Ballymore and Hammerson September 2019: Town and Visual Impact Assessment (Peter Stewart Consultancy & Miller Hare)*

2: Appraisal of Proposed Heritage Conditions February 2020

Bishopsgate Goods Yard

Appraisal of proposed conditions to secure appropriate conservation of the historic environment

Barker-Mills Conservation

Author: Nigel Barker-Mills BA (Hons), PhD, Dip Cons AA; IHBC; FSA

Ref: NPBM 19/15 -02- 2020

1.0 Introduction

- 1.1 Barker-Mills Conservation is an independent, expert consultancy advising on the historic environment. Nigel Barker-Mills, the author of this report, trained as an architectural historian and has a degree and doctorate awarded by the University of Reading. Following appointment as a Fieldworker for the Accelerated Resurvey of the Lists of Buildings of Special Architectural or Historic Interest for the county of Surrey, he was employed by Surrey County Council as a specialist historic environment officer advising on all aspects of the management of historic buildings and areas. He founded and subsequently chaired the Surrey Conservation Officers' Group and commissioned the first Buildings at Risk survey for the county. During his time in Surrey he obtained a Post Graduate Diploma in Building Conservation from the Architectural Association of London, which included preparing a thesis on the issues around education of construction professionals working on historic buildings.
- 1.4 In 2000 he joined the south-east region of English Heritage in the role of Historic Areas Adviser during which time he advised on new development and regeneration issues across Kent, Surrey, Sussex and Oxfordshire. In 2009 Nigel joined the London Region of English Heritage (later Historic England) as Head of Partnerships and subsequently Head of Development Management. In 2011 he was appointed Planning Director for the London Region, leading a team of 40 specialist Inspectors and advisers, including architects, planners and surveyors providing the statutory advice and grant assistance across the capital. He retired from Historic England in 2016. Nigel is a full, founder, member of the Institute of Historic Building Conservation (IHBC) and has served on both the south-east branch, as Chairman and Secretary, and also the national committee. He was Chairman of the Editorial Board of "Context" the Journal of the IHBC to which he has contributed several articles. In 2013 he was elected as a Fellow of the Society of Antiquaries of London.
- 1.5 Barker-Mills Conservation has been commissioned by the GLA, with the agreement of the applicants for the proposals at the Bishopsgate Goods Yard (Hammerson and Ballymore) to provide heritage advice to the GLA based on an independent appraisal of the applications from a heritage perspective. An initial appraisal of the proposals was prepared and submitted to the GLA in December 2019 (ref NPBM 19/15 v1)
- 1.6 This report considers an initial draft of proposed conditions to assess whether they are reasonable, focussed and deliverable. The report considers the proposed conditions in sequence as numbered with a short commentary.

Proposed Conditions

Historic England

Recommended planning condition:

1. Prior to works of demolition of any buildings within the site or alteration of those buildings, a phased programme for carrying out the approved works to the heritage structures, namely the listed buildings, the former Goodsyard structures that are proposed to be retained and the buildings on Sclater Street, shall be submitted in writing to and for approval by the Local Planning Authority. The programme shall include a proposed timeline and shall take into account the delivery of the new build elements of the scheme alongside the delivery of the repair, refurbishment and fit out of the heritage structures. The development shall be constructed in accordance with the approved programme, unless agreed in writing with the Local Planning Authority.

Commentary: The purpose of the condition appears to be to ensure that repairs of heritage structures are carried out at appropriate points and that new development is not completed leaving heritage assets at risk. This is an important issue and the purpose of the condition is therefore appropriate. However, the wording is a little imprecise and should be clearer to indicate where triggers for the repair of heritage structures are to be expected. As currently worded no work to any structure or building is permitted before the condition is discharged- whether that building is of heritage significance or not- and I am not sure that is reasonable. There may well be reason to carry out some further investigation and/or demolition to give greater clarity on repair or restoration costs and complexities, (e.g. to the vaults in advance of the landscaping etc, which could affect programming of development. The condition does not currently include recording so there is also a need to ensure that the suggested programme cross references or in some way includes a timetable for recording to appropriate, specified standards.

General conditions to be applied to both LBCs:

1. All new external and internal works and finishes and works of making good to the retained fabric, shall match the existing adjacent work with regard to the methods used and to material, colour, texture and profile, unless shown otherwise on the drawings or other documentation hereby approved or required by any condition(s) attached to this consent.
2. Any areas of new facing brickwork shall match the existing brickwork adjacent in respect of colour, texture, face bond and pointing, unless shown otherwise on the drawings or other documentation hereby approved or required by any condition(s) attached to this consent.

Commentary: These conditions are based on the assumption that the existing finishes adjacent to areas that have to be made good are in fact in appropriate materials, finishes and profile. Is that the case? What will be the approach in areas where adjacent fabric has been inappropriately altered but no other documentation or conditions refer to it?

3. Before any masonry cleaning commences, details of a masonry cleaning program and methodology shall be submitted in writing for approval by the Local Planning Authority in consultation with Historic England. The program shall demonstrate protection of internal and external surfaces. The cleaning program shall be undertaken in accordance with approved details.

Commentary: The wording of this condition requires greater precision to assist the developer in understanding what is required. Wording along the lines of the following is suggested:

“ No cleaning of masonry or brickwork shall be undertaken until a method statement has been submitted and approved in writing by the Local Planning Authority in consultation with Historic England. The Statement shall include

- *Details of the protection measures for internal and external surfaces where required- such measures to include methods of fixing Any drawings provided to be at xx scale*
- *Details of proposed cleaning method(s)*
- *Location and dimensions of x number of test panels*
- *Drawings annotated to show the area and extent of proposed cleaning (existing submitted drawings can be used where appropriate)*
- *The proposed programme for cleaning*

The cleaning shall be undertaken in accordance with the standards agreed following inspection of test panels as confirmed in writing by the LPA

- 4 Any hidden historic features which are revealed during the course of works shall be retained in situ. Works shall be immediately suspended in the relevant area of the building upon discovery and the Local Planning Authority notified. Works shall remain suspended in the relevant area until the Local Planning Authority authorise a scheme of works for either retention or removal and recording of the hidden historic features.

Commentary: The wording of the condition should be amended to: “Any currently hidden historic features that are revealed during the course of works shall be immediately protected and work suspended in the immediate relevant area whilst the LPA is notified of the discovery.” “Works shall remain suspended until the LPA

authorize a scheme of works for preservation in situ; partial retention; or recording and removal". There should also be an undertaking or indication of timescale in which the LPA is expected to respond otherwise there is risk of open-ended delay which could be a major disincentive for the developer to reveal discoveries. The condition also needs to specify where the record of any discoveries is to be deposited.

- 5 All redundant plumbing, mechanical and electrical services and installations shall be carefully removed from the listed building before the completion of the consented works hereby approved, unless agreed in writing with the Local Planning Authority.

Commentary: The listed buildings or structures should be named and making good should be cross referenced to the appropriate condition

- 6 All works of excavation, regardless of whether at established ground level or above the historic arch structures, shall be subject to an archaeological watching brief, details of which shall be submitted in writing for approval by the Local Authority in consultation with Historic England.

- 7 Prior to the moving or removal of ANY historic item a full schedule of ALL historic items to be moved within or removed from the building shall be submitted in writing for approval by the Local Planning Authority, in consultation with Historic England. The schedule shall be accompanied by a Salvage Strategy, which is to include a methodology for removal, storage, reuse and disposal of historic items.

The handling of historic items shall be in accordance with the approved schedule and Salvage Strategy thereafter unless agreed in writing with the Local Planning Authority.

Commentary: The condition requires clarification- is it meant to be the site or individual buildings- if individual buildings then they should be named. Details of what the schedule should comprise – i.e. is it a Gazetteer including photographs? does it require location drawings and, if so, at what scale?

Hackney LBC: Oriel Gateway, gates and walls

- I. Prior to any works being undertaken, a program to secure the historic structures against loss or damage during building works (including potential theft during construction) shall be submitted in writing for approval by the Local Planning Authority. The relevant works shall be carried out in accordance with that program. Particular consideration should be given to the historic gates and their supporting structures and any historic ground surface finishes.

Commentary- further clarification is required as to what is meant by program. (See above in relation to condition 3 and cleaning program)

2. A detailed assessment of the existing composition and condition of the oriel window and supporting structures shall be submitted in writing for approval by the Local Planning Authority, in consultation with Historic England.

Commentary: There has been a detailed survey by Alan Baxter which forms an appropriate basis- this should be referenced and could be updated.

3. Any necessary works of opening up, or excavation, to assess the existing composition and condition of the oriel window and supporting structures shall be submitted in writing for approval by the Local Planning Authority, in consultation with Historic England.

Commentary: further detail as to type of materials required- drawings? – if so what scale- could it be done using the existing drawings in the existing report? – does method of opening up and/or excavation– e.g. by hand or with tools need to be specified and how is the opening up or excavation to be recorded or monitored? – need to ensure consistency with the proposed condition 6 above suggested by HE

4. Notwithstanding the approved drawings, details of the proposed works to the oriel window and supporting structure shall be submitted in writing for approval by the Local Planning Authority, in consultation with Historic England and shall include:
 - a. Details of repairs, including relevant method statements and samples, as necessary;
 - b. Details of proposed new decorative stonework over oriel window;
 - c. Details of surface treatments to the inner side of the oriel window, including ground finishes, roof finishes and treatment of stonework;
 - d. Details of new fenestration to oriel window;

Commentary: Drawings? – what scale

The relevant work shall be carried out in accordance with such approved details

5. Prior to the commencement of any relevant works, details in respect of the following shall be submitted to and approved in writing by the Council as local planning authority in consultation with Historic England before the relevant work is begun.

Details of repairs to walls and arches, including relevant method statements;

- a. Details of new opening to wall on Commercial Street frontage;
- b. Details of ground finishes and reinstatement of any original features;
- d. Details of proposed modern finishes, signage, shopfronts, and infill screens to arches;
- e. Details of proposed services, including plumbing, mechanical, electrical, data services. Details should include position, type and method of installation of services, as well as any associated risers, conduits, vents and fittings;
- g: Details of proposed lighting.

Commentary: Drawings? What scale

The relevant work shall be carried out in accordance with such approved details

Tower Hamlets LBC: Braithwaite Viaduct

1. Notwithstanding the approved drawings, a detailed assessment of the existing composition, condition and structural strength of the viaduct structure shall be submitted in writing for approval by the Local Planning Authority, in consultation with Historic England.

Commentary: This would only be necessary if the additional report and assumptions are not independently assessed? The LPA does not have the necessary expertise to approve this, I suspect, so will be relying on the Conservation Engineers at HE- and it needs to be clarified whether they (HE) are going to be willing to get involved at this level- I note that the suggested HE conditions did not include approval of structural issues or providing this level of support

2. Any necessary works of opening up, or excavation, to assess the existing composition, condition and structural strength of the viaduct structure shall be submitted in writing for approval by the Local Planning Authority, in consultation with Historic England.

Commentary: This condition overlaps with those suggested by LB Hackney and also HE- One condition covering all opening up works or excavation with necessary referral to the relevant LPA would be a more efficient way forward- combining the proposed conditions put forward separately here.

3. Notwithstanding the approved drawings, details of the proposed works to the viaduct structure shall be submitted in writing for approval by the Local Planning Authority, in consultation with Historic England and shall include:

- a Details of all works associated with the structural support and servicing of the proposed landscape and structures at viaduct level, including detailed construction method statement;
- b Details of repairs, including relevant method statements and samples, as necessary;
- c Details of ground finishes beneath the viaduct at the London Road level;
- d Details of proposed modern finishes, signage, shopfronts, and infill screens to viaduct arches;
- e Details of proposed services associated with the new occupation of the viaduct arches, including plumbing, mechanical, electrical and data services. Details should include position, type and method of installation of services, as well as any associated risers, conduits, vents and fittings;
- f Details of proposed lighting.

The relevant work shall be carried out in accordance with such approved details

Commentary: Similar point here for works of repair – you could use standard wording and insert the name of the relevant listed structure and LPA- which would ensure consistency. The condition would therefore be along the lines of:

“ notwithstanding the approved drawings xx xxx(insert relevant numbers for the structure) before any repair is undertaken details of the proposed works to xx xx (insert name of listed building or structure) shall be submitted to the LPA for approval in writing. The details to comprise:

- *Method statement for repairs including specification of materials and samples of xx xx*
- *Method statement for the structural support for the duration of the repairs to include details of proposed fixings. The method of support to be shown on drawings at xx scale*

I think to use one condition for all of the issues above- some of which are for new services and lighting is too complicated- new works such as services and lighting would be best dealt with in a separate condition(s) and would involve provision of manufacturers specifications etc rather than drawings. They could also be submitted after repairs had been carried out if desired.

There needs to be a condition relating to recording which sets out what level of recording is required (use HE guidance) at and at what stage- i.e. before works commence. The record should be approved by the LPA(s) and the record should also be deposited with both the LPA and also the Greater London Historic Environment Record.

3: Appraisal of EIA Heritage Information and LUC Review May 2020

Bishopsgate Goods Yard

Appraisal of EIA heritage information and review conclusions by LUC

Barker-Mills Conservation

Author: Nigel Barker-Mills BA (Hons, PhD, Dip Cons AA; IHBC; FSA

Ref: NPBM 19/15 doc 3 4 May 2020

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1.0 Introduction

- 1.1 Barker-Mills Conservation is an independent, expert consultancy advising on the historic environment. Nigel Barker-Mills, the author of this report, trained as an architectural historian and has a degree and doctorate awarded by the University of Reading. Following appointment as a Fieldworker for the Accelerated Resurvey of the Lists of Buildings of Special Architectural or Historic Interest for the county of Surrey, he was employed by Surrey County Council as a specialist historic environment officer advising on all aspects of the management of historic buildings and areas. He founded and subsequently chaired the Surrey Conservation Officers' Group and commissioned the first Buildings at Risk survey for the county. During his time in Surrey he obtained a Post Graduate Diploma in Building Conservation from the Architectural Association of London, which included preparing a thesis on the issues around education of construction professionals working on historic buildings.
- 1.2 In 2000 he joined the south-east region of English Heritage in the role of Historic Areas Adviser during which time he advised on new development and regeneration issues across Kent, Surrey, Sussex and Oxfordshire. He provided expert monitoring for the Heritage Lottery Fund on area grant schemes and was the national lead for English Heritage in Developing the "Building in Context Toolkit". This training programme, delivered by the national network of Architecture Centres in collaboration with the Commission on Architecture and the Built Environment (CABE) won a national planning award in 2008.
- 1.3 In 2009 Nigel joined the London Region of English Heritage (later Historic England) as Head of Partnerships and subsequently Head of Development Management, with responsibility for strategic relationships with the Greater London Authority and managing the London Historic Environment Record. In 2011 he was appointed Planning Director for the London Region, leading a team of 40 specialist Inspectors and advisers, including architects, planners and surveyors providing the statutory advice and grant assistance across the capital. He retired from Historic England in 2016. He subsequently established Barker-Mills conservation to provide expert heritage advice for clients in both public and private sectors. These have included Historic England in the NW and SE regions; Hart District Council; The Greater London Authority; Guildford Borough Council; Gascoyne Cecil Estates; JCB Ltd; and a number of other private developers across the south of the country.
- 1.4 Nigel is a full, founder, member of the Institute of Historic Building Conservation (IHBC) and has served on both the south-east branch, as Chairman and Secretary, and also the national committee. He was Chairman of the Editorial Board of

“Context” the Journal of the IHBC to which he has contributed several articles. In 2013 he was elected as a Fellow of the Society of Antiquaries of London.

- 1.6 Nigel has been a member of several expert design panels, including those in Oxford and the London Borough of Haringey and has also published on architectural history and conservation. In 2015 he presented a paper at the 43rd Oxford Joint Planning Law Conference, an annual event organised by the Law Society, the Bar Council, the RTPI and the Royal Institute of Chartered Surveyors (RICS). The paper on “Heritage Assets and their Setting” has been published in the Journal of Planning and Environment Law: Occasional Papers No 43 (*pub Sweet & Maxwell*).

2.0 The purpose of this report

- 2.1 This report has been provided to assist the GLA in considering how to progress with assessment of the heritage impacts of the proposals in light of concerns regarding the methodology and approach of the applicants to consideration of heritage issues raised by the proposals.
- 2.2 The report is based on consideration of the Final Review Report of the ES Addendum by LUC issued March 2020; a consideration of the detailed response by the applicants to items BH 13 and 14; and the subsequent Assessment of the response by LUC in April 2020. Provision of this advice is part of the Planning Performance Agreement between the applicants and the GLA and is intended to assist with the efficient and diligent consideration of the applications.

3.0 Summary of analysis

- 3.1 The original review of the ES Addendum identified several concerns and requests for clarification with regard to heritage matters.² These formed the basis for specified actions under each section many of which were addressed and regarded as acceptable in the review table of the final assessment. However, there were a number of recommendations that were not adequately addressed. The main issues identified by LUC in relation to the methodology and approach of the applicants to heritage were concerned with the accurate and clear identification of significance, the identification of contribution made by setting to that significance and then the subsequent assessment of impact and significance of effect.

² The requests are as follows by para reference: 5.2; 5.12; 15.2; 15.3; 15.4; 15.6; 15.15; 15.16; 15.22; 16.1; 16.5; 16.9; 16.10; 16.12; 16.13; 16.16; 16.18; 16.20; and 16.25;

- 3.2 The applicants responded in detail to actions BH 13 and BH 14, providing a table to clarify their methodology with regard to these matters for heritage assets. This information has confirmed the concerns with the methodology being used. The first issue is the identification of significance in Table 1. Significance is clearly identified on a sliding scale and the approach used in this table is apparently geographically based- the level of significance being related to whether it is felt to be international/national/regional/ or local. This has its limitations but despite this is a familiar one. On the basis of this approach, given that designated heritage assets are identified using national criteria (which is also the case for some non-designated heritage assets of archaeological interest that can be assessed as being of equivalent national importance) they should automatically be in the highest tier of the table. This will have implications for the outcome of the subsequent assessment process using the framework of table 3.
- 3.3 The table commencing on page 3 which sets out the detailed response of the applicants uses table 1 for identification of heritage significance which leads to designated heritage assets and undesignated assets both being assigned medium significance. This simply cannot be right, not least because different policy tests apply within the NPPF for undesignated as opposed to designated heritage assets. If an asset does not meet the criteria for national designation it should be of medium significance and designated heritage assets are high significance.
- 3.4 The detailed table starts with consideration of the site as a whole and concludes medium significance. This is unhelpful and irrelevant. The individual heritage assets, designated and undesignated which make up the site and their particular and different significances have to be considered individually; to try and ascribe an overall value to the site is meaningless.
- 3.5 The table has a column where setting is described, but contribution of setting to significance is not consistently described or analysed, or in some cases even identified in what I think is meant to be the contents of column 3 of the table.
- 3.6 The final column which assesses the significance of effect is also inconsistent in its consideration of harm and claimed benefit. It is noticeable that where an unlisted structure is to be retained then the conclusion is that this is a major benefit, but where it is to be demolished, the harm is described as moderate adverse. This is clearly attempting to downplay negative impact and over-emphasise benefit. In light of the policy approach which is to conserve heritage assets in a manner appropriate to their significance if anything the balance between moderate and major should be the other way round. It should also be noted that interpretation may enhance appreciation of significance or the ability to understand it, but generally it does not enhance significance itself.

- 3.7 There is also a concern with the linking of cause and effect, particularly around visual impact within the setting of heritage assets and the contribution it makes to the ability to appreciate significance. To describe the new development as being visually dominant in relation to an asset (Oriental Gateway), or “towering over and dominating” (Tea Building) and then to characterise that effect as minor adverse is plainly not credible in terms of simple Plain English. The assessment is just not being honest and straightforward and it serves the applicant poorly.

Subsequent LUC assessment April 2020

- 3.8 The assessment by LUC is intended to identify continuing deficiencies that means the analysis or information fails to meet the required standards under the EIA regulations and with one exception, it finds that technically, the standards for information have been met. That exception is in relation to cumulative effect. This is an important concern and without the information being provided using the correct methodology the EIA regulations are not being complied with. I note that LUC are of the view that the information may not be forthcoming. Without that information in my view the conclusions of the TVIA are not valid and in terms of the NPPF, the full impact of the proposals upon the heritage significance of the site has not been identified by the applicant. (para 189)
- 3.9 Whilst accepting that the information meets the regulations it is interesting to note the professional judgement of LUC regarding the consistency and credibility of the information and the gaps remaining. I concur with the caution issued by LUC in relation to the response of the applicants with regard to BH 13 and 14 as their conclusions substantially echo and reflect the judgement I reached, entirely independently in my initial appraisal of the heritage statement. I set this out below for ease of reference:

Consideration of setting –

- *in the HS there is inconsistent and partial analysis of the current contribution of setting to the various heritage assets. Without robust analysis (Step 2 of the HE GPA) the conclusions regarding impact on setting are only assertions and not evidenced.*
- *There is considerable analysis of the extent of listing and whether therefore LBC is required for elements of the work. This is ultimately a matter for the LPA as decision maker to determine, based on the facts of the case, but in light of the date of the listings and the complexity of the proposals it is surprising that clarification the extent of listing has not been sought by the applicant via the HE enhanced advisory services. Definitive listings under the ERRAs would have been extremely useful in this case- but given where we are in this process it is probably too late to pursue this now.*
- *Whatever the status of the boundary walls and associated vaults and those structures encasing or adjacent to the Braithwaite Viaduct, what seems to have been missed is recognition that they form part of and are features of the setting of the designated heritage*

assets and therefore their contribution to the significance of those assets has to be considered- rather than just dismissed or ignored because they are deemed not listed.

- *Para 5.18 of the detailed Heritage Audit is absolutely right- the physical evidence of sequential growth of the site is of considerable interest – so therefore the later structures contribute to an understanding of the earlier structures and also provide context for the later structures such as the Oriel Gate with which they are contemporaries...but that recognition of their importance has unfortunately not been carried through to the main HS analysis.*
- ***Consideration of Railway/Industrial heritage significance***
Whilst not criticising the experience of the heritage consultants it would have been appropriate to have engaged some railway heritage expertise in the assessment of significance of the currently unlisted structures- I am not sure how robust the conclusion is regarding the importance of the later structures, as effectively ordinary and standard, in terms of their significance in a national context. I am not a railway expert but it seems to me that as part of the largest and most impressive goods yard in London, at the very least there should have been an analysis of other comparators- i.e. other large urban railway goods yard to establish the hierarchy of this one and justify the statements regarding importance.
- *The HS does not incorporate any discussion of the conclusions regarding the potential of survival of the industrial heritage on the site relating to the railway- which is found in the MOLA archaeological report. This is identified as high. Earlier excavations in 2003 and 2008 have uncovered structures relating to the original and later stations. The alterations to the Braithwaite Viaduct have also not totally removed all of the fabric to the north- the foundations of the original piers survive- and being attached and an integral part of the structure, albeit currently hidden, they form part of the listed building. There is no analysis of impact of the proposals upon this element of significance.*

4.0 Conclusions and next steps

- 4.1 In my view it remains the case that the applicant's assessment of significance and in particular the analysis of what setting contributes to significance or the ability to appreciate that significance is flawed. There has been some minimal attempt to address the consideration of railway heritage with regard to the earlier station and viaduct in the response to the concerns raised in BH 13 and 14, but it is not adequate.
- 4.1 The NPPF sets out that it is for the applicant to set out significance and the impact of their proposals upon that significance in a proportionate manner. It is then for the decision maker to take that information and using appropriate expertise to identify the particular significance of any heritage asset affected by the proposal and to take that into account when considering whether adverse impact has been avoided or minimised.

- 4.2 The concerns regarding the adequacy of the analysis and identification of significance by the applicants have been raised at least twice by separate individuals acting independently. It is therefore disappointing that the response to these concerns has not been more engaged and they have not been resolved in a pro-active manner.
- 4.3 In normal circumstances I would suggest that a meeting to discuss these concerns face to face with the applicants, rather than via reports or email, in a final attempt to resolve matters and assist effective decision taking would be justified. In the absence of such a meeting the logical course of action for the GLA is to take an extremely cautious approach to accepting the conclusions provided by the applicant with regard to suggested impacts (both adverse and beneficial). This is an unsatisfactory situation and also extremely disappointing and makes any decision by the GLA much more difficult.
- 4.4 In my professional judgement the flaws in the Heritage Statement are such that should they remain unaddressed the policy requirement of paragraph 189 of the NPPF has not been met in my view and the application should not be determined until the applicant's comply with that requirement and ensure an adequate assessment is carried out.
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4: Advice Note #1: Proposed Structural Conditions May 2020

Barker-Mills Conservation

Advice Note 19/15 #1

***Site:* Bishopsgate Goodsyard**

***Date:* 6 May 2020**

***Ref:* NPBM/19/15**

Author: Dr N P Barker-Mills BA(Hons) PhD Dip Cons (AA) IHBC FSA

1.0 Background

- 1.1 As part of the consideration of proposals for the redevelopment of Bishopsgate Goodsyard the GLA (on the recommendation of Barker-Mills Conservation) commissioned independent conservation engineering advice on the proposed construction of a new hotel upon the listed Braithewaite Viaduct.
- 1.2 The report, by Conisbee, has been shared with the applicants for consideration. In response the applicants have proposed that the issues raised in the report be dealt with by planning condition and have supplied draft text.³ The GLA have requested an opinion from Barker-Mills Conservation on whether proceeding on the basis of condition is appropriate and whether the wording of the condition provides adequate safeguard to the significance of the listed viaduct.

2.0 Advice

- 2.1 The Conisbee Report⁴ concludes that in principle the approach taken by WSP is an acceptable one in circumstances where no significant change is expected to the loading of historic structures. However, in this instance there will be a significant change to the loading of an historic structure that has not been substantially loaded for over 50 years. This issue, in combination with concerns over the potential effect of made ground has resulted only in a provisional acceptance of the proposed WSP approach to loading the structure.
- 2.2 This acceptance is based on the need for further investigation to demonstrate how the existing arch ring to pier connection of the existing structure works, which is critical to successfully designing the proposed load transfer between the new development and the existing structure. Further investigation of the foundation design and in particular the ground bearing capacity below the viaduct is also required.
- 2.3 The issue is at what stage this investigation should be carried out and whether the results of the investigation are necessary to determine the potential impact upon the significance of the heritage asset in advance of any consent. The principle of development upon the viaduct has been accepted, including by both local planning authorities and also Historic England. It therefore appears reasonable in principle for the detailed investigation of the existing structure and ground bearing capacity to be established through the careful use of conditions.
- 2.4 The draft text of the conditions proposed by the applicant is:

³ Email from Julian Shirley DP9 to Paul Roberts GLA dated 30 April 2020

⁴ Ref 200227/T Girdler 8 April 2020

1. *No piling shall take place through the existing arch structures in respect of the construction of Plots 8B and C.*
2. *No development of Plots 8B or C shall commence until detailed design and method statements are submitted to and approved by the local planning authority. Such statements shall include details of structural and ground movement monitoring of all structures; material testing; inspection of all structures and geotechnical site Investigations. Such geotechnical / enabling works site investigations shall include details of all structures including the following:*
 1. *Existing foundations: size, level and formation;*
 2. *Existing arch extrados levels, fill material;*
 3. *Arch pier backing levels, fill material;*
 4. *Back fill material*

The development of Plots 8B or C shall thereafter be carried out in accordance with the approved design and method statements, and all structures and works comprised within the development of Plots 8B or C hereby permitted which are required by the approved design statements in order to procure the matters mentioned in this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

- 2.5 Condition 1 is acceptable, although it may require slight amendment -see below. Condition 2 is acceptable subject to clarification that the purpose of the geo-technical site investigation is to establish the ground bearing capacity and clarification that the design and methods statements are in relation to agreeing the approach to the proposed structural loading of the Braithwaite viaduct.
- 2.6 The draft text of condition 2 requires approval of the report by the local planning authority which, I suggest, will require continued input from Conisbee to validate the findings of the statement. This should be agreed with the applicant, but in my view, this should not be an issue as it provides consistency and greater certainty for them that matters will be handled efficiently and appropriately.
- 2.7 It should be noted that in the event that, as a result of the investigations, it is concluded that the proposed structural approach is not possible or is on balance too great a risk, the alternative approach identified by Conisbee may then have to be considered. In these circumstances the results of the investigations will form an essential element of the required justification for a more intrusive approach. The precise detailing of the mini piling will itself require express approval and the first condition in its current form would be breached. I suggest that the wording is therefore amended to add “without express approval in writing by the LPA”. This

should provide the necessary flexibility if it is required whilst safeguarding the historic structure.

5: Advice Note #2 an analysis of Heritage Concerns regarding Structural issues
June 2020

Barker-Mills Conservation

Advice Note 19/15 #2

Site: Bishopsgate Goodsyrd

Date: 22 June 2020

Ref: NPBM/19/15

Author: Dr N P Barker-Mills BA(Hons) PhD Dip Cons (AA) IHBC FSA

Background

- 1.1 As part of the consideration of proposals for the redevelopment of Bishopsgate Goodsyard the GLA (on the recommendation of Barker-Mills Conservation) commissioned independent conservation engineering advice on the proposed construction of a new hotel upon the listed Braithwaite Viaduct. The report, by Conisbee, was shared with the applicants for consideration. In response the applicants have proposed that the issues raised in the report be dealt with by planning condition and have supplied draft text. The GLA then convened a meeting with officers of the London Boroughs of Tower Hamlets and Hackney to discuss concerns raised regarding the approach suggested by the applicants. The GLA also sought the advice of Conisbee on the suggested approach of dealing with any potential adverse impacts on the viaduct structure by way of condition rather than carrying out investigation in advance of determination of the application.
- 1.2 The officers of the local planning authorities expressed a clear view that investigation to establish the structural capability of the viaduct to accommodate the proposed loading arising from the hotel and also the proposed concrete slab and landscape is necessary before determination of the application can take place. Concerns were also raised about the approach to repair of the listed Oriel Gateway and whether potential repair off site would lead to loss greater loss of fabric.
- 1.3 It was agreed at the conclusion of the meeting that the officers of the local authority would produce a summary of their heritage concerns and also outline precisely what they would be seeking in terms of pre determination investigation for consideration. Their Heritage Report (5 June 2020) was provided to the GLA on 9 June 2020.
- 1.4 This advice note sets out analysis of the concerns raised in order to enable the GLA to consider the best way to proceed to resolve matters. It should be read in the context of Barker-Mills Conservation Advice note #1 (May 2020) which set out an analysis of the expert engineering advice received from Conisbee and provided comment on the wording of the conditions proposed by the applicants.

2. Advice

- 2.1 The starting point for consideration of the way forward is the NPPF and the approach within Section 16 for the conservation of heritage assets in a manner appropriate to their significance. A clear process is set out and it is necessary to establish whether that process has been followed to date, before considering the concerns raised. The process required by the NPPF can be summarised as:
 1. *An applicant is required to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is*

sufficient to understand the potential impact of the proposal on their significance. (para 189)

2. *Local planning authorities identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. (para 190)*

These two steps are required in advance of consideration of any impact to establish whether it is potentially harmful and, if found to be so, whether that harm is substantial or less than substantial. Any conflict between the proposal and the conservation of a heritage asset has to be avoided or minimised (para 190) and any harm has to be given great weight in the planning balance and requires clear and convincing justification no matter what level.

- 2.2 Step 1: “*description of significance of heritage assets by the applicants*” The applicants have provided a heritage statement, which whilst it is deficient in its analysis of setting and the contribution made setting to significance does provide a proportionate level of detail regarding the significance of the Braithwaite Viaduct itself. The application(s) also provide detail that the applicant regarded as sufficient to understand the potential impact of their proposal upon the significance of the viaduct (and Oriel Gateway). They correctly identified that there was the potential for a structural impact arising from the proposal to erect a new structure above the viaduct and explained the basis on which they had reached their conclusions that any such impact would not materialise. In reporting this, the Heritage note is misleading in its interpretation of the WSP information and approach. Technical information to support the analysis by WSP was provided in supporting documentation and some information had been included in earlier documents including the fabric audit.
- 2.3 My view is that this step of the process required by the NPPF has therefore been carried out appropriately for this particular heritage asset. It is important to note that this step of the process requires the applicant to set out potential impact i.e. it is implicit that the precise extent of impact may not be capable of being set out. This is obvious because in many cases whenever any works are carried out to heritage assets there is a possibility for unforeseen issues to arise or unknown significance to be revealed. This does not mean that this is ignored or is not important, but it falls into the next stage of the process to be considered.
- 2.4 Step 2: “*Local planning authorities identify and assess the particular significance of any heritage asset that may be affected by a proposal*” The LPA is required to independently identify and assess the particular significance (my emphasis) of any heritage asset that may be affected by a proposal. The wording is again deliberate because significance will be unique to each individual asset and not all elements of that significance will be affected by a proposal. It is therefore an important

first step to be clear in the identification of significance because it is this identification upon which decisions then have to be founded in order to be reasonable, consistent and transparent

- 2.5 In the case of the Braithwaite viaduct the historic interest of the structure as an important example of railway infrastructure and engineering, illustrating the expansion of the capital and the transformation of society as part of the industrial revolution, will not be affected by the proposals. The “architectural” special interest of the viaduct lies primarily in its engineering and the associated scale of the structure provides additional aesthetic value. The intrinsic value of the fabric is secondary (although not unimportant) as the materials employed were mass produced (i.e. brick and lime) and there is no element of deliberate craftsmanship in the visual appearance of the structure, even though we have an aesthetic response to its size and scale. The particular element of significance that may therefore be affected by the proposals is the engineering or technological interest of the structure as a viaduct. Any impact which causes the viaduct to fail as a structure or requires such intervention that its appearance will be radically transformed so its structure can no longer be understood or appreciated would represent harm that should be avoided or minimised.
- 2.6 The Oriel Gateway has also been identified as a concern by the local planning authorities. In this case the aesthetic or architectural interest is of a different nature and of greater interest. There is intrinsic value in the fabric of the gateway- primarily in its decorative details and design.
- 2.7 As determining local planning authority the GLA has assessed the particular significance of the viaduct using available evidence and having identified that the potential for impact upon one element of that significance, (the potential structural impact upon the technological or engineering significance of the viaduct) it engaged the necessary highly experienced expertise to examine the assumptions underlying the applicants assessment- as required by para 190 of the NPPF.
- 2.8 The advice received by the GLA from that expert has set out that further evidence in two areas is required to be certain that the potential impact upon the viaduct of any new structure and capping can be accommodated without harm; although it is important to note that the principle of once again building on the viaduct is not regarded as unacceptable in engineering terms. The approach being taken by the applicant’s engineers is also regarded as acceptable in cases where no change to loadings is envisaged; it is because loadings are to be re-introduced onto a structure that may have “flexed” and that the loadings are eccentric that caution is advised.
- 2.9 In response to a further request regarding the timing of the identified further evidence, the expert advice from an engineering perspective is that a condition to any consent is acceptable to manage the engineering and structural issues. Step 2 of the process has therefore been appropriately carried out and therefore the next stage is consideration of the potential for any impact on the heritage asset, using all

of the evidence currently provided and whether that impact is potentially harmful and to what degree.

3 Heritage Concerns of the London Boroughs of Tower Hamlets and Hackney

3.1 The heritage concerns set out in the report from the London boroughs of Tower Hamlets and Hackney largely accord with what was stated at the telephone meeting. These can be summarised as:

- Not enough information on structural implications of the proposal to “make a proper assessment”
- Fundamental questions unresolved regarding load path and stress levels in the support piers and the observation that the site is “made ground”
- Establishing the level of harm to the Braithwaite viaduct is essential to determining the acceptability of plot 8 and cannot be left to conditions.
- Oriol Gate and concerns about the understanding of the fabric; potential for dismantling and offsite repair; questioning of engineering assessment which is characterised as speculative and hypothetical and requirement of the LBC regime not being met

Assessment of and comments on the issues raised- Viaduct

3.2 Unfortunately, the Heritage Note does not provide an assessment of significance, or indeed particular significance which would be affected and upon which the local planning authorities are basing their comments. This makes it a little difficult to be entirely sure of the reasonableness of the concerns being raised and whether they are proportionate. On an open reading of the concerns the approach being taken appears to equate any physical impact on the viaduct as automatically harmful.

3.3 The LPA note also, unfortunately, appears to misunderstand and also misinterpret the Conisbee report. The report does not support or reinforce LBTH claims regarding lack of information required to make a proper assessment as claimed. The Conisbee report has taken information already provided and used it to make an assessment of how much weight can be placed on the assumptions underlying the approach of the applicant to the potential impact of the proposal to build a new structure on the viaduct. (It should also be noted that the Conisbee assessment has

included the deep slab- again contrary to the assertion of the heritage note) This assessment has been carried out by an engineer with considerable heritage expertise and there is no reason to suggest that it is not a “proper” assessment. The heritage note also continues to make assertions regarding the previous approach taken by the applicants to engineering matters (in relation to the Oriel Gateway) which are irrelevant to the current consideration for the viaduct.

- 3.4 The LPA heritage note also does not appear to respond objectively to the information and advice provided by the independent (Conisbee) engineer. The Conisbee report concluded that the assumptions of the applicant’s engineer, which underlies the proposed structural approach and intervention into the heritage asset, were found to be acceptable in principle and a well-established approach. The report also specifically commented that the approach to load the existing piers rather than the arches “is wise”.⁵ However, the particular circumstances of the site meant that for three reasons, further information would be required to validate the engineering assumptions and to consider the loading in detail if certainty regarding the approach was required.
- 3.5 The starting point is, therefore, that the applicants are not approaching the structural issues inappropriately. This is important because it indicates that the likelihood or risk of harm to the engineering significance of the viaduct can already be assessed at this stage as low if appropriately managed.
- 3.6 Based on the information and advice of the Conisbee report there are 5 scenarios that could arise from the further investigation recommended with regard to the Viaduct. These are:
- 1: The investigation finds the ground conditions acceptable for the loading and that the critical load transfer can be designed to avoid adding stress to the arch ring and successfully transfer to the pier. In this scenario no harm is caused to the engineering significance (or indeed any other significance) of the viaduct.
 - 2: The investigation finds that the made ground is not suitable for the increased load and therefore foundation works are required to ensure stability and no damage to the structure from the additional loading. These works would involve, in all likelihood, new additions to the foundations and therefore would not cause loss to the existing viaduct and consequently the impact of the works would not represent harm to significance.

⁵ Conisbee report para 4.6

- 3: The detailed critical load transfer arrangement can be designed but involves some additional strengthening or intervention to the skewback to ensure that the connection between pier and arch ring performs adequately under the new loading. This will involve additional structure rather than wholesale removal and its purpose is to preserve the engineering and structural function of the viaduct, therefore any impact is not harmful to that significance.
- 4: The investigation finds that the critical load transfer arrangement cannot be designed without significant removal or alteration of fabric or other unacceptable impact; and/or the ground cannot be made sufficiently supportive. (The latter scenario with reference to the ground is extremely unlikely) This means that the proposed approach is unable to be implemented without causing harm; the harm is likely to be less than substantial on the basis that if significant harm were to be involved in the approach of the applicant's this would have been identified by the Conisbee Report, which is clearly not the case. This harm would nevertheless have to be justified.
- 5: The suggested fall-back approach of the mini-pile, pali-radice system which will give the viaduct "the certain ability to carry the proposed loading"⁶ then comes into play. At present this is not favoured by Conisbee because it does not represent the best "minimum intervention" approach which the first three scenarios represent.

3.7 The Conisbee report concludes with the view

"The Braithwaite Viaduct is a robust structural form that, with care, will continue to be a useful load carrying structure. It may be that with more investigation the current proposal will be found to be the best approach".⁷

This is a clear indication that the potential impact of the proposals could be acceptable and indeed might be the best approach. They could even be benign if it is possible to construct the detailed transfer without significant intervention and thereby once again enable the Viaduct to perform its original role as a load bearing structure. Even if the current approach is not currently regarded as absolutely certain then an alternative is available that can deliver that certainty, if that is the priority, and if that greater degree of intervention is justified.

⁶ Conisbee report 6.2

⁷ Ibid para 6.1

- 3.8 This assessment by an acknowledged expert should not be set aside without compelling reason. The suggestion of mini-piling is made in the context of acknowledgement that it is not the favoured approach at present, but it is clearly regarded as a potentially acceptable approach for the specific circumstances of this heritage asset by this acknowledged expert if appropriately justified. Its' potential impact can therefore only be reasonably regarded as less than substantial, or it would not be suggested, and in my view, on the evidence presented, the potential impact of mini-piling would be towards the lower end of the scale.
- 3.9 The Conisbee report has found enough information on which to make a proper assessment of potential structural impact, so for the LPA to take a different view regarding lack of information on structural issues and potential impact appears perverse. The fundamental questions regarding load path and made ground are engineering questions that have been identified in the Conisbee Report but they have not been cited as issues that are insoluble, or ones that, without appropriate control, would cause substantial harm; neither does the view of the Conisbee author indicate that these questions have to be resolved now.
- 3.10 On an objective reading of the Conisbee report is it clear that there is the potential for a successful resolution of the issues identified without causing harm to the engineering significance of the structure. It is not credible to suggest otherwise. Even in the worse-case scenario on the evidence available, there would be only potential for less than substantial harm. Unfortunately, however, the Heritage note appears to take the opposite view, the basis for which is unclear, and also pre-supposes that any intervention into the structure will automatically equate with harm. In taking this approach the authors of the note are disregarding expert advice and also not following the NPPG guidance on how to assess harm. It is possible and has always been possible for the two boroughs to commission their own independent conservation engineering advice to provide evidence to substantiate their concerns.
- 3.11 The question therefore arises is whether it is necessary to have the detailed design of the critical load transfer or the potential works to the ground conditions identified at this stage of the consideration of the applications, i.e. is it possible using the available evidence and expertise to come to a view on the potential impact of the proposal upon the structural significance of the existing viaduct and whether that impact equates to harm.
- 3.12 It should be noted that the issue with the made ground has not affected the performance of the viaduct as a load bearing structure in the past and, until identified by the Conisbee report has not been raised an issue by either LBTH, LBH or indeed the GLA. If work is required to the existing foundation design of the viaduct, or the bearing capacity of the ground, it is difficult to see how this will affect the significance

of the viaduct as a heritage asset. It is therefore not necessary at this stage to have this investigation carried out. The risk to the viaduct is minimal (although not absolutely absent) and therefore it is proportionate to control that minimal risk through condition.

- 3.13 The detailed design of the load transfer may involve some more direct intervention into the fabric of the viaduct, although again that is not certain. There is a possibility, acknowledged by Conisbee, that it will be possible to successfully design the transfer without causing any impact to the significance of the viaduct -i.e. how it performs structurally. Even if that proves not to be the case, the type of work involved in the detailed design to overcome any issue of transfer is required to ensure that no damage to the structural performance of the viaduct. Far from causing harm to this element of significance the purpose of the works would be to preserve it.
- 3.14 Therefore, the proportionate way to manage the identified risk is to impose a condition that requires the validation of the assumptions and addresses specifically the two areas identified by Conisbee in their report. The potential impact of the proposal is perfectly capable of being assessed on the basis of the information provided both by the applicant and the expert advice of Conisbee and it is disappointing to see the approach being taken by LBTH and LBH with regard to this issue. For example, it is accepted practice when repairing timber framed buildings, the main elements of the frame all being structural, to agree an approach to repair without having certainty as to how the frame is performing structurally by stripping it down or investigating every single joint before issuing a consent. The approach is to then control the precise extent of replacement timber; or flitching; or strapping or consolidation, by way of a condition once permission has been given in principle and before work has started. This minimises the potential for harm to the significance of the structure at determination stage and also puts into place a mechanism for reducing that risk of harm further. It is an approach that is also used for other types of buildings.
- 3.15 The Heritage Note states that “determining the level of harm to the Braithwaite Viaduct is central to determining the acceptability of Plot 8 and cannot be left to conditions”. This demonstrates that LBTH and LBH do not appear to have recognised that on the basis of the expert evidence it is possible to re-load the Viaduct without causing harm to significance (see Scenarios explained above). Putting this to one side, it is also somewhat surprising that the issue of heritage harm and whether that is convincingly justified is related solely to plot 8 (an approach repeated for plot 7 with regard to the Oriel Gateway. My understanding is that the proposals have to be taken as a whole and not disaggregated in this way.
- 3.16 Even if you accept the position of LBTH and LBH that any intervention is going to equate to harm it is still clear on the basis of the evidence and expert advice that any potential harm can only be reasonably considered to fall into the less than substantial category. The investigations are highly unlikely to reveal that work to carry out the loading transfer will cause substantial harm. In other words, on the basis of the

current evidence the potential for harm is not going to be determinative- i.e. it is not going to go from less than substantial to substantial- which would engage a different policy approach under the NPPF. It is perfectly possible, and indeed a proportionate approach in line with NPPF policy, to assess the potential for harm, the potential level of that harm and where on the scale it sits using the information now provided and with professional judgement. The precise positioning on the scale of less than substantial harm will always be a matter of judgement, but the policy test engaged by the NPPF in the case of less than substantial harm remains the same.

Assessment of and comments on the issues raised- Oriel Gateway

- 3.17 The concerns raised are related to both structural issues and approach to repair. They can be summarised as:

Insufficient understanding of existing fabric and failure, therefore, to comply with requirements of the listed building consent regime;

Approach to repair potentially involves dismantling and this represents demolition and should be reflected in the description of development

Structural information relies on a partial understanding of a single arch extrapolated and speculative

Without knowing the depth of the fill above the arch planning permission and listed building consent should not be granted for landscaping including steps, tree pits and trees.

These issues “go to the heart of the proposals for plot 7a” and it is not considered these matters can be safely be addressed through conditions.

- 3.18 It is not entirely clear what “requirements of the LBC regime” are being referred to in the concern being expressed. The relevant test for whether LBC is required as set out in the 1990 Act, which is that LBC is required for works to a building which affect its character as a building of special architectural or historic interest. That covers works for demolition, alteration or extension. The generic use of the term works also includes repair. In considering whether to grant LBC the LPA has to have special regard to the desirability of preserving the building or its setting or any features of special architectural interest or historic interest which it possesses. This special interest is termed significance within the NPPF and taking the paragraphs of Section 16 as a whole enables an authority to discharge its’ statutory duty under the Act. Within the NPPF no distinction is made between LBC and Planning Permission and to obtain consent for either, identification of significance and conservation of that significance is required.

- 3.19 On the issue of understanding and in the context of the comments above (para 2.2 onwards) the following should be noted: i) there is evidence provided regarding the significance and also the condition of the Oriel Gate; ii) the evidence is based on earlier work carried out by Baxter's, experienced and highly regarded conservation consultant's with very relevant experience in the repair and maintenance of historic buildings; iii) the survey is some 6 years old, but the gate has been boarded up so substantial change in condition over that period is less likely; and iv) the purpose of the application for Listed Building Consent is to repair the listed building.
- 3.20 It is instructive to consider the Historic England Advice on "Making Changes to Heritage Assets (Advice note #2) which makes general points regarding Repair (paras 9-10) and then considers issues for individual asset types (Buildings and Structures paras 11-16). Nowhere in that advice is it stated that every aspect of repair has to be established before LBC can be granted. The guide instead provides a set of principles for an approach that provides the best chance of ensuring that the integrity and authenticity of an asset can be sustained and that a repair is technically and visually compatible.
- 3.21 The potential for harm to the significance of the Oriel Gateway, in particular its architectural interest, arises where fabric is lost or replaced in incompatible materials; although it should be noted, as pointed out in the HE Guidance, alternative approaches may be appropriate particularly if they offer other benefits (e.g. use of steel and resin see para-11) A detailed schedule of repair will therefore be necessary, but if there is a method statement agreeing the principles of the approach which is based on the best practice guidance then it is safe to move forward on that basis. It is not necessary for a detailed schedule at this stage, because the potential for harm has been minimised by the use of the method statement and the risk to the structure appropriately managed. Detailed survey may well reveal that further fabric may have to be replaced so harm may not be ultimately avoided, or at the level originally anticipated but that harm will have to be considered in the context of the heritage benefit of repair.
- 3.22 In principle, the potential for the actual level of "harm" through replacement of materials will not vary significantly between on-site repair or repair in a workshop. It all depends on individual circumstances. Indeed, it may be the case, for example, that detailed consolidation of carved work is better carried out in a specialist workshop with appropriate equipment and working conditions than in situ on a construction site. The proportionate and appropriate way to handle this issue is through detailed conditions.
- 3.23 The suggestion that the description of development requires amendment because it potentially constitutes demolition is legalistic and not entirely accurate. If an amendment to the description of the development is required it is more accurate to state "repair including (part) dismantling and re-erection" and not demolition, as the commonly accepted definition of demolition is removal without replacement. It is

unclear from the Heritage Note how an amendment of the description of development would result in any amelioration of the perceived risk or address concerns regarding significance that are being raised.

- 3.24 This two-stage approach is a well-established one and used widely, including by funding bodies such as HE and the Lottery for the repair of churches, listed at the highest grades. Proposed schedules of work and the general approach are submitted at Stage 1 and grant aid is given, in principle, on that basis with appropriate caveats and contingencies in the costings. The actual details of the precise extent of work is controlled in Stage 2 and using detailed approvals and inspections. Many repairs and works arising from Church Quinquennial Inspections operate in a similar manner.
- 3.25 In the secular world proposals for repairing brickwork, stonework or timber frames, or erecting extensions etc. are regularly determined by LPA's who establish the potential level of harm on the basis of drawings supported by Method Statements. They cannot be certain of the exact or precise level of harm but they use the evidence available. The risk of harm is further minimised or avoided by the submission of large-scale details and the provision of samples, sample panels for inspection etc. This case is no different in many respects.
- 3.26 The structural issues raised in relation to the Oriel Gateway are similar to those expressed in relation to the Viaduct. It should be noted that unlike the viaduct there is not to be any substantial new structure erected above the arches so, in principle, the assumptions of WSP have greater validity if the advice of the Conisbee report is properly considered. The issues of loading arising from the slab were included by Conisbee as one of four reasons why the assumptions of WSP could not be taken as absolutely certain for the Viaduct. It is pointed out in the Heritage Note that parts of the existing arches under the Gateway are in poor condition and also some parts have fallen way. This was largely the case at the time of the initial surveys. It is true that at present on the basis of the available evidence and expert advice it is not possible to be certain that the proposals for the new slab and the landscaping etc would not have an impact upon the structure below the gate but that is not the same as automatically assuming that the impact is harmful or it cannot be managed in a way that avoids harm. The risk is low with appropriate management and if, on examination of the fill there are issues that cannot be resolved without substantial reconstruction for example, then the details of the landscape tree pits and water attenuation over that part of the site will have to be amended to avoid the risk.
- 3.27 I do not, therefore, agree with the conclusion that these issues go to the heart of proposals for plot 7a and that they cause insurmountable problems such that it is not possible to proceed safely.

4 Conclusions

- 4.1 The Heritage Note states:

The difficulty is further compounded by the nature of the buildings that would be constructed above the Braithwaite Viaduct. The hotel is an unwanted land use at this location and is not supported by planning policy. It would therefore in effect amount to a public disbenefit. It may be the case that the hotel is needed, for viability purposes, to unlock public benefits in the wider scheme. However, this case hasn't been articulated in the application, let alone supported by data.

- 4.2 This paragraph appears to indicate to me that the approach to heritage issues is being, putting it as objectively as possible, conflated with wider planning issues. The identified “difficulties” in the Heritage note relate to perceived lack of information which it is claimed means that assessment of impact cannot be made and are founded upon an unjustified and unevidenced equation of impact automatically meaning harm.
- 4.3 It should be noted that having identified the potential for impact and commissioned appropriate expertise to provide advice on the structural issues the conclusions of that report were sent to the applicants. Their response was not to question or otherwise challenge the conclusions. The response was to propose a way forward to respond to the issues raised. That advice from Conisbee has not raised any suggestion that building on the Viaduct is impossible, or even particularly problematic- *it requires care.*
- 4.4 In terms of heritage issues and significance of the Viaduct, the proposal to make it once again a load bearing structure for buildings above is, it can be argued, an appropriate response to its architectural significance. That was after-all part of the purpose of the viaduct when originally designed and constructed. The use of those buildings as an hotel may be, as stated, “unwanted land use” but to characterise that as a “public disbenefit” is an inappropriate and unhelpful use of the language relating to heritage policy. It is not clear from the note whether it is the land use as an hotel or whether it is the principle of building upon the viaduct that is the issue. In either scenario that is part of a wider planning consideration, and its accordance with planning policy, or otherwise, legitimately taken into consideration in the planning balance.
- 4.5 There is a perfectly arguable case that re-introducing a suitably designed structure above the viaduct is a good response to its heritage significance and purpose. There may be other planning reasons why the hotel is not regarded as acceptable, or desirable, but heritage is not in my view one of them and should not be used as an objection in such a way.
- 4.6 On the evidence produced to date and in light of the material provided by Conisbee, as well as the applicants, I am of the view that a proactive and proportionate approach to the assessment of potential impact is possible and should be taken in line with Government advice. I am also of the view that the difficulties of assessment upon the basis of the existing evidence are being overstated. The worst-case scenario is that some limited, less than substantial harm may be caused to the Viaduct, although the risk of that harm materialising has been managed so far by the

GLA commissioning expert advice and is capable of further management through the appropriate use of conditions.

- 4.7 On the basis that any harm can only be less than substantial the policy approach of the NPPF is to balance the harm giving it the appropriate weight against identified wider public benefits.

Next Steps

- 4.8 Notwithstanding the conclusions reached above regarding the feasibility of making an assessment of potential structural impact arising from the proposal to build upon the Viaduct and to repair the Gateway, if further certainty is required then the applicants can be requested to carry out the following:
- Investigation of the junction between the piers and the arch ring (the “skewback”) of the viaduct (plot 8)
 - To address the concerns regarding the repair of the gateway the applicants should agree a draft method statement setting out the principles for the repair of the Gateway to be prepared and submitted
- 4.9 The suggestions that further detailed survey of the Gateway itself is required before an assessment of potential impact can be made, so that the LBC can be safely determined, is not in the circumstances of the current available evidence proportionate in my view.
- 4.10 It may be that there are good reasons why such investigations have not been possible which were discussed briefly at the meeting. The applicants should be asked to indicate why the investigation of the skewback is not possible at this stage in light of the desire for certainty being expressed by the LBTH and LBH.
-