

21 December 2009

Mr J Stephenson
Montagu Evans LLP
Clarges House
6-12 Clarges Street
London W1J 8HB

Our Ref: APP/A2335/V/09/2095002,
2098511,2098517,2098518,2098519,
2098520,2099389,2098521,2098522,
2098523,2098524 and 2098525
Your Ref: JNS/TS/PD7048

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATIONS BY CENTROS LANCASTER LP
CANAL CORRIDOR NORTH SITE, LANCASTER
APPLICATIONS: REFS 08/00866/OUT; 07/00662/LB; 07/00667/LB; 07/00668/LB;
07/00669/LB; 07/00674/LB; 07/00665/LB; 07/00666/CON; 07/00663/CON;
07/00670/CON; 07/00671/CON; and 07/00673/CON**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr John L Gray DipArch MSc Registered Architect, who held a public local inquiry on 16-19, 23-25 and 30 June and 1-2 July 2009, and which was closed in writing on 6 August 2009, into the following applications by your client:
 - for outline planning permission for comprehensive redevelopment comprising a retail led mixed use scheme to include demolition of existing buildings and associated structures, the demolition of all residential dwellings, the closure and alteration of highways, engineering works and construction of new buildings and structures to provide retail, restaurants, cafes, workshop, rehearsal space and residential accommodation, together with ancillary and associated development including new and enhanced pedestrian routes and open spaces, car parking and vehicular access and servicing facilities at the Canal Corridor North Site, Lancaster, in accordance with application number 08/00866/OUT, dated 3 July 2008;
 - for listed building consent for alteration “by the removal of the adjacent redundant spiritualist church and reinstatement of the western flank wall” of Crown Inn, 18 St Leonard Gate, Lancaster, LA1 1NN, in accordance with application number 07/00662/LB, dated 11 May 2007;

Maria Stasiak, Decision Officer
Department for Communities and Local Government
Planning Central Casework Division,
1/J1, Eland House
Bressenden Place
London
SW1E 5DU

Tel: 0303 44 41624
Email: maria.stasiak@communities.gsi.gov.uk

- for listed building consent for alteration “through removal of the adjacent no. 1 Lodge Street and making good and reinstatement of the north-eastern flank wall” of Grand Theatre, St Leonard Gate, Lancaster, LA1 1NL, in accordance with application number 07/00667/LB, dated 11 May 2007;
 - for listed building consent for alteration to the “curtilage wall through the removal of the adjacent structures and making good and reinstatement of the wall” of Mill Hall, Moor Lane, Lancaster, LA1 1QD, in accordance with application, ref. 07/00668/LB, dated 11 May 2007;
 - for listed building consent for alteration “through demolition of rear buildings and making good and reinstatement of rear flank wall” of 11 Moor Lane, Lancaster, LA1 1QB, in accordance with application number 07/00669/LB dated 11 May 2007;
 - for listed building consent for alterations “through the removal of the rear extensions and making good and reinstatement of the southern elevations” of Tramway, 127, 129 and 131 St Leonard Gate, Lancaster, LA1 1NL, in accordance with application number 07/00674/LB, dated 11 May 2007;
 - for listed building consent for alteration “through removal of part of the Heron Works building to the rear and making good and reinstatement of the northern elevation” of Mill Hall, Moor Lane, Lancaster, LA1 1QD, in accordance with application number 07/00665/LB, dated 11 May 2007;
 - for conservation area consent for demolition of “structures adjacent to and abutting Mill Hall curtilage wall” at Heron Chemical Works, Mill Hall Curtilage Wall, Moor Lane, Lancaster, LA1 1QQ, in accordance with application number 07/00666/CON, dated 11 May 2007;
 - for conservation area consent for demolition of “part of the Heron Works building to the rear of Mill Hall and associated structures” at Heron Chemical Works Site, rear of Mill Hall, Moor Lane , Lancaster, LA1 1QQ, in accordance with application number 07/00663/CON, dated 11 May 2007;
 - for conservation area consent for demolition of “1 Lodge Street and associated structures”, 1 Lodge Street, Lancaster, LA1 1QW, in accordance with application number 07/00670/CON, dated 11 May 2007;
 - for conservation area consent for demolition of “1-2 St Anne’s Place and associated structures”, 1-2 St Anne’s Place, Lancaster, LA1 1QD, in accordance with application number 07/00671/CON, dated 11 May 2007;
 - for conservation area consent for demolition of “133-139 St Leonard Gate, 1-5 Stonewell, and 3-7 Moor Lane and associated structures”, 133-139 St Leonard Gate, Lancaster, LA1 1NJ; 1-5 Stonewell, Lancaster, LA1 1NJ; and 3-7 Moor Lane, Lancaster, LA1 1QD, in accordance with application number 07/00673/CON, dated 11 May 2007.
2. On 15 January 2009, the Secretary of State directed, in pursuance of section 77 of the Town and Country Planning Act 1990, that the applications be referred to

him instead of being dealt with by the relevant planning authority, Lancaster City Council (the Council).

Inspector's recommendation and summary of the decision

3. The Inspector recommended that outline planning permission be refused, and that the applications for listed building and conservation area consents also be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. In reaching this position the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The Secretary of State is content that the Environmental Statement complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the application.
5. The Secretary of State notes that you wrote to the Planning Inspectorate on 12 March 2009 advising that your client, Centros Lancaster LP, would not be appearing at the inquiry and would not be submitting a statement of case, but instead would be relying on the documentation submitted in support of the applications (IR5). The Secretary of State agrees with the Inspector at IR6 that this non-appearance posed no procedural problems, even if it might cause difficulties in dealing with specific aspects of evidence.
6. At the Inquiry, applications for costs were made by the Council and SAVE Britain's Heritage (SAVE) against your client, Centros Lancaster LP. SAVE also made an application for costs in writing (before the close of the inquiry) against the Council. An application was also made by the Spiritualist National Union which may be interpreted as being against both Centros and the Council. These applications will be the subject of separate letters at a later date.

Policy considerations

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case, the development plan comprises the *North West of England Plan, the Regional Spatial Strategy to 2021*, published in September 2008 (RSS), the Lancaster District Core Strategy (2003-2021) adopted in July 2008 and the saved policies of the Lancaster District Local Plan. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR27 to 29.
9. Other material considerations which the Secretary of State has taken into account include Planning Policy Statement (PPS) 1, *Delivering Sustainable*

Development and the supplement to it, *Planning and Climate Change*; PPS3, *Housing*; PPS6, *Planning for Town Centres*; Planning Policy Guidance Note (PPG) 13, *Transport*; PPG15, *Planning and the Historic Environment*; PPG16, *Archaeology and Planning*; Circular 11/95, *The Use of Conditions in Planning Permissions*; and Circular 05/2005, *Planning Obligations* and the Supplementary Planning Guidance Notes issued by Lancaster City Council in 2004, *The Lancaster City Centre Strategy* and *Canal Corridor North Development Brief*.

10. The Secretary of State has also taken into account draft PPS4: *Planning for Prosperous Economies*, published for consultation on 5 May 2009, and draft PPS15: *Planning for the Historic Environment*, published for consultation on 24 July 2009. However, as both documents are still in draft form and may be subject to change, he has afforded them little weight.
11. In deciding the application the Secretary of State has had regard to the application's potential impacts on the listed buildings, with particular regard to the desirability of preserving those buildings or their settings, as required by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, he has also paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas.

Main issues

12. The Secretary of State considers that the main issues in this case are:

- a) The relationship of the proposal to the development plan;
- b) Retail matters;
- c) Highways and related matters;
- d) Heritage matters.

The relationship of the proposal to the development plan

13. The Secretary of State agrees, for the reasons given at IR349-354, that the proposal accords with the spatial and strategic policies of the development plan, which direct development towards Lancaster as a sub-regional centre (IR355). However, he also agrees that it offends against development plan policy by failing to demonstrate appropriate respect for the character and distinctiveness of the historic landscape on and around the site, by failing to protect or enhance it and, potentially (because the detail with the application does not enable a firm conclusion), by failing to introduce in its new buildings a quality of design appropriate to its setting. The Secretary of State agrees with the Inspector that these failings more than outweigh compliance with other aspects of the development plan (IR355). He has gone on to consider whether there are material considerations that indicate he should determine the application other than in accordance with the development plan.

Retail matters

14. The Secretary of State considers that the strategic context, as set out by the Inspector at IR250, provides in-principle support for this type of development on this site.
15. For the reasons given at IR250-263, the Secretary of State agrees with the Inspector (IR264) that the scale of the proposed development could easily prove to be too great at the time it might first open (2014), but that the likelihood of significant clawback of trade from other centres would render the scale of the development appropriate by 2018. For the reasons given at IR274-280, the Secretary of State agrees that there are possible harmful consequences for the vitality and viability of the existing historic centre (IR286), but that there is very little likelihood of material harm to the vitality and viability of other centres (IR279).
16. The Secretary of State agrees with the Inspector for the reasons given at IR265-267, that there is no available and sequentially preferable site or combination of sites which could accommodate the proposed development, even if disaggregated. The Inspector further considers that other sites outside the A6 gyratory would not be able to overcome the physical barrier of the A6 by means of a pedestrian bridge, as is possible at the application site (IR267). However, in the light of his conclusions below on the necessity of the bridge link (see paragraph 17 below), the Secretary of State does not consider that this adds significant weight to the arguments in favour of the development.
17. The Inspector considers that the proposed bridge link is the only way that an appropriate linkage with the existing city centre could be achieved, and that it is essential in retailing terms to enable the whole centre, old and new, to operate as one (IR273, 275). However, the Secretary of State has taken into account that the Design Brief for the site also suggests the possibility of an improved at-grade crossing, and on the evidence before him is not convinced that a pedestrian bridge is necessarily an essential feature of the redevelopment of this site.

Highways and related matters

18. For the reasons given at IR289-303, the Secretary of State agrees with the Inspector that while the proposed development would clearly bring additional traffic to the centre of Lancaster, there would be no significant detriment to traffic flow and highway safety, provision for cyclists or air quality (IR304).

Heritage matters

19. For the reasons set out at IR310-311 and 314, the Secretary of State agrees with the Inspector at IR375 that the relationship of the proposed buildings to the Grand Theatre, 127/129/131 St Leonard Gate and Mill Hall, Moor Lane, to the extent that it is defined by the application parameters, seems almost certain to damage the settings of those listed buildings.
20. He further agrees with the Inspector that only a detailed design for the pedestrian bridge can allow a proper appreciation of what the bridge would look like and what its effect would be on the historic townscape and on views towards important listed buildings immediately to the north and south (IR323). He agrees

that it is impossible to conclude, on the information available, that they could be satisfactorily designed in a way that would be complementary to the surrounding existing townscape and the settings of the nearby listed buildings (IR374).

21. The Secretary of State notes that where unlisted buildings in the Conservation Areas are being proposed for demolition, there has been no assessment, in line with the guidance in PPG15, of the costs of repair or refurbishment, or of the potential for viable reuse (IR373).
22. The Secretary of State considers that these heritage objections together carry significant weight, and by themselves justify the refusal of planning permission.

Other matters

23. The Secretary of State agrees with the Inspector's conclusions on housing (IR345). He further agrees that in principle, the redevelopment of such a large brownfield site so close to the city centre is much to be desired, and that the proposal would contribute to the sustainable economic development of the city and surrounding area (IR346).

Conditions

24. The Secretary of State has considered the proposed conditions in the light of the Inspector's comments at IR247 and 358 and national policy as set out in Circular 11/95. He considers that the proposed conditions as amended by the Inspector comply with the policy tests in that circular. However he does not consider that they overcome the reasons for refusing the application.

Obligation

25. A signed but undated unilateral obligation was submitted on 2 July 2009. The Secretary of State has considered the planning obligation and national policy as set out in Circular 05/2005. For the reasons set out in IR242-246, the Secretary of State agrees with the Inspector's conclusions at IR357-358. He does not consider that the obligation overcomes the reasons for refusing the application.

Overall conclusions

26. The Secretary of State concludes that the application is not in accordance with the development plan. He also concludes that the application is not in accordance with national policy in PPG15. He considers that the proposal would contribute to the sustainable economic development of the city and surrounding area, and that it draws support from the strategic context, but concludes that the material considerations are not of sufficient weight to determine the application other than in accordance with the development plan. As the applications for listed building consent and conservation area consent are incidental to the application for outline planning permission, the Secretary of State also concludes that they too should be refused.

Formal decision

27. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby refuses your client's applications:

- for outline planning permission for comprehensive redevelopment comprising a retail led mixed use scheme to include demolition of existing buildings and associated structures, the demolition of all residential dwellings, the closure and alteration of highways, engineering works and construction of new buildings and structures to provide retail, restaurants, cafes, workshop, rehearsal space and residential accommodation, together with ancillary and associated development including new and enhanced pedestrian routes and open spaces, car parking and vehicular access and servicing facilities at the Canal Corridor North Site, Lancaster, in accordance with application number 08/00866/OUT, dated 3 July 2008;
- for listed building consent for alteration “by the removal of the adjacent redundant spiritualist church and reinstatement of the western flank wall” of Crown Inn, 18 St Leonard Gate, Lancaster, LA1 1NN, in accordance with application number 07/00662/LB, dated 11 May 2007;
- for listed building consent for alteration “through removal of the adjacent no. 1 Lodge Street and making good and reinstatement of the north-eastern flank wall” of Grand Theatre, St Leonard Gate, Lancaster, LA1 1NL, in accordance with application number 07/00667/LB, dated 11 May 2007;
- for listed building consent for alteration to the “curtilage wall through the removal of the adjacent structures and making good and reinstatement of the wall” of Mill Hall, Moor Lane, Lancaster, LA1 1QD, in accordance with application, ref. 07/00668/LB, dated 11 May 2007;
- for listed building consent for alteration “through demolition of rear buildings and making good and reinstatement of rear flank wall” of 11 Moor Lane, Lancaster, LA1 1QB, in accordance with application number 07/00669/LB dated 11 May 2007;
- for listed building consent for alterations “through the removal of the rear extensions and making good and reinstatement of the southern elevations” of Tramway, 127, 129 and 131 St Leonard Gate, Lancaster, LA1 1NL, in accordance with application number 07/00674/LB, dated 11 May 2007;
- for listed building consent for alteration “through removal of part of the Heron Works building to the rear and making good and reinstatement of the northern elevation” of Mill Hall, Moor Lane, Lancaster, LA1 1QD, in accordance with application number 07/00665/LB, dated 11 May 2007;
- for conservation area consent for demolition of “structures adjacent to and abutting Mill Hall curtilage wall” at Heron Chemical Works, Mill Hall Curtilage Wall, Moor Lane, Lancaster, LA1 1QQ, in accordance with application number 07/00666/CON, dated 11 May 2007;
- for conservation area consent for demolition of “part of the Heron Works building to the rear of Mill Hall and associated structures” at Heron Chemical

Works Site, rear of Mill Hall, Moor Lane , Lancaster, LA1 1QQ, in accordance with application number 07/00663/CON, dated 11 May 2007;

- for conservation area consent for demolition of “1 Lodge Street and associated structures”, 1 Lodge Street, Lancaster, LA1 1QW, in accordance with application number 07/00670/CON, dated 11 May 2007;
- for conservation area consent for demolition of “1-2 St Anne’s Place and associated structures”, 1-2 St Anne’s Place, Lancaster, LA1 1QD, in accordance with application number 07/00671/CON, dated 11 May 2007;
- for conservation area consent for demolition of “133-139 St Leonard Gate, 1-5 Stonewell, and 3-7 Moor Lane and associated structures”, 133-139 St Leonard Gate, Lancaster, LA1 1NJ; 1-5 Stonewell, Lancaster, LA1 1NJ; and 3-7 Moor Lane, Lancaster, LA1 1QD, in accordance with application number 07/00673/CON, dated 11 May 2007.

Right to challenge the decision

28. A separate note is attached setting out the circumstances in which the validity of the Secretary of State’s decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

29. A copy of this letter has been sent to Lancaster City Council and all parties who appeared at the inquiry.

Yours faithfully

Maria Stasiak

Authorised by the Secretary of State to sign in that behalf