



Department for
Communities and
Local Government

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Our Ref: APP/U5930/E/11/2165344
APP/U5930/A/11/2165348
APP/U5930/A/12/2183662

Your ref: JEA/DS.7131

22 May 2013

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990
APPEALS BY THE INCORPORATED TRUSTEES OF THE UCKG HELPCENTRE
THE FORMER GRANADA CINEMA, 186 HOE STREET, THE VICTORIA PUBLIC
HOUSE AND 186a and 186b HOE STREET, WALTHAMSTOW, E17 4QH
APPLICATION REFs: 2009/1049/LB, 2009/1048 and 2012/0764**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Paul Griffiths BSc(Hons) BArch IHBC, who held a public local inquiry between 29 November 2012 and 19 December 2012, into your client's appeals against the refusal of the Council of the London Borough of Waltham Forest ("the Council"):

Appeal A: to grant listed building consent for use of the former Granada Cinema, 186 Hoe Street, the Victoria Public House and 186a & 186b Hoe Street to include religious, community/assembly, café and retail uses (A1/A3/D1/D2) along with alterations and restoration of the Grade II* listed building, side and rear extensions, and associated plant, servicing and works;

Appeal B: to grant planning permission for use of the former Granada Cinema, 186 Hoe Street, the Victoria Public House and 186a & 186b Hoe Street to include religious, community/assembly, café and retail uses (A1/A3/D1/D2) along with alterations and restoration of the Grade II* listed building, side and rear extensions, and associated plant, servicing and works;

Appeal C: redevelopment proposals and associated alterations and works including change of use to mixed use development comprising religious, community, cinema, café and retail uses (D1/D2/A3/A1 Use Classes) with ancillary residential accommodation comprising two x 2 bed and three x 1 bed units.

2. On 17 February 2012 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the

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Town and Country Planning Act 1990, because the appeals involve proposals giving rise to substantial regional or national controversy.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that the appeals be dismissed and planning permission refused. For the reasons given in this letter, the Secretary of State agrees with the Inspector's recommendations. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

Procedural matters

4. The Secretary of State notes that Appeals A and B are seeking listed building consent and planning consent respectively for the same scheme (IR1.2), and that the application for listed building consent for the Appeal C scheme has not been determined and remains with the Council (IR1.3). For the reasons given at IR1.4-1.6, the Secretary of State agrees with the Inspector's interpretations of the descriptions of works and development and is satisfied that nobody's interests have been prejudiced by the application of this clarification.
5. The application for costs (IR1.13) made by the appellants at the Inquiry in relation to Appeal C is the subject of a decision letter which will be issued separately by the Secretary of State.

Matters arising after the close of the inquiry

6. Following the close of the inquiry, the Secretary of State received representations from those listed at Annex A. The Secretary of State has given careful consideration to this correspondence, but is satisfied that it does not raise any new issues not covered at the inquiry and upon which he requires further information. Copies of this correspondence may be obtained, on written request, from the address at the bottom of the first page of this letter.

Policy Considerations

7. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the London Plan (LP, July 2011), the saved policies from the Waltham Forest Unitary Development Plan (March 2006) and the Waltham Forest Local Plan Core Strategy (CS, adopted in March 2012).
8. Other material considerations which the Secretary of State has taken into account include *the National Planning Policy Framework* (the Framework) and the associated Technical Guidance (March 2012); Circular 11/95: *Use of Conditions in Planning Permission*; and *Planning for Equality and Diversity in London*: Supplementary Planning Guidance to the LP (October 2007). The Secretary of State has also had regard to emerging policy in *the Waltham Forest Local Plan: Development Management Policies*, to which he gives some weight.
9. In deciding these applications, the Secretary of State has paid special attention to the desirability of preserving the listed building and its setting and any features of special architectural or historic interest it possesses, as required under the provisions of

sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main Considerations

10. The Secretary of State agrees with the Inspector that the main issues are those set out at IR12.2 and, for the reasons given at IR12.3-12.4, he also agrees that Walthamstow Town Centre is in sore need of regeneration and that the re-use of the Granada Cinema presents a unique opportunity to bring wider benefits to the town centre and the community. The Secretary of State also agrees with the Inspector (IR12.5) that the nearby Arcade site is of central importance to the regeneration of the town centre; and he notes that, since the close of the inquiry, the Council has granted planning permission for a scheme on that site including housing, restaurants and a cinema. Given that the Council's intention to grant permission was discussed at the inquiry into these appeal schemes, the Secretary of State does not consider that the granting of permission for the Arcade site raises any new issues upon which it is necessary to refer back to the parties.

Development Plan

11. The Secretary of State agrees with the Inspector that the appeal schemes can draw support from a number of development plan policies (IR12.59) whilst both appeal schemes and a scheme of the type being devised by the Waltham Forest Cinema Trust (WFCT) would fail to comply with the development plan in terms of harm to the special architectural and historic interest of the listed building (IR12.60). However, like the Inspector, the Secretary of State considers this failure to be inevitable given that all parties have agreed that use purely as a cinema is not a viable option. Furthermore, the Secretary of State agrees with the Inspector (IR12.61-12.64) that the type of scheme being devised by the WFCT would be more beneficial in terms of capitalising on the opportunity presented by the building and maximising the contribution it could make to future economic growth. The Secretary of State therefore concludes that such a scheme would achieve closer conformity with the development plan and the Framework than either of the appeal schemes.

Social and economic considerations

12. For the reasons given at IR12.6-12.22, the Secretary of State agrees with the Inspector at IR12.23 that either of the Appeal B or C schemes would bring social benefits that would, in their way, act in a regenerative fashion; but that the claimed economic benefits are not based on solid foundations – especially in the context of their relationship to the Arcade scheme. In particular, the Secretary of State agrees with the Inspector (IR12.21) that the Appeal C scheme would carry with it more benefit to the town centre than the Appeal B scheme, but that the Appeal C scheme is unlikely to proceed if the Arcade scheme goes ahead or, if it did, it would prejudice delivery of the Arcade scheme. The Secretary of State agrees with the Inspector that that would result in the loss of the economic benefit which the Arcade scheme would bring to the town centre.

13. Turning to the WFCT proposals (IR12.24-12.41), the Secretary of State notes at the outset that no application for planning permission or listed building consent has been made to the Council (IR12.24). Therefore, although the Inspector considers the presence of the WFCT proposals to be a significant material consideration, the Secretary of State considers that, while the WFCT proposals demonstrate the potential economic and regenerative benefit which such a scheme could bring, Appeals B and C need to be considered on their own merits. The Secretary of State therefore gives little

weight to the Inspector's detailed consideration of the scope for acquisition of the site for use by WFCT (IR12.26-12.29) or the funding of the WFCT scheme (IR12.30-12.33). However, the Secretary of State does consider that the spend figures for the WFCT schemes put forward by the Council provide a useful indicator that a proposal along the lines of such a scheme should be capable of bringing significantly greater economic benefit to the town centre than either of the appeal schemes under consideration (IR12.40).

14. The Secretary of State has also taken account of the Inspector's conclusions on the potential relationships between the Arcade site scheme, both appeal schemes and the type of scheme put forward by the WFCT (IR12.41). In particular, he has no reason to disagree with the Inspector's conclusions concerning the potential synergy between the cinema proposals for the Arcade and the type of scheme envisaged by the WFCT; the greater likelihood of the Arcade scheme happening if a WFCT-type scheme were to occur; and the potential knock-on benefits for other businesses in the vicinity. The Secretary of State also agrees with the Inspector that, while the appeal schemes may provide some impetus for the Arcade scheme and other businesses, they would not have the ability to draw as big an audience as the type of scheme proposed by the WFCT.

Impact on the listed building

15. The Secretary of State agrees with the Inspector that it is necessary to take account of the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 (IR12.43-12.44). He agrees with the Inspector (IR12.45) that the physical changes to the listed building proposed in both appeal schemes would have no harmful impact on the special architectural or historic interest of the listed building, or its significance; but that the loss of predominance of the original use would cause some harm to special interest and significance (IR12.45-12.46).
16. Overall, having regard to the Inspector's arguments at IR12.47-12.50, the Secretary of State agrees with him at IR12.50 that the degree of harm involved in moving the building away from its predominant original use to implement one of the appeal schemes would be less than substantial. Nevertheless, he also agrees (IR12.51-12.52) that, in accordance with the requirements of the legislation and the Framework in relation to listed buildings, it is necessary to weigh the less than substantial harm which either appeal scheme is likely to cause to the building against the public benefits of the appeal proposals, including securing its optimum viable use. The Inspector concludes that, for the reasons he gives at IR12.53-12.54, the type of proposals put forward by the WFCT represent, on the face of it, the optimum viable use. The Secretary of State gives less weight to this conclusion than the Inspector as the WFCT proposals are not before him. Nevertheless, he considers that this conclusion indicates the likelihood that neither of the appeal schemes before him represents the optimum viable use, and he give significant weight to that.
17. Thus, for the reasons given at IR12.65, the Secretary of State agrees with the Inspector that, while the works proposed to the listed building in the Appeal A scheme are not in themselves objectionable, there is no justification for them without an acceptable use for them to facilitate.

The balance of considerations

18. For the reasons given at IR12.55, the Secretary of State agrees with the Inspector that, while either of the appeal schemes would bring significant social benefits to the local population and people further afield, and some economic and regenerative

benefits, there are also a number of disadvantages including a potential impact on the Arcade site and some harm to the special architectural and historic interest, and significance, of the listed building. Against that, the Secretary of State agrees with the Inspector that, for the reasons given at IR12.56-12.58, re-use of the building for a scheme along the lines of that devised by the WFCT would have the potential to bring much more economic and regenerative benefit to the town centre, and the Borough, than either of the appeal schemes. It would utilise the building in a way which better respects its significance and which would have the potential to form a symbiotic relationship with the Arcade scheme. Furthermore, the Secretary of State agrees with the Inspector that a WFCT-type scheme depends on the iconic characteristics of the former Granada Cinema, whereas the benefits and opportunities offered by both the appeal schemes could be accommodated in an alternative venue.

Conditions and obligations

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions as set out at IR10.1-10.16, and is satisfied that the conditions recommended by the Inspector and set out in Annex D to the IR are reasonable and necessary and meet the tests of Circular 11/95. However, he does not consider that they would overcome his reasons for refusing the appeal.
20. The Secretary of State has also considered the Inspector's reasoning and conclusions on the two Section 106 Agreements at IR11.1-11.12. He agrees with the Inspector that, in the Agreement relating to the Appeal B scheme (IR11.2-11.8), point 11 of Schedule 5 (IR11.6) would need to be revised and Schedule 8 (IR11.8) is not necessary but, otherwise, that the terms of the Agreement are necessary and fairly and reasonably related to the development and therefore in accordance with section 122 of the CIL Regulations and paragraph 204 of the Framework. The Secretary of State also agrees with the Inspector that, in respect of the Agreement relating to Appeal C (IR11.9-11.12), Schedule 8 is not necessary and fails the tests set out in the Framework; whilst a revised obligation would need to be negotiated to remedy the shortcomings identified in Schedule 6. However, the Secretary of State does not consider that, even with the amendments identified as being necessary, the terms of either of these Agreements would be sufficient to overcome the concerns with these appeal proposals identified in this decision letter.

Overall Conclusions

21. The Secretary of State recognises the significant social benefits and limited regeneration benefits which either of the appeal schemes before him would bring to the town centre and the Borough as a whole, that they would be in accordance with a number of development plan policies and would cause less than substantial harm to the building itself. Nevertheless, he does not consider that they have been shown to represent the optimum viable use for the building. He concludes that a scheme along the lines of that being developed by the WFCT would also be in accordance with the CS and has been shown to have the potential to utilise the Granada Cinema building in a way which would have greater economic and regenerative benefits, including forming a symbiotic relationship with the Arcade scheme, while also exploiting more fully the iconic character of the building.

Formal Decision

22. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby refuses your clients' appeals against the refusal of the Council of the London Borough of Waltham Forest:

Appeal A: to grant listed building consent for use of the former Granada Cinema, 186 Hoe Street, the Victoria Public House and 186a & 186b Hoe Street to include religious, community/assembly, café and retail uses (A1/A3/D1/D2) along with alterations and restoration of the Grade II* listed building, side and rear extensions, and associated plant, servicing and works;

Appeal B: to grant planning permission for use of the former Granada Cinema, 186 Hoe Street, the Victoria Public House and 186a & 186b Hoe Street to include religious, community/assembly, café and retail uses (A1/A3/D1/D2) along with alterations and restoration of the Grade II* listed building, side and rear extensions, and associated plant, servicing and works;

Appeal C: redevelopment proposals and associated alterations and works including change of use to mixed use development comprising religious, community, cinema, café and retail uses (D1/D2/A3/A1 Use Classes) with ancillary residential accommodation comprising two x 2 bed and three x 1 bed units.

Right to challenge the decision

19. 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.

20. A copy of this letter has been sent to the Council. A notification e-mail / letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

JEAN NOWAK

Authorised by Secretary of State to sign in that behalf

Post-Inquiry Representations

Correspondent	Date
James MacLauchlan	24 Dec 2012
Mr E K Vesey	21 Jan 2013
Jacquie Andrews	25 Jan 2013
Sue Chadwick	25 Jan 2013
Joanna West	04 Mar 2013
Howard Sharp & Partners LLP	06 Mar 2013
Dr Wickham	05 Apr 2013
Jacquie Andrews (2 emails)	20 May 2013



Report to the Secretary of State for Communities and Local Government

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 15th March 2013

The Town and Country Planning Act 1990

The Planning (Listed Buildings and Conservation Areas) Act 1990

Appeals by

The Incorporated Trustees of the UCKG HelpCentre

Against decisions of

The Council of the London Borough of Waltham Forest

Inquiry held between 29 November 2012 and 19 December 2012

The Former Granada Cinema, 186 Hoe Street, the Victoria Public House, and 186a and 186b Hoe Street, Walthamstow E17 4QH

File Refs: APP/U5930/E/11/2165344, APP/U5930/A/11/2165348 & APP/U5930/A/12/2183662

Appeal A: APP/U5930/E/11/2165344

The Former Granada Cinema, 186 Hoe Street, the Victoria Public House, and 186a and 186b Hoe Street, Walthamstow E17 4QH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by the Incorporated Trustees of the UCKG HelpCentre against the decision of the Council of the London Borough of Waltham Forest.
- The application Ref.2009/1049/LB, dated 27 July 2009, was refused by notice dated 23 May 2011.
- The works proposed are described as 'use of the former Granada Cinema, 186 Hoe Street, the Victoria Public House and 186a & 186b Hoe Street to include religious, community/assembly, café and retail uses (A1/A3/D1/D2) along with alterations and restoration of the Grade II* listed building, side and rear extensions, and associated plant, servicing and works'.

Summary of Recommendation: The appeal be dismissed.

Appeal B: APP/U5930/A/11/2165348

The Former Granada Cinema, 186 Hoe Street, the Victoria Public House, and 186a and 186b, Hoe Street, Walthamstow E17 4QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by the Incorporated Trustees of the UCKG HelpCentre against the decision of the Council of the London Borough of Waltham Forest.
- The application Ref.2009/1048, dated 27 July 2009, was refused by notice dated 23 May 2011.
- The development proposed is described as 'use of the former Granada Cinema, 186 Hoe Street, the Victoria Public House and 186a & 186b Hoe Street to include religious, community/assembly, café and retail uses (A1/A3/D1/D2) along with alterations and restoration of the Grade II* listed building, side and rear extensions, and associated plant, servicing and works'.

Summary of Recommendation: The appeal be dismissed.

Appeal C: APP/U5930/A/12/2183662

The Former Granada Cinema, 186 Hoe Street, the Victoria Public House, and 186a and 186b, Hoe Street, Walthamstow E17 4QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by the Incorporated Trustees of the UCKG HelpCentre against the decision of the Council of the London Borough of Waltham Forest.
- The application Ref.2012/0764, dated 22 May 2012, was refused by notice dated 14 September 2012.
- The development is described as 'redevelopment proposals and associated alterations and works including change of use to mixed use development comprising religious, community, cinema, café and retail uses (D1/D2/A3/A1 Use Classes) with ancillary residential accommodation comprising two x 2 bed and three x 1 bed units'.

Summary of Recommendation: The appeal be dismissed.

1. Procedural Matters

- 1.1 The Inquiry opened on 29 November 2012 and was closed on 19 December 2012. The principal parties, the Incorporated Trustees of the Universal Church of the Kingdom of God HelpCentre¹ (the appellant), the Council, and the Waltham Forest Cinema Trust², a Rule 6 Party, all presented evidence to the Inquiry. Most interested parties spoke on 12 December 2012 but Dr Stella Creasey, the MP for Walthamstow, made her representations the day before.
- 1.2 Throughout the documentation put in by the main parties, and the Statement of Common Ground³ especially, there is confusion over nomenclature. As set out in the headers above, I have dealt with Appeal A as an appeal against the refusal of listed building consent, and the linked Appeal B as an appeal against the refusal of planning permission, for what is termed in various places, Scheme 1 or the 'Granada Rooms' proposal.
- 1.3 Appeal C is an appeal against the refusal of planning permission for what has been variously termed Scheme 2 or the '6 screen cinema' proposal. The parallel application for listed building consent for the works involved in this latter proposal has not been determined and remains with the Council.
- 1.4 The descriptions of works and development require some attention too. In terms of Scheme 1, the originating applications failed to differentiate between the works requiring listed building consent, and the development requiring planning permission. In their decision notices, the Council deconstructed the proposals in a largely correct manner but the description of the works included in the decision to refuse listed building consent, and reflected in the SoCG⁴, includes reference to 'limited demolition'. However, following the House of Lords judgement in *Shimizu (United Kingdom) Ltd v Westminster City Council [1997] 1 All E.R. 481*, the term 'demolition' is taken to mean the total or substantial destruction of the building concerned⁵.
- 1.5 That is not what is proposed and, with reference to the submitted plans⁶, there are other areas where the description of the works can be clarified. I have dealt with Appeal A on the basis that listed building consent was sought and refused for 'internal and external alterations, extensions to rear, and at upper levels, and associated plant and servicing'. Similarly, the description of development can be simplified from that set out on the Council's decision notice and reflected in the SoCG⁷. I have dealt with Appeal B on the basis that planning permission was sought and refused for 'change of use of former cinema and public house to a mixed use development comprising religious, community/assembly, café and retail uses (D1/D2/A3/A1), along with residential accommodation for staff, involving alterations, extensions to rear, and at upper levels, and associated plant and servicing'.

¹ Referred to hereafter as UCKG

² Referred to hereafter as WFCT

³ Referred to hereafter as the SoCG ID 33

⁴ ID 33

⁵ Appendix D to Circular 01/01: *Arrangements for Handling Heritage Applications – Notifications and Directions by the Secretary of State* refers

⁶ Set out in Annex C

⁷ ID 33

- 1.6 In terms of Appeal C which covers Scheme 2, the description of development on the originating application is reflected in the SoCG⁸ but needs to be modified to include a reference to the extensions proposed. I have therefore dealt with Appeal C on the basis that planning permission was sought and refused for 'alterations and extensions, involving change of use, to a mixed-use development comprising religious, community, cinema, café and retail uses (D1/D2/A3/A1) with ancillary residential accommodation comprising two 2-bed and three 1-bed units'.
- 1.7 The Council refused planning permission for Scheme 1 for seven reasons, and Scheme 2 for three reasons, but in the lead up to the Inquiry the Council confirmed that those reasons for refusal that refer to the potential for noise and disturbance, and issues around parking⁹, would not be pursued at the Inquiry, subject to satisfactory negotiations in relation to conditions and obligations. I return to those matters below.
- 1.8 I first visited the building and the surrounding area as part of the Pre-Inquiry Meeting held in April 2012. On 29 January 2013, I travelled to Walthamstow, with representatives of the main parties, as requested, on the Victoria Line from Oxford Circus – a journey that took about 30 minutes. I then viewed the rear of the building from No.23 Cleveland Park Avenue.
- 1.9 After that I took in the building itself in some detail. I then walked around the surrounding areas, notably Walthamstow Village, and the estates to the north-west, in accordance with a route supplied by WFCT and the appellant, on an unaccompanied basis. On the same day, I visited Wimbledon alone, to take in the relative locations of the Curzon and Odeon Cinemas there.
- 1.10 On the following day, I travelled with representatives of the main parties from Oxford Circus to the Hackney Empire¹⁰, again as requested. The journey took about 30 minutes. After that, I visited, in the company of representatives of the main parties, two existing, operational UCKG buildings, one in Finsbury Park¹¹, and another in Kilburn.
- 1.11 As set out at the Inquiry, I have based my reporting of the main parties' cases on their closing submissions. Written copies of the main parties' openings and closings have been provided and are attached as Inquiry Documents¹².
- 1.12 Throughout the report, I have referred to the wide variety of submitted documents through the use of footnotes. References in my conclusions thus [--] cross-refer to previous or succeeding paragraphs in the report.
- 1.13 At the Inquiry an application for costs in relation to Appeal C was made by the appellant against the Council. This is the subject of a separate report and recommendation.

⁸ ID 33

⁹ ID 33 Page 17 refers

¹⁰ Victoria Line to Highbury & Islington then overground to Hackney Central

¹¹ The Former Rainbow Theatre

¹² ID 3, ID 4, ID 5, ID 34, ID 35 and ID 36

2. The Building and its Surroundings

- 2.1 The former Granada Cinema¹³ and attached Victoria Public House and retail units below, is an example of the large, elaborate 'super-cinemas' built throughout Britain between the wars. The evolution of the genre has been ably set out by English Heritage¹⁴. The Granada Cinemas were a small independent circuit developed by Sidney Bernstein, generally in districts where escapist palaces of entertainment would be most popular.
- 2.2 The building is listed Grade II* and is one of the earliest, and undoubtedly finest, examples of the genre, designed by the Architect, Cecil Masey, with lavish interiors in the 'Moorish' style by Theodore Komisarjevsky. The original Christie organ remains in place. All this is set out in the pleasingly full entry in the Statutory List¹⁵.
- 2.3 Much of the exterior of the building survives. Notwithstanding interventions before the building was added to the Statutory List, and some damage caused since¹⁶, the same is true of the interior. Nevertheless, the building is currently unused, and while largely wind- and weather-tight, vulnerable. As a consequence, it is classified as in poor condition and Priority Category A on the English Heritage Buildings at Risk Register, which means that there is considered to be immediate risk of further rapid deterioration or loss of fabric, with no solution agreed.
- 2.4 The building is located in Walthamstow town centre on the west side of, and presenting a frontage to Hoe Street. Beyond the site, to the west, lie residential properties, in Cleveland Park Avenue, and to the north is Hatherley Mews, which contains a range of small business units. Immediately to the south of the site is a flat-roofed building occupied by a bank.
- 2.5 Beyond that is the open expanse of what is termed the 'Arcade Site' where the Council has recently resolved to grant planning permission for redevelopment to provide a mixed use scheme ranging from 2 - 6 storeys to include 121 residential units (C3 use), a multi-screen cinema (D2 use), 6 commercial units (A1, A2, A3, A4 or D1 use), and associated external works, including 2 new vehicular accesses, one on Hoe Street, and one on Cleveland Park Avenue, subject to the completion of an Agreement under Section 106 to address affordable housing and a range of other matters¹⁷.

¹³ Also referred to as the ABC Cinema and EMD Cinema but I have used the prefix Granada throughout.

¹⁴ An extract from *Picture Palaces: New Life for Old Cinemas* is at LBWF17 Appendix B.

¹⁵ LBWF 17 Appendix C

¹⁶ The illegal rave that took place in 2003 in particular

¹⁷ ID 40 refers and ID 20 gives details of what is proposed

3. Planning and Associated History

- 3.1 The building was constructed in 1929/30 on the site of the Victoria Playhouse, a building adapted in 1907 to become the first full-time cinema in Walthamstow. With 2,697 seats, the Granada was the largest cinema by far in the local area and in addition to film screenings, was also noted for organ programmes and many famous stars, orchestras, and bands appeared on its stage. Nevertheless, by 1968, this seating capacity no longer made commercial sense and the stalls area was closed. Then, in or around 1973, the space beneath the circle was enclosed to create a 3 screen cinema. At present, there are about 450 seats in the circle of the main auditorium, and 180 in the two smaller enclosures below the circle.
- 3.2 This adaptation was carried out before the building was added to the Statutory List in 1987 at Grade II. This was raised to Grade II* in 2000 following a national review of cinema buildings by English Heritage. In 2000, the cinema, at the time called the ABC, was closed, and Odeon Cinemas sold it to a Mr Sharma, who re-opened the cinema as the EMD.
- 3.3 In April 2002, planning applications for change of use and listed building consent for a change of use from D2 (cinema) to D1 with associated ancillary uses and the works necessary to facilitate the same were submitted by UCKG, and in August 2002, it became public that Mr Sharma would be selling the building to UCKG. In late October or early November 2002, UCKG lodged appeals against non-determination of the applications. The cinema ceased to operate in January 2003 and a Public Inquiry took place in June 2003 to consider the appeals. Following the Inspector's recommendations, the then Secretary of State dismissed the appeals and refused planning permission and listed building consent for the development and works proposed¹⁸ on the basis largely, of a failure to accord with policies, then in place and emerging, relating to the vitality and viability of Walthamstow Town Centre and because the works proposed could prejudice continued use as a cinema.
- 3.4 A 2003 survey identified asbestos in many parts of the building which limits accessibility and has implications for re-use. In March 2004, the building was added to the English Heritage Buildings at Risk Register in Category A, where it remains. Since 2005, the Council has investigated a number of reports and remedial works to the building have been carried out in response. Most recently, there have been, amongst other things, repairs to render and windows, repainting and cleaning of the main façade, and the installation of anti-pigeon spikes¹⁹.

¹⁸ CD 44

¹⁹ ID 33 Page 4 refers

4. The Proposals

- 4.1 As set out two schemes were considered at the Inquiry. There are many similarities but important differences too. Both schemes involve restoration, and refurbishment of the building to facilitate re-use of it in its entirety, including what is now the Victoria Public House, and the retail units below. Extensions are proposed in both schemes too.
- 4.2 In simple terms, Scheme 1 would involve a mixture of uses in the building. It would house a UCKG HelpCentre consisting of a central worship space in the reinstated main auditorium, accessed through the original foyer, a Training Centre and Book Shop, separately accessible from Hoe Street, and a Kids Zone formed from the infilling of an existing yard, all at ground floor level. The main HelpCentre reception would be located at the lower level to the rear of the main foyer. To the rear of the main auditorium, would be formed, by means of extensions, two new flats to house staff.
- 4.3 At first floor level, part of the existing circle would remain within the main auditorium, accessed from the upper lobby gallery. There would also be a Youth Centre, a café, some office space, and a caretaker's flat. At second floor level, new office accommodation would be provided in an extension above the foyer. The upper part of the circle would become three separate spaces, termed the 'Granada Rooms', proposed to be used for cinema and/or community purposes. The central, and largest, space of the three would maintain the existing rake, providing 230 seats fronting a new stage. Either side would be two smaller spaces with flat floors formed to take out the existing rake. There would also be use of the main auditorium for cinema, or other public events, for a minimum of 48 days per year.
- 4.4 Scheme 2 would be broadly similar in terms of the mix of uses. However, it would include six cinema screens, one at first floor level with 106 seats (Screen 1) and five at second floor level, two with 55 seats (Screens 3 and 4), one with 116 seats (Screen 2), one with 158 seats (Screen 6 and the largest with 200 seats (Screen 5). Accommodating the six screens involves rearranging the accommodation at first floor level from that set out in Scheme 1 to provide office spaces and a Youth Centre, but no Café, and extensions at second floor level above the foyer and adjacent, above the infilled yard. Again, there would be use of the main auditorium for cinema, or other public events, for a minimum of 48 days per year.
- 4.5 In both schemes, the use of the Granada Rooms, or six-screen cinema would be subject to an Agreement under Section 106 as would the use of the main auditorium for cinema, or other public events. In both schemes, there would be new sanitary provision throughout.

5. Planning Policy

- 5.1 The statutory development plan for the area includes the London Plan of July 2011²⁰, the saved policies that remain from the Waltham Forest Unitary Development Plan of March 2006²¹, and the Waltham Forest Local Plan Core Strategy that was adopted in March 2012²². In the SoCG²³, the parties set out a range of policies they consider relevant and copies of the LP, UDP and CS have been provided as part of the Core Documents²⁴. Notwithstanding that, to provide a background to the analysis of the proposals, it is necessary to pick out those parts of the documents, and the policies, that are most relevant.
- 5.2 The LP sets out the Spatial Development Strategy for Greater London and the 'vision' is set out as²⁵: *Over the years to 2031 – and beyond, London should: excel among global cities – expanding opportunities for all its people and enterprises, achieving the highest environmental standards and quality of life and leading the world in its approach to tackling the urban challenges of the 21st Century, particularly that of climate change.* It continues: *Achieving this vision will mean making sure London makes the most of the benefits of the energy, dynamism and diversity that characterise the city and its people; embraces change while promoting its heritage, neighbourhoods and identity; and values responsibility, compassion and citizenship.*
- 5.3 This vision is supported by six detailed objectives²⁶ that, we are told, embody the concept of sustainable development and provide a link to the detailed policies that follow. In simple terms, these seek to ensure London is: (1) a city that meets the challenges of economic and population growth; (2) an internationally competitive and successful city; (3) a city of diverse, strong, secure and accessible neighbourhoods; (4) a city that delights the senses; (5) a city that becomes a world leader in improving the environment; and (6) a city where it is easy, safe and convenient for everyone to access, jobs, opportunities and facilities.
- 5.4 Walthamstow Town Centre is classified in the LP²⁷ as a major centre with medium capacity for growth, a need for regeneration, and a night-time economy cluster of more than local significance. LP Policy 2.14²⁸ prioritises, in identified regeneration areas, like Walthamstow Town Centre, neighbourhood-based action and investment.
- 5.5 LP Policy 2.15²⁹ sets out the policy approach to town centres. Development proposals should: (a) sustain and enhance the vitality and viability of the centre; (b) accommodate economic and/or housing growth through intensification and selective expansion in appropriate locations; (c) support and enhance the competitiveness, quality and diversity of town centre retail,

²⁰ Referred to hereafter as the LP

²¹ Referred to hereafter as the UDP

²² Referred to hereafter as the CS

²³ ID 33 Pages 7 and 8

²⁴ CD 4, CD 5 and CD 6

²⁵ CD 5 paragraph 1.52

²⁶ CD 5 Paragraph 1.53

²⁷ CD 5 Table A2.1 Page 283 et seq

²⁸ CD 5 Page 56

²⁹ CD 5 Page 58

leisure, arts and cultural, other consumer services and public services; (d) be in scale with the centre; (e) promote access by public transport, walking and cycling; (f) promote safety and lifetime neighbourhoods; (g) contribute towards an enhanced environment, urban greening, public realm, and links to green infrastructure; and (h) reduce delivery, servicing and road user conflict.

- 5.6 LP Policy 3.16³⁰ acknowledges that London requires additional and enhanced social infrastructure provision to meet the needs of its growing and diverse population. In terms of the approach to planning decisions, proposals which provide high quality social infrastructure are to be supported in the light of local and strategic needs assessments. Facilities should be accessible to all sections of the community (including disabled and older people), within easy reach by walking, cycling and public transport, and wherever possible, the multiple use of premises should be encouraged.
- 5.7 LP Policy 4.1³¹ seeks to promote and enable the continued development of a strong, sustainable and increasingly diverse economy across all parts of the city while LP Policy 4.5³² provides for London's visitor infrastructure, and LP Policy 4.6³³ outlines encouragement for, and enhancement of, arts, culture, sport and entertainment. LP Policy 4.7³⁴ supports a strong, partnership approach to assessing need and bringing forward capacity for, amongst other things, culture and leisure development in town centres.
- 5.8 Chapter 7 of the LP deals with 'London's Living Places and Spaces'. LP Policy 7.1³⁵ sets out that in their neighbourhoods, people should have a good quality environment in an active and supportive local community with the best possible access to services, infrastructure and public transport. LP Policy 7.2³⁶ requires all development to achieve the highest standards of accessible and inclusive design so that development can be used easily by all, with no disabling barriers.
- 5.9 LP Policy 7.8³⁷ deals with heritage assets requiring development to identify, value, conserve, restore, re-use and incorporate them, where appropriate. Development affecting heritage assets and their settings is expected to conserve their significance, by being sympathetic to their form, scale, materials and architectural detail. Of particular relevance here, LP Policy 7.9³⁸ refers to heritage-led regeneration and notes that the significance of heritage assets should be assessed when development is proposed and schemes designed so that the heritage significance is recognised both in their own right and as catalysts for regeneration. Wherever possible heritage assets (including buildings at risk) should be repaired, restored and put to a suitable and viable use that is consistent with their conservation and the establishment and maintenance of sustainable communities and economic viability.

³⁰ CD 5 Page 98 onwards

³¹ CD 5 Page 109

³² CD 5 Page 118

³³ CD 5 Page 121

³⁴ CD 5 Page 123

³⁵ CD 5 Page 209

³⁶ CD 5 Page 211

³⁷ CD 5 Page 220

³⁸ CD 5 Page 222

- 5.10 In terms of the CS, the spatial vision is set out as a description of how the borough will appear in 2026³⁹. By that time, the idea is that Waltham Forest will have firmly established its place in London and redefined itself as a modern, stylish place to live, visit, and do business, with the highest quality of services and facilities in London, and high aspirations matched by opportunities locally, and across London.
- 5.11 The spatial vision breaks that down into a series of headings. Of relevance, we are told that innovative regeneration schemes will have brought great opportunities. There will be a strong and stable economy and Waltham Forest will be a magnet for creative businesses. Town centres will be thriving and bustling, attracting shoppers and visitors to their shopping, leisure, and cultural activities. The booming evening economy helps boost local businesses, attracting spend. Award winning, iconic buildings will have made the Borough a place where people come to see what is best in modern architecture.
- 5.12 On top of that, cultural and leisure facilities will complement the main attractions of London's West End and residents will particularly love the choice of activities available to them on their doorstep. Facilities and learning opportunities will benefit all but especially the young who will feel empowered and play an active role in the community. Finally, one of the proudest achievements over the period covered by the CS will have been the manner in which the root causes of social and economic exclusion have been tackled. The community will be an exemplar of how multi-cultural Britain works to everyone's advantage.
- 5.13 To achieve that vision, the CS lists a series of strategic objectives⁴⁰ that translate into policy⁴¹. Some of these are of direct application to the proposals. Notably SO1 seeks to capitalise on redevelopment opportunities to secure physical, economic and environmental regeneration and ensure the delivery of key benefits to local people. SO3 looks to ensure the timely delivery of appropriate social infrastructure.
- 5.14 SO8 is to facilitate sustainable economic growth by safeguarding and enhancing an appropriate range of sites and premises to meet the demand of local businesses and growth sectors in order to attract and retain high-quality services, industries and well paid jobs in the Borough. SO9 and SO10 deal with the provision of education and vocational training to ensure that the young can capitalise on opportunities locally and further afield, succeed, and prosper, reducing inequality, unemployment and worklessness by improving skills training and access to jobs.
- 5.15 SO11 attempts to increase the attractiveness of the area as a tourist destination, based on its unique assets. SO12 has a direct bearing. It seeks to conserve and enhance the Borough's heritage assets whilst maximising their contribution to future economic growth and community well-being. SO14 sets out to safeguard and strengthen the function of Walthamstow Town Centre ensuring that it continues to develop as a vibrant, attractive, distinctive, safe and welcoming place.

³⁹ CD 4 Pages 25 and 26

⁴⁰ Referred to as SOs

⁴¹ CD 4 Pages 27 and 28

- 5.16 These strategic objectives then translate into policies. SO1 drives CS Policy CS1⁴² which, in simple terms, directs additional growth in main town centre uses to the designated town centres. For the purposes of the policy, main town centre uses are those defined in Annex 2 of the Framework⁴³: retail, leisure, entertainment, more intensive sport and recreation uses (including cinemas) and arts, culture and tourism development. In a similar way, SO3 leads into CS Policy CS3⁴⁴ which seeks to ensure that appropriate infrastructure is provided to cater for the needs of existing and future populations by promoting the enhancement of existing facilities, resisting its unsubstituted loss where population growth and change requires its provision, and encouraging multi-purpose facilities that provide a range of services. The CS definition of 'infrastructure' includes leisure facilities, community spaces, and faith facilities.
- 5.17 SO9 underpins CS Policy CS9⁴⁵ which supports better education for all residents, but especially the young while CS Policy CS10⁴⁶, following on from SO10, seeks to maximise employment opportunities for all residents by, amongst other things, promoting the delivery of additional education and training opportunities for all, and focussing employment growth in the Borough's key growth areas. Stemming from SO11, CS Policy CS11⁴⁷ supports the development of tourism by, amongst other things, encouraging new leisure and cultural development in Walthamstow Town Centre. CS Policy CS12⁴⁸ that springs from SO12 supports the conservation, enhancement and enjoyment of the Borough's heritage assets by, amongst other things, promoting heritage-led regeneration and seeking appropriate, beneficial uses and improvements to historic buildings.
- 5.18 Emerging from SO14, CS Policy CS14⁴⁹ promotes successful and vibrant centres to serve the needs of residents, workers and visitors by a range of measures. Amongst these, E) aims to create a sustainable pattern/distribution of town centre uses by, of relevance (ii) managing the proliferation of particular uses where their location and/or grouping would be contrary to the Council's aspirations and priorities; and (iii) encouraging and managing the development of clusters of complementary evening and night-time economy uses in town centres. H) promotes the rejuvenation of town centres through the redevelopment of under-used sites and premises.
- 5.19 The Framework⁵⁰ sets out a range of Core Planning Principles that underpin both plan-making and decision-taking. Amongst other things, planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places the country needs; promote mixed use developments and encourage multiple benefits from the use of land in urban areas; and conserve heritage assets in a manner appropriate to their significance.

⁴² CD 4 Page 30

⁴³ The National Planning Policy Framework CD 1

⁴⁴ CD 4 Page 55

⁴⁵ CD 4 Page 114

⁴⁶ CD 4 Page 119

⁴⁷ CD 4 Page 126

⁴⁸ CD 4 Page 129

⁴⁹ CD 4 Page 143

⁵⁰ CD 1

- 5.20 Expanding on those principles, paragraph 18 sets out that the Government is committed to securing economic growth in order to create jobs and prosperity. Paragraph 19 states that significant weight should be placed on the need to support economic growth through the planning system. Paragraph 23 explains in the context of drawing up Local Plans, though the principles must also apply to decision-making, that town centres should be recognised as the heart of communities and their vitality and viability supported.
- 5.21 Given the status of the former Granada Cinema as a Grade II* listed building, the statutory provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 have direct application. Sections 16(2) and 66(1) require the decision maker, in considering whether to grant listed building consent or planning permission for works, or development, affecting a listed building, or its setting, to pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.
- 5.22 The Framework⁵¹ deals with determining planning applications that affect heritage assets in paragraphs 128 to 135. Paragraph 132 sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. It goes on to note that significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting, and notes that substantial harm to, or loss of, designated heritage assets of the highest significance, like Grade II* listed buildings, should be wholly exceptional.
- 5.23 Paragraph 133 goes on to note, of relevance, that where a proposed development would lead to substantial harm to or total loss of significance of a designated heritage asset, consent⁵² should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Paragraph 134 says that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 5.24 In terms of emerging policy, the Waltham Forest Local Plan: Development Management Policies⁵³ is at submission stage but may well be adopted by the time the Secretary of State is in a position to reach a decision on these appeals. Policy DM 23⁵⁴ therein deals with tourism and visitor attractions. In terms of the latter, criterion h) says that the loss of tourist and leisure attractions to alternative uses will only be allowed where the need for such use no longer exists, or there are overriding regeneration benefits to their loss.

⁵¹ CD 1

⁵² I take that term to include permission

⁵³ CD 6

⁵⁴ CD 6 Page 151

- 5.25 Amongst a range of other policy documents referred to⁵⁵, *Planning for Equality and Diversity in London: Supplementary Planning Guidance to the LP*⁵⁶, of October 2007, commands particular attention.
- 5.26 The vision of the (then) Mayor was to develop London as an exemplary, sustainable world city. One of the delivery objectives was to ensure London will be a fair city, in the sense that tolerance would be shown, all forms of discrimination abolished, with neighbourhoods and communities having a say in their own futures.
- 5.27 The document recognises⁵⁷ that there are groups who suffer poverty, discrimination, or have particular needs, as a result of their age, disability, gender, race, religion, or sexual orientation. Addressing the strategic land use, transport and development aspects of these needs is key to ensuring that the planning system is used to its full potential to deliver benefits to all communities.
- 5.28 New development and regeneration initiatives are said to offer important opportunities to meet deficits in existing social infrastructure provision for disadvantaged communities. Local authorities need to have a good idea of local social infrastructure needs, to be able to identify gaps and meet deficits through the development process⁵⁸.
- 5.29 Faith Groups are recognised as a target equality group⁵⁹ and the key spatial issues set out for them include the point that the definition of 'places of worship' in the planning system is based on an old fashioned Church of England model of provision, and often does not adequately reflect the wider needs of faith groups and the very different patterns of worship that are beginning to crop up⁶⁰.
- 5.30 Moreover, faith groups tend to have some specialist social and community facilities⁶¹ and require places of worship. The document notes that models of religious worship are changing and large congregations are developing for some faiths that require large spaces that prove difficult to find⁶². Inter faith co-operation and community cohesion is also addressed⁶³ with objectives that include helping to defuse inter-community tensions and build community cohesion.
- 5.31 Paragraph 2.3.8 of *Responding to the Needs of Faith Communities: Places of Worship*⁶⁴, a document commissioned by the Greater London Authority in late 2007, found very limited awareness of this Supplementary Planning Guidance, setting out that London Boroughs appear unclear how to identify the needs of faith groups, either for forward planning or development control purposes.

⁵⁵ CD 7 to CD 29

⁵⁶ CD8

⁵⁷ CD 8 Page 28

⁵⁸ CD 8 Page 51

⁵⁹ CD 8 Page 61

⁶⁰ CD 8 Page 85

⁶¹ CD 8 Page 86

⁶² CD 8 Page 87

⁶³ CD 8 Pages 88 and 89

⁶⁴ CD 9 Page 12

- 5.32 Also relevant, given the nature of part of the case advanced by the appellant is Circular 06/2004⁶⁵. It is necessary to record here the 'tests' that bear on whether a Compulsory Purchase Order under section 226(1) (a) should be confirmed by the Secretary of State.
- 5.33 Put simply, these are (i) whether the purpose for which the land is being acquired fits in with the adopted planning framework for the area; (ii) the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area; (iii) the potential financial viability of the scheme for which the land is being acquired; and (iv) whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means.

⁶⁵ Circular 06/2004: *Compulsory Purchase and the Criche! Down Rules* CD 50

6. The Case for the Council

- 6.1 The principal issues raised by these appeals are (1) whether the proposals would harm the vitality and viability of Walthamstow Town Centre, and the objectives for its regeneration; (2) whether the benefits of the proposal would outweigh the harm that would be caused to the special architectural and historic interest (and/or significance) of the former Granada Cinema, a Grade II* listed building; (3) whether the need for either proposal outweighs any harm identified under (1) or (2); (4) in the light of all that, whether the proposals accord with the development plan; and (5) whether the proposals can claim the benefit of the presumption in favour of sustainable development and, if so, whether having regard to all of the circumstances, it is outweighed by any significant and demonstrable harm.

Background and Context

- 6.2 Waltham Forest sits alongside the Olympic Park and the Stratford City development and provides a pivotal link between two of Europe's largest regeneration areas: the Thames Gateway and the London-Stansted-Cambridge-Peterborough corridor. To ensure that its residents are well placed to take advantage of the potential advantages of these areas, the Council has identified four major areas for regeneration, one of which is Walthamstow Town Centre⁶⁶.
- 6.3 The need for regeneration cannot be overstated. Waltham Forest has the smallest economy of all the London Boroughs, due both to the low total number of jobs, and the high proportion of low-value jobs⁶⁷. The Borough ranks as the 27th most deprived local authority out of 354 in England⁶⁸, with deprivation most intense in the south and centre of the Borough. Those residents who do benefit from higher than average qualifications travel out of the Borough to work. The evidence base supporting the CS showed that the poorest parts of the Borough have a highly transient population⁶⁹ and there is therefore a need to stabilise neighbourhoods, and to develop policies that make these areas more sustainable, and prosperous, in the longer term.
- 6.4 The ward within which the appeal site lies, and the wards immediately surrounding, are some of the most deprived in the Borough. Within High Street ward⁷⁰, five out of seven neighbourhoods are among the 20% most deprived, and one is among the 10% most deprived, in England⁷¹. Hoe Street Ward⁷² is one of the most deprived wards in the Borough, with seven out of eight neighbourhoods within the ward being with the 20% most deprived in England⁷³. However, away from the central and southern parts of the Borough, there are significant pockets of affluence focussed, largely, in the north⁷⁴.

⁶⁶ CD 4 CS Policy CS1

⁶⁷ CD 4 Para 2.17 Page 16

⁶⁸ CD 4 Para 2.16 Page 16

⁶⁹ CD 4 Para 2.37 Page 19

⁷⁰ To the west of Hoe Street and within which the appeal site lies

⁷¹ LBWF 6 Para 3.1.4.1 Page 5

⁷² To the east of Hoe Street

⁷³ LBWF 6 Page 4

⁷⁴ LBWF 8 Para 3.3.5 Page 5

- 6.5 This disparity, and the deprivation in the central and southern areas, leads to the under-performance of Walthamstow Town Centre. It has a number of positive features, including a low vacancy rate⁷⁵ and a vibrant market, but it suffers from a low-quality offer, overall, and a low average spend. Supporting food and drink uses are poor, and there is little to attract more affluent shoppers, who go elsewhere. Its perception is poor. The appellant accepts that there are parts of the Town Centre which have a poor environment, including in particular, Hoe Street and the Arcade site adjacent to the appeal site⁷⁶.
- 6.6 The problems are ingrained and require step change actions. There will continue to be a need for services, and proposals, that address the consequences of deprivation but the priority is to deal with root causes.
- 6.7 The Council is committed both through the Waltham Forest Sustainable Community Strategy⁷⁷ and the CS⁷⁸ to creating a more economically balanced population, to increase local spending power, to generate jobs, and to tackle concentrations of deprivation and low aspirations. It seeks to create wealth and opportunity for all residents and to retain more wealth in the Borough. The guiding principle and key priorities include: (a) creating a more economically balanced population, increasing local spending power, generating jobs and tackling areas of deprivation and low aspirations; (b) cultivating civic participation, cohesion and independent living so everyone feels they belong; (c) providing children and young people with skills and confidence to achieve their ambitions and compete in a global economy; (d) achieving full employment; (e) making the most of the regeneration of East London; (f) creating vibrant town centres with an attractive leisure, cultural and commercial offer; and (g) improving community safety and reducing anti-social behaviour⁷⁹.
- 6.8 These key priorities translate into the vision of the CS. Redefinition of the Borough as a modern, stylish place in which to live, visit, and do business is a central theme. If the Borough is to achieve that, it needs to punch above its weight and offer competing attractions to those available in Central London and the increasingly dominant Stratford. Hence the CS focus is on innovative regeneration schemes⁸⁰, thriving and bustling town centres, with a booming evening economy⁸¹, and dynamic cultural attractions, to retain spend in the Borough and, importantly, to draw new spend into the evening economy. In short, the Council's policy is one of targeted intervention in the regeneration areas to transform places and communities whilst both capturing and maximising the ripple effects of growth for the benefit of the whole Borough. That is admittedly and unapologetically visionary; it is also, as the evidence shows, achievable. The appellant accepts that the Council is making reasonable progress on its objectives and, given that this progress has been achieved in the depths of the recession, it is to be applauded⁸².

⁷⁵ LBWF 6 Para 3.1.5.1 Page 5 (8% vacancy level) also UCKG 18 Para.6.29 Page 28

⁷⁶ UCKG 18 Paras 6.33 to 6.38 Page 29 and confirmed in x-e

⁷⁷ CD 25

⁷⁸ CD 4

⁷⁹ CD 4 Pages 3 to 4

⁸⁰ Under the heading Sustainable Regeneration CD 4 Para 3.4 Page 25

⁸¹ Under the heading Vibrant Town Centres CD 4 Para 3.7 Page 26

⁸² UCKG 18 Para 3.38 Page 16 and confirmed in x-e

The Historical Context

- 6.9 The appeal site has consistently been regarded by the Council as important to the regeneration of the town centre. The appellant's earlier proposal⁸³ was dismissed in 2003 on grounds which included the effect on the regeneration objectives for the Town Centre. Admittedly at that time, the objective was the retention in exclusively cinema use, there being no active proposals within the Borough for a multiplex cinema, whether on the Arcade site or otherwise.
- 6.10 The Arcade site has inevitably caused complications in resolving the future of this end of the High Street. Redevelopment of that site is a key Council priority. Its delivery has not proved straightforward, principally because of the recession; the Council's previous development partner was selected to promote a mixed-use scheme of retail, leisure and housing just as the credit crunch hit. Since then, the Council has worked hard to bring this important site forward. The development agreement was terminated and, in late 2010, the Council selected new development partners, Islington and Shoreditch Housing Association and Hill Residential. It is a condition of that development agreement that a multiplex cinema is delivered as part of the development⁸⁴. In July 2012, an agreement for a lease was concluded with Empire Cinemas, subject to planning permission being granted. The planning application for the Arcade scheme is due to be considered by the Council, at Committee, on 8th January 2013⁸⁵.
- 6.11 Inevitably, the Council's approach to the former Granada Cinema has had to take account of emerging proposals on the Arcade site. In an ideal world a comprehensive development involving both sites would be taken forward. The appellant acknowledges that this would be the ideal⁸⁶. However, the submission of the 2009 application, and, subsequently, the 2012 application, has effectively prevented that. The Council has therefore had to respond to a changing and evolving context to both applications. Its consistent view has been that the former Granada Cinema should be retained in cinema and entertainment use⁸⁷.
- 6.12 In order to inform itself about the feasibility of the future use of the appeal building for cinema and entertainment use, the Council commissioned the 2010 Locum Report⁸⁸. Whilst this has been criticised by the appellant as an inadequate basis upon which to found *policy*⁸⁹, it was never intended to be, nor has it been treated as, anything more than an initial examination of possible feasible options for the use of the appeal building, in the context of what might happen on the Arcade site⁹⁰. Despite criticisms of it, its principal conclusions have not been challenged; indeed, they are accepted by the appellant.

⁸³ CD 44

⁸⁴ ID 8

⁸⁵ ID 40 confirms the resolution to grant permission subject to an Agreement under Section 106

⁸⁶ UCKG 34 Section 2.0

⁸⁷ Reason for refusal 1 in decision notices 2009/1048 (Appeal B) and 2012/0764 (Appeal C) .

⁸⁸ CD 34

⁸⁹ Notably by Mr Sullivan, one of its joint authors who was content to sign up to its content in 2010, and be remunerated for his contribution, notwithstanding his apparent concerns.

⁹⁰ The introduction to the Report stresses it is a study which is limited in scope, not a detailed feasibility study, nor a business plan.

- 6.13 These include that: (a) it would almost certainly not be viable to operate a restored auditorium exclusively for cinema use⁹¹; (b) subject (very probably) to grant funding for restoration costs, it would be viable to use the building as an entertainment venue (Option 1)⁹²; and (c) grant funding would require ownership by a non-profit making charitable trust.
- 6.14 The Locum Report appears to have been sufficiently robust to persuade the appellant of the need to advance the second scheme which reflects the second and less preferred Locum Option, incorporation of a cinema into the existing building, alongside a UKCG HelpCentre. This second option, expressly advanced by Locum, demonstrates that later criticism of both Locum and the Council for failure to understand or apply the Public Sector Equality Duty and, worse still, to have directly discriminated against UKCG and its members in terms of the potential need for separate entrances for the two new uses, is not an accurate reflection of reality.
- 6.15 The Option 2 caveat, signed up to by the appellant's own cinema expert, was that: *It would be a more attractive and viable proposition if a separate entrance to the cinema is created using the shop/pub and the new build insertion between them and the auditorium. That could form a bistro/bar on the street frontage or possibly at first floor level. It would form a clear self-contained area that could be leased to an operator' and There could also be entrance to the cinema via the main lobby, where UCKG plan a café, so that people can enjoy the experience of going into the cinema via the original entrance of they wish to do so*⁹³.
- 6.16 Unsurprisingly, as UCKG was working up its proposals to respond to the Locum Option 2 concept (in accordance with the requirements of the cinema operator with which they were in discussion)⁹⁴, members of the local community, having formed the Waltham Forest Cinema Trust were themselves working up proposals to respond to the preferred Option 1.
- 6.17 As at the date of the Pre-Inquiry Meeting, the Council was faced with two emerging proposals, reflecting different views as to how to make the best use of the potential which the appeal building undoubtedly offers.
- 6.18 There was just sufficient time within the bespoke timetable prescribed at the Pre-Inquiry Meeting for the appellant to formulate a revised scheme, for representations to be received on those proposals, and for the Council to seek advice from Locum on the merits of the 2012 application and the emerging WFCT proposals⁹⁵. There was simply no time for Officers to form a concluded view on Scheme 2 and to communicate that to the appellant prior to the publication of the report. Nor indeed is it normal practice to publicise recommendations prior to the general release of committee papers to Members and the public.

⁹¹ CD 34 Page 5

⁹² Mr Brent accepted that the building could be operated at a profit if used as a music venue (e-in-c).

⁹³ CD 34 Page 30

⁹⁴ UCKG 22 Para 2.8 Page 6

⁹⁵ LBWF 4 Section 4

- 6.19 The criticism made of the Council's handling of the application⁹⁶ is misconceived. In substance, it amounts to a contention that the Council's Officers should have pre-determined their decision on the application in advance of receipt of the advice it had commissioned rather than (as it did), approaching the application positively with a view to addressing as many issues as possible to enable a favourable recommendation to result, if at all possible⁹⁷. All parties were doing the best they could in the particular circumstances.
- 6.20 In the light of the new Locum advice with its appraisal and re-working of the WFCT business plan, which addressed the obvious shortcomings of the earlier Locum report, the Council has been able to conclude that there is realistic, realisable potential for the appeal building to be put exclusively to its original cine-variety use. It was not in a position to do that until it had received and considered the Locum 2012 Report⁹⁸ and it is unreasonable to suggest that it should have communicated a conclusion to this effect at some earlier unstated time. In any event, there is not a shred of evidence that if the Council had reached that conclusion earlier, the appellant would have done anything differently.

Need

- 6.21 Although the appeal proposals are advanced as a facility to meet local need for worship/prayer and welfare/social care, to the extent that the appellant claims that 90% of those attending the HelpCentre will be from within the Borough, the evidence lends no support to that assertion⁹⁹. Indeed there is no convincing evidence of any significant local need for either of the appeal proposals, in terms of the 1000 seat auditorium for services, or the Training Centre. Instead, the evidence of the appellant's representatives indicates that they see the appeal building as an opportunity to extend the reach of their Church, and their supporting services, in the Borough.
- 6.22 There will of course be benefits to some as a result of that, notably reduced travel distances for those who may currently be travelling to the Finsbury Park or Stratford HelpCentres, and for those whose needs are presently not catered for by the existing religious communities and welfare services. However, nothing produced by the appellant gives any reliable guide as to the extent of those benefits. It is worth noting the conclusions of the Inspector in his report following the 2003 appeal: *UCKG appears to have a large number of members resident in the borough of Waltham Forest, reported to be about 1,400 individuals. I am aware that many attend the Rainbow Theatre for religious services and for other purposes. That generates a need to travel but I do not consider the Finsbury Park area so remote from the borough of Waltham Forest as to raise serious issues of accessibility, cost, convenience or sustainability. Finsbury Park is four stations from Walthamstow Central on the Victoria Line.*¹⁰⁰

⁹⁶ UCKG 22 Pages 3-13

⁹⁷ As Mr Price e-in-c

⁹⁸ CD 31

⁹⁹ UCKG 11 Para 4.10 Page 12

¹⁰⁰ CD 44 Inspector's report Para 216

- 6.23 What evidence of quantitative need there is produced by the appellant is flawed and implausible. The application documentation for both appeals, advised that the UKCG Edmonton Branch was the appropriate comparator. The Edmonton HelpCentre opened in December 2008, has a capacity of 370 and an attendance of 150-170 at its main Sunday service¹⁰¹. This level of use was no doubt reflected in the claimed annual attendances for the appeal building of 75,000 visitors to the Church a year¹⁰².
- 6.24 Following sight of the Locum's August 2012 Report¹⁰³ (which analyses the likely spend of HelpCentre users)¹⁰⁴, the appellant revised the likely HelpCentre attendance to a claimed 180,000. The source of this figure appeared for the first time in the appellant's rebuttal evidence¹⁰⁵. The witness producing it could not explain how the figures had been derived, nor could the professional witness dealing with the issue of quantitative need¹⁰⁶.
- 6.25 It was left to Mr Hill, the appellant's Property Acquisitions Manager, to try to explain its derivation. However, the explanation simply served to confirm that the figure is unreliable and that the appellant has no accurate or adequate understanding of how the appeal building would be used, if the HelpCentre were permitted.
- 6.26 In terms of the appellant's methodology, the starting position is an assumption, unsupported by any credible evidence, that the auditorium would attain 80% usage at the main Sunday morning 0930 service. The 3,464 weekly visits¹⁰⁷ results from the average patterns of use from a number of other HelpCentres to 'build up' from that unsupported 800 figure. The weaknesses of this approach are readily exposed.
- 6.27 Leaving aside the issue of inconsistency with the Transport Assessments, the claimed level of attendance simply does not tally with the survey evidence. The results of UKCG's survey of their Finsbury Park and Stratford Branches¹⁰⁸ disclose that just 52 and 56 members of their respective congregations come from Waltham Forest postcodes¹⁰⁹.
- 6.28 Even if all of those transferred to the appeal building (in the event that the HelpCentre was approved), the congregation would be nowhere near the 800 assumed in Mr Hill's analysis.
- 6.29 Further, the size of the auditorium as proposed in the appeal schemes would be the third largest in London; of comparable size to Finsbury Park (the UK headquarters of the UCKG) and the Kilburn HelpCentre. There is no satisfactory evidence that this could be filled, even to 80%, by a local congregation.

¹⁰¹ See 2009 Transport Assessments Page 15 and 2012 Page 5 and Hill x-e

¹⁰² LBWF 6 Para 6.4.1.1 Page 33

¹⁰³ CD 31

¹⁰⁴ CD 31 Section 6.5 Page 48 onwards

¹⁰⁵ UCKG 5 Appendix 3

¹⁰⁶ Mrs Andrews

¹⁰⁷ UCKG 5 Appendix 3

¹⁰⁸ UCKG 19 Appendix 4

¹⁰⁹ UCKG 19 Appendix 1 of Appendix 4 Page 13

- 6.30 The only analysis advanced to contend otherwise is the second stage of Mr Hill's methodology. This seeks to demonstrate the likely size of the congregation by comparing the congregation at Edmonton to the number of people registered on the UKCG database as resident in Waltham Forest at the date of the opening of the facility. By applying this Edmonton derived ratio to the UKCG Waltham Forest database figure of 4,375¹¹⁰, the 800 figure is claimed to find some support. However, when the quality of the base information is examined, that exercise quickly unravels.
- 6.31 There is no evidence what proportion, if any, of the 914 who were on the Edmonton database¹¹¹ then became members of the 321 strong congregation of the Edmonton HelpCentre. Applying the same ratio to Mr Hill's E17 database figure of 1,542, would give 540, and not the 800 assumed in his analysis. The database itself is a highly uncertain basis upon which to found any analysis. As the Ecorys report identifies¹¹², the 4,375 figure (which the report rounds to 4,380) is all those registered as living in Waltham Forest who have (since 1996) expressed an interest in the appellant, contacted them for help, or who have attended a service at one of their HelpCentres (1,532 of the 4,375).
- 6.32 As Mr Hill explained, the database is updated only if UCKG is alerted to a change of circumstance¹¹³. The response to the postal questionnaire survey which, as at the date of the Ecorys report, totalled just 39 (0.89% of the 4,375), is a strong indication that, as would be expected in a Borough with significant flux in its population, the 2012 interest is significantly less than that which the database indicates. The low response rate may also reflect the fact that the numbers on the database substantially increased following some one-off events at Upton Park¹¹⁴. There is no evidence that such sporadic demonstrations of interest translate to HelpCentre attendance¹¹⁵.
- 6.33 The other difficulty for Mr Hill is that the appeal building was purchased by UKCG in 2003, when its Waltham Forest database stood at around 1,500 people. His analysis for the purposes of this Inquiry amounts to little more than an attempt at ex post facto justification, with no sound evidential foundation. Claims that the congregation will be at capacity in year one, and reliance on the expansion of the Stratford HelpCentre to 900 people, do not avail the appellant because they are not related by any evidence to assessed quantitative demand in Waltham Forest. The claims for the levels of attendance also sit uncomfortably with the apparent inactivity of UCKG within the Borough since they have owned the appeal building. The levels of need have not persuaded the appellant to hire buildings to provide for any possible demand, or to seek to meet local need on any regular basis, as they did in Stratford¹¹⁶. Where there is a need, the resources of the UCKG have allowed for what Mr Hill described as this 'Stage 1' approach. Its absence in Walthamstow is telling.

¹¹⁰ UCKG 11 Table at Para 4.5 Page 11

¹¹¹ Mr Hill x-e

¹¹² UCKG 23 Appendix 1 Para 7.4 Page 30

¹¹³ Mr Hill x-e

¹¹⁴ Mr Hill e-in-c and x-e

¹¹⁵ As Mr Hill accepted in x-e

¹¹⁶ UCKG 23 Appendix 1 Para 7.2 Page 29 – UCKG hired rooms in Stratford for two nights a week.

- 6.34 There is no evidence that such need as does exist within the Borough is not being met, or would not be capable of being met, by use of the long list of Walthamstow and Waltham Forest church facilities contained in the Ecorys report¹¹⁷. To the extent that the catchment would, in reality, reflect that at Stratford, the vast majority of it would not be local to the Borough. Only 9.8% of the Stratford congregation comes from Stratford¹¹⁸. That is the inverse of Mr Hill's claimed 90% in-borough draw. The remaining 90% is drawn from other parts of London, indicating that there can be significant locational flexibility in meeting any need.
- 6.35 It is also clear that whilst the UCKG has a strong preference to locate their Church function and the Training Centres together, there is no essential requirement to do so and, in a number of instances, there are HelpCentres with no adjoining, or incorporated, Training Centres. There is therefore scope for disaggregating the component elements of the appeal proposal, which again increases the likelihood of the appellant finding alternative premises elsewhere, if the need exists. The appellant's evidence of the benefits of the HelpCentres demonstrates that people can and do travel to attend them¹¹⁹.
- 6.36 Whilst undoubtedly (and unsurprisingly) UKCG are determined to use the appeal building as a HelpCentre, if at all possible, having recognised the same iconic potential as the Council has, it is clear from their dealings with the building and dealings with the Council that they are prepared to consider alternatives. Mr Hill indicated that the building was actively marketed in 2005/6 and also that the Trustees had engaged in meaningful discussions with the Council and a developer in relation to a site at South Grove, as recently as Summer 2012¹²⁰.
- 6.37 Accessibility is the key for the appellant which reinforces the evidence of the breadth of the catchment. However, there is no satisfactory evidence of a rigorous search for alternatives in anything that could be described as a realistic catchment. This is largely because, unless and until the appeals are dismissed, the UCKG Trustees remain committed to the appeal building.
- 6.38 The diverse sizes and natures of buildings used for HelpCentres in London demonstrates that there is no exacting or rigid requirement to be met before a building is suitable, again reinforcing the likely availability of alternatives. This is in the context of a Church which has demonstrated in its purchase of the appeal building that it has the ability to buy real estate at values well above market value.

The Relationship between Different Uses within the Building

- 6.39 The appellant's architect recognises the challenge of embedding a multiplex or other D2/entertainment use in a HelpCentre, given the intensity of the UCKG's use of its premises¹²¹. The Council's sole concern is the attraction of the multiplex in Scheme 2 to its audience.

¹¹⁷ UCKG 23 Table 5.1 Page 18

¹¹⁸ UCKG 19 Appendix 4 Page 13 of Appendix 1

¹¹⁹ UCKG 23 Appendix 1 Page 26

¹²⁰ LBWF 8 Para 1.7.2 Page 9

¹²¹ UCKG 9 Para .5 Page 5 '*we can envisage that simultaneous use in all areas will be a Challenge*'

- 6.40 The central question is whether gaining access through the HelpCentre have any effect on its commercial attraction? Locum had advised of the need for flexibility in the access arrangements to enable access through either a new multiplex entrance or through the processional route within the appeal building. It is abundantly clear when the Locum Report¹²², the August 2012 report¹²³, and Mr Geddes' evidence¹²⁴, are read as a whole, that the issue is not one of segregation or separation, but rather management of expectation.
- 6.41 Of course, the starting point is to have a clear picture as to the intensity of use likely to be made of the HelpCentre facilities were Scheme 2 to go ahead. That of course is problematic, given the inadequacy of the appellant's visitation rates, and the fact that they have no clear picture of the likely congregation size, or use of the HelpCentre. Mr Geddes has accepted that in the longer term, UCKG may build to their 180,000¹²⁵, but Mr Hill has confused the picture by giving evidence that 90% of those who attend the Training Centre do not attend services. The 180,000 figure used by Mr Brent in his economic benefit modelling is therefore not (it is now said), the full use of the HelpCentre.
- 6.42 However, there is no firm evidence of the likely usage of the HelpCentre by those being provided with training, or in need of any of the services and courses on offer, other than the main services themselves. The activities are extensive and clearly involve diverse groups with diverse needs. Other than indications of the likely employee and volunteer numbers and the hours per week likely to be occupied by the activities, there is simply no reliable evidence of levels of usage in terms of group sizes or the intensity of use they would make of the appeal building. Even some of the evidence of the number of volunteers is unclear¹²⁶. There is no clear picture of how many people will be in the building at times when access to the multiplex will be required by the operator, where in the building they will be, and what they will doing.
- 6.43 Although the appellant argues that the programme can be arranged around the needs of the cinema, this has not been demonstrated. There is no programme of events, and no attempt has been made to relate such a programme to floor-space within the building. In this context, it is clear that there is little or no flexibility in times of the services because the aim of the UCKG is to have the same timetable at each of their UK HelpCentres¹²⁷.
- 6.44 The appellant's chosen cinema operator suggests that the programming of cinema performances could be managed to minimise their respective audiences overlapping¹²⁸. The indicative programme submitted by the appellant¹²⁹ demonstrates how difficult it would be to manage the relationship, with an almost continuous flow of people to and from the cinema, with a peak in the evening.

¹²² CD 34

¹²³ CD 31

¹²⁴ LBWF 9-12

¹²⁵ LBWF 12 Para 1.9.31 Page 33

¹²⁶ UCKG 11 Table Page 7 onwards lists 25 volunteers for the Seniors' Group. Ignatius Hango who is in charge of the equivalent group at Finsbury Park expects this service to have 5-6 volunteers ID 23.

¹²⁷ Hill x-e

¹²⁸ UCKG 13 Para 2.8

¹²⁹ UCKG 23 Appendix 3

- 6.45 The appellant's analysis appears to forget that audiences leave cinemas in addition to entering them, that films vary in length, and that people arrive at different times before a film starts. The bunching together of the start times in the draft schedule is not characteristic of multiplexes¹³⁰.
- 6.46 The constant multiplex flow will mix with a similarly constant flow of people (depending on usage) using the building for worship and other services. No one has grappled with how this joint use would be managed on a daily basis, and whilst it is right that the foyers once facilitated access by over two thousand people, the movements would have been tidal and those on the premises would not have included those who have attended to receive help and assistance, with a variety of issues which require to be handled with sensitivity and, in some instances, a degree of privacy¹³¹.
- 6.47 Whilst there are numerous examples of churches and other religious buildings also being used as entertainment venues¹³², there is no example of a HelpCentre or any other religious building used at the level of intensity proposed by the UCKG, which has a multiplex embedded within it. A judgment needs to be formed as to whether this relationship could be a deterrent to users. Certainly there is evidence in the third party representations that it could act as a deterrent, and it is clear that there are local tensions which might reinforce any deterrent potential.
- 6.48 Contrary to the appellant's repeated assertions, this issue is not in any sense a determining one for Scheme 2 because Mr Geddes assessment assumes a level of cinema attendance which substantially exceeds the appellant's own assessment¹³³. The principal relevance of the issue relates to the discharge of the Public Sector Equality Duty. The issue is whether the Secretary of State should have regard to the potential deterrent effect, and to any tensions which might arise from the attempt to embed a multiplex in an actively used Church building? This is an issue of lawfulness of approach, rather than the planning merits. These are entirely unaffected by the conclusion reached.

The Public Sector Equality Duty

- 6.49 Section 149(1) of the Equality Act 2010 provides that: (1) A public authority must, in the exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 6.50 Section 13(1) of the Equality Act 2010 states that a person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

¹³⁰ LBWF 12 Para 1.4.10 Page 10

¹³¹ UCKG 23 Appendix 1 comments without criticism on the fact that at both Catford and Finsbury Park the training centre has a separate access, as is also proposed in Schemes 1 and 2.

¹³² UCKG 24 in particular

¹³³ LBWF 10 Figure 21 Page 54 – 251,160 compared to Mr Brent's 200,000 UCKG 5 Appendix 3

- 6.51 This issue needs to be addressed because it is contended by the appellant that the Council misunderstood its duty under Section 149 and therefore misapplied the duty. It is also suggested that the Council might (but no more) have directly discriminated against the appellant.
- 6.52 The Council's decision to refuse the 2012 application has not been challenged by way of an application for judicial review and therefore remains a lawful decision. The issue therefore has a bearing on the appeal only in so much as the Inspector and the Secretary of State need to ensure that the duty is complied with in making the recommendations and the decision respectively. The issue is whether regard may be had in determining the appeals to the likely attractiveness to multiplex users of a cinema embedded in a UCKG HelpCentre, where there is no separate access provided to the cinema.
- 6.53 Given that the likely attraction of the D2 element of Scheme 2 bears on its likely regenerative effect and economic benefits, it is an ambitious submission to make that it is immaterial as a matter of law (by reason of section 149 of the Equality Act) or that in having regard to it, the decision maker directly discriminates against the UCKG. It is also wrong.
- 6.54 Section 70(2) of the Town and Country Planning Act 1990 requires that the decision maker in determining a planning application shall have regard to *any other material considerations*. Those considerations must be land use planning considerations and the attraction of any given use of land is clearly a material planning consideration.
- 6.55 The appellant's advice on the Public Sector Equality Duty¹³⁴ rests on a number of entirely false steps. Firstly, it is wrongly asserted that the Council (as the relevant public authority) by its decision accepted or supported the notion of segregation on the grounds of a protected characteristic. As is clear from a full and fair reading of the report to committee, but also the Locum Report of 2010¹³⁵ and the Locum advice of August 2012¹³⁶, the Council have sought flexibility in the access to the proposed multiplex to ensure that any sensitivities, be they those of visitors to the multiplex, or those visiting the HelpCentre, are able to be respected. It is difficult to see how that could be argued to be anything other than fully in accord with their duty.
- 6.56 It is then said that, in giving weight to perceived attitudes of some cinema users who might be deterred from entering a multiplex embedded in a UCKG HelpCentre, the Council was acting without evidence, and was, therefore, in breach of the Public Sector Equality Duty. That, however, misunderstands the duty. What has to be considered is whether there a reasonable basis for taking into account such a perception. Where as here, there is a body of opinion contained in a number of representations on the application, and that opinion is expressed in ways which disclose no prejudice but simply reflect personal discomfort in the dual use of a religious building, that is a sufficient basis to treat it as a material consideration. The weight to be accorded to it is then for the decision maker. Having regard to perceived attitudes involves no breach of the Public Sector Equality Duty.

¹³⁴ UCKG 29

¹³⁵ CD 34

¹³⁶ CD 31

- 6.57 It is then said that having regard to the possibility that a congregation may object to the content of certain films (which in turn would reduce its commercial attraction and give rise to tension) is unlawful because it involves an assumption as to the attitude of a congregation. Again that misunderstands the planning context in which the decision is being taken. Where a novel proposal is being considered, judgments have to be made on the basis of available evidence. In the absence of any evidence to the contrary, it is a reasonable assumption that the owners of a building (religious or otherwise), which is being used for cinema purposes, might seek to exercise some control over film content.
- 6.58 Where, as here, the building would be a religious building, it is perfectly reasonable to assume that there is a greater likelihood that this might occur. In this case of course, as a matter of fact, the appellant has reserved the right in the agreement for a lease to prevent the showing of blasphemous films because such films might upset their members¹³⁷. Blasphemy is undefined in the draft lease and there is at least the potential for dispute. It is neither unreasonable nor unlawful to have regard to that potential.
- 6.59 Equally, where, as here, tensions between the local community and the appellant have manifested themselves during the application process and these are also reflected (on both sides) in written representations, it accords, rather than conflicts, with the duty to have regard to how the grant of planning permission for a scheme of the design proposed may bear on those tensions.
- 6.60 As is clear from a fair reading of the report to Committee and the Locum reports and advice¹³⁸, this is not a case in which the fact that the appellant is a Church with evangelic roots, and practice, or the likely ethnic profile of the appellant's members, played any part in the decisions on the applications. The ability for entertainment and religion to co-exist in the same building has been recognised throughout.
- 6.61 It is simply the need to manage the appellant's preferred intensive use of the building whilst at the same time meeting the expectations of the cinema audience which, in this case, supports the need for the flexibility which a separate entrance can provide.
- 6.62 For the same reason, the appellant's suggestion that it might have been directly discriminated against must be discounted. No-one has said, or is saying, that because of their protected characteristic the appellant is prevented from having a D2 use in the appeal building. All that is said is that for sound land use planning reasons, if they were to have a multiplex cinema in the building, it would be likely to require a separate access to be successful. That is not discrimination.
- 6.63 In any event, the issue ultimately has no bearing on the planning merits and the Secretary of State can safely decide to accord no weight to the separate access issue, because Locum themselves have chosen not to have regard to it in assessing the economic benefits attributable to Scheme 2, a matter dealt with below.

¹³⁷ ID 21 Clause 26.4 Mr Hill expressly recognised the risk of this in x-e

¹³⁸ CD 46 CD 34 CD 31

The Effect on Vitality and Viability and Regeneration Objectives

- 6.64 The broader context is set out above and there is no material dispute between the Council and the appellant in terms of the challenges facing the town centre and the policy approach which will be needed to address those challenges.
- 6.65 In particular, there is agreement that: (1) the macro-economic challenges for the Town Centre remain strong¹³⁹; (2) the quality of the Town Centre is variable¹⁴⁰; (3) the Council's objectives for the Town Centre contained both in the CS and the emerging Walthamstow Town Centre Area Action Plan¹⁴¹, accord with the Framework, and reflect the challenges for Town Centres identified in the Portas Review¹⁴² and its supporting Genecon research¹⁴³; and (4) these objectives are material considerations in the determination of the appeals¹⁴⁴.
- 6.66 The appellant¹⁴⁵ rightly points out that there are positives in the existing Town Centre offer. There are reasonable numbers of national multiples¹⁴⁶, the street market is a key enhancing attraction¹⁴⁷, and the public transport links are very good. Vacancy rates are also below the national average, as indicated.
- 6.67 However, none of these factors indicate that there is, in any sense, room for complacency. The Nathaniel Lichfield and Partners Retail and Leisure Study (2009)¹⁴⁸ (the NLP Study) identified weaknesses. There are large numbers of lower market and discount shops, the environment in places is poor, and there is a lack of diversity in the evening economy, which is dominated by take-aways. These weaknesses dissuade visitors with a higher disposable income and higher likely spend from visiting the town centre.
- 6.68 The Council has identified that only a significant shift in the fortunes of the town centre is likely to secure its future as a vital and vibrant town centre. That does not appear to be disputed by the appellant.
- 6.69 The difficulty for Walthamstow Town Centre is that it faces significant competition from major shopping town centres outside the Borough, including those in Central London and in North and East London, notably (since the NLP Study) the opening of the major retail and leisure attraction at Stratford. The NLP Study identified that even pre-Stratford, perceptions of the town centre were poor and other indices such as rates of crime continue to indicate a need for improvements in terms of surveillance from increased use of the town centre as part of the proposed booming evening economy¹⁴⁹.

¹³⁹ UCKG 18 Para 3.32 Page 14

¹⁴⁰ UCKG 18 Para 6.33 Page 29

¹⁴¹ CD 7 (presently at Preferred Options stage - it is anticipated that consultation on the Submission Draft will occur in January 2013 with the independent examination scheduled for Autumn 2013)

¹⁴² CD 28

¹⁴³ CD 29

¹⁴⁴ UCKG 18 Para 4.21 Page 20

¹⁴⁵ UCKG 18 various references

¹⁴⁶ UCKG 18 Para 6.4 Page 25

¹⁴⁷ UCKG 18 Para 6.4 Page 25

¹⁴⁸ CD 21

¹⁴⁹ UCKG 23 Appendix 1 Para 3.6 and Table 3.7. Offences are particularly high in Hoe Street ward where the appeal site lies.

- 6.70 In terms of structure, the town centre is focussed on a high street that at 1.5 km in length, is one of the longest in the country¹⁵⁰. There are weaknesses at both the eastern and western ends. At the western end the gap formed by the Arcade site disrupts the proper functioning of the town centre and leaves the retail element of Hoe Street isolated. This site is in urgent need of development in order to meet the Council's regeneration objectives¹⁵¹. It is agreed between the appellant and the Council that the appeal building, as a unique asset, has the potential to make a vital contribution to the regeneration of the Town Centre¹⁵², and there is a real opportunity to make a difference at this end of the High Street.
- 6.71 The Council has been proactive in its efforts to respond to the undeniable challenges facing the town centre. The policy framework has been an evolving one¹⁵³ but the essential structure is now in place through the CS and the emerging AAP proposals will take this strategy forward in terms of detailed proposals. Much of the emerging strategy of the AAP is accepted by the appellant to be sound in terms of ensuring that the town centre fulfils its LP role as a Major Centre. The aim is to create greater use of buildings and areas throughout the day and night by bringing forward a mix of retail, leisure, entertainment and cultural uses¹⁵⁴. In support of this, a leisure and entertainment zone is proposed as an anchor to the eastern end of the High Street (balanced by a cultural zone at the western end). Both the Arcade site and the appeal building are important to this strategy¹⁵⁵.
- 6.72 The appeal building has a particular importance because: *it is probably the single most valuable asset Walthamstow has in terms of potential to create an entertainment and cultural facility that stands out within the Greater London context, is capable of making a big impact in terms of stimulating an attractive evening economy, is capable of providing a venue where the diverse communities in Walthamstow freely mix, and is capable of attracting people from outside the Borough*¹⁵⁶.
- 6.73 Redevelopment opportunities within Walthamstow Town Centre to deliver the vision are very few in number. Hence the Core Strategy's strategic objectives require them to be *capitalised on*¹⁵⁷ and, where development involves a heritage asset, the contribution of that asset to future economic growth and community well-being is to be *maximised*¹⁵⁸. It is not overstating the position to say that the long term vitality and viability of the town centre will critically depend on making the very best use of the opportunities at the eastern end of the High Street.

¹⁵⁰ UCKG 18 Para 6.4 Page 25

¹⁵¹ Agreed by Mr Parmiter in x-e

¹⁵² Agreed by Mr Parmiter in x-e and see UCKG 18 Para 7.26 Page 34

¹⁵³ See for example CD 26 CD 23 and CD 14

¹⁵⁴ CD 7 Para 10.21 Page 39

¹⁵⁵ CD 7 Policies WTCP 5, 6 and 7 Pages 83 to 87

¹⁵⁶ CD 34 Section 2 Page 7

¹⁵⁷ Strategic Objective SO1 CD 4 Page 27

¹⁵⁸ Strategic Objective SO12 CD 4 Page 27 Policy CS12 of the Core Strategy expressly promotes heritage-led regeneration. It is not accepted that the strategic objective applies only to the body of heritage assets as a whole rather than individual assets the subject of proposed developments. The use of each of the assets is to be maximised.

The Effect of the Appeals Proposals on the Health of the Town Centre

- 6.74 Clearly, the restoration of the fabric of the appeal building would be a significant benefit to the visual appearance of the area around it. However, beyond the benefit to the important heritage asset itself, and its immediate environs, this benefit would provide no great regenerative effect. The boost which is needed to the environment will come largely from the development of the Arcade site which restoration of the appeal building should complement.
- 6.75 There also needs to be caution in relation to claims that the appeal building would be restored quickly. Even a prompt programme of restoration will take a number of years and it is noteworthy that the Finsbury Park HelpCentre took several years before it could be described as 'restored'¹⁵⁹.
- 6.76 In terms of the uses of the building, these need to be separated out: (a) the HelpCentre regenerative benefits; (b) the Granada Rooms regenerative benefits; and (c) the Scheme 2 regenerative benefits.
- 6.77 In terms of (a), there is no evidence that there has been any change in the way in which the HelpCentre would operate since the 2003 appeal. The inspector there concluded: *There can be little doubt that a UCKG HelpCentre in or close to the town centre would be convenient for those who live in the area and who attend the church or wish to make use of its facilities. However, given the purpose for which the building would be used, I am not convinced that the presence of a faith based organisation in this part of Hoe Street would make a significant contribution to the vitality and viability of Walthamstow town centre. In arriving at this view, I have drawn upon conclusions formed during my visit to the Finsbury Park area, where the Rainbow Theatre is situated. I saw nothing in the commercial life of that area that appeared to benefit from the presence of a UCKG HelpCentre*¹⁶⁰.
- 6.78 While the works of physical restoration of the Finsbury Park HelpCentre have improved the appearance of the locality and this has made a small contribution to the attraction of the area, there is no evidence that this, now well established, Helpcentre, has provided any meaningful lift to the local economy.
- 6.79 Despite the inspector's 2003 conclusions, no survey was undertaken for the purposes of this appeal of shoppers or users of shops, A3 or A5 uses in the vicinity of the HelpCentre to ascertain whether the presence of the HelpCentre had contributed to their visiting the local traders.
- 6.80 Such evidence as there is does not indicate any significant relationship. Photographs produced by the appellant showing the peak Sunday UCKG service attendance period, show a largely shuttered and almost empty parade of shops¹⁶¹. That tallies with the anecdotal evidence¹⁶² and, more importantly, the apparent absence of significant spin off benefits in terms of the opening of convenience stores, cafes or restaurants.

¹⁵⁹ Rule e-in-c

¹⁶⁰ CD 44

¹⁶¹ UCKG 11 Pages 17-19

¹⁶² LBWF 10 Para 6.5 (41)-(43) Page 61

- 6.81 Rather than undertaking any survey of users of local facilities or of traders themselves, the appellant has sought to rely instead on the NEMS survey of its congregations at Finsbury Park and Stratford¹⁶³. This is said to support the Appellant's claim that HelpCentres make a significant contribution to the local economy. Unfortunately that survey has all sorts of problems. Firstly, it is clear that those responding were 'teed up' whether by Mr Hill, or their leaders¹⁶⁴. There is a risk that, however unintentionally, the results have been influenced by whatever was said. Secondly, the response rate was very substantial giving rise to the risk that different members of the same household group each responded for one another, leading to double counting. Thirdly, and most importantly, the survey simply did not ask the congregations about their behaviour in sufficient detail to make any accurate assessment of the economic impact of spend by the congregation¹⁶⁵.
- 6.82 Two particular weaknesses derive from the key survey question on spend. It failed to ask respondents who make several visits to the Helpcentre each week, how much they spend on *each visit*. The answers are at best likely to reflect the total weekly spend. Secondly, the question failed to identify what the geographical scope of the area being enquired about was¹⁶⁶. These weaknesses may well explain how it is that a Church which, it was claimed, principally serves those living in deprived areas and suffering the consequences of deprivation *typically* spend £17.90 on each visit on linked trip activity¹⁶⁷. Given that the Ecorys survey claims to identify an average visitation rate of 3.9 visits per week¹⁶⁸ this would generate for each member a weekly linked trip spend of £69.81. That is inherently implausible in the context of all of the evidence before the Inquiry as to users of Helpcentres¹⁶⁹.
- 6.83 This unreliable figure is then adopted by Mr Brent for the purposes of his economic impact assessment. He assumes that 52%¹⁷⁰ of the 180,128 congregation visits to the Helpcentre will spend £15 per head on a linked visit each time they visit. The problem with that is that each of the elements in the calculation is flawed. The output of £1,410,402 is thus wholly unreliable¹⁷¹. It would be incredible if that amount of local spend was taking place in the vicinity of UCKG Helpcentres because if it were, the effects would be readily demonstrable.
- 6.84 The reality is more likely to be that the congregation does have light refreshment (probably at the HelpCentre itself) and does no basic day to day shopping after the service on the way home.

¹⁶³ UCKG 23 Appendix 1

¹⁶⁴ Mr Hill in x-e – he spoke at both Finsbury Park and Stratford to Pastors and/or the congregation to explain the purpose of the survey.

¹⁶⁵ LBWF 12 explores in Paras 1.9.11-1.9.21 Pages 30-32

¹⁶⁶ UCKG 19 Appendix 4 Page 9 of Appendix 1.

¹⁶⁷ UCKG 19 Appendix 4 Para 1.5 Page 6 of Appendix 1

¹⁶⁸ UCKG 23 Appendix 1 Page 32

¹⁶⁹ Mr Hill sought to re-position the appellant's case in x-e to stress that HelpCentres are open to all including to more wealthy members of the population but no survey was asked on the level of disposable income of respondents as a cross check.

¹⁷⁰ Reflecting the claimed spend on food and drink drawn from the NEMS survey – UCKG 19 Appendix 4 p.21 of Appx 1 answer to question 4.

¹⁷¹ UCKG 5 Appendix 2.

- 6.85 On an assumption that spend per visit per head is closer to £5, that would generate some £900,000 per annum. The issues are where that spend takes place and whether it would be new to Walthamstow Town Centre. The problem here is the inconsistent evidence on the likely catchment of the HelpCentre. If it is principally local, then that spend will be taking place anyway. If the catchment is as extensive as the surveys suggest, it is likely that the convenience spend will take place in a facility more convenient to the visitor's home location, particularly if their journey has involved the use of public transport.
- 6.86 The only conclusions that can safely be reached are that there will be some local spend by members of the HelpCentre, some of that may be additional spend, but there is no reliable evidence as to its extent, and no material weight can be given to the appellant's claimed figure.
- 6.87 In terms of (b) there was almost nothing in the appellant's submitted evidence on the use to be made of the Granada Rooms. Given that it is the scheme likely to be progressed if the Arcade scheme presently before the Council is implemented, that is an extraordinary omission. As became clear, there has been no thought by the appellant as to how the D2 element of Scheme 1 would be used, or by whom. It was deliberately advanced in the original application as space available for wide-ranging uses because no assessment of likely demand had been made and the appellant was not aware of any specific entertainment/leisure use which would be looking to hire the space off-plan¹⁷².
- 6.88 The Granada Rooms as proposed in Scheme 1, would be a 230 seat tiered auditorium, with two smaller flat floor rooms of 65 m² on either side, with a capacity of 60 each if used as an auditorium. The cross-lobby would also form part of the Granada Rooms but it could not be used at any time that access was required to the upper floors, other than as some kind of exhibition space. The Community Access Statement which accompanied the planning application stated that the Granada Rooms would be spaces made available for 'community uses' for hire and run by an operational company on a commercial basis.
- 6.89 The Granada Rooms do not appear to have proved commercially attractive to any operator. All that exists to date are Heads of Terms (subject to contract) relating to a management agreement between Bubble Chamber and the appellant¹⁷³. The agreed Heads of Terms were signed only in late November 2012 and the commitment to enter into a management agreement is also expressly subject to contract. It has no binding effect. Further, because Bubble Chamber does not believe that the concept would be viable alongside the Arcade proposal, there is no commitment to a lease of the Granada Rooms. Instead, any contract would be for the provision of services and advice only, and would be terminable on three months notice by either party. Whilst the appellant has tried to backpedal from the evidence of Mr Freedman¹⁷⁴, and to align themselves with WFCT's niche three-screen cinema, the fact remains that they have not attracted an operator within their scheme.

¹⁷² UCKG 22 Para 2.7 Page 5

¹⁷³ ID 21

¹⁷⁴ Hutchinson e-in-c and x-e

- 6.90 As to the appellant's analysis of the economic potential of the Granada Rooms scheme, it has assumed annual visits of 95,000¹⁷⁵. Mr Brent provided no supporting analysis for this figure or any assessment of market demand but based it on an assertion that the Granada Rooms *would capture any unsatisfied cinema demand as well as providing the opportunity for flexible use and therefore potentially higher admissions*¹⁷⁶.
- 6.91 The difficulty is that firstly, the Granada Rooms include two un-tiered rooms which would be unlikely to catch any unsatisfied cinema demand. Secondly, the appellant's other evidence¹⁷⁷ appeared to be directed at showing that there would be no satisfied demand in excess of the 690 seats in Scheme 2 which, of course, the Arcade scheme would provide for¹⁷⁸. Thirdly, if a three-tiered multi-purpose, principally cinema use, rooms can generate annual visitation of 95,000, there is no logic at all in the appellant's claim that the WFCT three screen cinema would attract only 77,672 visits a year¹⁷⁹. There is the further difficulty that, if any weight is given to Mr Freedman's claim that his is the only cinema demand evidence to be respected¹⁸⁰ then the appellant's evidence is internally inconsistent. His evidence is that annual cinema attendance for the Granada Rooms would fall in the range 60-70,000¹⁸¹. It has to be assumed that all the appellant's figures include the minimum use of the auditorium for events on 48 occasions a year.
- 6.92 The appellant's total spend of £1,733,750 attributable to the Granada Rooms element of the appeal scheme is not adequately supported by the evidence, would not be facilitated by the design of the scheme¹⁸² and is not remotely robust. Whilst it is likely that the rooms would generate some income and provide for some linked trip expenditure, there is no evidence that this would be anything other than limited. The Locum analysis of usage which assumes 23,000 visits per year is to be preferred¹⁸³ and better reflects the part-time nature of the Granada Rooms cinema offer.
- 6.93 In terms of (c), the distinguishing feature of Scheme 2 is the inclusion of the 6 screen multiplex with its 690 seats. Were it to go ahead and were it to prove attractive to its catchment demand, it could on the appellant's evidence attract some 200,000 visits per annum¹⁸⁴. That is 50,000 less than originally claimed, and assessed by Locum¹⁸⁵. On Locum's original analysis, the multiplex could generate spend of some £2,386,000¹⁸⁶, and with the revised figure of 200,000 admissions, it would generate £1,900,000¹⁸⁷. This compares with Mr Brent's £2,320,000 which differs from Locum's figure in two respects.

¹⁷⁵ UCKG 5 Appendix 2

¹⁷⁶ UCKG 4 Para 2.5 Page 6

¹⁷⁷ From Messrs Sullivan and Freedman

¹⁷⁸ With its, slightly in excess of, 1000 seats

¹⁷⁹ UCKG 5 Appendix 2

¹⁸⁰ Frequently claimed in x-e by Mr Freedman

¹⁸¹ Freedman x-e

¹⁸² The flat floors in each of the side rooms

¹⁸³ LGWF 10 Figure 25 Page 57

¹⁸⁴ UCKG 5 Appendix 2

¹⁸⁵ LBWF 10 Figure 21 Page 54

¹⁸⁶ LBWF 10 Figure 24 Page 56

¹⁸⁷ Geddes e-in-c

- 6.94 Firstly it assumes that a slightly higher percentage of patrons also spend money on food and drink¹⁸⁸. Secondly it elevates their food and drink spend from £7.50 per head to £12.00 a head. Given that appellant's analysis allows for a food and drink spend of £7.50 at the Arcade multiplex, with its extensive food and drink offer, there is no obvious logic in the uplift to £12.00 for the appellant's scheme. If only that figure is adjusted, the total spend would be £2,050,000. On the evidence, the range of total spend would thus be between £2 million and £2.4 million.
- 6.95 However, this benefit would only be secured if first, the Arcade scheme is not implemented and, second, the appellant's multiplex proves to be attractive to its catchment.
- 6.96 Bubble Chamber have ensured that they retain the right to exercise a break clause within the lease if the Arcade scheme is implemented. There is general acceptance amongst the experts and Mr Freedman that if the Arcade scheme goes ahead, there would be insufficient demand for the appellant's multiplex to be sustainable. The corollary must be that, if the appellant's scheme is commenced and implemented, there is a risk to the Arcade scheme. To that end the appellants mooted the inclusion in the section 106 Agreement of a commitment not to proceed with their scheme if the Arcade scheme progresses¹⁸⁹.
- 6.97 That has not materialised and instead, the appellant is inviting the Secretary of State to grant planning permission on Scheme 2 in the knowledge that it may frustrate the present Arcade scheme, but allowing the market to decide which scheme progresses (if the Arcade scheme is in due course approved). The appellant accepts that there is a risk that this could frustrate or at the very least delay delivery of the Arcade scheme or lead to stalemate on both schemes¹⁹⁰. This is a deeply unsatisfactory approach given the Council's regeneration objectives and the flawed nature of the Scheme 2 cinema proposal (see below).
- 6.98 Neither has the appellant addressed the risk that if both Scheme 1 and Scheme 2 are permitted, the appellant could proceed with Scheme 1 (even if the Arcade scheme does not progress) which, even on its own evidence contributes significantly less to the local economy than Scheme 2 is capable of and is not, therefore, the optimum viable use of the appeal building in heritage terms¹⁹¹. There is no enforceable obligation between the appellant and the Council preventing this happening and reliance on the commercial arrangements between the appellant and Bubble Chamber to secure the same objective will not prevent it. The evidence is that Scheme 2 would cost £3 million more than Appeal 1 to deliver¹⁹², there is therefore an obvious incentive on the appellant to favour Scheme 1 over Scheme 2, subject to renegotiation with Bubble Chamber.

¹⁸⁸ Mr Brent assumes 30% compared to Locum's 20% - compare UCKG 5 Appendix 2 with LBWF 10 Figure 24 Page 56

¹⁸⁹ UCKG 27 Para 3.22 Page 15

¹⁹⁰ Hutchinson x-e

¹⁹¹ UCKG 4 Page 7: The Table shows a total spend of £3.73M for Scheme 2 and £3.14M for Scheme 1 Appeal 1; a difference of £600,000.

¹⁹² UCKG 20 Para 3..2

- 6.99 The extent of Bubble Chamber's due diligence on Scheme 2 is seriously open to question in the light of the evidence. Mr Brent conceded that he had seen nothing amounting to due diligence. Mr Sullivan had done no assessment of his own, although he helpfully outlined what he considered would be required as a minimum namely: *a through research study would have included full demographic analysis of the area and comprehensive review of other cinema provisions in the wider region together with a market survey analysis (Q&As preferable at street level) to arrive at precisely what cinema provision Walthamstow Town Centre required and most particularly what type of cinema be it mainstream or arts or ethnic or community or multimedia.*
- 6.100 Mr Freedman had done nothing of this kind and, whilst he dismissed the relevance of all other cinema evidence to the Inquiry on the basis that he was *a businessman*¹⁹³, reliance on gut instinct is a very uncertain basis upon which to commit to an agreement for a lease. That is unless of course there is little financial exposure under the terms of the agreement or the lease itself. Bubble Chamber have paid no premium for the right to enter into the agreement and the draft lease has been redacted so that it is impossible to define the extent to which there are any onerous financial costs resting on Bubble Chamber. It is unclear who pays for fit out or what the Base Rent and Turnover Rent are. Whilst Mr Freedman claimed his exposure was hundreds of thousands of pounds and Mr Hill asserted that Bubble Chamber had incurred £8,000 in legal fees on the agreements to date, this is small beer compared to the £3 million which the appellant would save by not progressing Scheme 2.
- 6.101 There is also the difficulty of the attraction of the multiplex to its likely catchment. Leaving aside the separate entrance issue, it is Mr Freedman's evidence that, to be successful, *'essential'* to the combination of uses in the main entrance and foyer is the provision of access to the cinemas through the use of escalators¹⁹⁴. Escalators do not form part of any of the appeal proposals and the first reference to them was in Mr Freedman's evidence. Apparently they had been raised with Mr Rule but no one thought it sensible to refer to them in any application documentation or to include them in the application for listed building consent. Without consideration of the detail of what might be proposed it is impossible to form any view on whether installation of the escalators would be acceptable and there is therefore a significant question mark over the delivery of the appellant's multiplex. It would be quite wrong to adopt the appellant's *let the market decide* approach with all the risks that it entails, when their scheme is not demonstrated to be deliverable.
- 6.102 While there is potential for a multiplex to deliver significant additional spend into the Town Centre, the evidence calls into serious question its likely delivery and sustainability. There is a reasonable probability that all that would be delivered is a UCKG HelpCentre, with a minimum of 48 days screening, and organ recitals in the main auditorium. That would do little for the regeneration objectives of the town centre, or its long term vitality and viability. Given that the appellant has identified that the appeal building can and should be required to contribute more, this loss of opportunity represents significant harm, irrespective of the merits of WFCT's competing proposals.

¹⁹³ Freedman x-e

¹⁹⁴ UCKG 13 Paras 2.8 & 2.9

The WFCT Proposal

6.103 Although much progress has been made, it is important to bear in mind that the WFCT proposals remain at feasibility stage. It is not appropriate to subject them to the same detailed scrutiny as a planning application. What has to be considered is whether there is a reasonable probability of a proposal such as that proposed by WFCT coming to fruition if planning permission is refused for the appeal proposals. The longer the Inquiry has gone on and the more the WFCT's proposals were tested by the appellant, the more they were shown to be robust. None of the claimed showstoppers has been made out, and a sound business case appropriate to the stage the proposals have reached, has been ably demonstrated.

Land Ownership

6.104 The appellant has at times during the Inquiry overstated their position in relation to the ownership of the building. It is, of course, not unusual for landowners faced with public benefit proposals on their land to refuse to sell. That is why local planning authorities have powers of compulsory purchase. If threats of intransigence, legal challenge and disputed compensation could frustrate consideration of use of the land for the purposes of the public benefit, many (if not all) public projects would be frustrated. Such threats are in this case hollow.

6.105 The ownership of the building is in the hands of Charitable Trustees who operate under a fiduciary duty which requires them to act as a reasonable prudent person of business would do in the management of the Trust's assets. As set out above, this has already required the Trustees to consider sale¹⁹⁵ and also alternative sites. They are not in a position to commit (by resolution or otherwise) to resist either a voluntary sale or a compulsory acquisition of the appeal building, irrespective of the circumstances. If the appeals are dismissed they will be obliged to consider the reasons for the rejection, whether there is a prospect of them being resolved by alternative proposals, and the timescale and financial implications of retaining ownership of a Grade II* listed building which does not have planning permission for any use which the appellant would wish to make of it.

6.106 While this consideration, and any residual intransigence, may cause delay that delay has to be seen in the context of a building which has already been empty for 10 years and where, even if the appeals are successful, restoration will be a lengthy process. The delays likely to accompany acquisition of the building may prove to be nowhere as alarming as contended for by the appellant and, in any event, short in the context of the long term future of the building. The Council's in principle resolution to exercise its powers of compulsory acquisition is a signal of its intent¹⁹⁶ and the Council's evidence, and that of WFCT, is more than sufficient to support a conclusion that there is a reasonable probability of satisfying the Secretary of State that there is a compelling case in the public interest for compulsory acquisition, if UCKG refused to treat.

¹⁹⁵ In 2005/06

¹⁹⁶ ID 7. This accords with CS Policy CS1 H).

Planning Permission and Listed Building Consent

6.107 The key issue at this stage is to be satisfied that the works likely to be required are likely to receive listed building consent. The evidence of Mr Ritchie's contact with English Heritage¹⁹⁷ indicates no great difficulty and he is confident, given his considerable experience of working with similar proposals, that the WFCT proposals for the building are likely to be achievable.

Funding

6.108 In terms of funding, WFCT are investigating the best way forward with the Heritage Lottery Fund but the commitment by Grosvenor Bridging Loans Limited of £2 million¹⁹⁸ is an encouraging start and this is before any approaches have been made to arts donors or any public requests for financial support. Locum's judgment is that the WFCT proposal would be of strong appeal to the Heritage Lottery Fund, and others¹⁹⁹. Whilst a challenge, there is sufficient evidence to conclude that the proposals are achievable.

6.109 In terms of a business plan, the approach of Locum was to ask for sight of WFCT's draft plan and to work it up with Locum's adjustments into a business plan for the appeal building as they consider it is likely to operate²⁰⁰. WFCT have pursued a different approach in their published plan which has focussed on certainty of viability rather than how the venue would be likely to operate. Locum stands by its analysis as presenting a good guide as to how the appeal building would operate, in practice. Of course none of the business plans are fixed in stone and the approach to be taken to them is to ensure that they are reasonably robust in the sense of reasonably likely to be achievable.

6.110 The individuals leading the WFCT are executives of the Soho Theatre Trust, who live in Walthamstow. The Soho Theatre Trust would lead the development and manage the building on behalf of WFCT. It appears to be a credible organisation. It has core funding from Arts Council England, and has experience of both developing and running an entertainment venue.

6.111 The WFCT plans have two sections. The first involves restoring the cinema building, converting the space under the balcony that currently forms two small cinema screens into a bar. They envisage that there would be fixed seating, a total of 740 in the Stalls (Stage 1) and 268 in the Lower Circle, a total of 1,008 (Stage 2). They envisage the main programming as being comedy, as Soho Theatre has experience in that. It is growing in popularity and they have identified a gap in the London market for a venue of this size. A variety of other forms of live entertainment would also take place, including a Pantomime, which was an annual tradition when the building was used as a multi-purpose venue in the past. WFCT does not envisage using the building for loud popular music. The auditorium would be used for cinema, mainly classics and second runs, when not being used for live performance, and for special cinema events and live broadcast of cultural and sporting events.

¹⁹⁷ WFCT 4 Appendix A9

¹⁹⁸ ID 11

¹⁹⁹ LBWF 10 Para 5.2 (42)

²⁰⁰ Geddes e-in-c

- 6.112 The second section would be a new build behind the street façade currently occupied by shops and a pub, a similar approach to that proposed by UCKG. This would have a bistro-bar at ground level; a restaurant and functions room at first floor (making use of the feature window over the main entrance to the cinema); and three cinema screens with a total of 280 seats, a substantial education space, and an outdoor terrace and bar at second floor level.
- 6.113 This new build section would be integrated with the main building, but the main entrance for the cinema would be in this new build section so that customers are able to access it without problem when there is a live performance and so that the cinema has a street presence. The cinema would be operated by Curzon Cinemas, one of the three 'independent' groups operating in London. Their offer is a different kind of experience to a mainstream multiplex. WFCT envisages it complementing the Arcade multiplex as in Wimbledon, where Curzon has a cinema that successfully operates alongside an existing multiplex.
- 6.114 The evidence of WFCT is that it has expressions of interest from the Royal Shakespeare Company and the actress and film producer Sadie Frost to provide education and experience in live performance and film production on the site.
- 6.115 The plans would create an excellent entertainment venue, capable of delivering a London-wide reputation. The appeal building has more potential for this than other former super cinemas because of the opportunity to use the space between the street and the auditorium to create high quality modern facilities to enhance the experience of using the auditorium. WFCT's plans²⁰¹ show how this can be done. The quality of the street frontage would also be outstanding. The combination of a small independent cinema with an integrated bar and bistro, with a mainstream multiplex nearby would provide the maximum benefit to the town centre.
- 6.116 A main reason why it is likely to develop a London-wide reputation is that it will be the only place in London that it is possible to experience regular cinema in a 1930s Picture Palace. It will be one of only three places in London that it is possible to experience entertainment in such a venue, and the other two largely specialise in popular music. The rarity of the experience that would be offered would make it a place of pilgrimage to many which would make it a strong candidate for funding from the Heritage Lottery Fund. The second (new-build) section is not essential to the operation of the business. The main part of the building can operate as an attractive, standalone operating business and the project could be phased.
- 6.117 Locum has assessed the estimated the total spend on food and beverages which is the most significant element in terms of the regenerative impact of WFCT's proposals. This gives an indication of how much would be spent in restaurants, coffee shops, bars and takeaways by people visiting venues. Some would be at the venue itself; the rest would be in other local businesses²⁰².

²⁰¹ ID 42

²⁰² LBWF 10 Figures 21 and 22 Page 55

6.118 On these admissions, WFCT's Stage 1 would produce an operating profit of £196,448 and Stage 2 an operating profit of £662,000²⁰³, following a period of trade build up. Unsurprisingly, the appellant has sought to challenge the demonstrable benefits of the WFCT proposals by arguing that a number of the admissions figures are overstated. The effect of the differences between the parties has been usefully set out²⁰⁴.

6.119 In terms of the key areas of difference, these relate to the capacity of the auditorium, the likely attraction of the cinema (though this waned as the Inquiry progressed) and of the proposed comedy theatre and overheads (particularly marketing). Whilst other criticisms are made of Locum's Outline Business Plan²⁰⁵, they have little overall impact on bottom line.

Capacity

6.120 The appellant argues that WFCT would struggle to achieve its target capacities of 740 (Stage 1) and 1008 (Stage 2) given modern audience's requirement for comfort. However, as the appellant is proposing to provide for a similar capacity with seat sizes which would suit a modern theatre audience²⁰⁶, there is no substance in the point. Further, as is clear from the WFCT evidence, seat size is a matter of commercial preference; there are no set or prescribed sizes and there are many examples of successful theatres with seat sizes comparable to those the WFCT has assumed. It is also clear that there is no settled view on what works and what does not in terms of seat size²⁰⁷. In reality, the challenge to capacity was simply the first of a line of carping criticisms, none of which established any obvious weaknesses in the proposal.

The Attraction of the WFCT Cinema

6.121 The appellant makes various (often inconsistent) claims as to the prospects of success of the WFCT cinema. The cinema is claimed to be too big if the Arcade scheme goes ahead, and too small if it does not. It was also claimed that the catchment would not support a sustainable cinema of three screens operating as Locum propose, if the Arcade scheme goes ahead and the Arcade multiplex is operated by Empire. However, the appellant's oral evidence did not come up to proof. Messrs Sullivan and Freedman accepted that they were not contending that Curzon could not make a go of the WFCT cinema if they were the chosen operator, and by the time Mr Hutchinson gave evidence, the appellant was endorsing the WFCT's cinema proposals though not necessarily if Curzon were the operator.

6.122 Those were inevitable concessions. First, it would be entirely inconsistent with the appellant's evidence in relation to the Granada Rooms for them to argue that there was no prospect of making three screens work within an entertainment venue. Whilst Mr Freedman may have unique talents, there is no evidence that he is uniquely able to run niche cinema. Equally, it was accepted²⁰⁸ that event cinema in the auditorium would be successful.

²⁰³ LBWF 10 Pages 72 & 75 but note correction in LBWF 12 Para 1.7.20

²⁰⁴ ID 15

²⁰⁵ LBWF 11 Appendix 2 Pages 69-75

²⁰⁶ Rule in x-e

²⁰⁷ ID 14

²⁰⁸ Sullivan in x-e

- 6.123 Secondly, the evidence of likely demand supports the modest level of visitors which both Locum and WFCT have assumed²⁰⁹. The demographic profile of the area is good for the proposed offer. The ACORN socio demographic data²¹⁰ shows the extent to which the area is disproportionately populated by ACORN categories Prosperous Professionals, Aspiring Singles and Educated Urbanites. They are core audiences for Curzon.
- 6.124 The appellant argues that the population of Walthamstow is relatively young whereas the audience for independent cinemas tends to be relatively old. Relatively is the operative word. The statistics show that the catchment area of Walthamstow is materially lower than the national population only in the 54+ age groups. Mr Sullivan's *Drive Time Zone Key Statistics* show a similar age profile²¹¹. The appellant has sought to present a picture of a Curzon cinema, using Art House as a descriptor, being a tiny minority interest featuring little programming other than obscure foreign and independent films. Curzon, and the likes of Picturehouse, Everyman and Bubble Chamber's cinema on Leicester Square, show a range of films and live projections which appeal to a slightly older audience than mainstream cinemas, one with a different taste. The films are only one aspect. The centre of gravity of their appeal, in crude terms, is people nearer the age of 30 than 20.
- 6.125 Whilst in terms of its cinema catchment evidence, the appellant has sought to paint a gloomy picture of the socio-demographic profile of the Borough, the data shows a more refined picture. The ACORN data shows that the Urban Prosperity category represents 56% of the population living within 10 minutes of the Granada, 4.5 times their proportion of the national population²¹². Even taking Mr Freedman's 5 minute drive time to allow for the surrounding competition, shows a similar picture, with 100,000 people in the Urban Prosperity category²¹³.
- 6.126 The over-representation is in the Educated Urbanites and Aspiring Singles categories²¹⁴, which led the appellant through Mr Sullivan to seek to argue that Aspiring Singles will not socialise in the local area but will travel out of the Borough to Central London. If the Aspiring Singles are deducted from Mr Brent's assessment of demand it would, of course, leave demand to support the Appellant's Granada Rooms looking very sick indeed²¹⁵. That led to some hasty back-peddling by Mr Freedman who disagreed with Mr Sullivan's writing off the Aspiring Singles demand.
- 6.127 Even Mr Sullivan's Drive Time Zone Key Statistics²¹⁶ are encouraging. In terms of population and occupation profile, there is no material difference between the Wimbledon and Walthamstow catchments. Curzon operates successfully in Wimbledon alongside a 12 screen Odeon multiplex.

²⁰⁹ Locum assume 116,441; GVA assume 77,000

²¹⁰ LBWF 10 Pages 19-23 and UCKG 3 Appendix 2

²¹¹ ID 18

²¹² LBWF 12 Para 1.9.2 Page 27

²¹³ LBWF 12 Page 27 Figure 1

²¹⁴ LBWF 12 Para 1.9.3 Page 27 and Figure 2 Page 28

²¹⁵ UCKG 3 Appendix 2 Acorn Type Profile Total 187,387 – 68357 = 119030 (10 minutes) and 167,997 – 68,494 = 99,503 (5 minute – see LBWF 12 Figure 2 Page 28 for figures)

²¹⁶ ID 18

- 6.128 The population of 182,000 is served by 9 surrounding cinemas with 14,548 seats and 71 screens²¹⁷. In contrast, Walthamstow has no cinema, and its population of 142,000 is served by just 7 cinemas and 11,277 seats and 62 screens. With the Arcade scheme and the WFCT proposal, the town centre would have 1,338 cinema seats, and 12 screens (half the number of seats in Wimbledon despite having a catchment population only 28% smaller).
- 6.129 In terms of classic and event cinema, Locum assumes a total attendance of 45,106. In the light of Mr Sullivan's evidence that there are numerous examples of viable use of big auditoriums of this type for event style cinema, it is difficult to see why it should be contended that these forecasts could not be achieved. In terms of classic cinema, the statistics show that there are potentially 1,000 'auids'²¹⁸ in the Borough. Those 'auids' are likely to make over 110,000 visits, in total, per year²¹⁹. Locum have allowed for just 34,006 annual visits. It is important to bear in mind that this is a low cost activity for a cinema and would put the auditorium to use when not required for other events (which would already have paid for its heating and lighting).
- 6.130 There appears to be no reason why there should not be the sort of programme that has been suggested. The auditorium would have a digital projector and sound system. The rationale is to use it rather than having the space sit empty. The incremental cost of doing so is relatively low. A huge range of films can, for example, be hired for commercial display from Filmbank Distributors for 35% of the take or £83, whichever is lower, plus a delivery charge of £14. They include films which are made available 10 weeks after their cinema release and before DVD release, and thousands of classics. There will be other variable costs, but an average audience of about 25 would cover the cost of running each show²²⁰.
- 6.131 As to event cinema, there are numerous examples of successful event cinema operations and it is clear that Curzon have more relevant experience in this field than Mr Freedman. The context here is important. The catchment population has a profile which would demonstrably support it. The building is truly exceptional and the quality of experience that it will offer when restored will be unique.

Comedy

- 6.132 The appellant challenges the reliance of the WFCT business plan on comedy. Locum and WFCT assume 120 shows which under Locum's assessment produces a gross profit of £209,790. In contrast the appellant²²¹ contends that the figure would be significantly less. In her submitted evidence, Ms Jones concluded that 25 touring comedy shows would be realistic. However, in her evidence before the Inquiry, it is clear that she had not understood that Soho Theatre's proposal was to operate the appeal building, not as a touring venue, but rather as a London venue. It is of a size which neatly fits a gap in the market between Bloomsbury Theatre and the Hammersmith Apollo.

²¹⁷ Sullivan confirmed in x-e

²¹⁸ Otherwise known as film buffs

²¹⁹ WFCT 8 Appendix GD1 Paras 4.17-4.19

²²⁰ LBWF 12 Para 1.7.46 Page 22

²²¹ Through Ms Jones (UCKG 15-16) and Mr Brent (UCKG 1-5)

- 6.133 It was also clear that (understandably as an agent) her focus was on *existing* UK acts and opportunities. There was no obvious consideration of how the market for comedy could be grown and, if it were, what direction it would take. That of course is precisely where Soho Theatre has the unique knowledge and experience.
- 6.134 Having appreciated that the comedy club market was not being aimed at and that Phase 1 would provide 740 seats, Ms Jones was prepared to concede that her 25 figure was the bottom of the range, with 40 at the upper end, but that this could increase dependent on the number of artists. This made no allowance for international comedians, which Soho Theatre has identified as a growing market²²².
- 6.135 It is also quite clear that Ms Jones' evidence involved no vision. Its focus was on established venues and not how a venue could be established and grown. Her starting point was that Walthamstow could not be made to be attractive to the London market but without any obvious supporting rationale, given the accessibility of the building to a pan-London catchment and the quality of its spaces. If Hammersmith is now regarded as Central London by the comedy market, it is an excellent example of how the establishment of an iconic venue can create a perception which is not reflected in the geography.
- 6.136 It is also important not to lose sight of the fact that the WFCT comedy-based programme is still at feasibility stage. If the programme on further examination proves to be too ambitious, it is Locum's evidence that the programme would be adapted to accommodate different events.
- 6.137 For example, Mr Brent has accepted that live music would be a viable use of the building²²³. It is therefore, simply wrong to assume as the appellant does, that any operator of the appeal building in an entertainment use would lack the innovative skill to programme what would be a flexible venue, to maximum effect.

Comparables and Overheads

- 6.138 Mr Brent sought to bolster their economic analysis by introducing the profit and loss accounts of what were claimed to be a number of comparable venues. Mr Brent is not an expert in theatre and clearly misunderstood that there is a world of difference between presenting theatres (i.e. those who present events produced and marketed by others) and producing theatres (where the theatre both produces and presents).
- 6.139 Presenting theatres operate successfully and without public subsidy in many different forms and location and the Ambassador Theatre Group²²⁴ is an obvious example of a hugely successful operator. Producing theatres which almost invariably include creating new work for production to a diverse audience as part of their programmes depend on public subsidy. The Hackney Empire is a good example.

²²² Accepted by Ms Jones in x-e

²²³ Mr Brent e in c

²²⁴ Mr Geddes e-in-c

- 6.140 When that distinction is properly recognised, Mr Brent's comparables reduce to a single example which, when properly analysed strongly supports the Locum Outline Business Plan²²⁵. That is the Stockport Plaza Trust. In its first complete year of trading following restoration (itself following several years closure)²²⁶, it all but achieved its total budgeted events²²⁷, and made a profit of £42,060²²⁸. The accounts included an exceptional item of a further phase of restoration at a cost of £67,397²²⁹. This indicates that in a normal year, the theatre (even at this very early stage of its return to commercial use) is capable of generating a profit of in excess of £100,000²³⁰. To the extent that the theatre has received public or other subsidy, the accounts demonstrate that this was to fund the restoration²³¹. There is no indication of any grant funding to support the revenue account.
- 6.141 It is also noteworthy that the Stockport Plaza staff salaries are consistent with Locum's forecasts for the appeal building²³² and that the income stream has benefitted from the opening of a café and basement bar in adjoining premises²³³. The potential to provide for such facilities in the appeal building is considerably greater which further supports the Locum assessment. The Stockport Plaza is an excellent example of what can be achieved with significant local volunteer interest in an iconic building. The appeal building's greater flexibility and its more affluent catchment characteristics reinforce confidence in the likely commercial success of the WFCT proposals.
- 6.142 The final matter is overheads and marketing. Mr Brent contends that both Locum and WFCT have seriously underestimated the costs of both. The Stockport Plaza example shows the concerns to be exaggerated. In addition, Locum's Outline Business Plan is conservative in a number of important respects. Firstly, it assumes attendance at the pantomime of 24,975 and 31,752 across 45 events²³⁴. The Hackney Empire accounts show that their pantomime played to 55,000 people in 2010/11 grossing over £820,000. Even with Stage 2 capacity, Locum have allowed for just £428,652.
- 6.143 Taking a step back and looking objectively at the issue, it is difficult to imagine that the Soho Theatre would have any difficulty in putting together a pantomime cast unrivalled in London and capable of doing business at least equivalent to that done at the Hackney Empire (particularly given the Empire's poor accessibility to the Underground). Even allowing for a small consequent reduction in the 120 comedy events as a result of putting on a pantomime²³⁵, the appellant's concerns about the viability of the WFCT proposals, looked at either individually or cumulatively, are shown to be groundless.

²²⁵ ID 15

²²⁶ Geddes e-in-c

²²⁷ 244 compared to the budgeted 245

²²⁸ ID 15 Accounts Page 12

²²⁹ ID 15 Accounts Page 7

²³⁰ Which would allow for repairs etc of £100,000

²³¹ ID 15 Accounts Page 16

²³² ID 15 Accounts Page 17 (£213,756)

²³³ ID 15 Accounts Page 6

²³⁴ LBWF 11 Appendix 2 Pages 70 and 74

²³⁵ To reflect the overlap of the peak pantomime and comedy seasons

- 6.144 It is perhaps instructive to note in this context Mr Brent's manipulation of the pantomime turnover in their analysis. Having accepted that Locum's assessment was fair²³⁶, including the number of annual visits, in the rebuttal evidence, the forecast admissions (whilst retaining the overall number of events), substantially reduces the pantomime visits²³⁷. There is no credible explanation for that adjustment and it in no way accurately reflects the realistic potential of the location.
- 6.145 The overall conclusion which the Secretary of State should draw is that on the evidence there is at the very least a reasonable probability that if planning permission is refused for the appeal schemes, an alternative proposal reflecting the feasibility work undertaken by the WFCT will come forward and be deliverable. Of course there is risk and, of course, nothing can be certain, but the test is reasonable probability and not certainty. That test is met.
- 6.146 This provides a further reason to reject the appeal schemes. It is clear when the comparable regenerative effect of the appeal schemes is considered, the WFCT offers considerably greater potential than either of the appeal schemes (even if it does not progress beyond Stage 1). Locum's analysis of that greater benefit (with and without the Arcade scheme) has been set out²³⁸.
- 6.147 The appellant has suggested²³⁹ that the total spend figures should be reduced for deadweight and displacement, that the WFCT scheme total spends should be halved to reflect optimism bias, and that the total spends associated with the appeal schemes should be increased to reflect the value of volunteer time and employment during the restoration phase. The difficulty with each of these adjustments is that they would have to be applied fairly to each of the competing proposals. The construction costs would be comparable as between the full WFCT proposal and Scheme 2.
- 6.148 In terms of deadweight and displacement, there is no accurate means by which either could realistically be assessed for schemes with such wide catchments. However, what can be said is that the WFCT proposal is far more likely to draw a greater number of people into the town centre who will make use of the facilities and deploy new spend within it, than either of the UCKG proposals.
- 6.149 In so far as spend on entertainment, food and beverage is displaced into the town centre from elsewhere, that supports the regeneration objectives in terms of boosting the town centre's evening economy.
- 6.150 As to optimism bias, the problem for the appellant is that their Scheme 2 proposal depends on the Arcade scheme not being implemented, and the provision of escalators. If one were to accept their application of 50:50 certainty to the WFCT proposal, neither Scheme 1 nor Scheme 2 has been shown to have any more certain prospect of delivery, and the same deduction should be applied.

²³⁶ UCKG 3 Appendix 2 Section 4 i

²³⁷ UCKG 5 Appendix 2 Stage 1: 13,500 and Stage 2: 16,875

²³⁸ LBWF 12 amongst other places

²³⁹ UCKG 20

- 6.151 In terms of volunteers, the extent to which there would be increased volunteering is not clear from the evidence but there would clearly be some.
- 6.152 However, not all would be new volunteers and some would be replacing existing service provision so that it would be wrong to treat the entirety of any benefit as net additional. Furthermore, given the likely reliance of WFCT on volunteers, allowance would have to be made for their volunteers as well.
- 6.153 In short, there is no clear advantage in applying any of the suggested adjustments. The Locum analysis provides a reasonable estimate of the likely economic benefits which would result from the activities at the appeal building under the various schemes and the likely relative advantages and disadvantages. This does not of course make any allowance for the wider regenerative benefit to the town centre which would result from the delivery of the critical mass of both the Arcade scheme and entertainment within the appeal building with its pan-London appeal.

The Arcade Scheme

- 6.154 There is at least a reasonable probability that a scheme including a multiplex cinema will be approved and delivered on the Arcade site. The Council is determined to see the site regenerated and has been pro-active in its delivery as landowner. It has used its various powers in accordance with its judgment as to the public interest and its development partners have brought forward a credible scheme²⁴⁰. Whilst some criticism was made of the design of the cinema as being experimental²⁴¹, it is advanced by an experienced operator who has assessed the market and clearly considers that its design will succeed in this location. There is no evidence that its delivery is in any sense uncertain. It follows that Scheme 2 looks likely to have little prospect of delivery which would mean that any comparison between competing schemes should be between Scheme 1 and the WFCT proposals.

The Effect of the Proposals on the Listed Building

- 6.155 Clearly there is a presumption in favour of the preservation of the special architectural and historic importance of the building²⁴². In relation to the appeal schemes the only remaining area of difference between the parties is whether or not the application of that presumption requires that there be both a commitment to the delivery and the actual delivery of regular entertainment within the main auditorium. The Council's position is that the neither scheme would be acceptable without public entertainment of the main auditorium. The heritage significance of the appeal building is architectural, artistic and historic. Its use for public entertainment cannot be separated from its significance; its significance extends beyond the fabric of the building.
- 6.156 Whilst therefore the works to the listed building proposed in the schemes are not in themselves objected to, to the extent that they might facilitate the loss of the public entertainment use, there is an objection. Only if the Secretary of State is satisfied that Scheme 1 would deliver regular public entertainment within the main auditorium, should listed building consent be granted.

²⁴⁰ ID 40 gives the latest position

²⁴¹ Sullivan e-in-c (Plans at ID 20)

²⁴² Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

6.157 The Council will not issue the listed building consent on the Appellant's 2012 listed building application until the Secretary of State's conclusion on Scheme 2 is known. If the appeal is dismissed it will be taken back to Committee for re-consideration.

The Development Plan and the Framework

6.158 The outcome of Appeal B and Appeal C will not be determined by the decision as to whether or not the development does or does not comply with the development plan. Whatever conclusion is reached on that issue, the objections to the appeal proposals are so compelling as to override any development plan policy support and the presumption in favour of sustainable development is clearly and demonstrably outweighed by other material considerations.

6.159 Whether or not the appeal proposals can be said to comply with the development plan, once properly interpreted, will ultimately be a matter of judgment. On any analysis the appeal proposals can claim the support of some policies of the development plan, whilst others they conflict with. They can also claim to gain the support of some strategic objectives whilst conflicting with others. The weight to be accorded to the relevant policies and objectives in forming a conclusion on accordance with the development plan is a judgment ultimately for the Secretary of State.

6.160 There is no dispute as to the constituent elements of the development plan²⁴³ or as to the principally relevant policies.²⁴⁴ There is also no dispute as to the interpretation of policy other than in relation to policy CS3 of the Core Strategy. The appellant maintains that the policy does not operate to protect entertainment venues and that 'social infrastructure' referred to in Policy CS3 A) does not embrace a D2 use.²⁴⁵ That is debatable given the wide definition of social infrastructure within the CS which includes leisure facilities, however, the point is largely academic given policy DM23 of the emerging Development Management Policies DPD which may be approved before the decision is reached on the appeals²⁴⁶ which includes policy DM23. This provides that the loss of tourist and leisure attractions to alternative uses will only be allowed where the need for such use no longer exists, or there are overriding regeneration benefits to their loss. The policy has been the subject of only very limited objection²⁴⁷ and it accords with the Framework's guidance that policies and decisions should: *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs*²⁴⁸.

6.161 The key conflicts with policy include the failure of both schemes to sustain and enhance the long term viability of the Town Centre or to support and enhance its competitiveness and diversity of leisure, arts and cultural services²⁴⁹.

²⁴³ CD 3, CD 4 and CD5

²⁴⁴ ID 33 Pages 7 and 8

²⁴⁵ The same applies to Policy 3.16 B of the London Plan

²⁴⁶ It is to be the subject of independent examination in March

²⁴⁷ ID 9

²⁴⁸ CD 1 Para 70

²⁴⁹ Planning authorities are encouraged to provide a cultural focus to foster more sustainable local communities by Policy 4.6 B (d) of the London Plan

- 6.162 That conflicts with policy 2.15C of the London Plan and conflicts with the Council's CS strategic objective of safeguarding and strengthening the function of the town centre and promoting its success and vibrancy²⁵⁰. The HelpCentre element of the appeal proposals is not a defined town centre use for the purposes of the Framework²⁵¹ and it is clear from the Framework that priority should be accorded to protecting the site's main town centre use given the limited site availability.
- 6.163 Given the regeneration area status of the town centre, that should be accorded significant weight in determining accordance with the development plan.
- 6.164 Chiming with the regeneration emphasis for the Town Centre is LP Policy 7.9 which seeks to ensure that wherever possible heritage assets should be restored and put to a suitable and viable use that is consistent with their conservation, and the establishment and maintenance of sustainable communities and economic development. This is reflected in SO12 of the CS which requires that the Borough's heritage assets are conserved and enhanced whilst their contribution to future economic growth and community well-being is maximised²⁵².
- 6.165 As the economic and need analysis identifies, neither of the appeal proposals maximises the contribution of this important building either to the economy or to community well-being. Again, given the importance of regeneration to the Vision and Objectives of the CS, that is an important conclusion in terms of assessing accordance with the development plan. To the extent that both appeal schemes would frustrate a potential alternative proposal of pan-London appeal in an existing entertainment building, it would also conflict with CS Policy CS11²⁵³.
- 6.166 In terms of accord, or otherwise, with the development plan, the appeal proposals would contribute to meeting a need for social infrastructure in terms of the HelpCentre and a town centre location for such a facility would be appropriate all other things being equal. The proposal would therefore accord with LP Policies 3.1 and 3.16 and CS Policy CS3 and related strategic objectives. Were the entertainment provision in the appeal schemes to be realised then this element of the schemes would gain some support from the town centre policies and tourism policies, but in the context of the objective of maximising opportunities that is limited.
- 6.167 Judged overall, the proposal does not accord with the development plan. Given that the CS is up to date and accepted to be Framework compliant²⁵⁴, if the conclusion is reached that the appeal proposals do not comply with it, then planning permission should be refused unless material considerations indicate otherwise. For the reasons set out, they do not and therefore planning permission should be refused.

²⁵⁰ SO14 and Policy CS14

²⁵¹ Compare the glossary definition of main town centre use with that of economic development (CD 1 Pages 53 and 51).

²⁵² CD 4 Page 129

²⁵³ Criteria B) and E) respectively

²⁵⁴ Accepted by Mr Parmiter in x-e

- 6.168 Even were the contrary conclusion to be reached, the adverse impacts of approving the development when assessed against the Framework as a whole, clearly and demonstrably outweigh the benefits of the appeal proposals. The proposals would do little to support the vitality and viability of the town centre whilst frustrating the potential of an alternative scheme. They would serve to undermine the positive planning the Council has undertaken and continues to undertake to prevent town centre decline and to encourage economic activity.
- 6.169 It would also prevent the realisation of an opportunity to deliver a real boost to the creation of a healthy and inclusive community. The loss of this entertainment venue would be unnecessary and materially reduce the ability of the community to meet its long term needs. These impacts clearly outweigh the benefits which the HelpCentre would deliver to its membership and more generally and the benefit of (potentially) earlier restoration of the appeal building than might be the case in relation to the competing WFCT proposals.

Conclusion

- 6.170 For all these reasons, the Secretary of State is invited to dismiss each of the appeals.

7. The Case for WFCT

Introduction and Background

- 7.1 Put simply, the WFCT case to the Inquiry is that if listed building consent and planning permission are refused for Scheme 1 and Scheme 2, there is a reasonable probability that the building will be retained in its original use. This is a material consideration which, in light of the Grade II* listed status of the former Granada Cinema, should be given significant weight. The WFCT scheme is also the optimum viable use of the building, for the purposes of paragraph 134 of the Framework²⁵⁵.
- 7.2 The history of the WFCT has been set out²⁵⁶. It was formed in response to the 2010 report by Locum Consulting²⁵⁷ and 'Option 1' set out therein. The majority of the Trustees of the WFCT are Walthamstow residents. In November 2012, Peter Cadley, the Director of the Bloomsbury Theatre, joined the WFCT as a Trustee²⁵⁸. The overarching aim of the WFCT is to restore the former Granada Cinema to its former glory as an entertainment venue. The vision is for a top-quality venue with pan-London appeal that would serve as a much-needed enhancement to the vitality and viability of Walthamstow Town Centre.
- 7.3 The case advanced by the appellant against the WFCT has evolved over the course of the Inquiry. It has set out to show that the proposals advanced by the WFCT are not viable, uncertain, and likely to fail. The appellant has been unsuccessful in this venture, relying on a number of headline criticisms that have been shown to be misguided²⁵⁹. In broad terms, the focus of the case advanced by WFCT relates to the vitality and viability of the town centre and regeneration, and the reasonable prospect of the building remaining in an entertainment use if the appeals are dismissed. However, heritage issues are also of relevance.

Legal and Policy Context

- 7.4 The originating applications for planning permission involve the change of use of the building from its existing (most likely D2) use to mixed D1/D2 and other uses. It is common ground that the retention of the existing use of a building is a material consideration in the determination of the relevant appeals if there is a reasonable prospect that the existing use can be retained if the appeals are dismissed and planning permission refused²⁶⁰. It has been suggested by the appellant that the use proposed by WFCT is not a D2 use but is, in fact, a *sui generis* use. This does not preclude it from consideration as a material consideration; a matter agreed by Mr Hutchinson²⁶¹ and, in any event, supported by case law²⁶².

²⁵⁵ CD 1

²⁵⁶ ID 5

²⁵⁷ CD 34

²⁵⁸ WFCT 13 Paragraph 11 and WFCT 14 MG8

²⁵⁹ A number of criticisms and relevant documents were put in after the WFCT witnesses had presented their evidence and not, therefore, put to the WFCT witnesses directly. This should be borne in mind.

²⁶⁰ See *London Residuary Body v Lambeth LBC* [1990] 1 WLR 744 (HL), attached to ID 5

²⁶¹ Hutchinson x-e

²⁶² *Nottinghamshire CC v Secretary of State for the Environment, Transport and the Regions* [2001] EWHC Admin 293 and *R (on the application of Mount Cook Land Ltd) v Westminster City Council* [2003] EWCA Civ 1346

- 7.5 The weight to be attached to the existing use of the building, or the competing future use, and the prospect of it being retained, is a matter of planning judgement. The WFCT proposal merits significant weight in the determination of the relevant appeals, sufficient to justify them being dismissed.
- 7.6 WFCT shares the position of the Council in relation to the respective impacts of the WFCT proposal and the proposals promulgated by the appellant on the vitality and viability of the town centre. WFCT advance a series of brief observations on this issue: First, the clear evidence of Mr Geddes is that the full scheme advanced by WFCT will generate a total annual spend from visitors of £5,440,000. In combination with the Arcade scheme, on the adjoining site, this would increase to £9,151,000. This is significantly higher than the estimated spend for either of the schemes promoted by the appellant²⁶³.
- 7.7 The draw of the WFCT scheme, viewed in isolation or in conjunction with the Arcade scheme is clear. It would be a venue offering high-quality entertainment that would attract visitors from within and without the Borough. It would also provide an anchor for other businesses in the area. In combination with the Arcade scheme, it could transform this part of Hoe Street into a leisure hub.
- 7.8 The WFCT scheme has clear support from local businesses; for example Eat 17 (a restaurant in Walthamstow Village) describes the WFCT proposal as a 'magnificent catalyst'²⁶⁴. The Waltham Forest Business Board is also supportive²⁶⁵ and the WFCT vision document includes statements of support from more than 130 local businesses²⁶⁶. There is no evidence that the appellant's proposals command anything like this level of support from local businesses.
- 7.9 The 2009 Nathaniel Litchfield Partners Study identified potential for cinema in the Borough and 'limited scope for new privately operated theatres in Waltham Forest to complement the quality of theatres in London's West End'²⁶⁷. The WFCT proposal seeks to provide both.
- 7.10 The evidence of Mr Geddes on behalf of the Council is that a new-build entertainment venue would cost about £30 million²⁶⁸. In terms of achieving a cultural facility of outstanding quality, in the Borough, the WFCT proposal would represent excellent value for money.
- 7.11 By way of contrast, the appellant's track record in terms of regeneration in other areas, for example Finsbury Park, is questionable. There is no clear evidence that the restored Rainbow Theatre has had much of a regenerative effect on the Seven Sisters Road and Fonthill Road areas. This was noted by the Inspector in the Appeal in 2003²⁶⁹ and remains the case today.

²⁶³ LBWF 10 Section 6.3.1

²⁶⁴ WFCT 2 NG1 Page 16

²⁶⁵ WFCT 2 NG2 Letter dated 2 8 12

²⁶⁶ CD 48

²⁶⁷ CD 21 Paragraph 19.59

²⁶⁸ Mr Geddes e-in-c

²⁶⁹ CD 44

- 7.12 The appellant has submitted a letter from the developer of some nearby student accommodation. However, the developer was not attracted to the area because of the appellant's presence, all he could say is that the restored building gave the impression of the area becoming more gentrified²⁷⁰.
- 7.13 The Inquiry was told that Mr Hill would give evidence about his regeneration efforts with Islington Borough Council but nothing was forthcoming. Whether the Appellant's proposed D2 uses in the building will have a positive regenerative effect on the local area must be considered in this light.
- 7.14 There are clear and substantial vitality and viability benefits in the WFCT scheme and the building presents an unparalleled opportunity to enhance the vitality and viability of Walthamstow Town Centre.

The reasonable probability that D2/Entertainment use would be preserved if planning permission is refused

The WFCT Plan for the Building

- 7.15 The intention of the WFCT is that if the relevant appeals against the refusal of planning permission are dismissed, it will offer to buy the building from the Trustees of the UCKG Helpcentre or, failing success on that front, stand behind the Council in Compulsory Purchase proceedings.
- 7.16 The WFCT is backed by a team made up of some of the top figures in the world of entertainment, including Curzon Cinema, the Soho Theatre, and the Royal Shakespeare Company. The Soho Theatre is a leading light in the field of comedy and its Trustees have significant experience in the arts and business. The documents submitted by WFCT include a letter from Nick Allott, Managing Director of the Cameron Macintosh Group, the largest producer of musicals in the world and owners of historic theatres in the West End²⁷¹.
- 7.17 It is proposed to refurbish the building and extend it to form a new-build 3 screen cinema. The main auditorium will be restored and will have a capacity of 740 seats in the stalls and 286 seats in the circle (total 1008). The plans for the main auditorium include retaining the principle of the existing 1970s subdivision to create a bar and sanitary facilities behind the main auditorium in the rear stalls. The intention is for this bar to serve the audiences in the main auditorium. Mr Godfrey's evidence was that it would be open before the performance, during the interval and possibly after the performance ends²⁷².
- 7.18 The 3 screens will be operated as a boutique cinema. Curzon Cinemas have expressed an interest and their Director of Development gave evidence to the Inquiry. Curzon Cinemas also provided a letter in support of the WFCT proposals²⁷³. The WFCT plans to have a cinema café/bar on the ground floor and a restaurant on the first floor behind the street frontage. There will be an educational space on the second floor.

²⁷⁰ UCKG 5 Appendix 4

²⁷¹ WFCT 12 MG6

²⁷² The reason for the large sanitary provision, which has been criticised by the appellant, is to comply with the relevant British Standard and cater for large audiences. WFCT 6 Paragraph 5.6 refers.

²⁷³ WFCT 15, WFCT 16 and WFCT 2 NG1 Page 15

- 7.19 The estimated budget for bringing the full WFCT scheme to fruition is £10 – £12 million. However, if funding is not available in this amount in the short term, the WFCT has also budgeted for a phased option which would cost in the region of £2.5 million²⁷⁴. Of this sum, around £1 million has been budgeted for the cost of refurbishment and restoration.
- 7.20 At the core of the differences between the WFCT and the appellant is the question of viability. That question breaks down into separate categories: (1) the prospect of securing capital funding; (2) the viability of the activities set out in the business plan; (3) other activities in the building; (4) overheads and the need for revenue funding; (5) the relevance of the absence of any formal agreements between WFCT and its partners; and (6) timescales and the costs of refurbishment.
- 7.21 In terms of (1) **Capital Funding**, as set out in the evidence of Mark Godfrey²⁷⁵, WFCT plans to seek capital funding for the purchase and subsequent refurbishment of the building from a number of sources. For the full scheme, these include the Heritage Lottery Fund (around £5 million), a capital/fundraising appeal (around £3 million) and commercial investment or a social enterprise loan (around £4 million).
- 7.22 If the phased option is pursued, the likelihood is that the purchase of the building and refurbishment would be funded through a commercial loan, and a public fundraising appeal, instead of through an application to the Heritage Lottery Fund. The WFCT could then get the building up and running before making an application to the Heritage Lottery Fund, and other sources, to finance the full restoration programme.
- 7.23 So far, WFCT has been awarded Arts Council funding to develop its plans for the building. It has also secured a subject to contract offer of £2 million from Grosvenor Bridging Loans Ltd for a term of 5-10 years at 7%²⁷⁶. Mr Andrew Green, of Grosvenor Bridging Loans, is the financier and business partner of Sadie Frost and has been involved in the development of the WFCT plans. Mr Godfrey's evidence was that the contract will be finalised once the parties have decided on the most likely method of acquiring the building. Mr Fisher-Jones' view was that the offer of finance was very encouraging: if this was a commercial loan then the investor would have looked at the business plan more aggressively than any of the statutory funders.
- 7.24 Mr Fisher-Jones' evidence on the prospect of securing capital funding for the project was very encouraging and his overall view is that a reasonably calibrated funding target would be achievable. His evidence went largely unchallenged. The only evidence proffered by the appellant on capital funding was through Mr Brent²⁷⁷. However, he accepted in cross-examination that he did not have experience of arts investors or philanthropic donations. Mr Brent questioned the offer from Grosvenor Bridging Loans Ltd²⁷⁸ but agreed that it was a matter for them how they choose to invest.

²⁷⁴ WFCT 8 GD1 Section 6, WFCT 3 Para 8.12.1 onwards

²⁷⁵ WFCT 11

²⁷⁶ ID 11

²⁷⁷ UCKG 1-5

²⁷⁸ ID 11

- 7.25 The report presented by Mr Brent²⁷⁹ fairly sets out the processes involved in applying to the Heritage Lottery Fund for funding. It was based on the old Strategic Framework and Mr Fisher-Jones provided an update to the Inquiry on the relevant elements of the New Strategic Framework. The most significant development is the new Heritage Enterprise Grant, which supports the repair, adaptation and refurbishment of historic buildings for an end use that actively contributes to sustainable development in areas experiencing economic disadvantage²⁸⁰. These grants will be in the range of £100,000 to £5 million. The aim of this grant is to encourage organisations to be more self-reliant and the HLF is looking for projects which are more sustainable and commercial because they are likely to be more successful. Mr Fisher-Jones' unchallenged view was that the WFCT scheme aligned well with the aims of this new grant.
- 7.26 Mr Fisher-Jones also referred to a meeting on 29 May 2012 where an employee of the Heritage Lottery Fund had told WFCT that Waltham Forest was likely to be a priority borough in 2013. The priority boroughs have yet to be announced and are comprised of areas which have been deprived of lottery funding in the past. When an application comes from a priority borough, the Heritage Lottery Fund will be more responsive to it. This improves the prospects of the WFCT securing funding from this source.
- 7.27 According to the appellant²⁸¹, the barriers to WFCT securing funding fall into two categories. The first is a lack of negotiation on securing ownership, indeed the appellant has confirmed that negotiations will not take place. That may be the situation now but the Trustees of the UCKG HelpCentre, in accordance with their legal duties, will have to reconsider that position if the appeals against the refusal of planning permission are refused. If that comes about they will be in the position of having had three separate planning applications refused, and three unsuccessful appeals. The Trustees will be faced with the costs involved in maintaining a building that cannot be used for their intended purpose and may be faced with repairs notices served by the Council²⁸² given the current state of the building. It is well-known that the appellant has tried to sell the building in the past and offers have been made to purchase it²⁸³. In the event that the appellant does not enter into productive negotiations with WFCT, the Council has resolved in principle to pursue compulsory purchase of the building²⁸⁴ which WFCT would stand behind.
- 7.28 The second barrier relates to a lack of evident learning and engagement outcomes. Mr Brent conceded in cross examination that the WFCT Business Plan²⁸⁵ provides a reasonable level of educational content and the provision of education is a positive factor when the Heritage Lottery Fund considers applications. He accepted this notwithstanding his overall misgivings about the WFCT business case.

²⁷⁹ UCKG 3 Appendix 1

²⁸⁰ ID 17

²⁸¹ UCKG 3 Appendix 1

²⁸² Under the auspices of the Planning (Listed Buildings and Conservation Areas) Act 1990

²⁸³ 12 offers was mentioned by Mr Hodgson in evidence (ID 23) and not challenged by the appellant.

²⁸⁴ ID 7

²⁸⁵ WFCT 8 GD1

- 7.29 Mr Fisher-Jones also gave evidence about philanthropic donations. He said that the large foundations give grants bi-monthly and this includes entities such as the Garfield Weston foundation which has around £50 million to spend per year. Its focus is on arts and culture and it will make a fast decision on funding within a 3-6 month period. These funding organisations tend to respond to the convictions of the team. Crowd funding is also becoming more commonplace through Facebook and Twitter and it can be mobilised quickly.
- 7.30 His view was that £5 million was an appropriate sum to aim for from the Heritage Lottery Fund and of the remaining £7 million out of the projected £12 million budget for the full scheme there could be a 50:50 split between investment and philanthropic donation. In the arts industry, investors are willing to give non-recourse loans where they will invest in a building and if they get a return they are happy, if not they are encouraged by seeing the social impact of their investment.
- 7.31 The appellant has sought to show that WFCT underestimate the capital costs of the project. The projected construction costs include generous allowances because Mr Ritchie has only had access to the building on one occasion²⁸⁶. In any event, WFCT is not constrained by a finite pot of money. Moreover, it is not unusual for projects of this type to require more funds than originally budgeted for. Mr Fisher-Jones pointed to recent experience with the Royal Shakespeare Company where a fundraising campaign rose from a target of £100 million to £130 million²⁸⁷. If the WFCT capital project went over budget it would need to fundraise further. This is accepted by Mr Fisher-Jones but he remains confident of success. The Soho Theatre has experience in this field having bought and refurbished its site in Dean Street, London with National Lottery Funding. The project was completed on time and budget²⁸⁸.
- 7.32 The WFCT is not reliant on the Heritage Lottery Fund to bring their project to fruition and Mr Fisher-Jones told the Inquiry that he has experience of plenty of projects that have failed to gain the backing of the Heritage Lottery Fund but still reaching fruition. He also said that the WFCT should not rule out Arts Council capital funding because it was moving into a new capital programme and there was some flexibility. Arts Council funding could be sought as well as Heritage Lottery Fund funding and the Arts Council capital project was due to start in 2015.
- 7.33 In cross-examination, Mr Fisher-Jones was asked about the uncertainty over the potential purchase of the building given the appellant's unwillingness to enter into negotiations. His response was to point to the potential use of a Compulsory Purchase Order and to refer to the Dreamland Project in Margate where the Heritage Lottery Fund committed £3 million conditional upon confirmation of a Compulsory Purchase Order. The Dreamland Project is phased too, and there are other examples, like the Battersea Arts Centre. In Mr Fisher-Jones' experience, the Arts Council is looking more favourably on phased proposals. Mr Fisher-Jones confirmed that even if there was no certainty of Phase 2 of the WFCT proposal proceeding, funding organisations would recognise the possibility, and would not necessarily be put off by it.

²⁸⁶ WFCT 5 Para 5.1 confirms

²⁸⁷ Fisher-Jones e-in-c

²⁸⁸ WFCT 11 Page 8 paras 26-29

- 7.34 Taking Mr Fisher-Jones evidence in the round, it is clear that there is a more than reasonable prospect of WFCT securing capital funding for the full scheme, and, should it be necessary to proceed that way, the interim option. It is relevant to note that the Heritage Lottery Fund has been positive in its pre-application response and the new Heritage Enterprise Grants fit very well the WFCT profile. There is clear precedent in the Dreamland scheme for an award of funds conditional upon the successful confirmation of a Compulsory Purchase order. Moreover, WFCT has already obtained development funding from the Arts Council and an offer of £2 million which would go a long way to financing the purchase of the building whether on the open market or otherwise, and could be combined with a public fundraising campaign. Finally, the WFCT has plans for an interim option with a much smaller budget, which would produce a surplus, providing the basis for commercial investment.
- 7.35 In terms of (2) **the Viability of the Activities in the Business Plan**, the Business Plan²⁸⁹ sets out the WFCT core business model. It is not evidence of the sum total of the events which will be programmed in the Granada building. To that end, the Business Plan and the Vision Document should be read together and particular attention should be paid to section of the Business Plan which sets out the various other activities which will take place in the building. Mr Godfrey sets out the likely scenario for the interim option²⁹⁰.
- 7.36 Mr Geddes has also submitted a business plan for the WFCT scheme. There has been some confusion expressed by the appellant's witnesses about the relationship between Mr Geddes' plan, Mr Devlin's and Mr Godfrey's plans. The relationship was explained in Mr Devlin's witness statement²⁹¹ and again by him and Mr Geddes in their oral evidence. Mr Geddes' view was that the WFCT plans are very conservative and he created a plan which shows the most likely way the venue would be programmed. In contrast, Mr Devlin's plan shows the core of what the business needs to be profitable. Mr Godfrey shows an alternative core business model for the interim scheme. It is significant that three very experienced people have looked at the business plan independently of one another and come to a view that the WFCT proposal is viable.
- 7.37 The Business Plan is exactly that, a plan. It does not show the WFCT proposals as they will turn out, necessarily, and there is room to re-work and revise as necessary. Criticism of the minute detail of the Business Plan or, for that matter, architectural plans should be viewed in that light. The key issue is whether in principle the WFCT plans show a reasonable prospect of the building being retained in D2/Entertainment use.
- 7.38 The detailed criticisms of the WFCT scheme were advanced in oral evidence through the appellant's witnesses and not all of the points raised were put to WFCT witnesses. The principle of each point is addressed below. The appellant has not provided an analysis of the WFCT Business Plan or Mr Godfrey's interim plan to show that they would be loss making, despite the Business Plan being disclosed as part of the first round of evidence on 31 October 2012.

²⁸⁹ WFCT 8 GD1

²⁹⁰ WFCT 13 Para 45 onwards

²⁹¹ WFCT 7

- 7.39 In terms of the full scheme, the Business Plan shows (1) 120 comedy shows per year (80 at full capacity, 40 stalls only, with an assumed attendance of 75% for full capacity and 60% for stalls only); (2) 30 cinema 'Events' per year (with an assumed attendance of 50%); and (3) annual attendance of 100,000 for Boutique Cinema, assuming a net contribution to the business of £329,665 per annum. The costs of running the cinema have been allocated to it as a separate business unit and a programming fee of £20,000 allocated to Curzon. This is in line with the indication in the 2010 Locum Report that City Screen would programme the cinema for an annual fee of £10,000-£15,000²⁹². The cumulative surplus after 1 year of preparation and 3 years operating would be £1,192,729.
- 7.40 The interim scheme in the business plan shows (1) 90 comedy shows per year (60 at full capacity, 30 stalls only); and (2) 20 cinema 'Events' per year (full capacity). The annual surplus would be of the order of £161,598.
- 7.41 Mr Godfrey has also produced his own projections for the interim scheme. His evidence was that he was happy with the figures produced by Mr Geddes and Mr Devlin but that he wanted to satisfy himself that the business plan worked. He decided to create a plan based on what he thought was a bare minimum of comedy performances as this is his area of expertise. His interim plan shows 100 comedy shows per year (stalls only – at a capacity of 75% totalling 55,000 annual admissions). This would generate a net annual profit of £126,863. His evidence is that a Pantomime could add, as a minimum, another £100,000 net profit per year, increasing the annual net profit to £226,863.
- 7.42 Attempts have been made to present the WFCT business case as providing essentially a comedy venue with a bar attached which will not show much cinema in the main auditorium under the full scheme, or any cinema at all under Mr Godfrey's interim scheme²⁹³. This criticism is unfounded. The business plan shows the events which will make the business profitable and will cover the overhead costs of operating the venue. Further activities such as classic cinema, pantomime, live music and other entertainment can then be programmed in addition to the core business model, without threatening the business, if they are not successful²⁹⁴.
- 7.43 The Business Plan requires 120 comedy events and 30 live streaming/event cinema screenings to make a profit, leaving over 200 days of the year free for programming other events in the main auditorium. As WFCT has argued that cinema is an important feature of the heritage significance of the building, the likelihood is that there would be ample cinema provision in the main auditorium in both the full scheme and the interim scheme.
- 7.44 The WFCT has a partner for this ready in waiting: the McGuffin Film Society has over 2000 members and Mr Hodgson is a Trustee of the WFCT. Mr Geddes' evidence was that a film could be rented for around £100 so the costs of running the event would be low and easily made up through ticket revenue.

²⁹² CD 34 Page 21

²⁹³ UCKG 27 Paras 10.4-10.8 Pages 27 and 28

²⁹⁴ Mr Devlin e-in-c

- 7.45 Mr Godfrey's evidence was that there would be cinema in the phased option because if the building is sustainable then one can do anything. There could be live streaming of cultural events, classic cinema or a partnership with a film society. Similarly, the Business Plan did not originally budget for a Pantomime. Mr Godfrey's evidence was that there are a number of ways a pantomime could be done: either internally working with Steve Marmion of the Soho Theatre whose Pantomimes have been successful elsewhere²⁹⁵ or with a co-producer who takes the financial risk of the production. The evidence from Cambridge Arts Centre, attached to Mr Godfrey's Response statement, was that a pantomime would turn a minimum net profit of £100,000²⁹⁶.
- 7.46 Mr Geddes stands by his re-cast business plan of the WFCT's scheme, notwithstanding the criticisms made of it by the appellant. He has significant experience in this area and his view that there is a viable proposal to retain the full building in entertainment use should carry a great deal of weight.
- 7.47 As far as capacity is concerned, WFCT has been criticised for over-estimating the capacity of the main auditorium. Mr Rule asserts that the capacity of the stalls is 550, not the 740 planned by the WFCT. He relied on a plan appended to his first witness statement to show that only 550 seats could fit into the main auditorium²⁹⁷. The drawing, as outlined by Mr Ritchie²⁹⁸ shows more than a simple widening of the seats. It includes wider aisles, angled seating at the front, and the insertion of a control room, which is not in the WFCT's plan. Mr Rule had re-ordered the auditorium to a significant extent to justify the criticism that only 550 seats was possible.
- 7.48 Mr Rule confirmed that he is not an expert in seating. He stated that he had allowed for 585mm in the stalls for the seat widths in the appellant's schemes, as opposed to 500mm, in the stalls, under the WFCT plan. Mr Rule accepted²⁹⁹ that the WFCT could fit 740 seats into the main auditorium, it was simply a question of comfort. He agreed that the width of seats was a question of balance and said he could not comment on the fact that the WFCT seating widths had been based on the RSC Courtyard Theatre in Stratford. He said that a comedy venue does not have to be as comfortable. It is therefore perfectly possible for the WFCT to fit 740 seats in the stalls of the main auditorium and the WFCT was not wrong to construct its business plan accordingly. This issue is but one example of the exaggerated criticisms made by the appellant's witnesses in their written proofs which they have departed from in oral evidence.
- 7.49 On the subject of comedy, the Business Plan budgets for 120 performances per year. The dispute between the appellant and WFCT relates to the number of performances which WFCT could programme. The WFCT case is that it can programme 120 performances per year. Mr Godfrey has identified 58 performers who he says could and would perform at the venue, based on his knowledge of the market. Mr Godfrey has years of experience working in successful London comedy venue.

²⁹⁵ WFCT 12 MG2

²⁹⁶ WFCT 13 Mark Godfrey Rebuttal Proof MG13

²⁹⁷ UCKG 8 Appendix III

²⁹⁸ Mr Ritchie e-in-c

²⁹⁹ Mr Rule x-e

- 7.50 He has a wealth of contacts in the comedy industry, as demonstrated by the letters written in support of the WFCT scheme by comedy promoters, and the recent recruitment of Peter Cadley as a Trustee of the WFCT³⁰⁰. He knows what he is doing and is confident that the Granada would be a successful comedy venue.
- 7.51 By contrast, Ms Jones, the appellant's witness, does not currently run a venue. Her experience in comedy to date involves running a number of comedy club venues some years ago. Since 2001 she has been an independent agent, booker and consultant, with a focus outside of London in the south. None of the artists she represents are household names. She has not programmed a London venue. Her evidence was based on internet research and cold calling comedy promoters to test their views. The focus of her evidence was on comedians who had announced tour dates as these are the ones she could find on the internet rather than on a comprehensive analysis of the market. A further difference between Ms Jones and Mr Godfrey is that Mr Godfrey has access to box office and ticket sales information which gives him a reliable indication of how an artist is selling, and whether they would be appropriate for a 1000 seat venue such as the Granada.
- 7.52 Mr Godfrey believes that there is a gap in the London market for a 1,000 seat venue because there is no current venue that regularly programmes comedy. There is a space between the 535 capacity Bloomsbury Theatre and the Hammersmith Apollo at 3,500 seats. Mr Cadley agrees with this analysis³⁰¹.
- 7.53 Mr Godfrey's says that people follow the artist, so long as the venue is accessible. The Hammersmith Apollo is 35 minutes from Charing Cross station, and the Granada building is 38 minutes from Charing Cross station, so it is a similar distance out of central London. By contrast, the Hackney Empire is difficult to get to as it is a 30 minute walk from the tube, or the audience has to connect from the tube, to the overground. Ms Jones sought to further distinguish Walthamstow on the basis that it was not a place people would go for an evening out. The draw of Walthamstow will be enhanced by the Granada's restaurant and bars and can only be strengthened by the Arcade site, if it is built. Walthamstow Village also hosts to a number of restaurants and pubs which would likely be frequented by the Granada's audience.
- 7.54 Mr Godfrey has the support of key figures within the industry, as shown in the letters and emails of support appended to his witness statement³⁰². The people who emailed Mr Godfrey expressing support and interest in the Granada proposals represent about 90% of the UK comedy world. His plan for finding comedians for the venue is threefold. First, the venue will be a dedicated London comedy venue, competing with other 1,000 seat theatre venues in London for artists who have London tour dates. The difference will be that the Granada building will regularly programme comedy, unlike other theatres in central London, which are theatres that occasionally programme comedy. Mr Brent and Ms Jones both accepted that this was a factor weighing in favour of the WFCT being able to attract artists to Walthamstow. This element of the plan was the only element addressed by Ms Jones.

³⁰⁰ WFCT 2 NG2; WFCT 12 MG6; and WFCT 14 MG8-10, MG14 and MG15

³⁰¹ WFCT 14 MG8

³⁰² WFCT 12

- 7.55 Second, Mr Godfrey has identified a market in international artists, who are successful in London, but who tend not to go on tour through the rest of the UK. He gave the example of Trevor Noah who is showing at the Soho Theatre and has sold out until mid-January. Ms Jones had not taken the international market into account at all and despite Mr Noah's success in London, did not appear to have taken him into account as a potential performer at the Granada.
- 7.56 Third, the Granada could capitalise on its relationship with the Soho Theatre and the Bloomsbury Theatre by cherry-picking the most successful acts. The acts that are selling well can be moved to a night or two at the Granada, or an extra night in their run could be added at the Granada. This is a successful model used by Sadler's Wells and the Peacock Theatre, which turns a profit of £300,000-£500,000 per year. This is something the Soho already does as can be seen from its annual accounts³⁰³. Using the example of Trevor Noah, if Mr Godfrey operated the Granada, he could have programmed dates for Trevor Noah there, because he has been sold out for four weeks at the Soho.
- 7.57 In his rebuttal proof³⁰⁴, Mr Godfrey provided a list of 58 comedians, which is a snapshot of the performers that, as of today, he could programme in the Granada. There is some overlap with Mrs Jones list, and the two witnesses came up with 112 between them.
- 7.58 Looking at some particular names on the list, Mr Godfrey's evidence is that Dr Brown is well known, has won awards and is a hot ticket. He performed for 8 weeks at the Soho successfully. The Pyjama Men played for 3 weeks at the Soho Theatre and then moved to 8 weeks at the Charing Cross theatre, selling 15,000 tickets. Rob Delaney played the Soho in October and was so successful he was moved to 2 sell out shows at the Bloomsbury and is scheduled to return to play the 2,000 capacity Shepherd's Bush Empire. Mr Godfrey said that just looking at Dr Brown, Trevor Noah and the Pyjama Men there is the capacity for 26,000 tickets. The business plan requires only 55,000 tickets to be sold per year so with three acts alone he is already half way there. None of these performers is on Ms Jones' list, which she represented as conclusive evidence of comedians who could perform in the Granada. It clearly is not.
- 7.59 By contrast Mrs Jones decided to treat the Granada building as an out-of-London touring venue as opposed to a London venue. She concluded that there were insufficient comedians in the UK market who would be able or willing to perform in the 1,000 seat Granada building. Ms Jones' evidence only focused on UK comedians who tour the UK. She did not take into account the market for international acts or the ability for the Soho Theatre to cherry-pick artists that are performing well in its smaller venue or in the Bloomsbury Theatre.
- 7.60 On this basis, Mrs Jones' evidence in her proof was that the WFCT could programme 25 shows per year. However, in oral evidence she said that 25 was the bottom end of a range of 25-40 shows. This range did not find its way into her proof. Mr Brent's view was that he thought the WFCT could programme more events if it was a full time comedy venue.

³⁰³ ID 15

³⁰⁴ WFCT 13 and WFCT 14

- 7.61 Mr Godfrey's evidence was that venues in and out of London are completely different, London has 8 million people, the industry, the press and it is a place where performers want to play. In a touring venue, it is the venue's job to find the comedian and the audience and the comedian is usually paid a fee by the venue. In London, the promoter finds the audience and the financial risk taken by the venue is different from other areas of the UK because it presents an overall career opportunity for the artist, rather than simply the opportunity to make money. The venues outside of London presented by Mrs Jones are therefore not relevant to an assessment of whether the Granada could successfully host 120 comedy shows per year.
- 7.62 Of the comedy promoters Ms Jones called, every single one has provided a written and attributed statement in support of the WFCT plans, stating that they will consider the Granada as a venue for their artists. Ms Jones said that her sources within Bound and Gagged and Avalon were negative, where as there is clear enthusiasm for the venue in the emails from the managing directors of these companies to Mr Godfrey. Mrs Jones did not provide much in the way of detail when she called these companies. The location of the building and fact that the Soho Theatre was behind the project are both significant factors which she should have mentioned.
- 7.63 Ms Jones agreed in cross examination that the draw of an entertainment venue includes the ability to form relationships with promoters, whether the venue is a space in which comedians will like to perform and the ability to draw an audience. The Soho Theatre programming comedy in the Granada building clearly has all of these features. Soho has established relationships with promoters which can be seen in the letters of support stemming back to a letter in 2011 from Phil McIntyre.
- 7.64 The Granada's history and iconic architecture provide for a venue that comedians would be drawn to perform in. The Granada also has an advantage over the 3,500 seat Apollo because it provides a more intimate space, but with a larger capacity than the Bloomsbury Theatre. The draw of the Granada venue will be a combination of the name of the comedian performing, the Soho Theatre brand which is well known and respected in the comedy industry, and the offer of the building itself.
- 7.65 It is more likely than not that the WFCT will be able to programme 120 comedy shows in the main auditorium. Mrs Jones' evidence has failed to take into account a significant proportion of the market and she has wrongly identified Walthamstow as a touring location instead of a London location. Mr Godfrey's evidence should be preferred.
- 7.66 In terms of cinema, there are two elements to the WFCT plans, live streaming of cultural events in the main auditorium, and three new build screens as part of the full scheme. There is agreement between the appellant's leisure expert, Mr Brent, and the WFCT about the number of event cinema performances which can be shown profitably in the building. Mr Brent has allowed for 10 live streaming events in his analysis of David Geddes' business plan as well as for 30 classic and second run cinema events³⁰⁵. Mr Sullivan agreed that these types of events are a commercial success.

³⁰⁵ UCKG 3 Appendix 4

- 7.67 Mr Devlin's rebuttal evidence is that there are 45 scheduled live streaming events from the major arts organisations such as the Met Opera and National Theatre which would make up the 30 event cinema screenings in the WFCT business plan³⁰⁶. The WFCT could therefore afford to be selective. The WFCT and the appellant agree that screenings of highly successful films like Skyfall, could also be a success in the main auditorium.
- 7.68 Mr Freedman's evidence, on behalf of the appellant, is that he discussed the potential for event cinema with a distributor and was told that he should expect no more than £800 plus VAT box office take. In contrast, Mr Brent allowed for a gross profit of £3,865 for each of his 10 events. Mr Freedman did not tell the distributor what the size the venue was so it is difficult to see how the distributor arrived at the £800 figure. Mr Kenny submitted a document summarising the advance sales figures for Met Opera across Curzon's venues³⁰⁷. In Wimbledon, which is limited in capacity because the largest screen is 103 seats, the advance sales for the four most recent performances were £2,940, £3,225, £1,424 and £2,651. It appears likely, therefore, that the WFCT could profitably programme live relays of cultural events in the main auditorium and this element of the business plan is sound.
- 7.69 The second element is the three-screen cinema. It is now clear that there is agreement between the appellant and WFCT that, in principle, a 3-screen niche cinema, in the building, could be profitable alongside the Arcade multiplex, which is the context assumed by the WFCT. The remaining dispute is about the extent to which a Curzon cinema would be profitable. In light of the fact that the WFCT plans are still in development, the key conclusion is the principle that a niche cinema would be successful.
- 7.70 Mr Kenny has been with Curzon for 8 years and has been performing the role of Director of Development since 2009. A key part of this role is finding new cinemas. Mr Kenny has also previously worked at City Screen (Picturehouse Cinemas). He has considerable experience in the niche/art-house cinema market. Mr Kenny's view is that Walthamstow could support a Curzon cinema. It would be more attractive within the building proposed but Curzon has been looking at Walthamstow independently of its involvement with WFCT. He initially looked at Walthamstow in 2011 and in greater detail at the end of 2011 when he re-visited Curzon's expansion plan and did more investigation. He sees Walthamstow as an area of opportunity.
- 7.71 If the Arcade cinema does not come to fruition, Mr Kenny's evidence was that the Curzon could adapt its programming to meet the demand³⁰⁸. It is likely that in the absence of a cinema on the Arcade site, the three screen cinema in the Granada would cater for some of the multiplex demand and would be successful. In coming to his view about the viability of a Curzon in Walthamstow, Mr Kenny looked at the CACI drive time data, focusing on a 10 minute drive time catchment³⁰⁹. However, he did not just look at Walthamstow because the types of films a Curzon shows are not catered for in this part of London, the nearest comparator would be Screen on the Green in Islington.

³⁰⁶ These events are scheduled over a period of September 2012-May 2013, not a full calendar year.

³⁰⁷ ID 12

³⁰⁸ WFCT 15

³⁰⁹ UCKG 3 Appendix 2

- 7.72 Curzon has six cinemas in London and the audiences attending these cinemas differ. Walthamstow is likely to have a similar audience to Soho or Wimbledon. The audience is younger so the films the Curzon would show would be edgier. When looking at the demographic and population data, Mr Kenny is looking for people aged 25-50, which is showing more or less constant growth between now and 2022, within a 10 minute drive time of Walthamstow. The demographics he looks for differ depending on location but he would be targeting aspiring singles in Walthamstow. When comparing Walthamstow to Wimbledon, Mr Kenny's evidence was that the catchment area is much greater in Walthamstow, but the demographics are pretty similar.
- 7.73 Mr Kenny also gave evidence about operating a Curzon Cinema alongside a multiplex (Odeon) in Wimbledon. He said that the Odeon started showing niche/art-house films to spoil the Curzon but that they no longer programme the same films. The two cinemas will show the same film occasionally but the offer of the Curzon is significantly different. He gave the example of *Amour*, an Artificial Eye film, and is showing at the Curzon but not the Odeon. When the cinemas do show the same film, such as was recently the case with *Skyfall*, the Odeon were happy with their take and Curzon was happy with its take. He did not feel that the audience had been cannibalised from the Odeon audience, instead it was that more people were going to the cinema. The audience who go to a Curzon may not go at all to a multiplex.
- 7.74 Mr Kenny questioned Mr Sullivan's evidence that the Empire at the Arcade site would programme niche, art-house and crossover films. The Empire on Leicester Square has 9 screens and does not have a sizeable art-house offer and he would be surprised if the cinema on the Arcade site did. He said that through Curzon's distribution company (Artificial Eye) there would be control over some of the films the Empire Cinema could show.
- 7.75 He also gave evidence about the impact of the Stratford multiplex on the Stratford Picturehouse. Mr Kenny used to work at City Screen and has spoken to his opposite number there. The Stratford cinema had been affected by the Westfield development and multiplex. His belief is that the reason for this is that the Stratford Picturehouse programmes as a mainstream cinema and so if both cinemas show predominantly the same films, there is an impact.
- 7.76 Three witnesses gave evidence about cinema for the appellant. They did not always agree. Their case has now been clarified by Mr Hutchinson who said that the appellant believes a three screen cinema could work in the building alongside the Arcade. This can be seen from Mr Freedman's example schedule submitted during the course of his evidence in chief where the programme showed *Amour* (an Artificial Eye film), a Danish film, and an Asian film. Mr Brent has projected 95,000 paying admissions to the Granada rooms, which it now appears will be programmed as a cinema³¹⁰. He has only projected 77,000 for the WFCT scheme with no explanation as to how he arrived at this figure. His oral evidence was that cinema admissions in Appeal 1 would also be 77,000 but again did not explain why. No witness for the appellant said that a cinema in the WFCT scheme would not work; it is just a question of profitability.

³¹⁰ UCKG 5 Appendix 2

- 7.77 Mr Brent and Mr Sullivan both criticised the WFCT's comparison with the Wimbledon Curzon on the basis that the demographics in Walthamstow and Wimbledon are different and the demographics in Walthamstow do not support a cinema such as the Curzon. This criticism does not stand up to scrutiny for a number of reasons.
- 7.78 First, neither Mr Brent nor Mr Sullivan provided any analysis of the two areas to show that there was not a sufficient population in the relevant demographic to support a Curzon or other boutique cinema in Walthamstow. It is clear from the Acorn data that there are significant numbers in the target demographic of Urban Prosperity. Even if Mr Sullivan is right that all aspiring singles socialise in central London, if only the combined population of prosperous professionals and educated urbanites in Walthamstow attend the Curzon in line with the national average of cinema visits, the attendance figures exceed 100,000 annual admissions³¹¹.
- 7.79 Second, Mr Sullivan's default closest analysis³¹² actually shows a substantial degree of similarity between the demographics in Walthamstow and Wimbledon. When this was pointed out to him in cross-examination he switched and said he preferred to look at the Acorn data for demographics. He would not say whether there was a sufficient population within the 10 minute drive time analysis which underpinned the Acorn data to support a cinema.
- 7.80 Mr Sullivan then changed tack again and said that you could throw catchment data out of the window when it comes to art-house cinemas. He gave an example from his own experience of trying to see the Danish film, 'The Hunt'; it was not on at a convenient time at the Renoir in Bloomsbury and so he went all the way to Brixton to see it, that is the length that 'avids' will go to and Walthamstow has better transport links than Brixton. It should be noted that the Business Plan's analysis of the market for 'avids' has not been responded to or challenged at all by the appellant's experts. Mr Sullivan accepted that the draw of a boutique cinema like Curzon was the overall offer and ambiance. He agreed with the proposition that if someone wants to operate a niche cinema and they programme it correctly then it can build up loyalty within the local community.
- 7.81 Mr Sullivan tried to paint the Curzon as simply an art-house offer focusing exclusively on Artificial Eye content. This is not the case, Mr Kenny's evidence was that the Curzon shows different films in its different cinemas and is sensitive to the demands of the market. The Wimbledon Curzon does show mainstream films some of the time and it does not have a cannibalising effect on the multiplex audience, because the offer of a Curzon attracts a different market.
- 7.82 Taking those points together, a Curzon or similar niche/boutique offer, could work in Walthamstow, in the Granada building, with the Arcade site operating a multiplex alongside. None of the appellant's witnesses have submitted an analysis of the WFCT plans to show that the Curzon cinema element would be loss making, or even that the WFCT projections are seriously out. Mr Kenny's experience and assessment to the contrary should be trusted.

³¹¹ Total population in the two categories is 36,582=100,966.

³¹² ID 18

- 7.83 In terms of (3) **Other Activities in the Building**, a number of the appellant's witnesses have objected to the WFCT plans on the basis that they propose a drinking venue that would exclude under-18s and cause difficulties for local residents with noise and disturbance at closing time. The foundation for this criticism seems to be the bar at the rear of the main auditorium. The criticism is wildly exaggerated and has been doggedly maintained by the appellant's witnesses despite Mr Rule's concession that he had been rude about this aspect of the WFCT scheme on the first day of the appellant's evidence.
- 7.84 Theatres in the West End all have bars to serve the theatre-going audience and their venues are not restricted to over 18s. The aim of the bar is to serve the audience in the main auditorium as part of a civilised entertainment offer and Mr Godfrey's evidence was that it was unlikely to be open after the events. The cinema bar is a café/bar similar to those in a number of art-house cinemas and is linked to the cinema use. There is not a shred of evidence that the WFCT has any intention of turning the venue into an after-hours night club. This criticism should be ignored.
- 7.85 The WFCT plans have also been criticised because it is said that in comparison with the appellant's scheme, they do not provide as much education or access to the building and main auditorium during the day. The utility of comparing the two schemes in this way is doubtful. The WFCT scheme is still in the preparation stages. It is the appellant's burden to show that its scheme is acceptable.
- 7.86 For education projects, the WFCT, in keeping with the unique value of the building, has plans to run educational programmes within it. The WFCT witnesses were consistent in describing the educational activities that would take place, and funds have been set aside in the budget for this purpose. Mr Devlin's evidence was that for the education and community projects, the aim is to use year 0 to apply for multi-year funding for trusts and foundations such as the Paul Hamlin foundation, the Gulbenkian Foundation and the Rain Foundation, which is why the education line in the profit and loss projections for the WFCT's scheme show income and expenditure for education³¹³. Expenditure on education would depend on the funding raised and it is not unreasonable for the WFCT to remain flexible on this.
- 7.87 Mr Godfrey's evidence was that the education projects would be funded from two sources - grant funding and if there was any surplus from running the business it would be invested into education. The better the venue does, the more will be invested in education. Mr Godfrey also outlined the potential partners for education projects: the RSC and Birmingham Rep are both funded by Arts Council England already. He has also had discussions with the BFI and the London Film Museum about partnerships.
- 7.88 For the interim scheme, the plan is the same and he will see what space is available. There is no need for a dedicated education space because you can tell people about the history in context. Mr Fisher-Jones supported this conclusion. It is clear from the evidence that it is likely that education will be taking place in the building, and will be one of the activities taking place during the day.

³¹³ WFCT 8 GD1 Section 5.

- 7.89 For other daytime activities, under the full scheme the cinema will be in operation during the day and the WFCT plans to have a café and restaurant which are likely to be open during the course of the day. There may also be matinee performances of the Pantomime over the festive period.
- 7.90 If there is a concern about daytime access to the main auditorium, the Council at the planning application stage, could require an agreement under Section 106 to secure it. Mr Godfrey also mentioned architectural open days and making the main auditorium available by prior arrangement. In the evening the main auditorium will be open to a broader section of the community who will be able to enjoy the history and architecture of the building in context, with the building used in the way it was intended.
- 7.91 The extent to which the main auditorium would be available during the day under either of the appellant's schemes is also not clear. Mr Hill's evidence was that the main auditorium would be used for church services during the day and also other church activities and so it is unlikely that the main auditorium would be widely accessible to the general public during the day. The appellant's criticism should also be viewed in light of the representations from local people, in particular the account of Paul Lindt that his friends had been discouraged from going inside the Rainbow Theatre in Finsbury Park³¹⁴.
- 7.92 In terms of (4) **Overheads and the Need for Revenue Funding**, despite indicating his broad agreement in his proofs of evidence of Mr Geddes' and the WFCT assessments of the likely overheads of running the building, Mr Brent in his evidence in chief said that he thought that all parties had undercooked the overheads and they needed to be re-adjusted. He relied on a collection of accounts taken from arts venues which he said showed that the overheads were much higher than he originally thought. He also used these accounts as evidence that venues of the type proposed by the WFCT require revenue subsidy or they will be loss making.
- 7.93 Mr Brent has fundamentally misunderstood the difference between a producing theatre and a presenting theatre. Mr Godfrey, Mr Devlin and Mr Geddes all gave evidence on this and the distinction is quite clear. A producing theatre creates its own work in-house. It deliberately produces unprofitable work which would otherwise be beyond the reach of the public. The Soho Theatre is an example of this, its education and theatre programmes are loss making and require Arts Council Subsidy to be sustainable. In contrast, the comedy is a net contributor to the Soho Theatre's business³¹⁵. The WFCT proposals would not require Arts Council subsidy because it would be a presenting venue and would not produce work in-house.
- 7.94 Mr Brent's proposition that there is overwhelming evidence that venues such as that proposed by the WFCT require subsidy to be sustainable is simply not correct. Of the examples he selected, Soho and Hackney are producing theatres and show subsidy on their accounts. The Stockport Plaza does not appear to have any revenue subsidy and it makes a profit. The Leicester Square theatre is inconclusive as the accounts are abbreviated and do not show a clear picture of its financial position.

³¹⁴ ID 10 Page 3

³¹⁵ Mr Godfrey e-in-c

- 7.95 For his assessment of overheads, Mr Brent relied on the example of the Stockport Plaza, which had reported building maintenance costs of £174,622. His analysis failed to take into account the fact that the building maintenance costs for that year included completion of the restoration works and the 2010 figure was £99,613. The WFCT has budgeted £242,000 for overheads, excluding staffing and marketing.
- 7.96 Mr Brent used the example of the Hackney Empire, which has marketing costs of £196,401, in contrast to the WFCT's assumption of £100,000 for the main auditorium and £50,000 for the cinema. Mr Brent did not take into account the fact that the Hackney Empire produces its own work, that it is currently changing tack as a venue and that the Soho Theatre's partnership with the WFCT can reduce the cost of marketing through economies of scale and synergies. The difference of £47,000 is easily accounted for.
- 7.97 Mr Godfrey's evidence was that the staffing costs in a producing theatre are higher because of the need to hire a director and performers. The WFCT scheme would be a presenting theatre and the producer of the company would take the risk of these costs. The partnership with the Soho Theatre provides an opportunity to reduce overhead costs by sharing staff.
- 7.98 Under the interim scheme, the WFCT plans to keep staffing overheads to a minimum by sharing managerial staff with the Soho Theatre. Mr Brent criticised this as he did not understand why the Soho Theatre would provide free staff to the WFCT. The business model proposed by the WFCT is that of two venues being run from one head office, with only the staff necessary to run events present at the building. Items such as the marketing staff and budget could be shared as could the costs of a bar manager. Staff at the building could be part time. Mr Godfrey's evidence was that overheads for other events could be covered by a hire charge to the organisation using the building. He had budgeted for a weekly overhead charge in his interim business plan and so adding in extra events would not dramatically increase the overheads because the costs of running the building were already covered.
- 7.99 Even if Mr Brent is right, the WFCT can adjust its plan to provide for a Pantomime, which could increase the net profit of the business by £100,000 at the very least. In practice, the figure is likely to be higher: the Hackney Empire's Pantomime had a gross profit of £820,000 and admissions of 55,000 whereas the conservative estimate in Mr Geddes' proof is for an annual attendance of 24,975 and a gross profit of £337,163. This is likely to absorb any shortfall in the overheads estimates.
- 7.100 With reference to (5) **the Relevance of the Absence of any Formal Agreements between WFCT and its Partners**, WFCT has been criticised for having no formal agreements in place with its proposed partners. This criticism should be rejected for a number of reasons. First, WFCT does not own the building and its plans are still in the development stages. Any contracts or heads of terms with Curzon or the proposed restaurant operator would have to be so heavily conditional that they would be meaningless. Heads of terms which are subject to contract are not legally enforceable and it would be a waste of the WFCT's time and resources to negotiate these at this stage. Second, WFCT has cemented its relationships with its partners in other ways.

- 7.101 For example, Roxana Silbert is a Trustee of the WFCT and is the current Artistic Director of the Birmingham Rep Theatre and the former Associate Director of the RSC. Rob Kenny has attended and given evidence to the Inquiry. He has given up his time for the WFCT with no obvious immediate benefit to him or Curzon and has publicly associated the Curzon brand with the WFCT. All of these reasons were given by the appellant as reasons why the Secretary of State should trust the commitment of Bubble Chamber and this should be equally the case for Curzon. In addition, Roger Wingate who is Chairman of Curzon Artificial Eye is also a Trustee of the Soho Theatre.
- 7.102 The logic of the appellant is fuzzy when you consider that it only signed the lease agreement for Scheme 2 with Bubble Chamber on 31 October 2012. If the same logic is applied to the appellant, they ought to have agreed a lease and heads of terms with Bubble Chamber years ago, when plans were still in development.
- 7.103 In terms of (6) **Timescales**, the appellant has also criticised the WFCT scheme on the basis that it will take years to come to fruition, compared with the appellant's scheme. The argument is that this Grade II* asset which is on the Buildings at Risk Register should be restored as quickly as possible.
- 7.104 The building was placed on the Building's at Risk Register during the custodianship of the appellant. Mr Rule agreed³¹⁶ that the appellant had received a letter from English Heritage in 2011 requesting that the appellant carry out the asbestos works now, rather than waiting for planning permission for its full scheme. The Council recently served a s.215 notice requiring the appellants to repair the rendering on the front elevation of the building. The local people who gave evidence to the Inquiry had a number of criticisms of the appellant's care of the building and gave evidence of times when they had to intervene to save the building from a rave and another attempted rave³¹⁷. It is a weak point that it is a benefit of its scheme that the building will be restored in a shorter timescale when it is due to the appellant's lack of care of the building that it is on the Buildings at Risk Register in the first place.
- 7.105 It was put to Stella Creasy, MP for Walthamstow, that the appellant has paid £350,000 in maintenance of the building over the last 10 years. Mr Rule said this would have involved security costs as well. He said he had been asking the appellant to carry out maintenance works and that he had worked hard to keep the building water tight and free of pigeons. Given that the appellant's argument against the WFCT is that heritage building maintenance costs should be over £100,000 per year, it is deplorable that only £350,000 has been spent in the past 10 years.
- 7.106 Mr Rule stated that the appellant has found it difficult to maintain the building because local people are determined to break in and vandalise it. The only evidence before the Inquiry is of two specific incidents of vandalism, which have not been directly linked to local people³¹⁸.

³¹⁶ Mr Rule x-e

³¹⁷ See the submission of Caramel Quin, Chair of Cleveland Park Resident's Association ID 23

³¹⁸ Caramel Quin ID 23

- 7.107 In any event, Mr Rule accepted that the WFCT and appellant face more or less the same potential for delay in terms of the construction of the building. Mr Rule's view was that refurbishing the building would take a year of pre-contract works and then up to two years to implement the full scheme. This was subject to the inevitable risks and difficulties in restoring a heritage building. His evidence was that it had taken 8 years and numerous listed building consent applications to restore the former Rainbow Theatre Finsbury Park.
- 7.108 The appellant has sought to add to the construction period the time delay involved in a CPO. While these proceedings may well be protracted, a balance has to be struck between any delay and the advantages of retaining the whole building in entertainment use. The appellant has sought to bolster the potential for delay by including the compensation aspect of the compulsory purchase process. This is not the correct approach because compensation litigation can run beyond the time when the building is acquired.
- 7.109 Weighed against the potential for delay by a CPO is Mr Ritchie's evidence that the interim scheme could be up and running within 6 months of getting possession of the building. In contrast, the appellant may not implement its planning permission straight away as it could be waiting to see what happens on the Arcade site.
- 7.110 The difference in timing is not as great between the rival schemes as the appellant has made out. Any delay should be weighed against the loss of D2 use. It is submitted that it is not a critical factor.

The Appellant's Scheme

- 7.111 The appellant has sought to compare the debate between it and the WFCT as 'certainty versus dreamland' but there is no inherent certainty in the appellant's scheme. First, it is unclear exactly which of the appellant's schemes will be implemented if they both get planning permission. There is no undertaking by the appellant to implement Scheme 2 if the Arcade site does not go ahead. There may also be a period of waiting to see what the market conditions are.
- 7.112 Second, the appellant's exposition of benefits of its schemes depends on each element of that scheme being implemented and successful. In terms of the proposed D2 uses, Mr Freedman has not produced a business plan for either the six screen cinema or the Granada Rooms. The financial arrangements between Mr Freedman and the appellant in Scheme 2 are a mystery. Mr Hill's evidence was that no assessment of demand for the community uses of the Granada Rooms had been carried out. There is very little in the way of evidence for the Secretary of State to conclude that these ventures would be successful.
- 7.113 The success of both the six screen cinema and the Granada Rooms depends on attracting the public to the building. The draw of either scheme is significantly different from that proposed by the WFCT and is weaker by comparison. In Appeal 3, Mr Freedman's evidence is that the cinema was a community cinema aimed at the residents of Walthamstow. The WFCT maintains that a key factor in the success of a venue – and its contribution to the local economy – is the ability for the building to get people through its doors and spending money.

- 7.114 An element of this is the local support. The special expertise of Mr Freedman of being able to understand the local community has been extolled at length. The local people of Walthamstow, in significant numbers, have objected to the appellant's proposals. Mr Hill admitted that there had been no consultation by the appellant with the local community other than through two public presentations of the appellant's plans. It is a fact that a significant number of the local people of Walthamstow are against the appellant's proposals for a cinema³¹⁹. If these local people are not attracted to it, the venue is less likely to be successful.
- 7.115 Mr Hill said it was Mr Freedman's challenge to address this. The challenge in turning public opinion should not be underestimated especially as Mr Hill has said that the appellant will not be seeking to repair the rift between it and the local community.
- 7.116 In terms of Scheme 1, the appellant seems to be intending to operate the Granada Rooms primarily as a cinema. Two of the Granada Rooms would not have stepped floors and so would not have the feel of an ordinary cinema. The exact operational details of the cinema are unclear. It does not appear to be a full time cinema as the rooms will be rented for other events too which will impact on the ability to attract a regular audience.
- 7.117 The appellant has tied itself to Mr Freedman and numerous witnesses have said that it takes someone with the special skills of Mr Freedman to programme the cinema or Granada Rooms successfully. If this is the case, then there are serious doubts over the success of either Scheme if Mr Freedman falls away. This is a genuine concern as the cinema operator in the Catford Appeal³²⁰ was ostensibly committed but in the time it took for the appeal to be decided, market conditions had changed and he invested elsewhere³²¹. There are also numerous opportunities built into the legal agreements for either Mr Freeman or the appellant to rescind the agreement.
- 7.118 In the Heads of Terms for the Granada Rooms – which are not legally binding in any event – Mr Freedman has a 3 month break clause³²². If the Granada Rooms are not a success, he could easily walk away and leave the appellant in the position of having to find another operator through a marketing exercise or run the Granada Rooms itself, despite having no experience of running anything similar in its other venues.
- 7.119 The lease agreement is conditional on planning permission, the lease has not yet been agreed and the draft submitted to the Inquiry could well change in the interim. The agreement also contains a number of break clauses which entitle each party to rescind the agreement. First, if the Landlord's works are not commenced within a year of the grant of planning permission, notice may be given, and if they are not commenced within 20 working days of that notice, the agreement may be rescinded³²³.

³¹⁹ WFCT 1 Para 17 onwards

³²⁰ UCKG 12 Appendix 1

³²¹ UCKG 12 Appendix 1

³²² ID 22

³²³ ID 21, clause 7.1

- 7.120 Mr Rule's evidence was that there would be a year of pre-contract works before construction started. Mr Hutchinson's evidence was that there may be negotiation with the Arcade developers in the event that planning permission for a cinema was extant on both sites. It is very possible that there would come a time when this clause would apply and Mr Freedman or the appellant could exercise its right to rescind the agreement.
- 7.121 Second, if practical completion is not achieved within in 36 months of the grant of planning permission, notice may be given, and if practical completion is not achieved within 20 working days of the notice, the agreement may be rescinded³²⁴. Mr Rule's evidence is that it would take up to 2 years for construction works, not including the real potential for delay given the historic nature of the building. Again, it is possible that this condition would be engaged and Mr Freedman or the appellant could end the agreement.
- 7.122 Finally, if the grant of planning permission is accompanied by what is termed an 'onerous condition', either party may rescind the agreement³²⁵. None of the examples given are particularly onerous and include anything that might make the Landlord's works more expensive than contemplated as at 31 October 2012, anything the Landlord considers to be an unacceptable condition or anything that materially and adversely affects the profitability of the cinema business.
- 7.123 By contrast, the WFCT has a clear vision. It has industry leaders in comedy and cinema involved and is seeking to create a quality venue with pan-London appeal. It enjoys a significant degree of local support. This is not a case of certainty versus dreamland. There is every possibility that the appellant's scheme may unravel. The WFCT case is that there is a real prospect that the dream will become reality.

The Heritage Issue

- 7.124 Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance³²⁶.
- 7.125 It almost goes without saying that significance should be assessed on a case by case basis and use may be more or less important depending on the particular context. There is clearly a link between the significance of the building and its use; otherwise the Framework would not consider that significance could be enhanced by being put to a use consistent with its conservation.
- 7.126 The significance of the building goes beyond the fabric and is the sum of its architectural, historic, artistic or archaeological interest³²⁷. Mr Hutchinson agreed that the significance of the building included its historic use. The issue between the WFCT and the appellant is which proposal provides for the optimum viable use.

³²⁴ ID 21 Clause 7.2

³²⁵ ID 21 Schedule 1 Part 2

³²⁶ CD 1 Para 126

³²⁷ PPS5 Planning for the Historic Environment: Practice Guide Para 12

- 7.127 The approach to the test laid out in paragraphs 132-134 of the Framework can be summarised: (i) define the significance of the building; (ii) any harm to that significance must be assessed to determine whether it is substantial or less than substantial; (iii) if the harm is less than substantial, any public benefits should be weighed against the harm, including securing the building's optimum viable use. In this case, the use of the building forms part of its historic interest going beyond the architectural fabric of the building and the collective memory of the community is of its use as a cinema and live entertainment venue. This is a factor which should be taken into account when assessing the building's significance³²⁸.
- 7.128 The WFCT case is that substantial harm would be caused to the significance of the Granada building if it was exclusively used for D1 purposes. This does not appear to be the case here, in light of the Agreements under Section 106³²⁹ which do provide for D2 use to actually take place in the main auditorium, cinema and Granada Rooms. However, if there was a real prospect of the building only being used for D1 use, this would amount to substantial harm. The change of use to the building in both appeal schemes comprises less than substantial harm because they involve changing the use of the building and placing the main auditorium in predominantly D1 use. The benefits of the use need to be weighed against that harm including securing the optimum viable use of the building. The optimum viable use does not necessarily mean the most profitable use. Viability also refers to the viability of future conservation of the asset. The WFCT scheme is therefore relevant for assessing which scheme is the optimum viable use to which the building should be put.
- 7.129 Mr Rule has set out some criticisms of the heritage aspect of the WFCT scheme. The WFCT has consulted with English Heritage and the overall view of the case officer is that the proposed alterations would cause less than substantial harm to the significance of the building. English Heritage will need to see more detail before coming to a final view but there is nothing in the letter which states that in principle, the WFCT's proposed use is unacceptable in heritage terms. The detail will need to be worked out in consultation with English Heritage as the plans are worked up to the level required to submit a planning application. Mr Rule's criticisms are therefore premature. Any harm to the fabric of the building by the WFCT's scheme will have to be weighed against the benefit of keeping the whole building in entertainment use.
- 7.130 On the comparison exercise involved between competing viable uses, in *R (on the application of Gibson) v Waverly Borough Council* [2012] EWHC 1472, Cranston J held that: *The guidance suggests in paragraph 88 that viability is measured not just in terms of viability for the owner but for the conservation of the asset. Crucially, it explains that if there are alternatives which would secure a viable use, the optimum viable use is that which has the least harmful impact on the significance of the asset, a use which may not be the most profitable. In my view the result is that if one of the alternatives would secure the optimum viable use, and another only a viable use, not only does that have to be taken into account in determining an application but it provides a compelling basis for refusing permission for the non-optimum viable proposal.*

³²⁸ A view supported by Mr Burgess LBWF 16 Paras 4.12 & 7.10.

³²⁹ ID 39

- 7.131 It is submitted that the WFCT's proposals cause least harm to the significance of the building, when taken in the round. Although its architectural scheme does not restore the building to its original layout, it seeks to retain the whole building in its original use and/or a use consistent with its original use. There is no reason why comedy should be viewed as inconsistent with the diverting and uplifting ambience of the space. Like any form of light entertainment such as cinema, comedy transports the viewer away from the everyday.
- 7.132 Further, the appellant's proposal to re-instate the main auditorium may make it difficult for the whole building to be restored to D2 use if the planning permission is implemented. This is an important factor as it weighs on the need to ensure the long term conservation of the building in a manner consistent with its significance. Such conservation includes leaving open the possibility that the building could be put to D2 use again in the future. This proposition is supported by the reasoning of Cranston J in the *Waverly* case. In that case the dispute turned on whether Arthur Conan Doyle's former house could be converted into three separate dwelling houses in light of a proposal to retain it as a single house. Cranston J said that the three house proposal was: *.... not only not the optimum viable use but also a use which would have prevented that use through rendering impossible the implementation of any planning permission for Undershaw's restoration to a single dwelling-house* [para 37].
- 7.133 The application of the test in the Framework to this case is as follows: it was agreed by Mr Hutchinson that the optimum use was retention of the whole building in its original use. The WFCT case is that the original use was as an entertainment venue, predominantly cinema, but also incorporating live music and at other times, a Pantomime. The WFCT scheme is therefore the optimum use. It is the optimum viable use for the reasons given above but also because the appellant's plans would make it more difficult in the future to use the main auditorium for entertainment because it is too large. Further, there is uncertainty about the long term sustainability of the Appellant's D2 proposals, which have been outlined above.
- 7.134 Neither scheme at issue can, when weighed against the WFCT's proposal, can be said to be the optimum viable use. The fact that the WFCT's scheme is the optimum viable use is a material factor weighing against the grant of planning permission. It is a significant factor which goes into the balance of weighing the public benefits of the appellant's proposals against the harm.

Conclusion and the Balancing Exercise

- 7.135 The WFCT scheme has a reasonable prospect of success. It is submitted that the potential the WFCT has shown for re-use of the whole building as an entertainment venue should be given significant weight and pulls against a grant of planning permission, regardless of whether the appellant's proposals comply with the development plan.
- 7.136 The WFCT proposals should be given particular weight because they represent the optimum viable use of the building and a greater public benefit in terms of regeneration than that proposed by the appellant. Again, these factors weigh in favour of dismissing the appeals.
- 7.137 In conclusion, WFCT invites the Secretary of State to dismiss the appeals.

8. The Case for the Appellant

Background and History

- 8.1 The UCKG is an international Pentecostal Church that has been registered as a Charity in the United Kingdom since 1995. Its mode of operation is very different from traditional churches. The buildings occupied by the UCKG are known as HelpCentres. The emphasis is on helping individuals with their needs and/or problems. This work is done in the context of the Christian Faith. Many needs are felt in the community: there may, for example, be a need to learn to speak English or for encouragement to get over problems in the past.
- 8.2 For these reasons the structure of the work of the UCKG is based upon the coming together, on Sundays, of the whole church family in a main service. During the week, the emphasis is on smaller groups and worship services, connected with practical themes: Monday – Financial Success; Tuesday – Health and Wellbeing; Wednesday – Personal Growth; Thursday – Marriage and Family; Friday – Deliverance from Issues Holding Individuals Back; Saturday – Addiction and Cleansing from Problems; and Sunday – Empowerment. The likely pattern of numbers attending these services has been set out³³⁰.
- 8.3 These figures indicate the likely level of use and activity at the Walthamstow HelpCentre, two or three years after it has been opened. The likely levels of use have been calculated on the basis of entries in the database for the various postcode areas that will be served by a particular HelpCentre. Mr Hill was questioned on this but there was little doubt about the validity of his approach. The figures showed that in the case of Stratford, there were 399 entries on the database before opening. It opened in 2004 and was at capacity within three months - that capacity being 300. As a consequence, UCKG had to find somewhere else, in Plaistow.
- 8.4 During the working week, apart from the variety of services (approximately 4 per day), the various specialist help activities will also take place³³¹. The Training Centre is something of a separate operation because it produces training for IT, and other specific educational needs, but in addition there are various groups including the Victory Youth Group, the Lone Parents Group, the Rescue of Dignity Group³³², the Patient Care Group³³³, the Removing of Hurt and Abuse Group³³⁴, the Seniors' Group, and the English Teachers' Group³³⁵. The way in these various groups work has been explained.
- 8.5 It is important to appreciate the care and dedication that is put into all this activity by the helpers and the leaders. Mr Hill explained that in terms of voluntary time there would be about 560 to 570 hours, per week, of volunteer help given. These figures were used by the various experts in calculating economic value³³⁶.

³³⁰ UCKG 5 Appendix 3

³³¹ UCKG 11

³³² Supporting those in prison, and their families

³³³ Which offers help to people in hospital who have no family connections or support

³³⁴ Which seeks to rehabilitate and reach out to women who have been the victim of domestic abuse

³³⁵ Which provides a more relaxed approach to language than a formal training centre course

³³⁶ UCKG 11 and used in UCKG 20 Paras 3.4 – 3.10

- 8.6 Interested persons have testified to the help they have been given by the UCKG. On the basis of the substantial number of entries on the database dating from earlier years, when the building was purchased, to more recent times, the Church wishes to open a HelpCentre in Walthamstow to complement the service to the community already provided in 24 other locations nationwide. As at 2012 there were 4,375 entries on the database. While there would be people attending the new HelpCentre who are not on the list, some who are, and some who are on the list who will show no interest, or move away, the number of entries on the database is an indication of the potential needs of people within and immediately outside the Borough.
- 8.7 This has been criticised by the Council as an unreliable methodology but it is the only evidence of need before the Inquiry. Moreover, the way UCKG works is a compelling approach to the resolution of need through provision. It is certainly much better than dealing with large aggregates, removed from any reference to an individual church location or centre. There is nothing amiss in Mr Hill's methodology.

UCKG and the Planning History

- 8.8 Following the dismissed appeal in 2003³³⁷, the Church has been in consultations with Members and Officers to try to find a scheme that met the needs of both parties. The first appeal proposals, involving the provision of community space and other activities within the Granada Rooms, arose from direct contact with Members and Officers. Emphasis is placed upon the advice given to the church³³⁸ that a mixed use scheme 'should be supported.' No challenge has been made to that evidence - clearly those meetings happened. In good faith the Church made the application, the subject of Appeal B and the associated application for listed building consent, Appeal A.
- 8.9 When those applications were refused the Church took further advice and again, efforts were made to placate the Council³³⁹. The Church was told they had not provided quite enough entertainment use and if they provided a bit more, in accordance with the contents of the Locum Report³⁴⁰, this would be considered acceptable. Of course, this was but the view of Officers, but it is hard to believe that they were not acting with full knowledge of the views of the Council on such a very sensitive case.
- 8.10 At the pre-inquiry meeting held in April 2012, there was a general feeling that there could be a solution to the problem. It came as a great disappointment when the Officer's report recommended refusal of Scheme 2, the subject of Appeal C, despite all these efforts. The recommendation seemed to be based upon opinions from Mr Geddes and those of WFCT. Mr Geddes explains that he had various meetings and discussions³⁴¹ in 2012 with WFCT. UCKG had no idea that this background work was going on between the third party and the Council despite the fact that UCKG was in detailed discussion with the Council over their revised proposals.

³³⁷ CD 44

³³⁸ UCKG 8 Appendix V

³³⁹ Ms Andrews met with representatives of the Council in February 2012

³⁴⁰ CD 34

³⁴¹ LBWF 10 Pages 40 and 49

- 8.11 It was not until WFCT loomed large in the report to Committee that the Church had any idea of what was going on. Up to that point, the Church had been negotiating in good faith with Councillors on Scheme 1, and Officers in connection with Scheme 2, to overcome problems, and attempt to resolve the Council's issues with the applications in a mutually satisfactory way.

Planning Policy

- 8.12 Put simply, it is the contention of UCKG that both schemes are entirely consistent with policy and permission and consent should, therefore, be granted. In line with the approach of the Framework, UCKG does not have to demonstrate need. The Council has fundamentally misunderstood the Development Plan because it has too limited a view on regeneration.
- 8.13 There are two introductory points to make before dealing with the relevant policies in detail. First, the Planning Officer's report to Committee³⁴² states that *'in concluding on the policy issues, it is considered that on balance, the proposals, in broad terms, accord with the Development Plan. There are no adopted policies which expressly govern the future use of the EMD Cinema. In this case as none of the statutory plan policies are breached then the evidence of harm that has been identified in the report, to the vitality and viability and regeneration of Walthamstow Town Centre, is capable of being a material consideration'*. It is not surprising that the Council Officers came to this view because both proposals are entirely consistent with the Development Plan. As the Council confirmed³⁴³, the relevant policies have not changed between September 2012 and the present.
- 8.14 LP Policy 2.14 sets out areas for regeneration. There is particular reference to the need for *'integrated spatial policies to bring together regeneration, development and transport proposals with improvements in learning and skills, health, safety, access, employment, environment and housing, in locally based plans'*. The key point is the importance and the contribution the schemes will make towards social and economic development.
- 8.15 LP Policy 2.15 deals with town centres. Attention is drawn to Strategic Policy A (b) *'the structure for sustaining and improving a competitive choice of goods and services conveniently accessible to all Londoners, particularly by public transport, cycling and walking'*. Clearly both schemes provide services by way of the HelpCentre, and the facilities in the Granada Rooms, or 6 screen cinema. This policy aims to maintain vitality and viability but this is by a mixed use approach, with reference to consumer and public services.
- 8.16 LP Policy 3.1 sets out to secure equal life chances for all. Attention is drawn to the strategic objective to address the needs of groups and communities and expanding opportunities. Also very important is the point that *'development proposals should protect and enhance facilities and services that meet the needs of particular groups and communities'*. This policy is not mentioned in the Council's Committee Report³⁴⁴.

³⁴² CD 46 para 12.80

³⁴³ Mr Price in x-e

³⁴⁴ CD 46

- 8.17 In evidence, the Council³⁴⁵ seemed to give less weight than appropriate to social infrastructure policies. For example there is no reference to LP Policy 3.16 in the Committee report. This is an important policy that makes clear London's requirement for additional and enhanced social infrastructure provision to meet the needs of a growing and diverse population. Moreover, it supports proposals that provide high quality social infrastructure, in the light of local and strategic needs assessments.
- 8.18 LP Policy 4.5 deals with London's visitor infrastructure. Clearly the schemes will add to the interest of Walthamstow Town Centre by bringing the building back into use. LP Policy 4.6 supports the enhancement of arts, culture, sport and entertainment provision and the proposals also conform with LP Policy 4.7, that promotes appropriately scaled leisure developments in town centres.
- 8.19 There is also compliance with LP Policy 7.1 in that the proposals would bring a redundant building back into use thereby contributing towards London's neighbourhoods and communities. It is particularly relevant that the policy requires community diversity and cohesion to be maximised. Similarly, LP Policy 7.2 proposes an inclusive environment and refers to the need to promote inclusive designs within schemes. LP Policies 7.4, 7.6 and 7.8 promote decisions that relate well to local character. Crucially, LP Policy 7.9 encourages planning decisions that bring forward and maintain viable uses in heritage assets including buildings at risk and act as a catalyst for regeneration. Both schemes are in compliance with all these policies.
- 8.20 Both schemes also conform with the relevant policies of the CS. CS Policy CS1 talks about location and management for growth. Interestingly, the policy balances physical, social and economic development and environmental protection. So throughout there is this acknowledgement of the need for social objectives to work alongside purely economic objectives. In this connection, the Vision Statement at section 3 of the CS³⁴⁶, emphasises the need to tackle the root causes of social and economic exclusion. CS Policy CS3 is vital in that it encourages multi-purpose facilities that provide a range of services and the provision of social and necessary infrastructure. There is great emphasis on social infrastructure³⁴⁷. CS Policy CS7 seeks the provision of facilities in the right place and available to users by through public transport. It is important for large churches to be conveniently located.
- 8.21 The schemes will meet the objectives of CS Policy CS11 in that it will open up the cinema to visitors and if there are people from outside Walthamstow coming to the services, they will no doubt enjoy it accordingly. There has been some criticism of the number of visitors the main services will attract from outside local areas, but surely this would be an advantage. On the one hand the Council cite the benefits of WFCT providing a pan-London attraction, but UCKG are criticised for attracting an audience in a similar way. Mr Hill set out that of visitors to the HelpCentre, 10% or 15% will come from outside the locality, but 80% to 90% from within the locality³⁴⁸.

³⁴⁵ Price in x-e

³⁴⁶ Paragraph 3.12 of the CS CD 4

³⁴⁷ Emphasised in UCKG 30 and 31 (evidence that was largely unchallenged)

³⁴⁸ UCKG 11 and Mr Hill in x-e

- 8.22 CS Policies CS9 and CS10 are concerned to maximise employment opportunities with additional education and training, and promote better education. The work of the HelpCentre will absolutely accord with these policy objectives. Similarly, there would be accord with CS Policy CS16 that seeks to ensure the Borough is a more inclusive place, providing positive activities for young people.
- 8.23 CS Policy CS12 seeks to conserve and enhance heritage assets whilst maximising their contribution to future economic growth of community wellbeing. Policy CS14 relates to the role of Walthamstow town centre. UCKG takes the view that the asset will reach its maximum potential with the mixed use schemes and this relates to the degree of certainty that the UCKG will implement one or other of the schemes, when compared with the uncertainty attached to the alternative.
- 8.24 In terms of other plans and policies, the Area Action Plan adds some weight but it has not progressed as far as examination and therefore is of low priority when compared with the Development Plan.
- 8.25 The Planning for Equality and Diversity in London SPG provides a robust approach to the needs of faith and other groups. Paragraph B(4) recognises that the definition of 'places of worship in the planning system is based on an old fashioned Church of England model of provision, and often does not adequately reflect the wider needs of faith groups and the very different patterns of worship that are beginning to crop up. There is unchallenged evidence³⁴⁹ that great changes are underway in London and the planning system must respond to that as seems to be the case here. Paragraph B(3) acknowledges that faith groups are likely to require specialised service provision, including facilities for cultural practices, community activities and provision for places of worship, - that are easily accessed by the communities which require them. The appellants want to work in the local community of Walthamstow and not require them to have to travel distances to other HelpCentres, even if they could. The needs of those looking for help the most must be met in the locality, within readily accessible and recognisable premises.
- 8.26 The target equality groups are highlighted in section 4.1 and include Faith Groups and Black, Asian and Ethnic Minority People. Inter faith co-operation and community cohesion is addressed on pages 88 and 89, with objectives that include helping to defuse inter-community tensions and build community cohesion. This is precisely what the appellants are seeking to do in their work in this local community. It is clear that the planning system is not responding to the needs of faith groups³⁵⁰. Paragraph 2.3.8 of Core Document 9 states 'our survey of the London Planning Authorities indicates the very limited awareness of the Supplementary Planning Guidance on Diversity and Planning and that it is not followed rigorously'. 'London Boroughs appear unclear how to identify the needs of Faith Groups, either for forward planning or development control purposes'. In a policy context this is a serious gap that has guided, or misguided, the Council.

³⁴⁹ UCKG 32

³⁵⁰ CD 9 & CD 10

- 8.27 To conclude on policy, the relevant Council witness³⁵¹ accepted that as at September 2012, Scheme 2 was policy compliant – he has changed his mind since. As for Scheme 1, the two key policies³⁵² have dropped away. It is the submission of the appellants that both Scheme 1 and Scheme 2 comply with the Development Plan and therefore paragraph 14 of the Framework applies. Planning permission should be granted for both schemes, without delay.
- 8.28 The importance of the Framework should not be underestimated. The introduction emphasises the presumption in favour of sustainable development and this is the golden thread that runs right through the document. Obviously it cannot affect the statutory framework in which decisions are made, but it does bear on how policy compliance should be approached. If the schemes are policy compliant then as a result of the Framework, the presumption in favour of development therein applies more strongly.

Other Material Considerations

- 8.29 In essence, the only argument raised against the proposals is that another scheme might bring a greater economic benefit to the town centre. This argument is misconceived for a number of reasons. First of all, there is no other planning application before the local planning authority or the Secretary of State. Second, such other scheme as there might be is too uncertain and the appellants have shown that there are serious doubts about the economic viability of the proposals presented by WFCT. There is no reasonable prospect of them materialising.
- 8.30 Most importantly, social aspects, as well as economics, must be taken into account. Community well-being is better served by mixed-use schemes that can proceed with some certainty. When balancing different proposals that are all policy compliant, the major advantages of training, care and personal development, so eloquently witnessed by the interested parties, are significant material considerations.
- 8.31 In any event, this benefit is economic too. There is a thread in the work of the Church that brings together social and economic aspects. There is evidence of young entrepreneurs who have been lifted by the Church from gang culture and the depths of despair to a full life. This is real empowerment, and this evidence, given without challenge, and with dignity and emphasis, is telling.
- 8.32 In terms of vitality and viability, the Council's case is inextricably linked with that of WFCT. Their position is undermined by a series of inconsistencies and uncertainties. The first area of uncertainty relates to the Arcade scheme. There is no evidence to indicate that it will actually happen. Indeed, Mrs Neal was very vague about it³⁵³. There is a draft lease with Empire Cinemas³⁵⁴ but no evidence from them, no copy agreements between the Council and the developer, and there are so many redactions in the document put in that it is meaningless. The cinema layout in the scheme is experimental³⁵⁵.

³⁵¹ Price I x-e

³⁵² UDP Policies SP15 and TRL17 CD 3

³⁵³ Neal in x-e

³⁵⁴ ID 30

³⁵⁵ Sullivan in-c ID 20

- 8.33 With the failure over 10 or 12 years to get anything done on the adjoining (Arcade) site, the UCKG position is, as a responsible church, and having listened to the community, that it wants to provide cinema in the building. There are those who are sceptical, those who have something against the church for whatever reason, but they are a small proportion of the overall community of 250,000 to 260,000 in the Borough. Despite what has been said, it cannot be plausible that the majority of these people are going to be inhibited from coming to watch films in the building because of the attitude of a small number of people, who perhaps have their own agenda.
- 8.34 If the cinema is operated by Mr Ben Freedman, there are going to be customers who make use of it. In answer to some of the concerns about the community not using the cinema, it is important to UCKG, it is good business because the church is going to get rent. There is also a theological point; the Church is within and part of the community, so they welcome other people coming through the door.
- 8.35 The second point relates to the uncertainty around any CPO. Reference is made to the Capita Symonds report³⁵⁶. The study concluded that the second option of compulsory purchase of the Granada was a very high cost, high risk and low financial return. It records that specialist Counsel had been approached about the prospects of CPO. In broad terms the advice was that if the Arcade went ahead with cinema, then it would be very difficult to justify the CPO on the former Granada Cinema.
- 8.36 It will be particularly difficult to justify a CPO when the current owners want to do something so positive with the building. One can do no better than quote the conclusion on page 7 of the document *'to summarise the above, the availability of an alternative site for cinema development (possibility multiplex development) with operator support and 'at least' equal urban regeneration case in the town centre would seriously undermine the justification for a CPO of the EMD building as well as impacting on the commercial viability of cinema use of the EMD which, in turn, would also further diminish the prospects of a CPO being confirmed by the Secretary of State'*.
- 8.37 Moreover, the Capita Symonds' costing for the acquisition was between £1M and £1.5 million. Legal, and other, costs would have to be added and these are shown at page 3 of the summary at £250,000. From reading the report, it is evident there would be other costs of acquiring the leases of the businesses located on the site, so a total cost of perhaps £1.75M becomes more likely. In truth, this figure is conservative.
- 8.38 WFCT have identified funding of £2M³⁵⁷ but this is not a binding contract and, frankly, worthless. Importantly, following the decision in the Lords on *Transport for London v Spierose Ltd*, the procedure for a Section 17 Certificate becomes important. The House of Lords maintain that where a landowner wishes to have the benefit of assumed planning permission then the Certificate of Appropriate Alternative Development must form the basis of the case presented to the Court (previously known as the Lands Tribunal)³⁵⁸.

³⁵⁶ CD 38

³⁵⁷ ID 11

³⁵⁸ As set out in ID 19

- 8.39 The Lands Tribunal never liked dealing with major planning assumptions; it is a valuation court not a planning inquiry so this position is entirely understandable. But what this means is that the Council and funder will not know what value to attribute to the building. It will not simply be a D2 cinema value. A Certificate of Appropriate Alternative Development might be granted for a music venue, or a theatre, or something else. This is a key failure in the analysis of the Council and WFCT. Who would fund an uncertain amount and which Council will back an uncertain acquisition not knowing the price tag to be attached to their action? No competent funder is going to do this. The Council refers to an 'in principle' CPO³⁵⁹ – it is meaningless. Would a CPO ever be confirmed?
- 8.40 There are also uncertainties about the building – Mr Ritchie gave evidence, but he has been in the building once³⁶⁰. As far as can be gathered from his evidence, he was anticipating building cost and acquisition of about £2M, but if the CPO is £1.75M - £2M, and uncertain at that, then add on top of it the costs of repairs and maintenance, and even for the WFCT Phase 1 scheme, costs get out of control. WFCT have given a figure of £2.5M for their first phase scheme but there is no careful analysis of costs in relation to either of their schemes. It was fairly accepted that VAT and professional fees would have to be added. Even if some VAT could be reclaimed, it is a factor to be considered, and professional fees are likely to range between 25% and 30% of the total contract value. Adding all that together, it appears that the WFCT Phase 1 scheme would cost around £3M. As Mr Brent stated³⁶¹, any funder will look at commercial loans very carefully. It is a shoestring scheme that is unlikely to proceed. Sources of additional funds for future phases are also unknown. £3,500,000 is to be borrowed commercially and £3,500,000 from philanthropic sources³⁶². How will the money be paid back when Curzon is not in a lease situation, and no rent income is shown in the Business Plans?
- 8.41 Moreover, the view of EH is not clear. Whilst there is a letter from EH on the WFCT scheme³⁶³, it is equivocal. Any changes required may be found unacceptable.
- 8.42 Transferability of function from central London operations to Walthamstow is risky and unsupported in the extreme. It is a dream that is unlikely to happen because the foundations are not there. You have the evidence of Joss Jones, John Sullivan, Ben Freedman and the acceptance by Mr Godfrey that Soho Theatre thrives in a central London environment³⁶⁴ - it is not the cause of the buzz, it is part of it. To resist the UCKG proposals on the basis of this vague possibility is simply not realistic or sensible. To attempt to transfer the sub-economy of Soho to Walthamstow is a step far too far. That does not mean that UCKG is negative about improving Walthamstow town centre, but how much better to do it in stages with the certainty of the UCKG cinema, the certainty of the building being open, the certainty and the care for the people who want education and encouragement. The correct response is clear.

³⁵⁹ ID 7

³⁶⁰ WFCT 5 Para 5.1 confirms

³⁶¹ Mr Brent e-in-c

³⁶² WFCT 10

³⁶³ WFCT 4 Appendix A.9

³⁶⁴ Mr Godfrey x-e

- 8.43 The predication of the WFCT scheme as an extension of the Soho Theatre is unrealistic. There is no evidence of long term commitment from the Trustees to a major subsidy arrangement. What about the Arts Council? Will they be willing to subsidise WFCT, particularly if representations are made to them against it? Mr Freedman³⁶⁵ stressed the importance of on-site management to deal with such matter as ticketing, bar and property administration. Mr Geddes thought Mr Freedman's costs for that are realistic. It follows that Mr Devlin and Mr Godrey's costs are, therefore, unrealistic.
- 8.44 There are no Heads of Terms with the Curzon Cinema operation. Mr Kenny was not able to produce any precise arrangements. The suggestion that he would be able to show films similar to the Wimbledon operation is not supported by the analysis of the catchment areas of each.
- 8.45 The Business Plans presented are full of uncertainties. We have the Geddes' plan³⁶⁶ that we are told this has been discussed with WFCT. Mr Geddes confirmed that he considered his cost base was reasonable³⁶⁷, and it may well be so. However, application of Mr Geddes' cost base to the income levels predicted by Mr Devlin³⁶⁸ shows no relation in terms of costs whether you compare the full, or the interim, option.
- 8.46 Mr Devlin's interim option is shown at his paragraph 6.2³⁶⁹. The next problem is the income level. Mr Geddes shows an event or income producing elements in his plan on every day of the year but we end up with Mr Devlin's 60 comedy events at his paragraph 6.2 with stalls adding another 30 and cinema events 20. A total of 110.
- 8.47 Mr Brent produced a balanced and realistic approach that was based on a realistic level of comedy events, realistic costs and there was very little adverse criticism of his business model. Nothing was shown to be wrong despite intense questions. He very sensibly did not reduce the seating in the remodelled cinema but on balance the evidence indicates the wrong size of seats has been assumed. This will further totally change the business plans and as Mr Brent shows, they will go further into the red.
- 8.48 A series of entertainment venues have been referred to but most have grant funding of one sort or another and subsidy to strengthen the revenue side. There is to be no ongoing grant funding from the Council for this project.
- 8.49 Putting all those arguments together the level of uncertainty associated with the dream world of the WFCT and Mr Geddes compares unfavourably with the solid reasoned approach of the appellants.
- 8.50 It has been suggested that Mr Brent had reduces the income stream of the WFCT scheme on account of the issue around seat sizes but he did not. It is the position of UCKG that larger seats would be more appropriate but that is as far as the evidence has been taken.

³⁶⁵ Mr Freedman e-in-c and x-e

³⁶⁶ LBWF 11 Appendix 2

³⁶⁷ Geddes x-e

³⁶⁸ WFCT 8 GD1

³⁶⁹ WFCT 7

- 8.51 There are further points to be made. The Council has referred to the WFCT Phase 1 scheme. That would generate 60,000 admissions³⁷⁰ which must be compared to 200,000 admissions for the six screen cinema in the UCKG Scheme 2 plus 180,000 churchgoers, which gives a total of 380,000. On top of that would be those attending training courses.
- 8.52 In terms of the UCKG Scheme 1, whether you allow for 70,000 admissions of 95,000 the point remains. All are agreed that a specialist cinema along the lines of that proposed in the Granada Rooms, is feasible, whichever of the experts who have given evidence runs it. That figure needs to be added to the 180,000 churchgoers and compare again with the 60,000 expected visitors to the WFCT Phase 1 scheme.
- 8.53 It is accepted that you must factor into the analysis expenditure. The UCKG survey has been criticised but it is the best evidence before the Inquiry. It was carried out by an experienced organisation³⁷¹. The idea that Mr Hill did other than inform people that there were people undertaking a survey at the HelpCentres is wrong. The result of the survey, is that there is a spend per head of £15. Even if that is reduced a little, the contribution to vitality and viability of the town centre would far outstrip that of the, uncertain at best, WFCT Phase 1 scheme.
- 8.54 By contrast, UCKG has shown that there is no question of the ability of the UCKG to do the work. The asset can be restored, there were one or two questions of Mr Hill relating to income from fees at the Training Centre but there was no query of the ability of the Church to undertake the work and the evidence shows they have achieved it at Finsbury Park and at Kilburn. They are starting a project at Hackney. There is commitment³⁷² and the UCKG regard the mingling of those using the cinema or the Granada Rooms with those using the HelpCentre as important. The Lease between UCKG and Bubble Chamber shows firm commitment. Mr Freedman is an experienced operator³⁷³ and from his testimony it is not just running cinemas but shows and other events, such as sing-a-longs, together with a willingness to try educational programmes alongside the Church.
- 8.55 UCKG are the people who will restore the asset, produce the cinema for Walthamstow and end the uncertainty – all at no cost to the public purse/taxpayer – instead of another 12 years of creating a concrete wasteland of state failure. That is what the Arcade is at the moment, a failure, nothing is happening. The benefits of a mixed use in the building rather than a non-viable D2 use are manifest. From a practical point of view everybody has accepted that a pure cinema use is not viable and this is shown by the Woolwich case³⁷⁴. Mr Geddes advises at para 3.7 'occupation by the Church is the most likely means by which the building will be used for entertainment'. He goes on to say that churches are the only organisations that now need space of the sort of size offered by most super cinemas.

³⁷⁰ On the basis of ID 15

³⁷¹ NEMS UCKG 19 Appendix 4

³⁷² Mr Hill e-in-c and x-e

³⁷³ Accepted by Mr Geddes in x-e

³⁷⁴ CD 37

8.56 They are the only organisations that can afford to buy and restore the buildings on a 'commercial' basis'. Therefore the notion advanced by WFCT that, without revenue funding, their income stream will cover costs and maintain the building is pure fantasy. We have at least three conflicting Business Plans with wildly different figures. There can be no confidence in this possible option despite the fact that WFCT have been heavily subsidised and have been working on this project for many years. The situation has totally changed from the previous appeal³⁷⁵.

The Arcade

8.57 There are questions about the Arcade site and it would have been helpful if the Council had had a clear position on it. There is the possibility of it not progressing and, as has been the case in the past, developers have failed to progress their initial interest. Mr Sullivan says that the cinema layout proposed is experimental and unlikely to succeed. His evidence is that the market for cinema is unlikely to be as strong as people think, and the potential catchment area much smaller, because of competing attractions. He is probably the leading expert on cinema markets in the country. His method is far superior to a simple drive-time analysis because drive distances in London are notoriously unreliable.

8.58 On the basis of that evidence the heavily redacted lease, the lack of any evidence that could be cross examined, I think on balance it is right to assume the Arcade is not going to happen, with a cinema, in the near future. Therefore, the best way to get cinema into Walthamstow, and meet the latent demand, is Scheme 2, with regular and routine use of the main auditorium as set out in the Section 106 Agreements³⁷⁶. On the contrary, if the Arcade scheme does proceed, then Mr Freedman is able to break his lease and move to the Scheme 1 option. In order that Walthamstow Town Centre gets the best package of a mixed use building, UCKG needs both permissions so that we can meet the real situation as it emerges. There has been criticism of the market solution but it needs to be given a chance because the state solution has resulted in failure.

Heritage

8.59 Either Scheme 1 or Scheme 2 will restore the building though Scheme 1 involves less of an intervention. Concern had been expressed relating to the Granada Room scheme that access to the main auditorium was not certain for the 48 regular evenings in the year but that has now been covered in the Section 106 Agreement.

8.60 As Dr Burgess agreed the heritage value is very much related to the sense of occasion and grandeur. We would submit that not only can that be enjoyed by those attending events in the auditorium, whether they be cinema or other events, but also by the congregation of the Church. Indeed there is a cross reference here to the sense of wonder and awe in a fine church building. Perhaps the two experiences have something in common as they both can make use of the heritage asset?

³⁷⁵ CD 44

³⁷⁶ ID 39

8.61 The building is at risk and the early deliverability of the appellants' proposals is an important material consideration to ensure that the building, which has been 'a target' and which, as a result, gives rise to serious security problems for the appellants, is now properly repaired and restored to its former glory, before further disaster strikes. The ongoing delays and uncertainties arising from the planning process are extremely unhelpful here.

Social Infrastructure, Deprivation and Equality Issues

- 8.62 The case on behalf of the appellants has been put very much in the context of planning policy because the LP and CS policies approach regeneration in the round, not just concentrating on economics.
- 8.63 There is a high level of deprivation in the area³⁷⁷. The enhanced social capital that will flow from the proposals cannot be separated from the regenerative effect of the proposals. The social side is not a separate material consideration. It is part of the planning process to plan, through policy, for adequate places to worship, and serve the community.
- 8.64 But the Council have failed to take account of the social infrastructure implications and the encouragement and requirements as set out in the LP and elsewhere. They have no plan to accommodate the needs of an organisation like the UCKG.
- 8.65 What is there to set against all this? The logical answer is very little. The Council raised two issues³⁷⁸. First was uncertainty about the use of the auditorium for cinema and other public events, now dealt with in the Agreements under Section 106³⁷⁹. Second, was the reference to the 'recipe for tension' and 'potential incompatibility'. This came direct from the Colliers' report³⁸⁰.
- 8.66 That 'tension' has been dealt with in Ms Andrews' evidence³⁸¹. Mr Geddes reiterated his concerns in evidence, stating that the two uses, namely cinema and Church, run at the same time, within a building was 'a recipe for absolute disaster'. Ms Andrews' has produced detailed evidence to demonstrate quite the opposite, where buildings are proactively used simultaneously for both uses without problems³⁸².
- 8.67 Dr Baker's evidence³⁸³ also addresses the tension issue. Ms Chadwick was asked one question and that was whether the Councillors had disassociated themselves from the report? She did not indicate any such disassociation.
- 8.68 That then means that the basis upon which the decision was taken was erroneous and whilst UCKG could have sought a judicial review, they did not. The decision on Scheme 2 stands but with the weakness associated with such an illogical and indeed illegal interpretation of the Public Sector Equality Duty.

³⁷⁷ UCKG 23 Appendix 1

³⁷⁸ CD 46

³⁷⁹ ID 39

³⁸⁰ CD 31

³⁸¹ UCKG 22

³⁸² UCKG 22 and UCKG 23

³⁸³ UCKG 29

- 8.69 Dr Baker refers to the Planning Officer's report in Section 15 reliance upon the previous Colliers report³⁸⁴. Paragraph 27 of that report stated 'many people – probably a substantial majority – do not feel comfortable going into buildings that are evangelical churches, even if they are of Christian background. I do not have any evidence on the subject but I think it is probable that people are, on average likely to feel less comfortable about going into a building that is an evangelical church than a building run by a more traditional church such as the Methodist Central Hall'. The question for Dr Baker was whether Section 149 of the relevant Act authorised a decision based on unsubstantiated assumptions.
- 8.70 In Dr Baker's view, the officer based his consideration on stereotypes of what he assumed certain groups might think or do. Dr Baker argues that this amounts to a failure to comply with the duty. The assumption was not evidence based. It was one of the two factors which resulted in Mr Price arguing in his report that Scheme 2, that is a mixture of church and cinema, as predicated in the Locum report, was not acceptable. This is completely wrong and unacceptable.

Dr Creasy MP and other Third Parties

- 8.71 Dr Creasy's evidence was not reliable. The young man she referred to had not studied at the UCKG Training Centre. She based her experience of the work of the UCKG on one person without making any effort to find out what the UCKG really do in the community. The level of third party interest in opposing the proposals has been very low in terms of presence at the Inquiry.

Conclusions

- 8.72 Balancing all the arguments we have a situation where Mr Geddes produced one business plan for WFCT, Mr Devlin another. We have an interim Phase 1 plan for WFCT that is uncosted and we have 'pie in the sky' assumptions about moving Leicester Square's buzz to the end of the tube line in Walthamstow. It is a ridiculous proposition that lacks substance. Against that, there is firm evidence of two deliverable projects. Mr Hill gave evidence about the difficulties in finding an alternative site, and his, and his Church's, enthusiasm for the projects. There are also important considerations in terms of the designated heritage asset and the significant benefits that would arise from putting this building at risk back into good use, as soon as possible.
- 8.73 It is therefore suggested strongly, that the Secretary of State allows the appeals.

³⁸⁴ CD 31

9. Interested Persons

- 9.1 The schemes at issue elicited a significant response at both application and appeal stages. There are many letters of support for the appellant and many letters of objection. I do not propose to summarise all of them because the points made were largely repeated by those who spoke in favour of, and against, the proposals, at the Inquiry. What was said is summarised below; fuller speaking notes are attached as Inquiry Documents³⁸⁵.
- 9.2 **Dr Stella Creasy MP** voiced her objection to the proposals based around a concern for the heritage value of the building itself, and the economic prospects of the Borough. Having regard to the building, first of all, with the Framework³⁸⁶, and paragraphs 131 to 133 in particular, in mind, the (former) use of the building as an entertainment venue is a key part of the significance of the former Granada Cinema as a designated heritage asset. Moreover, it is imperative that the optimum viable use of the building is secured.
- 9.3 The proposals put forward by WFCT, which have overwhelming support from the people of Walthamstow, represent that optimum viable use. The credibility of what WFCT has put forward, and the opportunity for Walthamstow it represents as a major venue, and in terms of economic activity and jobs, especially for young people, means that there is a very strong case for rejecting both proposals promoted by the appellant. The appellant has had ample opportunity over a long period of time to make progress with the building but has failed to do so. What the appellant now proposes has limited public access and presents no clear benefit to Walthamstow in terms of regeneration, or jobs. Experience has shown that the value of the training offered by UCKG HelpCentres is questionable.
- 9.4 There are also concerns about the appellant's stewardship of the building but, in any event, significance, as a concept, goes beyond the fabric and maintenance. Use of the building, solely as an entertainment venue, is central to that significance. Loss of that facility, through the appellant's proposals, would cause substantial harm to the significance of the designated heritage asset; harm that would not be outweighed by the limited public benefit offered by the UCKG proposals.
- 9.5 **David Hecker**, a resident of E15, and retired broadcasting engineer, echoed many of the written objections to the proposals in relation to the similarity of the proposals to those previously rejected by the SoS, the loss of the Borough's only significant entertainment venue with the resulting economic impact, the state of the building and the impact of the proposals upon it, particularly in terms of accessibility, and transport and parking issues. On top of that, concern was expressed about the appellant's failure to maintain the Public Entertainment Licence and continue public events, the failure by the appellant to keep promises made in relation to the ABC in Lewisham; the contrast between the failure to pay business rates and the failure to carry out anything other than essential repairs to the building; and the probity of a registered charity spending a significant amount of Church members' money on a building without planning permission for the intended use.

³⁸⁵ ID23, ID24 and ID25

³⁸⁶ CD 1

- 9.6 Doubts also exist about whether, unlike an entertainment-seeking audience, a worshipping congregation will spend money in the area around the Church and the potential for the Church to influence what might be shown as part of the entertainment offer. Moreover, at the Inquiry that considered the proposals for the ABC in Lewisham, a communal entrance, shared by church and cinema-goers, was deemed to be impractical. A 'common' entrance would produce conflict between those paying to see an entertainment programme and those attending the Church.
- 9.7 **Caramel Quin**, chair of the Cleveland Park Residents' Association, which covers Cleveland Park Avenue, Cleveland Park Crescent, and Vintry Mews E17, expressed serious concerns about UCKG's custodianship of the building. Reference was made to the illegal rave that took place just after the Church took ownership in 2003, resulting in damage to the building, and another attempted rave that was thwarted by local residents, the Council, the Police and the MP, in February 2011. In July 2012 there was a fire at the rear of the building and serious damage was only avoided through the quick-thinking of local residents. These are just the headlines; for nearly a decade, local residents have had to alert the Church to concerns about the state of the building and its security.
- 9.8 All this shows that UCKG are unfit stewards for the building. No doubt they would take better care of the building if they were permitted to use the building as they intend but local residents feel that the proposals put forward by WFCT offer a much better future for the building, dovetailing with the plans for the adjoining Arcade site.
- 9.9 **Heather Peace**, a local resident since 1986, voiced a strong desire, shared by the community, to see the cinema restored to its former, hugely-valued, tatty, but glorious, state. Some sympathy was expressed for the Church but the building is for everybody.
- 9.10 **Steve Green**, a resident of Walthamstow for over 30 years, former employee of the British Council, and independent commentator on the role of culture in society, spoke, with reference to his experience as an expert member of the Selection Panel for the European Capitals of Culture, of the importance placed on culture in development plans for cities across Europe. The dominant trend involves bringing back into active use former and under-used cultural buildings much in the manner proposed by WFCT. If the UCKG proposals at issue find favour, then the Borough will lose a key cultural asset and the potential for economic and other benefits it offers. The WFCT scheme would be far more effective scheme in community, cultural, and regenerative terms than those proposed by the Church.
- 9.11 **Richard Ashman** who represents the 5,801³⁸⁷ supporters of the Save Walthamstow Cinema facebook page set out the level of resistance in the local community to the UCKG proposals. In contrast there is strong support for the WFCT scheme which is more representative of the local demographic and far better placed to develop interest in the thriving local arts scene. Hopes for regeneration lie with reviving the former Granada Cinema for its original purpose – it is, quite simply, what the local community wants.

³⁸⁷ At the time he spoke

- 9.12 **Robbie Fox**, a local resident, pointed out that the re-establishment of a cinema in the building, rather than a Church, would boost the local economy and offer a service and outlet for all, especially young people.
- 9.13 **David White**, a local resident, set out that it is of the utmost importance, for the future development and social cohesion of the Borough that the former EMD Cinema is returned to its original use as a cinema and venue accessible to the whole community. Mr White also recounted his experience of visiting the UCKG HelpCentre in Finsbury Park and the surrounding area, explaining that the former was unwelcoming and the latter showed little evidence of improvement as a result of the presence of the Church.
- 9.14 **Jonathan Crossley**, a local resident and registered architect, raised a series of objections to the proposals. In essence, there is a concern that removal of the majority of the building from public access will mean the proposed changes of use of the building would not benefit by far the significant part of the local community or lead to the regeneration of the area. The mixed-use proposals are not sustainable in the longer term and there is little control over what would happen should the proposed arrangements to retain the mix of uses in the building fail. The proposals do not have the support of the local community.
- 9.15 **Katy Andrews**, a local resident, founder Member of the McGuffin Film Society and regular churchgoer, outlined that previous proposals for a change of use of the building were rejected by the then SoS in 2003 on the basis that the best use for a listed building is that for which it was originally designed. The building remains viable as a cinema and entertainment venue and the same logic should apply to the proposals now at issue.
- 9.16 Approval of the proposals would mean the loss to the public of not only the building but also the Christie Organ; one of the very few still in their original place. UCKG have shown scant concern for preserving the instrument and it is difficult to see that changing should the appeals be allowed. The appeals should be dismissed and the Council should use its compulsory purchase powers to ensure the building, and the organ, are saved. There is a desperate need for places of secular entertainment in the Borough
- 9.17 **Peter Curzon**, a local resident, spoke of his wish to speak up for residents without a significant disposable income who currently have to travel outside the Borough to pursue leisure interests. There are plenty of faith-based venues in the Borough; consideration should be given to those who would treasure a cinema within easy reach.
- 9.18 **Philip Herlihy**, a local resident, stressed the importance of the former Granada Cinema, and the benefits as a working cinema, it offered to Walthamstow, and its evening economy in particular. Approval of the proposals would make permanent the gap in the town centre that has existed since closure. What the appellant has offered in terms of cinema use in the building will not work because people will not step comfortably or freely into a religious establishment unless they are subscribers to the creed on offer. The local community needs to be protected from the UCKG plans for the building.
- 9.19 **Bill Hodgson** objected to the proposals on behalf of the McGuffin Film Society, a local, non-profit making, community film club.

- 9.20 The fundamental point at issue in considering the proposals is the fact that they would lead to the permanent loss of the only significant, dedicated entertainment venue in Waltham Forest, and a major part of the Borough's cultural heritage. The former Granada Cinema is uniquely placed to be revived as a landmark venue, driving regeneration through reinvigorating the night-time economy, transforming the Borough's leisure and cultural offer, providing jobs and boosting existing businesses.
- 9.21 The UCKG proposals would do none of those things because they would not enjoy the broad public appeal that a fully revived entertainment venue would. Worship and leisure are not compatible and there are many existing facilities for worship already present in the Borough.
- 9.22 **Lisa Hodgkinson**, a resident of Holloway, spoke in favour of the proposals. Having started attending the Church at Finsbury Park in 2006, badly affected by debt, anger and illness, the help and support offered by UCKG, through the lone-parent group in particular, has led to positive change.
- 9.23 An initial course in IT, and then Skills for Life, led to employment within the Church culminating, after six years, to completion of CIPD in Employment Law, the post of HR Manager, and deputy leadership of the Lone-Parent Group. The approach taken by UCKG is positive and should be encouraged – it is very different from other Churches.
- 9.24 **Daisy Ajorgbor**, has a diploma in healthcare and runs the UCKG programme for lone-parents. It provides a place for lone-parents to meet weekly and offers classes and activities and general help and support. The programme has had many successes and there is much demand for this type of facility in North and East London; demand that could be met if the proposals are approved.
- 9.25 **Agnes Musikavanhu** is a qualified nurse and midwife and has attended the UCKG facility in Finsbury Park since 1997, leading the Patient Care Group since July 2000. The Patient Care Group acts as a friend to those in hospital who have no visitors or outside support; that friendship can aid recovery. This work, born of fellowship and a wish to help and love, should be supported.
- 9.26 **Maria Jimmy**, spoke in support of the proposals. Having fallen ill with meningitis shortly after arriving in the UK from Zimbabwe, as an asylum seeker, the help and support received from the Patient Care Group led to fundamental change. After recovering, progress was made through UCKG training courses resulting in work at the UCKG Training Centre as a Careers Advisor. The UCKG has been a positive force for good; the proposals should be supported so that good can be spread to others in need.
- 9.27 **Charles Ajorgbor** convenes the UCKG Rescue of Dignity Group that provides valuable help and support to prison inmates and their families, working full-time as a qualified business advisor at the Finsbury Park HelpCentre. The proposals deserve support so that this type of work can take place in Walthamstow too.
- 9.28 **Apollonia Hango** is a trained Counsellor and runs the UCKG RAHAB programme which offers holistic support to women suffering from domestic abuse. The Help Centre proposals should be supported in view of the valuable work it does in the community, particularly for women.

- 9.29 **Ignatius Hango** runs the UCKG Seniors Groups in London and spoke of how the UCKG has been a life-changing influence. The Seniors Group offer help to older people who may be lonely or isolated, or merely need help with practical matters, like new technology. Older people are brought together for tea, there are Christmas parties, shopping trips and visits to the seaside. UCKG youth groups are encouraged to interact with older people to their mutual benefit. The proposals should be favourably considered so that this beneficial activity can be widened.
- 9.30 **Samantha Dixon** is a member of the Church and a full time employee at the HelpCentre in Finsbury Park, involved in training. The Training Centre offers a variety of courses and a positive learning environment. There is a steady demand for the services provided and feedback is positive. Training of this type can lead to beneficial change – there are young people who have turned away from criminality and taken a more positive route as a result of the support and training offered by UCKG. This valuable work can and should be supported through the proposals.
- 9.31 **Yolanda Romay** has direct experience of, and values, the help offered by UCKG, after suffering from domestic violence and now leads the less formal English classes provided at the Training Centre. These provide a valuable resource for those who struggle with the language thereby reducing their job prospects. These courses are an important stepping-stone and supporting the proposals would bring this service to Walthamstow.
- 9.32 **Deroy Debordes** spoke of the positive influence the Church has been on his life, through support and guidance, encouraging the pursuit of education and employment. This has turned someone unemployed, without prospects, into an entrepreneur, working to boost the country's economy. Support for the proposals could allow that positive influence to be imparted to others.
- 9.33 **Tristian Farquharson** set out to counter the views expressed by Dr Stella Creasey MP [9.4] about the value of the training offered by UCKG based on her experience of his time working as an intern for Walthamstow Labour Party. Mr Farquharson explained that he was not trained at a UCKG HelpCentre, as the MP knew, and also saw letters of support for the Church while working in her office.
- 9.34 **Ondre Johnson** told the Inquiry of how interaction with the UCKG Youth Group changed his life from one dominated by gang culture, drugs and crime to the extent that he has just graduated from Hertfordshire University and is recognised as one of the top one hundred young entrepreneurs in the UK.
- 9.35 He also spoke of the need to understand the importance of location. A gang member from Waltham Forest could not attend the HelpCentre in Finsbury Park because that is in an area controlled by another post-code gang. If the Church wants to work with young people in Waltham Forest it needs to be located there. Young people are not free to make a choice about where to attend and friends have been killed by gang violence. UCKG has the ability to lift young people out of the world of gangs, crime and under-achievement into another, more positive, world. That ability deserves support.

10. Conditions

- 10.1 A series of conditions agreed between the appellant and the Council were discussed at the Inquiry³⁸⁸. Final versions, with amendments reflecting the discussion were submitted after the Inquiry closed³⁸⁹. I have considered these in the light of advice in Circular 11/95³⁹⁰. I have made cosmetic changes throughout, but the main points in relation to the conditions are set out below.
- 10.2 Annex D lists those conditions that should be attached should the Secretary of State decide to allow the appeal against the refusal of listed building consent and either, or both, of the appeals against the refusal of planning permission.
- 10.3 In terms of Appeal A, the standard condition is required to govern commencement. A condition setting out the approved plans is not necessary. While this is required in relation to any grant of planning permission, there is no parallel requirement for grants of listed building consent. In accordance with Section 8(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, a condition is required to allow English Heritage to be notified of the start of works but this would need to take place via the Council.
- 10.4 It is imperative that the works are carried out properly through to completion. To that end, a condition is required to allow the Council sight of, and some jurisdiction over, the contract for the works. That suggested needs to be amended to remove the reference to 'partial demolition'. In a similar way, three conditions have been put forward to govern the way in which the works of alteration are carried out, in relation to the nature of tools to be used, measures to ensure structural stability and protection of interior features. These are clearly necessary, but can be combined into one.
- 10.5 The state of the services in the building and the extent of new servicing that will be required are not altogether clear. New services may have an impact on the fabric of the building and, as a consequence, it is reasonable to apply a condition to require details to be submitted to, and approved by, the local planning authority, before works commence. A condition has also been suggested to require details of any external features relating to the servicing of the building. It is not necessary to prohibit any features not shown on the drawings because any such feature would, if fixed to the building, require a separate grant of listed building consent. For those that are shown, it is reasonable to require full details for approval.
- 10.6 A series of conditions have been suggested to deal with the manner in which important aspects of the works proposed, internally and externally, are carried out. Control does need to be exerted to ensure that alterations and additions respect the special interest of the building but many of the conditions can be combined and simplified. A condition is necessary to deal with any historic features that are currently hidden and also to provide for a full survey and photographic record of the building before any works commence. Given the impact any removal might have on the internal fabric of the building, this also needs to cover the method by which asbestos is to be dealt with.

³⁸⁸ ID 31

³⁸⁹ ID 38

³⁹⁰ Circular 11/95: *The Use of Conditions in Planning Permissions*

- 10.7 In terms of Appeals B and C, there is a significant degree of crossover in the conditions that would be required if the Secretary of State decides to allow either, or both of, the appeals. There are however, differences too.
- 10.8 Obviously, conditions would be required to govern commencement and to set out the approved plans, to facilitate any subsequent application for a minor material amendment. It is reasonable to apply a condition to secure a Construction Method Statement in order that the living conditions of nearby residents are protected during implementation. This can be adapted to cover asbestos too. It is reasonable to apply a condition requiring details of external lighting and security cameras to be submitted for approval, but I would note that anything of this nature that is not shown on the drawings might well require a separate grant of listed building consent.
- 10.9 In the interests of local residents' living conditions, the hours of use of the main auditorium need to be controlled. Given that the main entrance to the building would be from Hoe Street, I do not consider that the relatively early starts required by UCKG would raise any difficulties in terms of noise and disturbance for local residents. In terms of living conditions of nearby householders, conditions are necessary to ensure some of the overlooking windows are glazed with obscure glass. A noise condition is also necessary as is one to deal with ventilation provisions.
- 10.10 Conditions are necessary to govern the manner in which different areas of the building are used. If the residential accommodation is to be used for purposes ancillary to the main D1 use of the premises, rather than as general housing, I see no need to require it to be built to Lifetime Homes Standards. To augment the parallel grant of listed building consent that might be granted, conditions are necessary to deal with samples of materials. However, those conditions suggested can be much simplified. A condition is required to deal with any new boundary treatments but again it should be noted that anything not shown on the drawings might well require listed building consent.
- 10.11 Servicing, provisions for refuse and recycling, and cycle parking need to be dealt with by condition but security measures do not – this is a matter best left to the operator. Recording of the existing building is covered by the parallel listed building consent. Conditions to deal with level access and the provision of internal lifts are not necessary because these are matters covered by the Building Regulations.
- 10.12 The main difference between Appeals B and C, so far as conditions are concerned, are those suggested to govern use. The use of the Granada Rooms in Scheme 1 (Appeal B) is referred to in the relevant Agreement under Section 106. However, there are difficulties with that, and the condition proposed by the appellants offers little comfort.
- 10.13 It suggests that a Community Access Plan is submitted for approval and the future use of the Granada Rooms governed by it. What the suggested condition does not do, is set out any method by which the use of the Granada Rooms, thereby approved, persists thereafter. There is nothing in the suggested condition, or for that matter the relevant Agreement under Section 106, to govern what must happen if the mixed-use, on which the benefits of the proposal are, in part, predicated, fails to operate.

- 10.14 Similar difficulties arise with Appeal C but there the Council has suggested a condition requiring the main auditorium not to be used for anything other than uses in Use Class D2, unless the six screen cinema is open for business and trading. I can see how such a condition might restrict and disrupt Church services in the event that for, whatever reason, the six screen cinema fails to operate. The difficulty is that unless there is some incentive for the appellant to continue operating the 6 screen cinema, or for that matter the 'Granada Rooms' the benefits of the mixed-use scheme might well not be realised.
- 10.15 While I recognise how it might be disruptive to the appellant, the only way this difficulty can conceivably be addressed, if planning permission is to be granted for either, or both, schemes, is through a condition requiring the D1 use of the auditorium to cease unless the Granada Rooms, in Scheme 1, or 6 screen cinemas, in Scheme 2, is open for business and trading. I have amended the suggested conditions to suit. This issue also arises in terms of the completed Agreements under Section 106. I deal with those below.
- 10.16 The appellant has also suggested a condition on Appeal C (Scheme 2) so that if it is implemented, and the Arcade scheme then goes ahead, rendering it non-viable, the appellant can revert to Scheme 1. However, such a condition would only have any meaning if Scheme 1 is granted planning permission under Appeal A. If it is, I see no good reason why the appellant, could not revert to that scheme in any event. The suggested condition is otiose, therefore.

11. Obligations under Section 106

- 11.1 Two draft agreements between UCKG and the Council, under Section 106, were the subject of discussion, and evidence, at the Inquiry³⁹¹. Two completed agreements, the first in relation to Scheme 1, the second Scheme 2, were submitted post-event³⁹².
- 11.2 The Agreement relating to Scheme 1 contains a series of Schedules. Schedule 1 lists the plans attached to the Agreement. Schedule 2 makes provision for the owner (UCKG), on or prior to the implementation date, to make a series of financial contributions to the Council. The 'Highway Works Contribution' is intended to go towards the highway works, set out in Schedule 7 of the Agreement. There is also a 'CPZ Contribution', intended to deal with the variation that may well be required to the existing CPZ as a result of the proposal, provision in Schedule 3 to ensure the development is car-free and a requirement in Schedule 4 for the submission and implementation of an acceptable Travel Plan. All this is intended to mitigate the impact of the proposal in terms of access and parking, reflected in the Council's original reasons for refusal.
- 11.3 On that basis, these provisions, and the financial contributions included therein, meet the tests set out in the Framework³⁹³ in that they are necessary to make the development acceptable in planning terms, directly related, and fairly and reasonably related in scale and kind, to it. For those reasons they also accord with Regulation 122³⁹⁴. There is also provision in Schedule 2 for a 'Monitoring Charge Contribution' which is intended to meet, at least in part, the Council's costs of monitoring the Agreement. On the basis that the expenses incurred by the Council in monitoring the Agreement are a direct result of the development, this contribution also meets the tests in the Framework and accords with Regulation 122.
- 11.4 Schedule 5 of the Agreement relates to the use of the Granada Rooms. In specifying the types of uses that can take place, and the hours they are to be made available to the general public, the schedule works acceptably. Similarly, the schedule covers how an Operator for the Granada Rooms is to be found and if that fails, for whatever reason, how the owner is to set up an independent company responsible solely for the management of the Granada Rooms, and the cinema use in the main auditorium.
- 11.5 Where I have doubts is in terms of ongoing operation and availability. In point 11 of Schedule 5, the owner undertakes not to occupy the property (except for the area shaded on Plan No.7) and in particular not to occupy the auditorium, *until* (my emphasis) the Granada Rooms are under operation by the appointed operator or independent company. This wording may well allow for the operation of the Granada Rooms to begin, triggering the ability to occupy the whole of the building, including the auditorium, but then makes no provision for what happens if, for whatever reason, the Granada Rooms then cease to operate in the manner outlined.

³⁹¹ ID 32

³⁹² ID 39

³⁹³ Paragraph 204 refers

³⁹⁴ Of the CIL Regulations

- 11.6 Such a scenario could obviate much of the benefit claimed for the mixture of uses in Scheme 1, and would not, on the face of it, be in breach of the Agreement. The only way to deal with that, if the Secretary of State is minded to allow Appeal B, is through a revised Agreement under Section 106, or a Unilateral Undertaking, that amends the offending point 11 to read *unless and until*. A suitably-worded condition might also assist but I doubt whether this would offer sufficient comfort to the Council in terms of enforcement.
- 11.7 Schedule 6 covers the use of the auditorium for cinema screenings and/or organ recitals on 48 Saturday evenings per year, with additional events, if the demand is there. This is a central part of the benefits claimed for Scheme 1 and the provision in the Agreement would appear to secure them.
- 11.8 Schedule 8 requires the submission and implementation of a Conservation Strategy for the building before the development is implemented. Many of the provisions repeat matters that are proposed to be dealt with through conditions, for example the survey, and elements of the repair schedule. However, the organ restoration plan would cover an aspect not addressed by condition. Overall, in the context of the comprehensive works proposed to the building, a Conservation Strategy is not necessary to make the development acceptable in planning terms. It does not accord with the tests of the Framework, therefore.
- 11.9 In terms of Appeal C, and Scheme 2, the relevant Agreement works in much the same way in terms of plans (Schedule 1), financial contributions (Schedule 2), parking permits (Schedule 3), the Travel Plan (Schedule 4), and the highway works (Schedule 5). The use of the auditorium for cinema and other events works (Schedule 7) works in much the same way too. Schedule 8 refers to Conservation³⁹⁵ and has the same intention as that in the first Agreement. Again though, given the overall compass of Scheme 2, it is not necessary to make the development acceptable in planning terms, and fails the tests set out in the Framework.
- 11.10 Where the second agreement is different is where it covers 'Use of Property' in Schedule 6. This schedule deals with the means by which the six screen cinema is to be set up and operated. Point 1 has the same difficulty as the first Agreement in that it undertakes not to occupy the property (except for the area shaded on Plan No.7), and in particular not to occupy the auditorium, *until* (my emphasis, again) the Cinema is in operation on a commercial basis showing mainstream films. This phrase has to read *unless and until* or there must be some doubt as to whether, in the event the 6 screen cinema ceases to operate, for whatever reason, the owner cannot carry on operating the HelpCentre, without any D2 use, other than that in the auditorium (covered by Schedule 7). There is a danger that as presented, the full benefit of the scheme, claimed by the appellant, might not be secured, going forward.
- 11.11 Point 5 uses 'best endeavours' to describe what the owner must do if the Cinema Operator is no longer able to procure use of the cinema. There may be all sorts of reasons, not least the potential advent of the Arcade scheme, why the 6 screen cinema might fail and this leaves little in place to secure the continued benefits of the mixture of uses proposed in that event.

³⁹⁵ Meant presumably to be a Conservation Strategy as in the Agreement linked to Scheme 1

11.12 The term 'best endeavours' lacks precision and I see no straightforward way in which this aspect can be dealt with. In the event the Secretary of State is minded to grant planning permission for Scheme 2, on the basis of Appeal C, and is unhappy for this matter to be dealt with solely by condition, which I do not believe offers sufficient security, in enforcement terms, then a revised Agreement under Section 106, or Unilateral Undertaking, that addressed this matter in a watertight fashion, would be required.

12. Inspector's Conclusions

The Main Issues

- 12.1 In the lead up to the Inquiry, a series of 'topics' were identified by the Main Parties that are reflected in the SoCG³⁹⁶. These were refined somewhat in the course of the Inquiry to a point broadly reflected in the presentation of the Council's case in closing. However, for the basis of these conclusions I have structured the matters in a different way because while there are a lot of different, and complex, factors that weigh in the balance of considerations, in essence, the central issue is straightforward.
- 12.2 This can be expressed as the effect of the proposals on the vitality and viability of Walthamstow Town Centre, and the objectives for its regeneration, and, linked to that, the special architectural interest (and significance) of the listed building itself. That analysis must take account of the Development Plan and the statutory provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990, obviously, but also a series of other material considerations, notably the Framework, the specific needs of the UCKG and its congregation, the wider population, the presence of alternative proposals advanced by WFCT, and also the Arcade scheme for the adjacent site. **[6.1, 7.1, 8.12 & 8.29]**

Background

- 12.3 As a Grade II* listed building, the former Granada Cinema is a designated heritage asset of great significance. While largely wind- and weather-tight, it is unused and vulnerable and this is reflected by its inclusion on the EH Register of Buildings at Risk in Category A meaning that there is 'immediate risk of further deterioration or loss of fabric; no solution agreed'. It is common ground that such a solution needs to be found, and implemented, as soon as possible, and will involve a new, mixed-use, given that the building could not operate viably, as just a cinema. **[2.1–2.3, 6.13, 8.55]**
- 12.4 However, the solution for the building cannot be viewed in isolation. It is common ground too that for the sake of the Borough, and all its inhabitants, Walthamstow Town Centre is in sore need of regeneration. This is reflected in both the LP and, most tellingly, in the CS. The CS may be seen as optimistic, and visionary, but there is no sustainable reason to fault the Borough for ambition. As an iconic and imposing building, prominently located on Hoe Street, the re-use of the former Granada Cinema presents a unique opportunity to bring wider benefits to the town centre, and the community. **[5.4, 5.10–5.16, 6.2–6.8, 6.64–6.73, 8.20, 8.62–8.64]**
- 12.5 Of central importance too, is the Arcade site. In its empty, undeveloped state, this prominent site is an environmental detractor, and it is important for the sake of the regeneration of the town centre, and the Borough, that it too is developed as soon as possible. The Council is minded to grant planning permission for a scheme that includes housing, restaurants and a cinema. Whether that scheme proceeds, bringing the attendant regenerative benefits, will clearly be influenced by events at the former Granada Cinema. The proposals at issue must take account of that too. **[2.5, 6.154, 8.32, 8.57–8.58]**

³⁹⁶ ID 33 Pages 15-17

The UCKG Schemes 1 and 2

- 12.6 In very simple terms, Scheme 1 is a mixed-use scheme that proposes a UCKG HelpCentre, coupled with the 'Granada Rooms' that would largely be used for purposes in Use Class D2, including cinema. The main auditorium would be used for services in the main but also, for cinema, and other public performances. Scheme 2 is similar except that it would include, in place of the 'Granada Rooms', six separate cinema screens. The appellant's evidence is that Scheme 2 will not proceed if the Arcade site is developed, as currently intended, with a multiplex cinema as a part of it. **[4.1-4.5, 6.154]**
- 12.7 Notwithstanding the differing characteristics, the appellant says that both schemes bring benefits to the building and the town centre, and as such, accord with the Development Plan, and should be permitted. The appellant would then have a choice of which to implement, a decision that may be influenced by what happens with the Arcade site. **[8.13, 8.17-8.23, 8.57-8.58]**
- 12.8 I deal with the issues around the impact on the special architectural and historic interest, and significance, of the listed building, below, but, on the face of it, investment in, and re-use of, the building, would represent a clear benefit.
- 12.9 That the UCKG, through its actions in the community, would bring social benefits cannot reasonably be doubted. I heard much eloquent testimony to the work that members of the Church do, and the influence the Church and its works have on their own, and others', lives. Regeneration is not just about economics, and the work the HelpCentre would do from the building would bring significant social benefits to a community, parts of which are clearly in need of help. **[8.6, 8.12, 8.30-8.31, 8.63, 9.22-9.35]**
- 12.10 Nevertheless, in the light of the Development Plan, and the CS in particular, and the Framework, it is inescapable that the wider regenerative influences of the schemes on the town centre, in economic terms, require analysis. These purported benefits are less clear-cut. **[5.1-5.20]**
- 12.11 The appellant has put forward figures to show the number of people who would attend services, and those who would attend the 'Granada Rooms' and '6 screen cinema' and the spend that would produce. There is little in the way of evidence to set out how many people might use other facilities, like the Training Centre. The figure for those likely to attend services seems to be based on very flimsy evidence and there must be a real question whether they would emerge in the way the appellant envisages, whether they would take some time to build up as worshippers are attracted to the facility as it becomes established, or whether they would emerge at all. **[6.21-6.34, 8.3, 8.52-8.53]**
- 12.12 This would have an obvious influence on the total spend but in any event, the multiplier used to calculate the total spend is questionable being based on a survey that while carried out by an experienced operator, appears to have been at least open to error and undue influence. The average spend it showed is, therefore an unreliable figure. Moreover, it is not clear that this spend would be additional in any event. In that overall context, there must be real questions about whether the spend claimed for either scheme, and the resulting economic benefits to the town centre, would emanate from the proposals. **[6.81-6.86, 8.53]**

- 12.13 The impact of the development of the Finsbury Park HelpCentre, which I visited, is instructive in that regard. While a large new building has been erected nearby, it is not clear that the UCKG development had any great influence on the decision to press ahead with it. Neither has the appellant adduced any convincing evidence to show that there has been any significant economic or regenerative benefit to the general area as a result of their redevelopment of the former Rainbow Theatre. **[6.78-6.80]**
- 12.14 More than that though, there must also be doubts about whether a genuine mixed-use would emerge from the proposals. While the Council has signed them, the obligations under Section 106 do not appear to offer sufficient security and neither do the suggested conditions. If planning permission was granted for Scheme 1 and/or Scheme 2, it is difficult to see what the Council could do to enforce the mixture of uses if, for whatever reason, the 'Granada Rooms' or the '6 screen cinema' commenced but then failed to operate. **[6.102, 7.112, 10.12-10.15, 11.5-11.6, 11.10-11.12]**
- 12.15 It must be recorded that there is no binding agreement with the appellant's preferred operator, and the material before the Inquiry shows there to be ample opportunity for them not to proceed, whether that be because of timing, onerous conditions, or the lack of escalators in the '6 cinema scheme'. If the 'Granada Rooms' or the '6 screen cinema' did not operate, this would clearly reduce the economic benefit of the proposal, but also goes to the impact on the special interest, and significance of the building, a matter I return to below. Questions have also been raised about the efficacy of the appellant's claims for the potential audience likely to be attracted to the 'Granada Rooms' or the '6 screen cinema'. **[6.87-6.102]**
- 12.16 But even if the 'Granada Rooms' or the '6 screen cinema' did operate in the manner promulgated, there is the question of how the public would respond to a community space and/or cinema embedded in a UCKG HelpCentre. Examples have been pointed to by the appellant but these are not directly comparable to the proposal, being more akin to Churches embedded in cinemas or other performance spaces. It is clearly a novel concept. **[6.39-6.48]**
- 12.17 Much was made of the Public Sector Equality Duty and the way the Council reached its decision on Scheme 2. It is not for me to opine on the lawfulness of the Council's decision and neither is it a matter that bears on the planning merits. The attractiveness of the cinemas, in the guise of Scheme 1, or Scheme 2, to its potential audience, is obviously a material consideration.
- 12.18 The Inquiry heard from people, and there are many written representations too, who suggested that they would not find visiting a cinema in a HelpCentre, an attractive prospect. That may not be evidence based on formal research, but it is evidence of the likely reaction of the potential audience nonetheless.
- 12.19 Given the presence of competing attractions not too far away, that attitude would clearly influence whether people would use the cinemas and other facilities proposed in either scheme, and that must bear on the success, or otherwise, of the mixed-use proposals, whether they are likely to endure, and the contribution they make to the regeneration of the town centre, and the wider Borough, in terms of spend.

- 12.20 I find it rather harsh to refer to that as prejudice, or to suggest it is discriminatory, against the Church, and its evangelical practices. It is merely a reflection of the attitude those of a different faith, or, for that matter, no faith at all, might take to going to see a film, or partake in another activity, at a building that operates, primarily, as a UCKG HelpCentre. That attitude might well depress numbers attending. There is also a question about the nature of films that might be shown with the suggestion being that those of a blasphemous nature might not be shown. The extent to which UCKG would seek to exert their influence over cinema programmes is not altogether clear but if the palette of available films was restricted, it might also serve to reduce numbers attending. **[6.8, 6.49-6.63, 6.69, 7.113-7.115, 8.33-8.34, 8.65-8.70, 9.2-9.21]**
- 12.21 The position of the appellant is that both Scheme 1 and Scheme 2 should be granted planning permission, leaving it to the appellant, influenced by the market, to choose which scheme proceeds. There are issues with that position. Scheme 2 carries with it more economic benefit to the town centre because, leaving aside issues referred to above, it would attract more of an audience to the cinema, and more associated spend. However, Scheme 1 would entail less of an intervention in building terms, and cost £3 million less to implement. Moreover, if the Arcade site proceeded, the appellant acknowledges that the '6 screen cinema' would not be implemented because it would not be viable in the face of the competition. In that context, if both schemes are permitted, the additional rent and numbers potentially attending, would not present sufficient incentive for the appellant to implement Scheme 2. Allowing both schemes would not, therefore, bring maximum economic benefit.
- 12.22 That might be beneficial in some ways because Scheme 1 is less likely to compete with, and thereby prejudice delivery of the Arcade scheme. However, that presents something of a conundrum. Approval of both schemes gives the appellant a choice. If Scheme 1 is implemented, as seems most likely, the delivery of the Arcade scheme is unlikely to be prejudiced but, maximum economic benefit (in the context of the proposals at issue in the appeals) will not be extracted from the former Granada Cinema. If Scheme 2 proceeds, the economic benefit would be greater, but it may prevent delivery of the Arcade scheme, leading to a loss of the economic benefit that would bring to the town centre. All that is reflective of the proposals' lack of synergy in the wider town centre context. **[6.96-6.98, 6.153-6.154, 7.111, 8.58]**
- 12.23 Summing up, it cannot reasonably be doubted that the proposals would bring social benefits that would, in their way, act in a regenerative fashion. However, the claimed economic benefits are not based on solid foundations and, in the context of their relationship with the Arcade scheme, the proposals are wanting. However, at present the building is unoccupied and offers nothing positive to the town centre. At worst, and assuming the 'Granada Rooms' or the '6 screen cinema' do not live up to their potential, or even if they fail to operate at all, and the proposals operate simply as a HelpCentre, there would still be additional visitors to the town centre as a result of the proposals, and there would still be some additional spend. As a consequence, it must be concluded that the proposals would improve the vitality and viability of the town centre, to a degree, and, in bringing the building back into use, offer some wider regenerative benefit. **[6.102]**

The WFCT Proposals

- 12.24 While no application for planning permission or listed building consent has been made to the Council for its proposals, WFCT has put together a scheme, given an indication of how capital and revenue funding might work, and the way in which the venue might be operated under their tutelage, and put all that up for rigorous scrutiny at the Inquiry. The presence of this alternative proposal is a significant material consideration. **[6.103, 8.29]**
- 12.25 In very simple terms, WFCT propose to operate the building as an entertainment venue, largely based around comedy, but with a 3 screen boutique cinema too, pantomime possibly, facilities for visitors and patrons to eat and drink, an education room, and associated sanitary provision. The idea, in essence, is that the capital works would be financed through grant funding and donations, but, in revenue terms, the operation would be self-financing. This may require the project to operate on a reduced basis to begin with, but the ambition, in time, would be for it to operate on the full basis proposed. **[7.15-7.19]**
- 12.26 UCKG raised a number of issues about the feasibility of the WFCT proposals and whether the benefits claimed would be realised. The first, and most fundamental, relates to ownership. UCKG made it very clear to the Inquiry that they have no interest in selling the building to WFCT or anyone else but nevertheless, WFCT say that if the appeals are dismissed, they will make an offer to purchase. If that approach is unsuccessful, the Council has made it clear that they are prepared to go down the road of compulsory purchase.
- 12.27 Whether there would be a necessity for that is moot, not least because in the event the appeals are dismissed, whatever might have been said at the Inquiry, bearing in mind their legal obligations, the Trustees of UCKG would have to consider their position, and obligations, very carefully. Moreover, UCKG have investigated the possibility of selling previously.
- 12.28 Should the Council decide to pursue compulsory purchase of the building, a compelling case in the public interest would have to be demonstrated for it to be confirmed. Given the nature of the appeals, and the evidence presented, forecasting the likely outcome, with any accuracy, is not possible. Issues around compensation may lead to complexities too but these would post-date any confirmation and appear to provide no insurmountable barrier to that.
- 12.29 However, it is fair to say that any compulsory purchase of the building would take a long time. Consequently, the appellant asserts that the schemes at issue in the appeals, and the benefits they would bring to the building, and the town centre, could be brought to fruition much more speedily than the WFCT proposal. On the face of it, that might be correct, but it is also fair to point out how long it took the appellant to complete the restoration of their premises in Finsbury Park, and their somewhat equivocal position in relation to the effect events on the Arcade site might have on their proposals. The fact that the building has lain unused for a considerable time since the last appeals were dismissed in 2003 does not suggest any great urgency on their part either. In that overall context, it cannot be concluded that the appellant's proposals would necessarily come forward more quickly than those promoted by WFCT, notwithstanding issues around ownership. **[6.75, 6.104-6.106, 7.15, 7.33, 7.103-7.108, 8.35-8.39, 8.55, 8.61, 8.72]**

- 12.30 To progress their proposals, WFCT would have to source a significant amount of capital funding. The cost of the full scheme is estimated at £10-12 million and the interim scheme, or phased option, at £2.5 million. WFCT led evidence that funds for the full scheme could be raised from a variety of sources including the Heritage Lottery Fund, through a fundraising appeal, and through commercial investment, or a social enterprise loan. For the phased option, it is likely that WFCT would fund purchase and refurbishment through a commercial loan and a fundraising appeal, bringing the building into use before making approaches to the Heritage Lottery Fund, and other sources, for the full scheme.
- 12.31 UCKG cast doubt on the likelihood of WFCT being able to raise the necessary capital for their proposals, particularly from institutional lenders. However, WFCT do not appear to have any undue expectations of raising funds from that source and in any event, already seem to have been able to raise £2 million loan from Grosvenor Bridging Loans. It is fair to note that overall, WFCT would have to raise a significant amount of money to realise their proposals. That would undoubtedly be a challenge but the nature of their scheme, and the building it is centred upon, would make it attractive, to the Heritage Lottery Fund, and philanthropic donations, in particular. Overall, the evidence presented by WFCT does not suggest that they would find raising the funds an insurmountable challenge. **[6.108-6.119, 7.19-7.34, 8.42-8.43]**
- 12.32 The appellant also suggests that WFCT might have underestimated their capital costs. There is always a danger of that in schemes of the type proposed, especially when the promoters have had such limited access to the building. Nevertheless, projects that end up costing more than originally budgeted for are not unusual, and the simple solution is further fundraising. A good example was given in relation to the experience of the Royal Shakespeare Company. **[7.31-7.34, 8.40-8.41]**
- 12.33 In terms of the viability of the proposals, three business plans were placed before the Inquiry. Detailed criticisms were made of various aspects but the range between the conservative estimates advanced by WFCT, and the more ambitious projections put forward by the Council, strongly suggests that the WFCT projections are not unduly optimistic and, with sensibly scheduled events, and the potential for pantomime, the proposal could easily return a workable surplus.
- 12.34 Of the criticisms advanced, I do not accept that WFCT have exaggerated the capacity of the main auditorium. Seat size is a matter for them and there is nothing convincing to suggest that a 500mm square seat is unusually small or that it would make the venue unattractive to its potential audience. The way in which WFCT have programmed comedy performances drew adverse comment too with the suggestion being that the business plan in budgeting for 120 performances a year was somewhat optimistic. The balance of the evidence showed this not to be the case.
- 12.35 Obviously, Walthamstow does not have the atmosphere of the West End but, if the right performers were scheduled, as, with their obvious experience, the Soho Theatre would be able to, the easy access of the venue from Central London, and its capacity, suggests that the projected intensity of use is not unrealistic and neither is the suggestion that it would have pan-London appeal.

- 12.36 There were detailed criticisms of aspects of the WFCT cinema proposals but I see nothing significant in those given that all parties to the Inquiry accept that a three screen 'niche' cinema could attract sufficient of an audience to function profitably in the building, notwithstanding the prospect of a multiplex cinema on the adjoining Arcade site. The relationship between the Curzon Cinema and the nearby multiplex in Wimbledon provides evidence of that. **[6.120-6.137, 7.35-7.91, 8.42-8.43, 8.72]**
- 12.37 It was also suggested by the appellant that WFCT had underestimated their overheads by reference to other examples. However, it is important to compare like with like and it is clear that there are presenting theatres that return a profit without the need for revenue funding. Moreover, I see no inherent difficulty in the idea of WFCT and the Soho Theatre sharing resources. The lack of any formal agreements between WFCT and projected partners like Soho Theatre and Curzon Cinemas drew some disapproval too. However, the lack of contractual formality is hardly surprising given the hurdles WFCT have still to cross. It is noteworthy in this context that there is no completed contract between UCKG and Bubble Chamber for either of their schemes. **[6.138-6.153, 7.92-7.102, 8.43-8.53]**
- 12.38 On that overall basis, there seems to be a reasonable prospect that the WFCT scheme could be brought to fruition. There is, therefore, a need to compare the economic benefits it might bring to the building, and the town centre, with the schemes promoted by the appellant. Both the Council and the appellant have offered evidence about the comparative level of spend for both of the schemes at issue in the appeals, and the WFCT scheme. There are many variables at play, in terms of audience and their level of spending per head, in both sets of calculations, and it therefore difficult to compare easily.
- 12.39 Most instructive, in my view, is to take the figures presented by the appellant³⁹⁷. These suggest that the appellant's Scheme 1 would generate a total annual spend of a little more than £3 million, while Scheme 2 would generate just under £3.75 million. Based on their various criticisms, but attendance figures chiefly, UCKG estimates that the full WFCT scheme will generate about £2.3 million annually, and the reduced WFCT scheme, on my calculation, about £1.2 million. There must be doubts whether the audience figures claimed by the appellant for the 'Granada Rooms' or the '6 screen cinema' would result. Moreover, it is clear from an analysis of the UCKG calculations that the figures are very likely to be inflated, in terms of church attendance, and their individual spend, in particular. Moreover, the criticisms advanced by the UCKG to justify their estimates for the WFCT schemes, have been shown to be largely unfounded.
- 12.40 On that basis, the spend figures for the WFCT schemes seem more likely to approach the much higher estimates put forward by the Council. As a result, it seems clear that the full WFCT scheme would bring significantly greater economic benefit to the town centre than either of the appellant's schemes, and even the reduced scheme, which, it is important to note, is only seen by WFCT as a staging post to the realisation of the full scheme, would compare favourably. **[6.74-6.102, 7.111-7.123, 8.45-8.53]**

³⁹⁷ UCKG 4 Table Page 7

12.41 Moreover, events at the adjoining Arcade site must be considered in this context. The position of the appellant is that the scheme is very unlikely to proceed for a variety of reasons. While the arrangement of the cinema spaces within the scheme may be unorthodox, the Council is minded to grant planning permission for the proposal, and are keen, for obvious reasons, to see it realised. The important point in comparing the UCKG proposals with those advanced by WFCT is that, unlike the appellant's Scheme 2, there is nothing in the WFCT proposal that threatens the Arcade scheme and indeed, in that there would be synergy between the two, with the formation of an entertainment hub, and the additional audience drawn by the WFCT proposals, the Arcade scheme seems more likely to happen if the WFCT scheme proceeds. On top of that, the WFCT is likely to provide knock-on benefits for other businesses in the vicinity. The appellant's proposals may provide some impetus too, but it would not have the ability to draw as big an audience. **[6.96-6.98, 6.153-6.154, 7.111, 8.58]**

12.42 Where these conclusions lead in relation to the development plan, and the Framework, I return to below.

The Impact on the Listed Building

12.43 As set out, the former Granada cinema is a Grade II* listed building. In assessing the proposals at issue in the appeals, the decision-maker must take account of the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990. **[2.1-2.3, 5.21]**

12.44 Having regard to the Framework, the concept of significance needs to be addressed too. In many ways, this concept is akin to special architectural and historic interest, but it is defined in the Framework as 'the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic'. The significance (and for that matter, the special interest) of the building lies in the richly decorated main auditorium and the ceremonial route to it, by way of the Hoe Street frontage, through the foyer and galleries. The way the building is used is important too, however. **[5.22-5.23, 6.153, 7.124-7.127, 8.60]**

12.45 The physical changes proposed in Scheme 1 and Scheme 2 would have no harmful impact on the special architectural or historic interest of the listed building, or its significance. Whether escalators could be accommodated without any harmful impact is another matter but given that Scheme 2, as presented, does not include any, it is not a matter that merits speculation. **[6.155-6.156, 8.59-8.61]**

12.46 As set out, use does bear on special interest, and significance. Both proposals move the building away from that use to predominantly, a HelpCentre. While the main auditorium would still, on occasions, be used for cinema and other public performances, secured through the Agreements under Section 106, it would largely be used for church services. As my colleague Inspector concluded in dealing with the previous appeals³⁹⁸, that loss of the predominance of the original use would cause some harm to special interest, and significance.

³⁹⁸ CD 44

- 12.47 The Council accepts that this harm would be less than substantial. However, others put it to the Inquiry, with some strength, that this harm would be substantial. **[6.155-6.157, 7.128, 8.60, 9.2-9.4]**
- 12.48 While the Framework sets out different approaches depending on the way harm is quantified, it offers no explanation of how harm that is substantial, and harm that is less than substantial, should be calibrated.
- 12.49 If one looks to the still extant PPS5 Practice Guide for clarification, substantial harm, demolition or destruction are dealt with under the same heading in paragraphs 91 to 95. Those paragraphs deal almost exclusively with demolition and if substantial harm is something very far removed from that, it seems reasonable to expect that there would have been some explanation. Otherwise, I see no good reason why these matters should have been dealt with together. The only sensible conclusion, in the light of the advice in the PPS5 Practice Guide, is that substantial harm, while not equating to demolition or destruction, is a degree of harm that falls not very far short of it. That conclusion is consistent with the way the term 'substantial' has been used in Appendix D to Circular 01/01³⁹⁹ when dealing with the implications of the House of Lords judgement in the case of *Shimizu (UK) Ltd v Westminster City Council* [1997] 1 All E.R. 481 in relation to the total or substantial destruction of unlisted buildings in conservation areas.
- 12.50 Against that background, and given that both Scheme 1 and Scheme 2 would retain the overwhelming proportion of the important fabric, the relationship between the principal spaces, in the building, and some cinema and/or performance use in the main auditorium, the degree of harm in moving the building away from its predominant original use, would be less than substantial. I return to the implications of that below.
- 12.51 Nevertheless, that there would be some harm inherent in the proposals means that they fail to comply with LP Policies 7.8 and 7.9, and CS Policy CS12. Moreover, Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the building or any features of special architectural or historic interest it possesses. Paragraph 134 of the Framework sets out that less than substantial harm should be weighed against the public benefits of the proposals, including securing its optimum viable use. **[5.9, 5.17, 5.21, 5.23]**
- 12.52 The Framework does not offer a definition of optimum viable use. However paragraph 89 of the PPS5 offers some welcome assistance. It says that if there is a range of alternative ways in which an asset could viably be used, the optimum use is the one that causes the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes.
- 12.53 The WFCT scheme, as it currently stands, does involve what is potentially, a major intervention in the fabric at ground floor level, where the back of the auditorium would have its floor flattened out to cater for toilets, cloakroom and bar. While this area was subject to previous alterations before the building was

³⁹⁹ Circular 01/01: *Arrangements for Handling Heritage Applications – Notification and Directions by the Secretary of State*

added to the Statutory List, this alteration (while it could be designed to be reversible) would have quite an impact on the wall mouldings that remain in this area and cause some harm to significance. However, this could be designed out in any formal proposal. Most importantly, the use of the building as a venue for public entertainment, as proposed by WFCT, is much closer to the original design intention for the building.

12.54 On that overall basis, it seems to me that while the WFCT proposal might cause some harm to the significance of the building, viewed in the round, it would be less harmful than either proposal put forward by the appellant. As a consequence, the WFCT proposals are, on the face of it, the optimum viable use. I return to this matter below. **[7.128, 7.131, 7.133-7.134]**

The Balance of Considerations

12.55 Bringing all those points together, the re-use of the building by UCKG would bring significant social benefits to the local population and people further afield, and some economic, and a measure of regenerative, benefit to the town centre, and the Borough. However, concerns around the likely levels of attendance, Agreements under Section 106, and conditions, must bring into doubt whether the full economic and regenerative benefits claimed would be realised. Moreover, Scheme 2, if implemented peremptorily, could threaten delivery of the scheme the Council is minded to approve on the Arcade site. This would be a clear economic and regenerative disadvantage. It is noteworthy too that both schemes, would cause some harm to the special architectural and historic interest, and significance, of the listed building

12.56 Set against that, the re-use of the building by WFCT has the potential to bring much more economic and regenerative benefit to the town centre, and the Borough, utilise the building in a way that better respects its significance, and form a symbiotic relationship with the Arcade scheme. It would also bring some social benefit through the proposed education work.

12.57 That UCKG feels strongly that it should be permitted to develop the building it, after all, owns, is perfectly understandable. However, it is important to look beyond that. It is common ground that Walthamstow Town Centre is sorely in need of regeneration and this is reflected strongly in the Council's vision for the Borough and the policy approach set out in the CS, in particular. In that context, the WFCT scheme offers a unique opportunity; unique because it depends on the iconic characteristics of the former Granada Cinema. There is no alternative building in Walthamstow Town Centre where what WFCT proposes, with its attendant benefits, could be accommodated. The evidence shows that the same is not true of the benefits and opportunities UCKG offers.

12.58 There is no obvious reason beyond their current ownership of the former Granada Cinema, why UCKG could not bring forward the undoubted benefits they offer to the Borough, and meet the needs of their congregation, existing and future, and others, in another building, or indeed buildings. **[6.36-6.38]**

12.59 Nevertheless, given that the building is currently unused, there are certainly aspects of the development plan that the appellants can draw support from. LP Policies 2.15, 3.16, 4.1, 4.5, 4.6, 4.7, 7.1, and 7.2 all pull in favour. The same can be said for CS3, CS9, CS10, CS11 and CS14. **[5.5-5.8, 5.16-5.18]**

- 12.60 As set out, the use of the building proposed in both schemes at issue would cause some harm to the special architectural and historic interest of the listed building which means the proposal does not comply with LP Policies 7.8 and 7.9, and CS Policy CS12. However, given that use purely as a cinema is agreed not to be viable, any new use, and attendant interventions in the fabric will cause a degree of harm, as demonstrated by the current WFCT proposals. On that basis, I do not regard the fact that the proposal would cause some harm to the listed building as overriding, and that is borne out by the way the Framework approaches this question. **[5.9, 5.17, 5.22-5.23]**
- 12.61 Most important, in my view are CS Policies CS1 and CS12 and the strategic objectives that underpin them. SO1 seeks to *capitalise* (my emphasis) on redevelopment opportunities and similarly, SO12 aims to *maximise* (again, my emphasis) the contribution the Borough's heritage assets make to future economic growth. The WFCT scheme would capitalise on the opportunity presented by the building, and maximise its potential economic contribution, in compliance with this policy approach.
- 12.62 While the proposals at issue in the appeals would offer social, economic and environmental benefits too, overall, these would not attain the level of benefit that could be offered by the WFCT scheme. On that basis, neither Scheme 1 nor Scheme 2 can be said to comply with CS Policies CS1 and CS12, and SO1 and SO12 that underpin them because they do not capitalise on the opportunity presented by the building or maximise the contribution it could make to future economic growth. **[5.13, 5.15, 5.16-5.17]**
- 12.63 The appellant argues strongly that their proposals comply with the development plan, overall. That is not my finding but even if the appellant is correct in that, I agree with the Council that the WFCT scheme, and its attendant benefits, would represent other material considerations pointing towards decisions contrary to the development plan on Appeals B and C. **[6.166-6.169, 8.12-8.27]**
- 12.64 In a similar way, the core planning principles and, in particular, paragraph 18 of the Framework makes clear the importance of driving economic development and building a strong, competitive economy. It is axiomatic that capitalising on, and maximising, opportunities to deliver that should be taken. Linked to that, and having regard to paragraph 134, the less than substantial harm the UCKG proposals would cause to the significance of the designated heritage asset would not be outweighed by the attendant benefits because the proposals do not represent the optimum viable use of the building. **[5.19-5.20, 5.23, 6.167, 8.28]**
- 12.65 In terms of Appeal A, while the works proposed to the listed building are not in themselves objectionable, without an acceptable use for them to facilitate, there is no justification for the alterations and additions proposed to the historic fabric. The works should not, therefore, be permitted. **[7.132]**
- 12.66 For those reasons, I conclude that all three appeals should be dismissed. If the Secretary of State draws different conclusions and decides to allow Appeal A, then the conditions attached in Annex D need to be appended to the grant of listed building consent. In terms of Appeals B and C, the conditions suggested would need to be applied. I have also raised issues around the Agreements under Section 106 that, in my view, would need to be addressed.

13. Recommendations

Appeal A: APP/U5930/E/11/2165344

13.1 I recommend that the appeal be dismissed.

Appeal B: APP/U5930/A/11/2165348

13.2 I recommend that the appeal be dismissed.

Appeal C: APP/U5930/A/12/2183662

13.3 I recommend that the appeal be dismissed.

Paul Griffiths

INSPECTOR

Annex A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Simon Bird QC	Instructed by Sue Chadwick, Principal Planning and Licensing Solicitor, LBWF
He called	
Mr Jonathan Price	Principal Planning Officer & Deputy Section Manager Development Management (Team A), LBWF
BA(Hons) Geography	
PG Dip Town Planning	
MRTPI	
Mrs Sam Neal MA	Physical Regeneration Manager, LBWF
Mr David Geddes	Colliers International
BA (Edinburgh)	
Ms Sue Chadwick	Principal Planning and Licensing Solicitor, LBWF
MA (Cantab) Dip Psych	
MBACP	
Dr Jon Burgess	Beacon Planning
PhD MA(Arch Con)	
BA(Hons) BPI DipCon	
MRTPI IHBC	

FOR THE WALTHAM FOREST CINEMA TRUST:

Rose Grogan of Counsel	Instructed by Simon Catt, Goodman Derrick LLP
She called	
Mr Neil Gerrard	Chair, Waltham Forest Cinema Trust
Mr Ian Ritchie	Director, Ian Ritchie Architects Ltd
CBE RA DipArch ARB	
RIBA RIAI FRSA	
HonFRIAS HonFAIA	
Hon D Litt	
Mr Graham Devlin CBE	Freelance Consultant
Mr Liam Fisher-Jones	Partner, More Partnership
Mr Mark Godfrey	Executive Director (joint Chief Executive), Soho Theatre
Mr Robert Kenny	Director of Cinema Development, Curzon Cinemas

FOR THE APPELLANT:

Dr Robert Wickham	Instructed by the Trustees of the UCKG HelpCentre
He called	
Mr Gavin Brent	Head of General Leisure Team, GVA
BSc MRICS CF30	
Mr Nick Rule	Director, FDF Architecture
BA DipArch	
Mr Paul Hill	Property Acquisitions Manager, UCKG Helpcentre
Mr Ben Freedman	Director, Bubble Chamber Ltd

Ms Joss Jones	Cosmic Comedy
Mr John Parmiter	Partner, Peter Brett Associates LLP
FRICS FRSA MRTPI	
Ms Jacqueline Andrews	Partner, Howard Sharp & Partners LLP
BSc FRICS MRTPI	
Mr Tom Hutchinson	Head of Policy & Research Department, Howard
BA(Hons) MA MRTPI	Sharp & Partners LLP
Dr Aaron Baker	Reader in Law, Durham University
BA BCL	
Professor John Eade	Professor in Sociology and Anthropology,
MA(Oxon) Dip Soc	University of Roehampton
Anthrop (Oxon) M.Litt	
(Oxon) PhD (Lond)	
Miss Abbie Heath	Christian Research
BA(Hons)	
Mr John Sullivan	Partner, Cinema Next Ltd

INTERESTED PERSONS:

Dr Stella Creasy	Objector
MP for Walthamstow	
David Hecker	Objector
Caramel Quin	Objector
Chair of Cleveland Park	
Residents' Association	
Heather Peace	Objector
Steve Green	Objector
Richard Ashman	Objector
Save Walthamstow Cinema	
Robbie Fox	Objector
David White	Objector
Jonathan Crossley	Objector
Registered Architect	
Katy Andrews BA MSc	Objector
Lisa Hodgkinson	Supporter
Daisy Ajorgbor	Supporter
Agnes Musikavanhu	Supporter
Maria Jimmy	Supporter
Charles Ajorgbor	Supporter
Apollonia Hango	Supporter
Ignatius Hango	Supporter
Samantha Dixon	Supporter
Yolanda Romay	Supporter
Deroy Debordes	Supporter
Tristian Farquharson	Supporter
Ondre Johnson	Supporter
Peter Curzon	Objector
Philip Herlihy	Objector
Bill Hodgson	Objector
McGuffin Film Society	

Annex B: DOCUMENTS

Core Documents

- CD 1 The National Planning Policy Framework
- CD 2 PPS6 Practice Guide
- CD 3 Relevant Saved Policies of the UDP
- CD 4 Relevant Policies of the Core Strategy
- CD 5 Relevant Policies of the London Plan
- CD 6 DM Proposed Submission Document
- CD 7 Walthamstow Town Centre Area Action Plan (AAP) Preferred Options
- CD 8 Planning for Equality and Diversity in London – SPG to the London Plan
- CD 9 Greater London Authority – Responding to the Needs of Faith Communities: Places of Worship
- CD 10 Responding to the Needs of Faith Communities: Places of Worship – Evidence Report accompanying the Final Report
- CD 11 Creating the Conditions for Integration (DCLG)
- CD 12 Waltham Forest Local Economic Assessment 2010
- CD 13 Walthamstow Town Centre Preferred Options Equalities Impact Assessment 2011
- CD 14 Eastern End of Walthamstow Short-Term Masterplan (May 2011)
- CD 15 Walthamstow Socio-Economic Study
- CD 16 Waltham Forest Culture Strategy 2010-2030
- CD 17 Waltham Forest Borough Investment Plan (October 2010)
- CD 18 Waltham Forest Enterprise, Employment and Skills Strategy 2009-2014
- CD 19 The Project Centre Off-Street Parking Review
- CD 20 Strategic Regeneration Framework: An Olympic Legacy for the Host Boroughs 2009
- CD 21 Waltham Forest Retail and Leisure Study by Nathaniel Lichfield & Partners 2009
- CD 22 Waltham Forest Strategic Infrastructure Plan: Social Infrastructure Needs URS 2009 Assessment
- CD 23 The Vision for Walthamstow Town Centre – Interim Planning Policy Framework (2008)
- CD 24 Planning Obligations – Supplementary Planning Document (2008)
- CD 25 Our Place in London – Waltham Forest Sustainable Community Strategy (2008)
- CD 26 The Walthamstow Town Centre Strategy and Plan (May 2007) – Enquiry by Design, The Prince’s Foundation
- CD 27 The High Street Life in Waltham Forest (May 2011)
- CD 28 The Portas Review (December 2011)
- CD 29 Understanding High Street Performance (December 2011)
- CD 30 Waltham Forest Local Economic Assessment 2010
- CD 31 Former Granada Cinema - Report by Colliers International (August 2012)
- CD 32 Former Gala Bingo, Woolwich: Suitability for Use as a Cinema – Report by Colliers International (June 2012)
- CD 33 Report Assessing Marketing Exercises in relation to the Former EMD Cinema – BPS Chartered Surveyors (November 2010)
- CD 34 The EMD (Granada) Cinema, Walthamstow: Options for its Restoration as an Entertainment Venue – Locum Consulting (August 2010)
- CD 35 Former Granada Cinema Appraisal – Humberts Leisure (July 2009)

- CD 36 Report on the Potential for the Delivery of a Cinema in Walthamstow – BPS Chartered Surveyors (May 2007)
- CD 37 Waltham Forest Council Cinema Research – Market Link Research (July 2005)
- CD 38 Option Appraisal for EMD Cinema, Walthamstow – Capita Symonds (June 2005)
- CD 39 Report and Valuation for EMD Cinema on behalf of LDA – Bowyer Bryce (21/12/2004)
- CD 40 Initial Appraisal of Potential Cinema Sites in Walthamstow for LBWF – Burrell Foley Fischer (July 2002)
- CD 41 Walthamstow Town Centre Feasibility Study – The Anthony Williams Consultancy (2002)
- CD 42 Extract from List Description
- CD 43 Letter from English Heritage (16/12/2012)
- CD 44 Inspector's Report and Secretary of State's Decision Letter (2002/0625 and 2002/0627/LB)
- CD 45 Reports and Minutes (2009/1048 and 2009/1049/LB)
- CD 46 Report and Minutes (2012/0764)
- CD 47 2012/1355 (Arcade Site)
- CD 48 Vision Document Submitted to Council by WFCT (20/08/12)
- CD 49 Officer's Report in relation to a Proposal at Portswood Road, Southampton
- CD 50 Circular 06/2004: Compulsory Purchase and the Chrichel Down Rules
- CD 51 Bundle of e-mails and other correspondence
- CD 52 Faith in England's North-West: Economic Impact Assessment (February 2005)
- CD 53 Regenerating London: Faith Communities and Social Action (October 2002)
- CD 54 Economic Impact of Faith in the South-East (March 2010)
- CD 55 Refusal Notice dated 14/09/2012
- CD 56 LBWF Validation Letter on 2012/0764 dated 07/06/2012

London Borough of Waltham Forest Documents

- LBWF 1 Summary Proof of Evidence of Jonathan Price
- LBWF 2 Proof of Evidence of Jonathan Price
- LBWF 3 Appendix to Proof of Evidence of Jonathan Price
- LBWF 4 Rebuttal Evidence of Jonathan Price
- LBWF 5 Summary Proof of Evidence of Sam Neal
- LBWF 6 Proof of Evidence of Sam Neal
- LBWF 7 Appendices to Proof of Evidence of Sam Neal
- LBWF 8 Rebuttal Evidence of Sam Neal
- LBWF 9 Summary Proof of Evidence of David Geddes
- LBWF 10 Proof of Evidence of David Geddes
- LBWF 11 Appendices to Proof of Evidence of David Geddes
- LBWF 12 Rebuttal Evidence of David Geddes
- LBWF 13 Rebuttal Evidence of Sue Chadwick
- LBWF 14 Appendix to Rebuttal Evidence of Sue Chadwick
- LBWF 15 Summary Proof of Evidence of Jon Burgess
- LBWF 16 Proof of Evidence of Jon Burgess
- LBWF 17 Appendix to Proof of Evidence of Jon Burgess
- LBWF 18 Rebuttal Evidence of Jon Burgess

Waltham Forest Cinema Trust Documents

- WFCT 1 Summary and Proof of Evidence of Neil Gerrard
- WFCT 2 Appendices to Proof of Evidence of Neil Gerrard (NG1-NG8)
- WFCT 3 Proof of Evidence of Ian Ritchie
- WFCT 4 Appendices to Proof of Evidence of Ian Ritchie (A1-A9)
- WFCT 5 Rebuttal Evidence of Ian Ritchie
- WFCT 6 Appendix to Rebuttal Evidence of Ian Ritchie
- WFCT 7 Proof of Evidence of Graham Devlin
- WFCT 8 Appendices to Proof of Evidence of Graham Devlin (GD1-GD4)
- WFCT 9 Rebuttal Evidence of Graham Devlin
- WFCT 10 Proof of Evidence of Liam Fisher-Jones
- WFCT 11 Proof of Evidence of Mark Godfrey
- WFCT 12 Appendices to Proof of Evidence of Mark Godfrey (MG1-MG6)
- WFCT 13 Rebuttal Evidence of Mark Godfrey
- WFCT 14 Appendices to Rebuttal Evidence of Mark Godfrey (MG7-MG15)
- WFCT 15 Proof of Evidence of Robert Kenny
- WFCT 16 Rebuttal Evidence of Robert Kenny

Appellant's Proofs of Evidence and Appendices

- UCKG 1 Summary Proof of Evidence of Gavin Brent
- UCKG 2 Proof of Evidence of Gavin Brent
- UCKG 3 Appendices to Proof of Evidence of Gavin Brent (1-7)
- UCKG 4 Rebuttal Evidence of Gavin Brent
- UCKG 5 Appendices to Rebuttal Evidence of Gavin Brent (1-4)
- UCKG 6 Summary Proof of Evidence of Nick Rule
- UCKG 7 Proof of Evidence of Nick Rule
- UCKG 8 Appendices to Proof of Evidence of Nick Rule (I-VII)
- UCKG 9 Rebuttal Evidence of Nick Rule
- UCKG 10 Appendix to Rebuttal Evidence of Nick Rule
- UCKG 11 Proof of Evidence of Paul Hill
- UCKG 12 Appendix to Proof of Evidence of Paul Hill (A)
- UCKG 13 Proof of Evidence of Ben Freedman
- UCKG 14 Rebuttal Evidence of Ben Freedman
- UCKG 15 Proof of Evidence of Joss Jones
- UCKG 16 Rebuttal Evidence of Joss Jones
- UCKG 17 Summary Proof of Evidence of John Parmiter
- UCKG 18 Proof of Evidence of John Parmiter
- UCKG 19 Appendices to Proof of Evidence of John Parmiter (1-4 & JP/1 & JP/2)
- UCKG 20 Rebuttal Evidence of John Parmiter
- UCKG 21 Summary Proof of Evidence of Jacqueline Andrews
- UCKG 22 Proof of Evidence of Jacqueline Andrews
- UCKG 23 Appendices to Proof of Evidence of Jacqueline Andrews (1-3)
- UCKG 24 Rebuttal Evidence of Jacqueline Andrews
- UCKG 25 Appendices to Rebuttal Evidence of Jacqueline Andrews (1-3)
- UCKG 26 Summary Proof of Evidence of Tom Hutchinson
- UCKG 27 Proof of Evidence of Tom Hutchinson
- UCKG 28 Appendices to Proof of Evidence of Tom Hutchinson (1-3)
- UCKG 29 Proof of Evidence of Aaron Baker
- UCKG 30 Proof of Evidence of John Eade
- UCKG 31 Appendix to Proof of Evidence of John Eade

- UCKG 32 Proof of Evidence of Abbie Heath
- UCKG 33 Proof of Evidence of John Sullivan
- UCKG 34 Rebuttal Evidence of John Sullivan

Inquiry Documents

- ID 1 Amended Drawing Register (2183662) put in by UCKG
- ID 2 Appeals Notification Details put in by LBWF
- ID 3 UCKG Opening Statement
- ID 4 LBWF Opening Statement and Attachment
- ID 5 WFCT Opening Statement and Attachment
- ID 6 Projections for Full WFCT Scheme put in by LBWF
- ID 7 CPO Report for 04/12/12 Cabinet Meeting and Record of Decision put in by LBWF
- ID 8 Statement on Empire Cinema (Arcade Site) put in by LBWF
- ID 9 Representations on DMP Policy DM23 put in by LBWF
- ID 10 Selection of Written Representations put in by WFCT
- ID 11 Letter from Grosvenor Bridging Loans Ltd put in by WFCT
- ID 12 Curzon Cinema Box Office Records for Met Opera put in by WFCT
- ID 13 Figures from Soho Theatre Accounts put in by UCKG
- ID 14 'Size Matters' by Theatre Projects Consultants put in by UCKG
- ID 15 Financial Comparisons put in by UCKG
- ID 16 Agreement to Lease between UCKG and Bubble Chamber
- ID 17 Heritage Lottery Fund Information put in by UCKG
- ID 18 Cinema Catchment Comparison: Wimbledon/Walthamstow
- ID 19 Transcript of Lecture by Philip Maude 'Section 17 – A Vision of Another World' put in by UCKG
- ID 20 Plans of Arcade Scheme put in by UCKG
- ID 21 Details of Management Agreement between UCKG and Ben Freedman put in by UCKG
- ID 22 Statement of Operation for Granada Room Scheme put in by UCKG
- ID 23 Bundle of Speaking Notes put in by Interested Parties
- ID 24 E-Mail Trail: Stella Creasy MP and UCKG put in by Stella Creasy MP
- ID 25 Speaking Notes of Tristian Farquharson
- ID 26 Extract from Waltham Forest Strategic Infrastructure Plan
- ID 27 Notes of 02/12/12 Visit to City Gates Church, Cineworld, Ilford put in by UCKG
- ID 28 Copy of E-Mail Louis Lau to Tom Hutchinson put in by UCKG
- ID 29 Extract from Time Out 31/11/12 put in by UCKG
- ID 30 Agreement for Arcade Site Lease (redacted) put in by LBWF
- ID 31 Draft conditions (agreed between UCKG and LBWF)
- ID 32 Draft Agreements under Section 106
- ID 33 Statement of Common Ground agreed between LBWF, UCKG & WFCT
- ID 34 Closing Statement of WFCT and attachments
- ID 35 Closing Statement of LBWF
- ID 36 Closing Statement of UCKG
- ID 37 Costs Application made by UCKG
- ID 38 Final Suggested Conditions (submitted post-Inquiry)
- ID 39 Completed Agreements under Section 106 (submitted post-Inquiry)
- ID 40 Details of Council resolution on the Arcade Site (submitted post-Inquiry)
- ID 41 Reduced Plans of UCKG Proposals.
- ID 42 Plans of WFCT Proposal

Annex C: PLANS

Appeal A: APP/U5930/E/11/2165344

A01	200.GFE.1: Ground Floor Plan Existing Use
A02	200.FFE.2: First Floor Plan Existing
A03	200.CLE.3: Upper Circle Level Plan Existing
A04	200.RLE.4: Roof Plan Existing
A05	200.DEMO.20B: Ground Floor Plan Proposed Demolitions and Alterations
A06	200.DEMO.21A: First Floor Plan Proposed Demolitions and Alterations
A07	200.DEMO.22A: Second Floor Plan Proposed Demolitions and Alterations
A08	200.DEMO.23A: Roof Plan Proposed Demolitions and Alterations
A09	200.GFS.20E: Ground Floor Plan Proposed Use D1/D2
A10	200.FFS.21F: First Floor Plan Proposed Use D1/D2
A11	200.SFS.22G: Second Floor Plan Proposed Use D1/D2
A12	200.SFS.23C: Roof Plan Proposed Use D1/D2
A13	100.RES.10C: Residential Accommodation Second Floor Layout Proposed
A14	200.E.1A: Hoe Street Elevation Massing and Façade Existing and Proposed
A15	200.E.2A: Hoe Street Elevation Proposed Uses
A16	100.E.3A: Rear Elevation Existing and Proposed
A17	200.SEC.24A: General Section Proposed Use D1/D2
A18	100.D.1: Middle Room Subdivision Detail Existing Plan Section Elevation
A19	100.D.2A: Middle Room Subdivision Detail Proposed Plan Section Elevation
A20	100.D.3A: Foyer Core Doorway Detailed Proposals
A21	GF.50.1: Design Layouts for Refurbished Ground Floor WC Accommodation
A22	A.1: Massing Axonometric Existing
A23	A.2A: Massing Axonometric Proposed Extension
A24	200.S.10C: Existing and Proposed Thru Foyer D1 and D2 Use Proposal
A25	100.E.4A: Rear Side Elevations North and South Existing and Proposed
A26	1061.50.D.3A: Disabled Access Proposal

Appeal B: APP/U5930/A/11/2165348

B01	200.GFE.1: Ground Floor Plan Existing Use
B02	200.FFE.2: First Floor Plan Existing
B03	200.CLE.3: Upper Circle Level Plan Existing
B04	200.RLE.4: Roof Plan Existing
B05	200.DEMO.20B: Ground Floor Plan Proposed Demolitions and Alterations
B06	200.DEMO.21A: First Floor Plan Proposed Demolitions and Alterations
B07	200.DEMO.22A: Second Floor Plan Proposed Demolitions and Alterations
B08	200.DEMO.23A: Roof Plan Proposed Demolitions and Alterations
B09	200.GFS.20E: Ground Floor Plan Proposed Use D1/D2
B10	200.FFS.21F: First Floor Plan Proposed Use D1/D2
B11	200.SFS.22G: Second Floor Plan Proposed Use D1/D2
B12	200.SFS.23C: Roof Plan Proposed Use D1/D2
B13	100.RES.10C: Residential Accommodation Second Floor Layout Proposed
B14	200.E.1A: Hoe Street Elevation Massing and Façade Existing and Proposed
B15	200.E.2A: Hoe Street Elevation Proposed Uses
B16	100.E.3A: Rear Elevation Existing and Proposed
B17	200.SEC.24A: General Section Proposed Use D1/D2
B18	100.D.1: Middle Room Subdivision Detail Existing Plan Section Elevation
B19	100.D.2A: Middle Room Subdivision Detail Proposed Plan Section Elevation
B20	100.D.3A: Foyer Core Doorway Detailed Proposals
B21	GF.50.1: Design Layouts for Refurbished Ground Floor WC Accommodation
B22	A.1: Massing Axonometric Existing
B23	A.2A: Massing Axonometric Proposed Extension
B24	200.S.10C: Existing and Proposed Thru Foyer D1 and D2 Use Proposal
B25	100.E.4A: Rear Side Elevations North and South Existing and Proposed
B26	1061.50.D.3A: Disabled Access Proposal

Appeal C: APP/U5930/A/12/2183662

C01	200.GFE.1: Ground Floor Plan Existing Use
C02	200.FFE.2: First Floor Plan Existing
C03	200.CLE.3: Upper Circle Level Plan Existing
C04	200.RLE.4: Roof Plan Existing
C05	200.DEMO.20: Ground Floor Plan Proposed Demolitions and Alterations
C06	200.DEMO.21: First Floor Plan Proposed Demolitions and Alterations
C07	200.DEMO.22: Second Floor Plan Proposed Demolitions and Alterations
C08	200.DEMO.23: Roof Plan Proposed Demolitions and Alterations
C09	200.GFS.20: Ground Floor Plan Proposed Use Allocation Mixed D1/D2 Scheme
C10	200.FFS.21: First Floor Plan Proposed Use Allocation Mixed D1/D2 Scheme
C11	200.SFS.22: Second Floor Plan Proposed Use Allocation Mixed D1/D2 Scheme
C12	200.RFS.23: Roof Plan Proposed Use Allocation Mixed D1/D2 Scheme
C13	100.RES.10: Residential Accommodation Second Floor Layout Proposed
C14	100.E.1: Hoe Street Elevation Massing and Façade Existing and Proposed
C15	200.E.2: Hoe Street Elevation Proposed Uses
C16	100.E.3: Rear Elevation Existing and Proposed
C17	200.SEC.22: South Section Elevation Existing and Proposed
C18	200.SEC.23: Sections Thru Foyer 1-1 Existing and Proposed
C19	200.SEC.24: General Section Proposed Use D1/D2
C20	200.SEC.25: Proposed Section 2-2 Thru Infill New Build and part Auditorium
C21	200.SEC.26: North Section Elevation Existing and Proposed
C22	200.SEC.27: Ex & proposed Section Foyer 5-5
C23	100.D.1: Upper Circle Subdivision Detail Existing Plan Section Elevation
C24	100.D.2: Screen 6, 3 and 4 Detail proposed Plan Section Elevation
C25	50.D.3: Foyer Core Doorway Existing
C26	50.D.4: Foyer/Core Doorway Detailed Proposals
C27	GF.50.1: Design Layouts for Refurbished Ground Floor WC Accommodation
C28	50.D.5A: Main Entrance Disabled Access Proposals
C29	NTS.A.1: South West Aerial View Fly Tower Existing and Proposed
C30	NTS.A.2: North West Aerial View Fly Tower Existing and Proposed
C31	NTS.A.3: Aerial View North of Building Existing and Proposed
C32	NTS.A.4: Aerial View South West of Frontage Existing and Proposed
C33	NTS.A.5: Front Views South Along Hoe Street Existing and Proposed
C34	NTS.A.6: Front Views North Along Hoe Street Existing and Proposed
C35	NTS.A.7: Aerial View of Site Context Existing and Proposed
C36	NTS.A.8: Views Adjacent to Bank Along Hoe Street Existing and Proposed
C37	Unnumbered Site Location Plan

Annex D: SUGGESTED CONDITIONS

Appeal A: APP/U5930/E/11/2165344

- 1) The works hereby authorised shall begin not later than three years from the date of this consent.
- 2) Written notification of the start of works on site shall be given to the Council at least seven days before the works hereby approved are commenced.
- 3) The works hereby authorised shall not be commenced until a contract or contracts for the works approved herein has or have been made and details of the contract or contracts has or have been submitted to, and approved in writing by, the local planning authority.
- 4) No works shall take place until a Method Statement for their implementation has been submitted to, and approved in writing by, the local planning authority. The Method Statement shall include details of (1) working methods, including the proposed use of tools; (2) the means by which the structural stability of the building is to be secured for the duration of the works; and (3) methods by which the interior features of the building and in particular, the decorative features in the entrance lobby, foyer, cross lobby and auditorium; the principal staircases; doors; windows; chandeliers; mirrors; historic joinery; plasterwork; wallpapers; fixed furniture; the organs; columns, pilasters and similar features; and decorative ventilation grilles, are to be protected against accidental loss, damage, or theft. The works shall be carried out in accordance with the approved Method Statement.
- 5) No works shall take place until details of all new and reused services, internal or external, including mechanical, electrical, heating/cooling, communications and information technology, and related fixtures, have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
- 6) All new internal and external works and finishes, and works of making good to the retained fabric, including internal and external joinery, shall match the existing adjacent work, with regard to the material, colour, texture, and profile, and working methods used, unless shown otherwise on the drawings, or other documentation, hereby approved, or required by any condition(s) attached to this consent.
- 7) The local planning authority shall be notified immediately of any currently hidden historic feature(s) revealed during the course of the works hereby approved. The feature(s) shall be retained in situ until provision has been made for inspection, recording and possible retention, as may be required by the local planning authority.
- 8) Prior to any work commencing on site to carry out a full survey and comprehensive photographic or drawn record of all historic features on the site recording its condition prior to implementation and identifying all areas where historic features have been lost or damaged or where further work is required will be submitted to the local planning authority and approved prior to the commencement of stripping out works.
- 9) No works shall take place until details of (1) new and replacement windows; (2) new and replacement doors; (3) new gates on the Hoe Street frontage; (4) ground floor bookshop extension, and new shop-fronts, including samples

of materials; (5) roof extensions including samples of materials and details of junctions with existing fabric; (6) replacement pantiles to frontage building; (7) new jib door from the main foyer; (8) reinstated scrolled parapet detail to the main entrance block; (9) lifts and their junctions with surrounding fabric; (10) projection booth existing and proposed; (11) alterations to internal staircases; (12) new rainwater goods; (13) signage; (14) the stone step to the front of the building, including samples of materials, included as part of the disabled access alterations; (15) details of all fittings and signage required for fire safety purposes; (16) all acoustic and thermal insulation, and integration with existing fabric; (17) the line of the upper circle partitioning including junctions with existing fabric; (18) all booths, kiosks, and any other counters; (19) redecoration strategy to include paint sampling, method of removal of over painting, strategy for making good of the historic decorations, specification for new paint types and colours, and conservation strategy for any wallpapers or historic plasterwork; (20) external decorations; (21) artificial lighting, internal and external; and (22) an asbestos survey, and a scheme for decontamination of the building, or an alternative approach, have been submitted to, and approved in writing by, the local planning authority. Works shall be carried out in accordance with the approved details.

Appeal B: APP/U5930/A/11/2165348

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans: 200.GFE.1: Ground Floor Plan Existing Use; 200.FFE.2: First Floor Plan Existing; 200.CLE.3: Upper Circle Level Plan Existing; 200.RLE.4: Roof Plan Existing; 200.DEMO.20B: Ground Floor Plan Proposed Demolitions and Alterations; 200.DEMO.21A: First Floor Plan Proposed Demolitions and Alterations; 200.DEMO.22A: Second Floor Plan Proposed Demolitions and Alterations; 200.DEMO.23A: Roof Plan Proposed Demolitions and Alterations; 200.GFS.20E: Ground Floor Plan Proposed Use D1/D2; 200.FFS.21F: First Floor Plan Proposed Use D1/D2; 200.SFS.22G: Second Floor Plan Proposed Use D1/D2; 200.SFS.23C: Roof Plan Proposed Use D1/D2; 100.RES.10C: Residential Accommodation Second Floor Layout Proposed; 200.E.1A: Hoe Street Elevation Massing and Façade Existing and Proposed; 200.E.2A: Hoe Street Elevation Proposed Uses; 100.E.3A: Rear Elevation Existing and Proposed; 200.SEC.24A: General Section Proposed Use D1/D2; 100.D.1: Middle Room Subdivision Detail Existing Plan Section Elevation; 100.D.2A: Middle Room Subdivision Detail Proposed Plan Section Elevation; 100.D.3A: Foyer Core Doorway Detailed Proposals; GF.50.1: Design Layouts for Refurbished Ground Floor WC Accommodation; A.1: Massing Axonometric Existing; A.2A: Massing Axonometric Proposed Extension; 200.S.10C: Existing and Proposed Thru Foyer D1 and D2 Use Proposal; 100.E.4A: Rear Side Elevations North and South Existing and Proposed; 1061.50.D.3A: Disabled Access Proposal.
- 3) No development shall take place until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved CMS shall be adhered to throughout the construction period and shall provide for: (1) a method statement for works of

alteration/removal of existing fabric; (2) hours of working; (3) dust mitigation and suppression measures; (4) measures to minimise the impact of noise from construction activities; (5) details of construction lighting together with measures to minimise light pollution; (6) details of means of access and parking for construction vehicles; (7) measures to prevent the deposition of mud on the highway; details of contractor's accommodation, (8) storage and employee vehicle parking; and (9) the management of asbestos during the construction period.

- 4) No development shall take place until a scheme of general and security lighting to the exterior of the building, and any security cameras, have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) The main auditorium shall not operate outside the hours of: 0630 to 2330 on Mondays to Fridays, inclusive, 0700 to 2330 on Saturdays, and 0700 to 2200 on Sundays. In addition, the premises shall be permitted to be open for night time vigils on New Year's Eve and five other separate occasions on the basis of a timetable first submitted to, and approved in writing by, the local planning authority. Night time vigils shall only take place in accordance with those approved dates.
- 6) The residential accommodation that forms part of the scheme approved herein shall not be occupied for any other purpose other than for staff accommodation ancillary to the main D1 use of the premises.
- 7) The Granada Rooms that form part of the scheme approved herein shall be used principally for D2 purposes, with D1 purposes incidental thereto.
- 8) The Training Centre that forms part of the scheme approved herein shall be used for the purpose of training and education, available to the general public.
- 9) The offices that form part of the scheme approved herein shall not be occupied for any purpose other than those ancillary to the main D1 use of the premises.
- 10) The bookshop that forms part of the scheme approved herein shall not be occupied for any purpose other than those within Class A1 of the Town and Country Planning (Use Classes) Order 1987.
- 11) The Kids Zone that forms part of the scheme approved herein shall not be occupied for any other purpose other than those ancillary to the main D1 use of the premises.
- 12) The Youth Centre that forms part of the scheme approved herein shall not be occupied for any other purpose other than those ancillary to the main D1 use of the premises.
- 13) No development shall take place until details of the obscure glass to be fitted in the first floor windows in the rear elevation of the proposed offices/admin accommodation, have been submitted to and approved in writing by, the local planning authority. The obscure glass shall be fitted in accordance with the approved details and retained as such thereafter.
- 14) No development shall take place until details and samples, where necessary, of all new external materials, have been submitted to and approved by the

local planning authority. Development shall be carried out in accordance with the approved details.

- 15) No development shall take place until details of the dedicated refuse/recycling enclosure, together with a waste management strategy, has been submitted to, and approved in writing by, the local planning authority. The enclosure shall be completed in accordance with the approved details before any of the uses approved herein commence, and retained as such thereafter. Operation of the building shall accord with the approved waste management strategy.
- 16) Emitted activity noise levels shall be quantified as a continuous series of LAeq, 5min levels. Background noise levels shall be quantified as a continuous series of LA90, 5min levels. Emitted activity noise levels shall not exceed a value 5dB below the prevailing background noise levels, when measured 1m from any facade of any nearby residential building. Emitted activity noise levels shall also be quantified as a continuous series of Leq, 5min levels in both the 63Hz and 125Hz octave frequency bands. Prevailing noise levels in these octave frequency bands shall also be quantified as a continuous series of Leq, 5min levels. Emitted activity noise levels in the 63Hz and 125Hz octave frequency bands shall not exceed the corresponding prevailing octave frequency band noise levels, when measured 1m from any facade of any nearby residential building. Sound system limiters shall be employed as required to ensure compliance with the above limits. Emitted building services noise levels shall not exceed a value 10dB below the prevailing background noise levels, when measured 1m from any facade of any nearby residential building. This limit should be adjusted to 15dB below LA90, 5min when the noise has any distinguishing characteristics, such as tonality, according to the definitions and rating system set out in BS4142:1997. Detailed acoustical analysis which demonstrates that these limits can be met, and which accounts for activities and associated noise levels; prevailing noise levels; management of entrances and exits; the sound insulation provided by the building fabric; the characteristics of any noise limiters; the noise characteristics of all building services elements; and noise propagation paths, shall be submitted to and approved by the local planning authority prior to commencement of the development. The agreed works shall be implemented in accordance with the agreed details prior to the commencement of the use and be permanently maintained thereafter.
- 17) No development shall take place until details of the mechanical ventilation system(s) for the building, and its management and maintenance, have been submitted to and approved in writing by the local planning authority. The mechanical ventilation system(s) shall be installed and operated in accordance with the approved details.
- 18) The uses approved herein shall not commence until a delivery and servicing plan (DSP) giving details of servicing arrangements, including the location, times, and frequency, has been submitted to and approved in writing by the local planning authority. The uses shall be operated in accordance with the approved details.
- 19) No development shall take place until details of cycle parking have been submitted to, and approved in writing by, the local planning authority. The cycle parking shall be provided in accordance with the approved details before the uses approved herein commence and retained thereafter.

- 20) No development shall take place until details of any new boundary treatments have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 21) The uses hereby permitted shall not commence until a Community Access Plan governing the use of the Granada Rooms has been submitted to and agreed in writing by the local planning authority. The future use of the Granada Rooms shall be subject to the terms of the Community Access Plan.
- 22) The main auditorium shall not be used for anything other than uses within Use Class D2 (Assembly and Leisure) of the Town and Country Planning Use Classes Order 1987 (as amended) unless the Granada Rooms are open for business and trading, in accordance with the Community Access Plan.

Appeal C: APP/U5930/A/12/2183662

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans: 200.GFE.1: Ground Floor Plan Existing Use; 200.FFE.2: First Floor Plan Existing; 200.CLE.3: Upper Circle Level Plan Existing; 200.RLE.4: Roof Plan Existing; 200.DEMO.20: Ground Floor Plan Proposed Demolitions and Alterations; 200.DEMO.21: First Floor Plan Proposed Demolitions and Alterations; 200.DEMO.22: Second Floor Plan Proposed Demolitions and Alterations; 200.DEMO.23: Roof Plan Proposed Demolitions and Alterations; 200.GFS.20: Ground Floor Plan Proposed Use Allocation Mixed D1/D2 Scheme; 200.FFS.21: First Floor Plan Proposed Use Allocation Mixed D1/D2 Scheme; 200.SFS.22: Second Floor Plan Proposed Use Allocation Mixed D1/D2 Scheme; 200.RFS.23: Roof Plan Proposed Use Allocation Mixed D1/D2 Scheme; 100.RES.10: Residential Accommodation Second Floor Layout Proposed; 100.E.1: Hoe Street Elevation Massing and Façade Existing and Proposed; 200.E.2: Hoe Street Elevation Proposed Uses; 100.E.3: Rear Elevation Existing and Proposed; 200.SEC.22: South Section Elevation Existing and Proposed; 200.SEC.23: Sections Thru Foyer 1-1 Existing and Proposed; 200.SEC.24: General Section Proposed Use D1/D2; 200.SEC.25: Proposed Section 2-2 Thru Infill New Build and part Auditorium; 200.SEC.26: North Section Elevation Existing and Proposed; 200.SEC.27: Ex & proposed Section Foyer 5-5; 100.D.1: Upper Circle Subdivision Detail Existing Plan Section Elevation; 100.D.2: Screen 6, 3 and 4 Detail proposed Plan Section Elevation; 50.D.3: Foyer Core Doorway Existing; 50.D.4: Foyer/Core Doorway Detailed Proposals; GF.50.1: Design Layouts for Refurbished Ground Floor WC Accommodation; 50.D.5A: Main Entrance Disabled Access Proposals; NTS.A.1: South West Aerial View Fly Tower Existing and Proposed; NTS.A.2: North West Aerial View Fly Tower Existing and Proposed; NTS.A.3: Aerial View North of Building Existing and Proposed; NTS.A.4: Aerial View South West of Frontage Existing and Proposed; NTS.A.5: Front Views South Along Hoe Street Existing and Proposed; NTS.A.6: Front Views North Along Hoe Street Existing and Proposed; NTS.A.7: Aerial View of Site Context Existing and Proposed; NTS.A.8: Views Adjacent to Bank Along Hoe Street Existing and Proposed; and Unnumbered Site Location Plan.

- 3) No development shall take place until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved CMS shall be adhered to throughout the construction period and shall provide for: (1) a method statement for works of alteration/removal of existing fabric; (2) hours of working; (3) dust mitigation and suppression measures; (4) measures to minimise the impact of noise from construction activities; (5) details of construction lighting together with measures to minimise light pollution; (6) details of means of access and parking for construction vehicles; (7) measures to prevent the deposition of mud on the highway; details of contractor's accommodation, (8) storage and employee vehicle parking; and (9) the management of asbestos during the construction period.
- 4) No development shall take place until a scheme of general and security lighting to the exterior of the building, and any security cameras, have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) The main auditorium shall not operate outside the hours of: 0630 to 2330 on Mondays to Fridays, inclusive, 0700 to 2330 on Saturdays, and 0700 to 2200 on Sundays. In addition, the premises shall be permitted to be open for night time vigils on New Year's Eve and five other separate occasions on the basis of a timetable first submitted to, and approved in writing by, the local planning authority. Night time vigils shall only take place in accordance with those approved dates.
- 6) The residential accommodation that forms part of the scheme approved herein shall not be occupied for any purpose other than for staff accommodation ancillary to the main D1 use of the premises.
- 7) The Training Centre that forms part of the scheme approved herein shall be used for the purpose of training and education, available to the general public.
- 8) The offices that form part of the scheme approved herein shall not be occupied for any other purpose other than those ancillary to the main D1 use of the premises.
- 9) The bookshop that forms part of the scheme approved herein shall not be occupied for any other purpose other than those within Class A1 of the Town and Country Planning (Use Classes) Order 1987.
- 10) The Kids Zone that forms part of the scheme approved herein shall not be occupied for any other purpose other than those ancillary to the main D1 use of the premises.
- 11) The Youth Centre that forms part of the scheme approved herein shall not be occupied for any other purpose other than those ancillary to the main D1 use of the premises.
- 12) No development shall take place until details of the obscure glass to be fitted in the first floor windows in the rear elevation of the proposed offices/admin accommodation, have been submitted to and approved in writing by, the local planning authority. The obscure glass shall be fitted in accordance with the approved details and retained as such thereafter.

- 13) No development shall take place until details and samples, where necessary, of all new external materials, have been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details.
- 14) No development shall take place until details of the dedicated refuse/recycling enclosure, together with a waste management strategy, has been submitted to, and approved in writing by, the local planning authority. The enclosure shall be completed in accordance with the approved details before any of the uses approved herein commence, and retained as such thereafter. Operation of the building shall accord with the approved waste management strategy.
- 15) Emitted activity noise levels shall be quantified as a continuous series of LAeq, 5min levels. Background noise levels shall be quantified as a continuous series of LA90, 5min levels. Emitted activity noise levels shall not exceed a value 5dB below the prevailing background noise levels, when measured 1m from any facade of any nearby residential building. Emitted activity noise levels shall also be quantified as a continuous series of Leq, 5min levels in both the 63Hz and 125Hz octave frequency bands. Prevailing noise levels in these octave frequency bands shall also be quantified as a continuous series of Leq, 5min levels. Emitted activity noise levels in the 63Hz and 125Hz octave frequency bands shall not exceed the corresponding prevailing octave frequency band noise levels, when measured 1m from any facade of any nearby residential building. Sound system limiters shall be employed as required to ensure compliance with the above limits. Emitted building services noise levels shall not exceed a value 10dB below the prevailing background noise levels, when measured 1m from any facade of any nearby residential building. This limit should be adjusted to 15dB below LA90, 5min when the noise has any distinguishing characteristics, such as tonality, according to the definitions and rating system set out in BS4142:1997. Detailed acoustical analysis which demonstrates that these limits can be met, and which accounts for activities and associated noise levels; prevailing noise levels; management of entrances and exits; the sound insulation provided by the building fabric; the characteristics of any noise limiters; the noise characteristics of all building services elements; and noise propagation paths, shall be submitted to and approved by the Local Planning Authority prior to commencement of the development. The agreed works shall be implemented in accordance with the agreed details prior to the commencement of the use and be permanently maintained thereafter.
- 16) No development shall take place until details of the mechanical ventilation system(s) for the building, and its management and maintenance, have been submitted to and approved in writing by the local planning authority. The mechanical ventilation system(s) shall be installed and operated in accordance with the approved details.
- 17) The uses approved herein shall not commence until a delivery and servicing plan (DSP) giving details of servicing arrangements, including the location, times, and frequency, has been submitted to and approved in writing by the local planning authority. The uses shall be operated in accordance with the approved details.
- 18) No development shall take place until details of cycle parking have been submitted to, and approved in writing by, the local planning authority. The

cycle parking shall be provided in accordance with the approved details before the uses approved herein commence and retained thereafter.

- 19) No development shall take place until details of any new boundary treatments have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 20) The main auditorium shall not be used for anything other than uses within Use Class D2 (Assembly and Leisure) of the Town and Country Planning Use Classes Order 1987 (as amended) unless the six screen cinema (UCKG multiplex) is open for business and trading.



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.