

Barbara Kirkbride  
Liverpool City Council  
Planning & Building Control  
Municipal Buildings, Dale Street  
Liverpool L2 2DH

2 July 2013

Dear Barbara

**RE: SUBMISSION OF FULL PLANNING APPLICATION AND CONSERVATION  
AREA CONSENT:**

**DEMOLITION OF BUILDINGS 86, 88 AND 90 DUKE STREET, 71 HENRY  
STREET AND 14 SUFFOLK STREET AND RETENTION OF THE EXISTING  
VINEGAR WAREHOUSE ON HENRY STREET TO FORM A FOUR STOREY  
GRADE A OFFICE BUILDING (B1), NEW COURTYARD AND BASEMENT CAR  
PARK WITH RAMPED ACCESS VIA HENRY STREET.**

**AT LAND AND BUILDINGS AT 86 – 90 DUKE STREET, LIVERPOOL.**

**APP REFS: 13F/0890 AND 13C/0891**

We write further to the receipt of the English Heritage consultation response of 7 June 2013, received 10 weeks in the 13 week determination period. Langtree Group Plc are very disappointed with English Heritage's consultation response, in which they object to this regeneration proposal to develop a 40,000 sq ft (net) Grade A office on this derelict and blighted development site.

We are disappointed that this does not reflect the discussions that Langtree Group Plc and their Consultants have had with the Council and English Heritage over several years.

We have considered the contents of the objection letter from English Heritage and make the following comments:-

**Spawforths**

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1. English Heritage recognise the need to re-use the site and welcome its contribution to the regeneration of Ropewalks. However, we do not consider that they have given sufficient weight to this objective in formulating their response.
2. We previously considered whether an assessment of the potential impact on the Outstanding Universal Value (OUV) of the World Heritage Site (WHS) was required in relation to this application. In the light of the 2011 UNESCO approved methodology for assessing the impact of development in Cultural World Heritage Sites, our Heritage Advisor, Peter de Figueiredo advised that the scale and nature of development at Duke Street would not justify this approach. No requirement for a specific assessment of impact on OUV was made by Liverpool City Council, and as a result an assessment of heritage impact that included an evaluation of the impact on the WHS was submitted with the application. . It is notable that UNESCO refers to threats to World Heritage Sites being from '*various forms of large-scale development...including roads, bridges, tall buildings. 'box' buildings (eg malls), inappropriate or a contextual developments, renewals, demolitions and new infrastructure like wind farms, as well as land-use policy changes and large scale urban frameworks.*'
3. Notwithstanding Peter's professional opinion Langtree have commissioned him to undertake an OUV Impact Assessment for the application proposals, taking account of his experience in undertaking the recent Liverpool Waters OUV Impact Assessment, following the UNESCO approved methodology. We enclose his assessment and summarise his findings later in this letter.
4. We disagree with English Heritage's view that the proposals fail to meet the requirements of the Planning (Listed Buildings & Conservation Areas) Act 1990 and consider that the proposals on this derelict and blighted site will make positive improvements to the historic environment. We have fully justified our approach in the Design and Access Statement and Heritage Impact Assessment / Statement and believe that our approach is robust. The visual impact of the site will be significantly enhanced, and the replacement building will complement the regeneration of the Ropewalks area of the City, giving additional confidence in the Ropewalks area as a location in which to work, reside and invest. We clearly have a difference of professional opinion from English Heritage and it will be for the Local planning Authority to consider these alternative views in determining this application.
5. Langtree Group Plc have no intention to withdraw the application which has been the result of a long and collaborative process of engagement with the City Council to not only address the

heritage and regeneration aspects of the site but also to meet the requirements of ACL's, a long standing and respected local employer. There is a very clear timescale imperative to not only meet the requirements of ACL Ltd but also to capture the funding support (£2.4m ERDF and £1m RGF monies) necessary to bring forward this scheme. These circumstances represent the only realistic opportunity Langtree Group Plc and their public sectors partners will have to re-develop a site that has been derelict and a blight on the City for well over 40 years. The development programme is such that a positive planning determination is fundamental to allow Langtree Group Plc. to commence with the development later this year and comply with the grant drawdown and occupier-led timetable. If this application is withdrawn and not determined in July 2013, this project will fail as funding will be revoked, and the site will remain vacant and continue to blight the area for the foreseeable future.

6. We wholly disagree with the comments of English Heritage who believe that the Heritage Impact Assessment / Statement provided with the application understates the contribution of the site to the Conservation Area and World Heritage Site (WHS). Peter de Figueiredo is a very experienced Heritage Advisor accomplished in undertaking impact assessments. The Heritage Impact Assessment / Statement has regard to the WHS Management Plan, the NPPF and Circular 07/09 and in our professional team's considered opinion does not understate the contribution and significance of the site. This is a further difference of professional opinion from English Heritage and will be for the Local planning Authority to consider these alternative views in determining this application.
7. The Planning Statement and covering letter submitted with the planning application gives consideration to the requirement for an Environmental Impact Assessment (EIA). This confirms that we have considered the scale of the development and the potential sensitivity of the site (in light of the environmental information supporting the application), in particular the heritage significance of the site as part of the supporting Heritage Statement. Based on this assessment we do not consider that the proposal gives rise to significant effects on the environment and therefore consider that an Environmental Impact Assessment is not required.

The Planning Statement and covering letter concluded that an Environmental Statement (ES) is not required and on this basis we requested that the Local Planning Authority issue a Screening Opinion to give consideration to this. The application was validated on the 8<sup>th</sup> April 2013 and the Council had three weeks following that date to provide a Screening Opinion, unless a longer period has been agreed with the applicant. The Council did not request such a longer period and hence an Environmental Statement is not required.

8. We are pleased that English Heritage agree with the conclusions of the Heritage Impact Assessment / Statement in respect of 88 – 90 Duke Street and acknowledge that the loss of 88 – 90 Duke Street, which has been substantially re-modelled, will have a less than substantial level of harm.
9. English Heritage raise significant concerns about the new building and states that it responds poorly to the character and appearance of the conservation area and it is contrary to the NPPF and fails to demonstrate that the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 will be fulfilled. English Heritage's position is disappointing and is contrary to the collaborative approach through design workshops that we adopted with the Council's Conservation and Planning Officers. We made several attempts to engage with English Heritage prior to the planning submission. They were invited to provide comment and feedback on this proposal and the evidence submitted at pre-application stage. Despite these attempts to positively engage with English Heritage, we were unable to meet with them to discuss the application and they provided no formal response to the pre-application submission. It is now very frustrating to read English Heritage's negative response to Langtree Group Plc's regeneration proposals for the site when we sought to engage them in a process during the pre-application design evolution stages.
10. English Heritage provides both positive design comments regarding the proposed rhythm of the vertical bays to the Henry Street elevation which they consider complements the character of the street and negative comments with regard to the continuous floor plate of the proposed building. The continuous floor plates are a response to the requirements of ACL Ltd who have a requirement for BREEAM Excellent Grade A Office space with large floor plates. All alternative options which seek to retain the plan form of the existing buildings, in particular the retention of 86 Duke Street, would not attract public funding as they would not comprise Grade A space, and the smaller office foot plates compromise the internal tenant commercial requirements of the ender user ACL Ltd. Alternative options with smaller floor plates would also be designed as Grade B office for multi-let that would not suit a single occupier as the scheme would become heavily cellularised through the restrictions imposed of differing floor levels, the existing fabric and the remaining infill new build space that merely seeks to fill the gaps. Retaining the fabric also results in a reduction in the building's efficiency and the percentage of useable floor area for office use becomes reduced in comparison to a new purpose built office. DLA Architecture has given full consideration to English Heritage's design comments regarding the architectural language of the proposed elevations and its impact on the

distinctive character of the street. We have appended DLA's detailed response to these design comments. In summary, DLA Architecture considers the design ethos is consistent with the character of the local area.

11. We accept that under the terms of Paragraph 133 of the NPPF, the loss of 86 Duke Street should be considered as 'substantial harm'. In view of this, the Heritage Impact Assessment / Statement, considers the proposals in accordance with this policy. The Heritage Impact Assessment / Statement demonstrates that the substantial benefits arising from the scheme outlined in the supporting evidence, outweigh the harm and loss of 86-88-90 Duke Street. Notwithstanding these benefits, the application has also been considered in accordance with the additional relevant criteria set out in paragraph 133 of the NPPF and the guidance set out in the PPS5 Practice Guide. We consider that the evidence base submitted with the application meets the criteria set out in paragraph 133 of the NPPF. We disagree with English Heritage's conclusion that the public benefits have not been demonstrated and are unclear. It is very plain to see the regeneration benefits arising from this proposal which collectively are public benefits. It is also clear to see that without funding this key regeneration project will be not be realised.
12. We have given consideration to the guidance set out in the PPS5 Practice Guide and the comments made by English Heritage, which state that for the loss to be necessary there will need to be no reasonable means of delivering similar public benefits, for example through different design or development of an appropriate alternative site. The Heritage Impact Assessment / Statement clearly demonstrate that this is the only viable scheme to realise the benefits and proposals to retain 86-90 Duke Street will be unviable.
13. We have worked conscientiously for many years with all stakeholders including English Partnerships / Homes and Communities Agency, Liverpool City Council, Liverpool Vision, DCLG and English Heritage to promote a design for the building which balances the wider conservation and heritage considerations of the site with the operational and commercial requirements of an end user. It is a process that has involved numerous viability-led design iterations, including options to retain buildings on the site all of which are unviable. This shows that we have exhausted all options to retain 86-90 Duke Street and conceive a viable office use for this site which balances the conservation aspirations with the operational and commercial requirements of an end user.
14. English Heritage's comments regarding the speculative nature of the scheme are incorrect, and surprising, given English Heritage were made fully aware of ACL Ltd involvement in the site in

February 2013, during pre-application meetings. Whilst ACL will initially occupy only part of the building, their intention is to expand into it and they will own it all. It is therefore not a speculative proposal for this site. Without ACL's involvement, the gap funding would not be realised and the scheme would not be viable. This procedure is entirely consistent with the precedent set by the White Star Shipping Line, Cunard, The Royal Liver Insurance Company, Martin's Bank and other large companies that erected fine commercial buildings in Liverpool in the 19<sup>th</sup> and 20<sup>th</sup> centuries which are now greatly admired. Langtree Group Plc has signed an agreement with ACL Ltd who wish to cement their presence in the City by acquiring the site for use as their European Head Quarters.

15. The Heritage Impact Assessment / Statement provides a robust justification for this "substantial level of harm" and is supported by a design and financial analysis of two comparable alternative options for use of the site as offices, which include retention of 86 Duke Street. The scope of this study and the two alternative options to be compared against the application proposal were agreed with the Council at pre-application stage.
16. Irrespective of the lack of a need for an EIA, ACL Ltd have looked at many sites in Liverpool and have been unable to meet their requirements elsewhere. Similarly Langtree Group Plc has looked at many available options for re-developing the application site (as set out in the Heritage Statement) and this is the only viable solution to bring forward development on the site.
17. The Heritage Impact Assessment / Statement provides a very detailed note which shows the marketing undertaken on the site since Langtree Group Plc. were appointed as preferred developer in March 2004. Whilst Langtree Group Plc. have been in discussion with ACL Ltd since 2008, they have received no further interest in the site from the open market, despite the advertisement hoarding erected on the site advertising all enquiries to be made to Langtree Group Plc. This marketing note shows all attempts to market the site have been made. No evidence has been provided regarding the asking price as the marketing of the site by Langtree Group Plc was for the purposes of securing a development partner and end occupier and deliver the proposals.
18. We disagree with English Heritage comments querying the limited appraisal of funding opportunities provided with the application, Amion Consulting are expert in funding matters and have provided a comprehensive appraisal of the funding opportunities available. Notwithstanding this, we have asked Amion to give further consideration to this matter and they have confirmed that the review of funding sources set out in the original submission was

appropriate in terms of both its scope and detail and that other forms of funding or investment would not be applicable to the circumstances of this site. Private sector funding has been maximised in this scheme by virtue of its securing a purchaser that, in line with normal market principles of investment, will only invest up to the market value of the completed development.

This ERDF gap funding is the maximum available and is only being proposed as it supports Grade A office space for a local user. No design option to retain 86 Duke Street can meet these requirements and hence no gap funding is available to meet the viability gap. We have appended additional information provided by Amion Consulting which confirms the public and private sector funding opportunities and clarifies the conditions of the ERDF bid application.

19. In response to English Heritage comments in respect of the structural survey, we are concerned that their comments should be seen in their full context. The Structural Survey does confirm that “with short term repairs...86 Duke Street could relatively easily be saved”, however this should be read in context with other structural reports submitted with the application and should be balanced with the costs of repair and retention of a building to meet the commercial end users requirements and the conditions of the ERDF funding, which renders options to retain 86 Duke Street unviable.
20. We recognise the policy guidance set out in the Council's UDP, which confirms that they (the Council) will generally resist applications for the demolition of buildings that make a contribution, unless the tests set out in the UDP are met. The Heritage Impact Assessment / Statement already gives detailed consideration to this policy in its evidence base and justification submitted with the application. Any suggestions from English Heritage that the building has been neglected are completely unfounded. Evidence submitted within this Assessment clearly shows that the HCA have not wilfully neglected the building and have sought to maintain it as part of a clearly set out maintenance regime.

In summary, we consider that the proposals strike the appropriate balance between the regeneration aspirations for this site and its historical significance, given its location within the Duke Street Conservation Area and World Heritage Site. Significant weight should be attached to the economic and regeneration importance of developing this site which should not be dismissed when balancing this against the heritage impacts and loss of 86-90 Duke Street. Redevelopment of the land would deliver considerable planning and public benefits that should weigh heavily in favour of this application proposal.

This letter and the Heritage Impact Assessment / Statement clearly recognises and evaluates the level of harm to the conservation area to achieve these benefits.

Notwithstanding our comments above on English Heritage's objection, we have sought to directly address two of their principle issues.

1. Our Heritage Advisor has now prepared an OUV Impact Assessment, which concludes that the anticipated level of harm to the OUV of the WHS will be substantially outweighed by public benefits. This provides further justification and evidence in support of our application. We consider that this should now address the concerns of English Heritage in this regard.
2. We have tested a further alternative option, (retention of both 86 Duke Street and the vinegar warehouse facades as part of a new office development). This forms an addendum to the Options Analysis submitted with the Heritage Impact Assessment / Statement. The analysis of this alternative option concludes that this alternative options is not viable and equates to a deficit of -£4,007,391. This confirms that the only viable development solution for this site will require demolition of No. 86, as well the demolition of 88-90 Duke Street.

For clarification, the information now provided to the Council response to English Heritage comments are as follows:

- Appendix 1 - Assessment of Potential Effects on Proposed Development on the OUV of the Liverpool World Heritage Site (WHS) prepared by Peter de Figueiredo
- Appendix 2 - DLA Design Response in relation to English Heritage design comments
- Appendix 3 - Architectural Option 4 - Elevations and Floor Plan prepared by DLA Architecture
- Appendix 4 - Financial Viability Report – Additional Option to Consider Retention of 86 Duke Street Façade prepared by Keppie Massie Surveyors and Property Consultants
- Appendix 5 - Options Analysis Summary – Option 4 (Retention of 86 Duke Street Façade)
- Appendix 6 - Amion Consulting Response in relation to English Heritage funding comments

We trust that you can now consider this information to balance English Heritage's unjustified concerns. We have set out the timescale imperative with regard to this scheme and consider that that you have enough information to allow you to recommend approval at Planning Committee on the 23<sup>rd</sup> July 2013.



We recognise that English Heritage may still maintain an objection to this application and in these circumstances any decision will be referred to the Secretary of State (SoS) for Communities and Local Government who may choose to “call in” this case. Nevertheless, we do not consider that this should be a case which warrants being called in and consider recent case law (March 2013) regarding the application for the demolition of the Edwardian extension of the former Jessops Hospital in Sheffield weighs heavily in the favour of the SoS allowing the Council to make their own decision, given the importance of this site at a local level.

Please do not hesitate to contact me should you wish to discuss any issues in more detail.

Yours sincerely

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cc: Mr Mark Stapleton / Steve Barnes

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