

**Langtree Group Plc.**

# **86-90 Duke Street, Liverpool**

## **Planning and Regeneration Statement**

Revision A March 2013



## Revision Record

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<b>Report Author</b>	Gavin Winter
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## I. Introduction and Background

Spawforths have been instructed by Langtree Group Plc to prepare and submit a full planning application and application for Conservation Area Consent to demolish the existing buildings on the site No. 86 and No. 88-90 Dock Street, 71 Henry Street and Suffolk Street including retention of the existing Vinegar Warehouse building to form a replacement building comprising 40,000 square foot (ft<sup>2</sup>) Grade A Office space.

This Planning and Regeneration Statement's primary purpose is to provide a justification for this proposed use on the site. It should be read in conjunction with the separate Heritage Statement, which provides a justification for Conservation Area Consent to demolish the unlisted buildings on the site in the context of the NPPF and local conservation area policies relating to demolition and also the impact of the development proposals against this national and local policy guidance.

The applicants have taken professional advice from a development team and supplementary information has been prepared in support of the application by the following consultants.

- Spawforths - Planning and Regeneration Statement
- DLA Architecture – Drawings Package and Design and Access Statement
- Peter De Figueiredo - Heritage Advisor (Heritage Statement)
- WS Atkin / WYG - Ground Conditions (Geotechnical Report)
- Archaeology – Giffords (Archaeological Desk Top Study)
- Infrastructure Planning and Design (IPaD) – Transport Assessment and Travel Plan
- Solum Environmental – Ecology (Bats)
- Hoare Lea - Energy / Mechanical Engineering / Utilities

This Statement should be read in conjunction with these reports.

## 2. Development Proposals Overview

Langtree Group Plc is proposing to develop the land and buildings at 86-90 Duke Street for office (BI) uses constructed to BREEAM Excellent.

The application is to be submitted in full with Conservation Area Consent to demolish building No 86 – 90 Duke Street, 71 Henry Street and 14 Suffolk Street on the site, given its Conservation Area location and proximity to adjoining listed buildings.

The proposal will comprise a landmark building containing Grade A Office accommodation, purpose built for the specific end user ACL Ltd, over four levels with floor plates providing flexible and efficient space, capable of being sub-divided into a maximum of three tenants on each floor. Atlantic Container Line UK Ltd (ACL Ltd), are an international shipping company and high profile employer in the city, which specializes in the carrying of containers, project and oversized cargo, heavy equipment and vehicles with the world's largest Roll-on Roll-off/Containerships. The lease on their existing offices at 8 Princes Parade, Liverpool is soon to expire and they wish to relocate within the city on this prominent site.

ACL Ltd has a specific requirement for 40,000 sq. ft grade A office space on the site which is a specific requirement of ACL's commitment to using the site. Critical to this scheme is therefore the need to achieve Grade A Office Space. Their specification criteria is exact, complying with British Council for Office guidelines with air conditioned, large open plan floor plates having a minimum floor to ceiling height of 2.7m and in full accordance with Institutional Standards.

The proposal seeks to retain the existing vinegar warehouse building on Henry Street which will be integrated into new build proposals comprising a contemporary frontage to Duke Street which provides a modern interpretation of local buildings and typologies in the Duke Street Conservation Area. This proposal respects the local streetscape and massing of adjoining and adjacent developments.

The main pedestrian access into the building is via a new courtyard from Duke Street with a basement car park to accommodate 36 spaces plus 5 for the adjacent Frensons building, with ramped access via Henry Street.



### 3. Site Location and Description

#### 3.1. Site Context

The site is located on Duke Street, a principal Street within the Ropewalks development area of the city, an area of focused regeneration activity, recognized as a distinctive quarter within the south eastern part of city centre, offering commercial, leisure and residential space. The site is also within the Duke Street Conservation Area and also forms part of the Liverpool Maritime Mercantile City World Heritage Site.

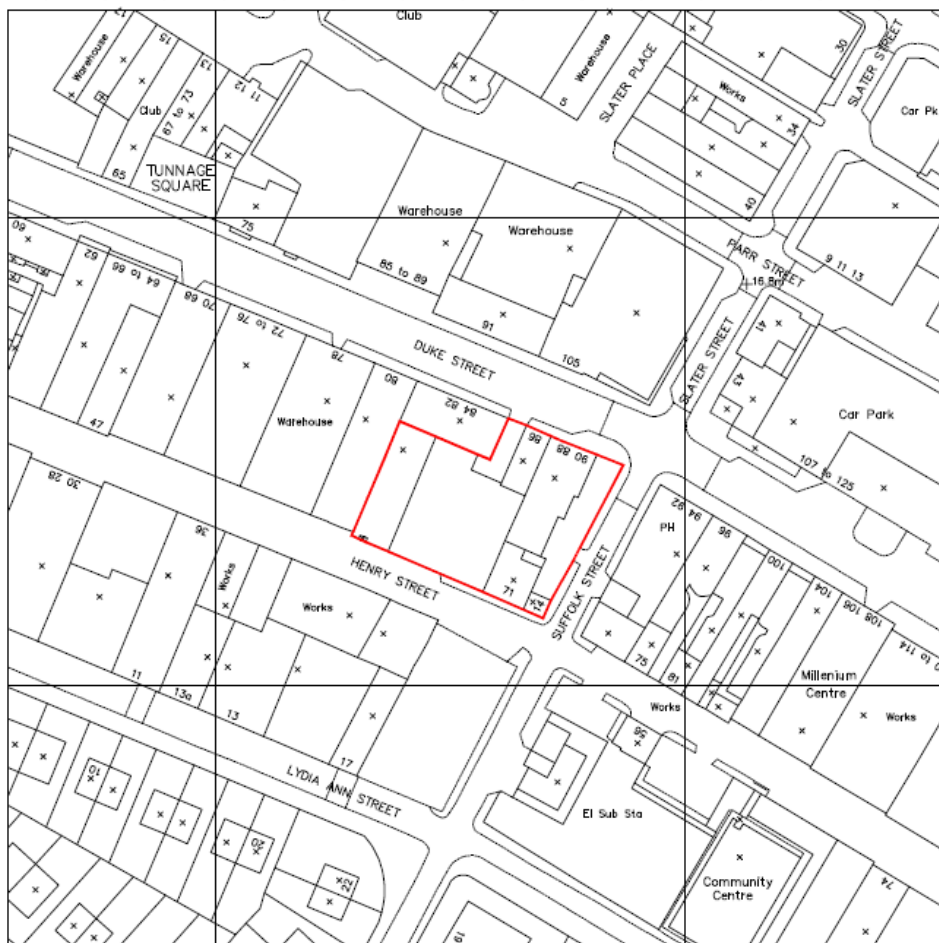


Figure 1 Site Location Plan



### 3.2. Site Location

The application site referred to as 86-90 Duke Street, comprises a series of buildings and land which front onto Duke Street, Suffolk Street and Henry Street. The site lies adjacent to two Grade II Listed Buildings, 92-94 Duke Street (The Monro Public House), located on the corner of Duke Street and Suffolk Street and No. 105 on the North side of Duke Street.

### 3.3. Site Description

The application site is approximately 0.14 hectares in area and includes land and properties fronting Duke Street, Suffolk Street and Henry Street. The properties on the site have long been vacant, and are in a poor state of repair. The buildings that remain on the site are of varying age and character. All have been subject to considerable modification to suit the changing fortunes of the Duke Street area over the past 200 years. The buildings fronting Duke Street include No.86 and No's 88-90, all of which are three storeys. The existing facades of these buildings consist of two complete pedimented gable ends over 86-90 Duke Street, and a fragment of a third gable that previously continued over the demolished 90A Duke Street. The buildings that occupy the site are of mixed construction, predominantly traditional with brickwork elevations beneath slate roofs.

The existing building behind 90 Duke Street was added to the rear in the mid-19th century, and has brick buttresses which were erected to support the eastern wall following the removal of structures within the 90A/Suffolk Street strip.

The small building at the intersection of Henry Street and Suffolk Street, previously used as a cafe is now vacant.

The internal part of the site has largely been cleared of buildings leaving an open frontage to Henry Street. New additions and extension to the rear of Duke Street have been added overtime replacing old warehouses that previously occupied this space.

An old vinegar warehouse building in the western part of the site fronting Henry still remains, although this building has lost its upper storey's.

The cleared part of the site separates No's. 86-90 Duke Street from the adjacent Frenson's building (No's. 82-84), although the vinegar warehouse building is attached to the rear of

No's. 82-84 Duke Street, No 80 Duke Street and No.84 is currently connected to No.86 via a fire escape.

### **3.4. Key Issues Identified**

As part of the initial assessment of the site and its context at a local, regional and national level, consideration has been given to the key issues associated with the application site and its surroundings, which the application proposals will seek to address. The following is a summary of those issues identified:

- The buildings and land are vacant and are in a poor state of repair and currently have a negative impact on the Ropewalks Regeneration Area, the Duke Street Conservation Area and the World Heritage Site.
- The application proposals to redevelop this vacant site and the regeneration benefits which will ensue will only be realized with the existing commitment of the current end user, ACL Ltd and £2.4 million of ERDF gap funding. Without the committed end user and the gap funding, this site would not be redeveloped in the medium to long term, it would remain vacant and redundant and continue to blight this part of the Duke Street Conservation Area, the Ropewalks area of the city and the World Heritage Site.
- The Application proposals will need to balance the regeneration aspirations for this site and the historical significance of the site, given its location within the Duke Street Conservation Area and World Heritage Site.

## 4. Relevant Planning History and Non Policy Designations

### 4.1. Planning History

The relevant and most recent planning applications have been identified below:

Application Ref.	Description of Development	Site Address	Decision
Ref: 05F/2717	Full Application to erect mixed use development of 25 residential units and 2400m <sup>2</sup> of design and innovation centre, office/workshop space, live/work accommodation and café/bar, the conversion and refurbishment of 86-90 Duke Street, demolition of ancillary buildings to rear of 86-90 Duke Street and erect new escape to stair to 82-84 Duke Street	86-90 Duke Street, Liverpool	Approved 22 <sup>nd</sup> August 2005 (Proposals not implemented)
Ref: 05C/2716	Conservation Area Consent to undertake partial demolition works to ancillary buildings to rear of 86-90 Duke Street and buildings to Suffolk Street / Henry Street	86-90 Duke Street, Liverpool	Approved 22 <sup>nd</sup> August 2005 (Proposals not implemented)

### 4.2. Non Policy Designations

#### 4.2.1. Other Statutory Planning Considerations

Non Policy Designation or Planning Consideration	Site Address / Proximity to the Site
Conservation Area	86-90 Duke Street is located within the Duke Street Conservation Area
Listed Buildings	The site lies adjacent to two Grade II Listed Buildings, 92-94 Duke Street (The Monro Public House), located on the corner of Duke Street and Suffolk Street and No. 105 on the North side of Duke Street.
UNESCO World Heritage Site	The site forms part of the Liverpool Maritime Mercantile City World Heritage Site.

## 5. Stakeholder Engagement Summary

This section sets out the approach taken in terms of stakeholder and community engagement prior to the preparation and submission of the planning application. The scheme submitted has been prepared taking into account the discussion and feedback resulting from the following engagement strategy. The Design and Access Statement submitted as part of the planning application provides a summary of the evolution of design and consideration of feedback during the engagement process.

### 5.1. Overview

An increased emphasis on the role of community involvement in the planning process was set out within the previous Government's publication of Planning Policy Statement 1: Delivering Sustainable Development (2005) which identified the role of early engagement as essential to good planning. The recently published National Planning Policy Framework (2012) has replaced PPS1 (and all other PPS / PPG) and therefore sets out the principle approach to community consultation.

Whilst less prescriptive and detailed in its approach than PPS1, the NPPF states that,

*"[Local Planning Authorities] should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community before submitting their applications."*

### 5.2. Engagement Objectives

The following engagement objectives have been identified:

- To undertake early engagement with the Local Planning Authority;
- To provide an opportunity for the Local Planning Authority to feedback on emerging proposals for the site to address any matters prior to submission;

- To inform the local property owners of the development proposals for the site;
- To draw on local knowledge and experience of the site and surrounding area;
- To ascertain the relative importance of significant development constraints to a cross section of stakeholder groups;
- To promote understanding of the final proposal for the site;

### **5.3. Engagement with the Local Planning Authority**

This section includes a summary of the consultation with the local planning authority and summarises the issues discussed with the Council at pre-application stage.

#### **5.3.1. Environmental Impact Assessment (EIA) Screening Opinion request**

This proposed office development would fall within Schedule 2 as an urban development project in a “sensitive area”. Environmental Impact Assessment is not needed however for every Schedule 2 project. The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 are clear that an Environmental Statement (ES) is required for Schedule 2 projects only if they are likely to give rise to ‘significant effects on the environment’.

Whilst this site is below the 0.5 hectares threshold, it is located within a World Heritage site, defined as a sensitive area in the 2011 Regulations.

Having considered the scale of the development and the potential sensitivity of the site (in light of the environmental information supporting this application), in particular the heritage significance of the site as part of the supporting Heritage Statement, 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.

It is considered that an ES is not required and on this basis we would ask that the Local Planning Authority issue a Screening Opinion to the effect that it does not require a full EIA.

### **5.3.2. Pre-application Discussions**

This section includes a summary of the consultation with the local planning authority and summarises the issues discussed with the Council at pre-application stage.

A number of meetings have been held with the Council dating back to 2005, once it was recognized that the scheme granted planning permission could not be implemented. During the period 2007 – 2008 a total of six meetings were held to discuss revised proposals for this site. In total 12 different design options (A-N) were drawn up, working closely with the Council and English Heritage to explore every alternative to establish a viable option which sought to retain existing buildings on the site and respect the context of the site and its relationship with the Conservation Area. A chronological summary of these meetings and the issues discussed is appended to the Heritage Statement submitted in support of this application.

The project was then held in abeyance, following the recession and only since Atlantic Container Line (ACL), an International company based in Liverpool made known its interest in purchasing 40,000 sq. ft grade A office space on the site, did design work continue. Since ACL Ltd expressed their interest in the site, pre-application discussions with the Council have re-commenced.

Following a series of recent pre-application meetings to discuss the scheme design, a formal pre-application package of information was submitted to the Council on the 1<sup>st</sup> March 2013, which contained a detailed justification and evidence base to support demolition of the building on the site.

Date	Venue	Attendees	Purpose of Meeting
2007-2008	Liverpool City Council	Spawforths, DLA, LCC Planning and Conservation Officers, Liverpool Vision and English Heritage	<p>A total of six pre-application meetings were held between June 2007 and April 2008, in which a total of 12 different design options were discussed.</p> <p>Langtree prepared a full Financial Appraisal of each scheme option and presented this to the Council which demonstrated the only commercially viable scheme required demolition of 86-90 Duke Street, with retention of the vinegar warehouse.</p> <p>Following detailed consideration of this information with Nigel Lee, the Council confirmed that they accepted the justification for the loss of the Duke Street buildings, subject to a detailed justification submitted with the application.</p>
31 <sup>st</sup> March 2011	Liverpool City Council	Spawforths, LCC Planning and Conservation Officers, Langtree Group Plc.	Meeting to discuss revised scheme with ACL Ltd as committed end user and agree a collaborative planning and conservation strategy to manage the pre-application process and the level of detailed evidence base required to support demolition of any buildings on the site.
22 <sup>nd</sup> November 2012	Liverpool City Council	DLA Architecture, Peter De Figueiredo, Spawforths, LCC Planning and Conservation Officers (including Head of Planning), Langtree Group Plc.	Meeting to discuss latest scheme revisions and demonstrate precedent study, principle of demolition on site and re-affirm planning and conservation strategy and detailed evidence base required to support demolition of any buildings on the site.
7 <sup>th</sup> February 2013	Liverpool City Council	DLA Architecture, Peter De Figueiredo, Spawforths, LCC Planning and Conservation Officers, Graeme Ives of English Heritage	Meeting to discuss latest scheme revisions and iterations following Council feedback in November 2012.
28 <sup>th</sup> February 2013	Liverpool City Council	DLA Architecture, LCC Planning and Conservation Officers	Design workshop to discuss latest scheme revisions and iterations following Council feedback in February 2013.
12 <sup>th</sup> March 2013	Liverpool City Council	Langtree Group Plc, Mark Kitts LCC Head of Development	Meeting to discuss progress of scheme development and regeneration importance of this development.
18 <sup>th</sup> March 2013	Liverpool City Council	DLA Architecture, Peter De Figueiredo, Spawforths, Langtree Group Plc, LCC Planning and Conservation Officers	Design workshop to discuss latest scheme revisions and iterations following Council feedback in February 2013.



## 5.4. Statutory Body Engagement

In addition to pre-application engagement with the Council's Planning and Conservation Officer, we have also engaged with Graeme Ives at English Heritage who has attended a pre-application meeting with the Council on the 7<sup>th</sup> February 2013. The applicant also engaged in dialogue with Graeme Ives in 2007, in which he first raised the importance of retaining the vinegar warehouse building, considered to be the building of most architectural and historical merit on the site.

Date	Statutory Body	Method of Consultation	Response Received
2007	English Heritage (EH)	LCC Conservation Officer Glynn Marsden engaged with Graeme Ives at EH regarding the 12 options presented to the Council in 2007-2008.	Graeme Ives commented that the building of most architectural and historical merit on the site which should be retained is the vinegar warehouse fronting Henry Street.
7 <sup>th</sup> February 2013	English Heritage (EH)	Graeme Ives attended pre-application meeting to discuss scheme revisions.	Graeme Ives set out some concerns regarding the scale of the proposed Duke Street buildings and the need to have regard to local context.
1 <sup>st</sup> March 2013	English Heritage (EH)	Spawforths submitted a formal pre-application package of information to English Heritage on the 1st March 2013, which contained a detailed justification and evidence base to support demolition of the building on the site.	Still awaiting feedback

## 5.5. Community Engagement

Whilst the Applicant has not arranged any formal public events or exhibitions with the local community, they have sought to engage with adjacent businesses, land and property owners. Meetings and discussions have been held with adjacent landowners with regards to rights to light, in particular Frenson's who own the adjacent property No. 82-84 Duke Street. These discussions have informed the scheme design given the need to make provision for car spaces and fire escapes within the application proposals for use by the Frenson's building.

## **6. Statutory Policy Context and Other Relevant Policies**

The statutory Development Plan for the consideration of this application comprises the 'Saved' Liverpool Unitary Development Plan (UDP) Adopted in November 2002 and the Regional Spatial Strategy for the North West (RSS) (North West of England Plan), Adopted September 2008.

The Regional Spatial Strategy is to be revoked by the Government and the emerging Liverpool Local Plan will supersede the UDP and make up the new development plan for Liverpool once adopted. The LDF Local Plan (Core Strategy) is currently under preparation but until it is adopted the Saved UDP remains the adopted development plan.

Section 38 of the Planning and Compulsory Purchase Act 2004, states that applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

This section identifies the planning policies and other material considerations which are relevant to this proposal.

### **6.1. Statutory Development Plan**

#### **6.1.1. North West of England Plan: Regional Spatial Strategy to 2012**

The Government revoked the North West Regional Spatial Strategy on the 6th July 2010. However, following the High Court decision on 10th November 2010, it has now been reinstated and forms part of the statutory development plan under the Planning and Compulsory Purchase Act 2004. Notwithstanding this, it is still the Government's intention to abolish Regional Strategies, which is set out in the new Localism Act. On the 27<sup>th</sup> March 2013 the Government stated their intention for an Order to be laid in Parliament after the March / April recess to revoke the remaining strategies, including the North West RS.

The North West of England RSS was adopted in September 2008.

The key policies relevant to this application are as follows:

- DP 3 Promote Sustainable Economic Development

- DP 4 Make the best use of Existing Resources and Infrastructure
- DP 5 Manage Travel Demand
- DP 7 Promote Environmental Quality
- DP 9 Reduce Emissions and Adapt to Climate Change
- LCR 1 Liverpool City Region Priorities
- LCR 2 Regional Centre and Inner Areas of Liverpool City Region
- RDF 1 Spatial Priorities
- W1 Strengthening the Regional Economy
- W3 Supply of Employment Land

### 6.1.2. Saved Liverpool Unitary Development Plan

The Saved Liverpool UDP was adopted in 2002. The site is within a Mixed use Area as designated in the UDP.

The Saved Liverpool UDP policies relevant to this application are as follows:

Policy	Summary
E6 Mixed Use Areas	This confirms that the Council will promote the principle of mixed use development in designated areas. Uses permitted include B1 Office uses.
GEN 1 Economic Regeneration	This general policy seeks to facilitate both the attraction of inward investment into the City and the consolidation and expansion of indigenous enterprise.
GEN 3 Historic Environment	This general policy aims to protect and enhance the built environment of the City.
GEN 9 Liverpool City Centre	This general policy aims to maintain and enhance the City Centre's role and function as a regional centre.
E2 Office Development	This policy permits B1 uses in the city centre main office area and other areas of the city subject to consideration of residential amenity traffic generation
E5 Economic Development Outside the Regeneration Areas	This policy encourages the development of a range of employment generating activities, outside defined regeneration areas.
HD5 Development Affecting the Setting of a Listed Building	This policy seeks to control the impact of development on the setting of a listed building.
HD7 Conservation Areas	This policy defines the location and extent of the Conservation Area

HD8 Preservation and Enhancement of Conservation Areas	This policy seeks to secure the preservation or enhancement of conservation areas
HD9 Demolition of Buildings on Conservation Areas	This policy states there is a presumption in favour of the preservation of any building which makes a positive contribution to the character or appearance of the conservation area. Any proposals for demolition will be assessed against set criteria.
HD10 Alterations of Non-Listed Buildings in Conservation Areas	This policy seeks to control alterations which may adversely affect the overall character and appearance of the conservation area
HD11 New Development in Conservation Areas	This policy seeks to ensure development pays attention to conserving the essential elements which combine to give the area its special character
HD18 General Design Requirements	This policy requires applications to comply with a set criteria to ensure a high quality of design

## 6.2. National Planning Policy and Guidance

### Planning (Listed Buildings and Conservation Areas) Act 1990.

The policy framework applicable to the historic built environment is the Planning (Listed Buildings and Conservation Areas) Act 1990. Sections 16, 66 and 72 of the Act places a duty on the decision maker in the planning process to have special regard to the desirability of preserving or enhancing the setting of a listed building and the character and appearance of a Conservation Area. Any new development on the application site should be designed with the aim of at least preserving the character and appearance of the immediate vicinity.

### National Planning Policy Framework

The publication of the National Planning Policy Framework (NPPF) on the 27th March 2012 means that all national planning policy is now contained within this single document. All previous Planning Policy Statements and Planning Policy Guidance Notes were therefore superseded and replaced along with Circular 05/05 (Planning Obligations) and other guidance set out in Annex 3 (NPPF, 2012).

It should be recognised also that much of the supporting technical guidance and documentation which supported the previous PPS and PPG policy framework does currently remain extant and therefore, in terms of the supporting context for relevant areas of land

use policies, they can provide support to the NPPF if they are consistent with its policies and approach.

The NPPF has been subject to extensive consultation and is a key material consideration as the statement of national policy and should therefore be taken into account and given appropriate weight when assessing this application.

Now adopted as an expression of national planning policy, the NPPF sets out the presumption in favour of sustainable development and the Government's key objective to increase significantly the delivery of new homes. Where relevant policies are out of date, for example where a five year housing land supply cannot be demonstrated, it states planning permission should be granted.

The key elements of the NPPF relevant to the proposals are, in summary, as follows:-

- Achieving sustainable development
- Building a strong, competitive economy
- Delivering a wide choice of high quality homes
- Decision-taking

Paragraph 12 advises that the NPPF does not change the statutory status of the development plan as the starting point for decision making. The NPPF advises that proposed development which accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place.

Paragraph 214 sets out that for 12 months from the date of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 (in accordance with the Planning and Compulsory Purchase Act 2004) even if there is a limited degree of conflict with the NPPF.

Paragraph 215 states that in other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Paragraph 14 of the NPPF identifies a presumption in favour of sustainable development requiring local planning authorities to positively seek opportunities to meet the development needs of their area. The NPPF also requires Local Plans to meet objectively assessed needs with sufficient flexibility to adapt to rapid change, unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies within the NPPF or
- Specific policies in the NPPF indicate development should be restricted.

It should also be noted that, with regard to the requirement for development plans to be compliant with the NPPF, the Planning Inspectorate has recently issued guidance to Inspectors on how emerging LDF policy documents might be brought into line with the new NPPF approach. In this case, it constitutes a model policy for inclusion in "post-NPPF" development plans and is worded as follows:-

*"When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.*

*Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.*

*Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations*

*indicate otherwise – taking into account whether:*

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- Specific policies in that Framework indicate that development should be restricted.”*

Section 12 (paragraphs 126 – 141) of the NPPF gives consideration to conserving and enhancing the historic environment and sets out the policy considerations in determining planning applications which have an impact on the significance of designated and non-designated heritage assets.

The NPPF requires that proposed changes to the historic environment are based on a clear understanding of significance of any heritage assets and their setting that are affected, providing information so that the likely impact of proposals can be assessed.

Policies 128 and 129 of the NPPF require planning applicants and local planning authorities to assess the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be appropriate to the assets' importance and no more than sufficient to understand the potential impact of the proposal on their significance.

Any harm to or loss should require clear or convincing justification. Policy 133 provides a series of tests which should be applied in cases where substantial harm to or total loss of significance will be caused. In the case of development proposals which will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

### **PPS5: Planning for the Historic Environment Practice Guide**

The Historic Environment Planning Practice Guide, which accompanied PPS5, remains a valid and Government endorsed document pending the results of a review of guidance supporting national planning policy. The references to PPS5 policies in this document are obviously now



redundant, but the policies in the NPPF are very similar and the intent is the same, so the Practice Guide remains almost entirely relevant and useful in the application of the NPPF.

This document should be used as a guide to interpreting how policy should be applied, to ensure the evidence in support of this application is sufficient to meet the requirements of paragraphs 127 -141 of the NPPF.

### **Conservation Principles: Policy and Guidance (English Heritage) 2008**

The English Heritage document Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment is intended to guide conservation thinking and practice in England. It defines conservation as managing change in ways that will sustain the significance of places, for change in the historic environment is inevitable, whether caused by natural processes, through use or by people responding to social, economic and technological advances.

If the significance of a place is to be retained and its historic value sympathetically managed, further change will inevitably be needed.

The English Heritage Principles state that retaining the authenticity of a place is not always achieved by retaining as much of the existing fabric as is technically possible (paragraph 93). Where deliberate changes are made, however, the alteration should in some way be discernable. Integrity likewise depends on an understanding of the values of the heritage asset.

## **6.3. Other Relevant Policies**

### **6.3.1. National Consultation Documents and Emerging Policy**

Following the change of Government in May 2010 to a Coalition Government there are a number of changes that have been made to the planning system and a number of emerging changes, most notably the localism agenda. Details of these documents are contained in the following two subsections.

#### **Localism Act (November 2011)**

The Localism Bill underwent its full Parliamentary process and was given Royal Assent in November 2011. The Act contains primary legislation and amendments to the existing

legislation within the 1990 and 2004 Acts and most significantly, in terms of the statutory development plan, will abolish the Regional Strategy and therefore remove this element from the statutory plan as currently defined within Section 38(3) of the Planning and Compulsory Purchase Act 2004. However the revocation of Regional Strategies will only take place once they have been subjected to a Strategic Environmental Assessment (SEA) carried out on a voluntary basis by the Government.

In the interim, following recent court decisions in this respect, the intention to revoke the Regional Strategies can form a material consideration in determining a planning application. The weight ascribed to this intention is a matter for the decision maker. The recent court decisions do not mean that the proposed revocation of Regional Strategies should always be taken into account in planning applications. It is only in a minority of cases that this intention to revoke will have any relevance as strong evidence has to be provided for it to be taken as a material consideration.

Once the Secretary of State has considered the responses from the consultation on the SEA, it is anticipated that the Regional Strategies will be abolished across the country. However at this stage it remains the case that the RS is part of the statutory development plan and should be considered appropriately in this context.

On the 27<sup>th</sup> March 2013 the Government stated their intention for an Order to be laid in Parliament after recess to revoke the remaining strategies, including the North West RS.

### **6.3.2. Emerging Local Policy**

Liverpool City Council is in the process of preparing their new Local Plan, the Core Strategy. The Council has concluded consultation on the Core Strategy Submission Draft and will be submitting it to the Secretary of State shortly. Once submitted an independent inspector who will decide whether or not it is 'sound'.

In summary the Core Strategy Submission Draft document confirms the spatial approach to development in the City.

Central to the approach in the Core Strategy is to capitalize on Liverpool's assets and resources to achieve urban and economic growth, prioritising those areas of the City with the greatest development potential. It aims to stimulate, support and deliver economic growth and address regeneration needs.

The main spatial focus for new development and physical change will be the City Centre and the Urban Core. Economic growth will be the primary objective of development in the City Centre and support will be given to the financial, business and professional services sector, knowledge-based and creative industries.

In parallel the need to stimulate economic growth the Core Strategy also requires the protection and enhancement of the City's unique historic and architectural environment, including the World Heritage Site, Conservation Areas and Listed Buildings.

The relevant policies in the Core Strategy Submission Draft Document are as follows:

- Strategic Objective One - Strengthen The City's Economy
- Strategic Objective Six - Use Resources Efficiently
- Strategic Objective Seven - Maximising Sustainable Accessibility
- Strategic Policy 1 Sustainable Development Principles
- Strategic Policy 2 Land for Employment
- Strategic Policy 3 Delivering Economic Growth
- Strategic Policy 4 Economic Development in the City Centre
- Strategic Policy 5 Economic Development in the Urban Core
- Strategic Policy 23 Key Place-Making and Design Principles
- Strategic Policy 24 Historic Environment
- Strategic Policy 25 Liverpool Maritime Mercantile City World Heritage Site
- Strategic Policy 31 Sustainable Growth
- Strategic Policy 32 Renewable Energy
- Strategic Policy 33 Environmental Impacts
- Strategic Policy 34 Improving Accessibility and Managing Demand for Travel

### **6.3.3. Relevant Local Supplementary Planning Documents**

#### **Liverpool World Heritage Site (WHS) Supplementary Planning Document**

The site falls within the World Heritage Site (WHS). Inscription as a World Heritage Site does not at present carry any additional statutory controls, but it is a key material consideration in determining planning and listed building consent applications

The SPD has been produced to provide detailed guidance for new development, regeneration and conservation in the WHS and its Buffer Zone. It is intended to supplement the existing "saved" UDP, and will deal with the management of the site, acting as a guide to future development in and around the site and embodying the principles in the existing WHS.

In addition to policies and guidance relating to the WHS as a whole, the document includes a section on the Lower Duke Street Area (Character Area 6). The Council's declared vision for this area is as follows:

*"A distinctive and diverse quarter of the city, building on its history and its heritage, working towards Liverpool's new economic future."*

Paragraph 6.7.1 of the SPD states that the City Council is committed to delivering this vision in conjunction with its public and private sector partners. The Creative Ropewalks initiative and the Townscape Heritage Initiative for Buildings at Risk in the World Heritage Site and Buffer Zone have been established as vehicles for delivering this vision.

### **Ropewalks Supplementary Planning Document**

The SPD is supplementary to the Liverpool Unitary Development Plan (UDP) adopted in November 2002. It provides more detailed guidance for new development in the Ropewalks area of the City Centre. The document will be used with the UDP for making decisions on planning applications in the Ropewalks area.

The Ropewalks SPD sets out the vision for the area, which aims to demonstrate that its future development will be based upon sensitive restoration, contemporary design and the development of the diverse economy.

The SPD will:

- Ensure that development proposals are brought forward in a coordinated way
- Be used as an enhancement statement for the Duke Street Conservation Area
- Be the Local Vision document for this part of the World Heritage Site
- Provide greater clarity to applicants; architects and developers on the Council's position about the appropriate form, scale, use and design of new development in Ropewalks

- Be used as a promotional tool, to attract new investment into the area

## **7. Reasoned Justification for Proposed Development**

The following chapter will assess the development proposals in the context of the development plan, national planning policy and guidance and all other relevant material planning considerations.

### **7.1. The Planning Context**

The statutory Development Plan for the consideration of this application comprises the 'Saved' Liverpool Unitary Development Plan (UDP) Adopted in November 2002 and the Regional Spatial Strategy for the North West (RSS) (North West of England Plan), Adopted September 2008.

The recent publication of the NPPF also plays a significant role in terms of the relevant policies pertinent to the consideration of this application. The NPPF now constitutes the complete statement of the Government's Planning Policy, replacing all previous PPG and PPS and Circular 05/05. It came into effect immediately on its publication on 27th March 2012 and therefore its policies now have material weight.

The newly published NPPF gives guidance on how much weight to ascribe to policy documents.

The recently adopted NPPF indicates that Development Plans which have been adopted post-2004 should carry the full weight of their policies in relation to Section 38(6) of the 2004 Act (so long as there is only a "limited degree of conflict" with the NPPF).

The following section will identify the relevance of the development plan to the application proposals and the weight to be attached to other material considerations. This will provide a framework for the reasoned justification section of this report to demonstrate a case for the development which is compliant with the most up-to-date policy guidance.

Paragraph 12 advises that the NPPF does not change the statutory status of the development plan as the starting point for decision making. The NPPF advises that proposed development which accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate

otherwise. It is highly desirable that local planning authorities should have an up-to date plan in place. Paragraph 214 sets out that for 12 months from the date of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 (in accordance with the Planning and Compulsory Purchase Act 2004) even if there is a limited degree of conflict with the NPPF. Paragraph 215 states that in other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The 12 month period from the date of publication has now ended as of the 27<sup>th</sup> March 2013; therefore the ruling in paragraph 215 of the NPPF should now apply.

The Liverpool UDP was first adopted in 2002, therefore within the terms of paragraph 215 of the NPPF, it does not benefit from this full weight provision identified within the NPPF. The weight to be ascribed to relevant policies will therefore be dependent on their conformity with the NPPF.

The NPPF is a key material consideration as the statement of national policy and should therefore be taken into account and given full weight when assessing this application. Now adopted as an expression of national planning policy, the NPPF sets out the presumption in favour of sustainable development.

Paragraph 15 of the NPPF identifies that policies within local plans should follow the approach of the presumption in favour of sustainable development so that it is clear that development which is sustainable can be approved without delay. All plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally. In all instances the Development Plan should carry the most weight followed by material considerations. Where the development Plan conflicts with the NPPF or is absent or silent on a matter then the NPPF will hold sway. Unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF.

It is clear from the above that decision making should follow the approach of the presumption in favour of sustainable development, as set out in the NPPF. It is also however clear that the relevant conservation policies in the UDP are still in general conformity with the NPPF. In these circumstances we have had regard to both the relevant



UDP policies and policies contained within the NPPF, but consider the NPPF should be given precedence in the context of this application, given the date the UDP was first adopted.

Within this overarching policy framework, the evaluation of the application proposals is now considered against the following issues:

- Principle of Development – Regeneration and Economic Priorities
- Design and Heritage
- Environmental Issues
- S106 Obligations
- Conformity with the Development Plan

## **7.2. Principle of Development**

To address the acceptability of the principle of development on this site, it is necessary to consider the key issues and impacts of the scheme, the conformity of the proposals with the development plan and any other relevant material considerations.

The principle of the proposed office use in this location and the regeneration and public benefits need to be balanced against the principle of demolishing buildings on the site and the impacts of the proposed replacement building on the character and appearance of the conservation area in accordance with the NPPF and local conservation policies.

Dealing first with the proposed Grade A office development, we have considered the principle of this use, in particular the economic and regeneration imperative of developing the site in the context of the development plan and other material policy considerations,

Whilst the site is located outside the Main Office Area as defined in Policy E2 of the UDP, office development is still permitted in other parts of the city, subject to consideration of residential amenity and traffic generation. The application site occupies an important location within the city and also falls within a designated Mixed Use Area, as defined by Policy E6 of the UDP. This policy confirms that development sites in these designated areas are suitable for various types of development including offices (B1 use class).

The proposed office development which will secure the long term tenure of ACL Ltd, a high profile local employer within the city is in accordance with Policies E2 and E6 of the UDP. It is also consistent with the strong economic regeneration focus of the UDP, which seeks to strengthen Liverpool's role as a regional commercial centre and complements the vision for business growth and job creation in the Ropewalks area identified in the Liverpool City Centre Strategic Investment Framework (SIF). The proposals for 40,000 sq. ft. (GIA) of Grade A office space, with a BREEAM Excellent rating will improve business infrastructure and stimulate growth in this sector by increasing the supply of high quality workspace and office accommodation in this part of the city to meet the demand for space required by the end user ACL Ltd.

The NPPF confirms the government's commitment to securing economic growth in order to create jobs and prosperity (Paragraph 18, NPPF). Employment proposals for this site accords with this policy framework which recommends that local planning authorities should plan proactively to drive and support sustainable economic development to deliver homes, business and industrial units, taking account of market signals and the need of the business communities; and being flexible enough to accommodate needs not anticipated in the plan to allow a rapid response to changes in economic circumstances.

The application for office space in this location within the defined city centre is also consistent with the guidance contained in the NPPF which seeks to sustain and enhance the vitality and viability of centres and identifies offices as a town centre use which will strengthen the role and performance of existing city and town centres.

On this basis, the location of offices within the site is considered to accord with relevant planning policies. It will be a sustainable form of development that is easily accessible to all and which makes an efficient and effective use of land. It will also underpin and support the existing services and facilities provided within the locality of this city centre site and attract further facilities, which in turn provide regeneration benefits to the Liverpool city centre and the Ropewalks area.

The proposed scheme will generate significant regeneration benefits for the city centre, as well as the wider district. The application proposals will lead to quantifiable benefits, including additional local jobs, as well as a range of less tangible impacts. The scheme will help to diversify and strengthen the local economy through bringing higher value employment to the local area. The scheme will also improve the image of the local area,

making it a more attractive location for future investment and will ensure that the site does not continue to be derelict, and will no longer blight this area of the city.

### **7.2.1. Summary**

In summary we consider the principle of this development is in accordance with the relevant UDP policies and more recent and up to date guidance published in the NPPF.

Notwithstanding the policies contained in the UDP, prepared in 2002 in line with superseded policy guidance notes (PPG's) 4 (Industrial and Commercial Development) and 6 (Town Centres and Retail Development) we consider there is an overriding presumption in favour of sustainable development in line with the NPPF, which will result from the redevelopment of this site for office use, given it meets the three dimensions of sustainable development; economic, social and environmental and there are no adverse impacts of doing so which would significantly and demonstrably outweigh the benefits.

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 discussed below.

## **7.3. Design and Built Heritage**

### **7.3.1. Historic Environment**

The policy framework applicable to the historic built environment is the Planning (Listed Buildings and Conservation Areas) Act 1990, the NPPF and conservation led UDP policies which flows from guidance contained within the now superseded PPG15. Section 77 of the Act places a duty on the decision maker in the planning process to have special regard to the desirability of preserving or enhancing the character and appearance of a Conservation Area.

The NPPF recognises that heritage assets are an irreplaceable resource and it seeks to conserve them in a manner appropriate to their significance, taking into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; and the desirability of new development making a positive contribution to local character and distinctiveness.

The NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. In the case of this application, this should consider the contribution that both the existing and proposed buildings make to their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

The general presumption should be in favour of retaining buildings (heritage assets) which make a positive contribution to the character or appearance of a conservation area.

Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, paragraph 133 of the NPPF states that local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

Where a development proposal 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.

A separate Heritage Statement has been prepared by Historic Buildings Advisor Peter De Figueiredo in support of the full planning application and application for Conservation Area Consent to demolish buildings on the site which provides a full justification for the demolition of the building in accordance with the key policy tests set out in the NPPF, the PSS5 Practice Guide and UDP policies HD7 – HD11. This document should be read in conjunction with the Heritage Statement, the Design and Access Statement, full drawings package and Giffords Archaeological Desk Top Study.

In accordance with paragraphs 128 -141 of the NPPF, the Heritage Statement provides an assessment of the contribution that the existing buildings and proposed replacement building

make to their setting, given they are located within a conservation area and designated World Heritage Site.

The Heritage Statement confirms that whilst the buildings are prominent in the conservation area, the only existing buildings or features of material significance are the 18th century front and side elevations of 86 Duke Street and the early 19th century Henry Street vinegar warehouse frontage. These two buildings make a low to medium contribution to the character and appearance of the conservation area by virtue of their age, form and aesthetic interest.

In view of the dilapidated condition and altered state of No. 88 and 90 Duke Street, their interiors are of negligible aesthetic value. The interior of No.86 is in a slightly better condition, but only remnants of the staircase are of any significance.

The impact of demolition and redevelopment on the setting of the conservation area is deemed to be negative and positive. The loss of existing buildings will mean that it will be less easy to appreciate the historical form of the area, but the replacement development, which is sympathetic in design to the character and setting of the area, will continue the historical process of renewal. It will also enhance understanding of the functional and technological character of the Ropewalks, which is a principal aspect of significance, as encouraged in paragraph 137 of the NPPF.

In developing the design of the proposed development, careful thought has been given to its form and character so as to respect the historic context of the area and the immediate surroundings. This is discussed further in Section 7.3.2 of this report.

The Heritage Statement also gives consideration to criteria contained in paragraph 133 of the NPPF and the benefits considered to outweigh the harm. It also includes a detailed evidence base to support the justification for the loss of these buildings on the site.

In the context of paragraph 133 criteria (i) and (ii) of the NPPF, the Heritage Statement confirms that lengthy and detailed efforts have been made which consider alternative options to retain all the Duke Street frontage buildings, or find an alternative use for their conversion and secure a viable future for them. It shows that these have all proved unviable.

Fifteen alternative variations / options have been prepared by DLA Architecture on behalf of Langtree Group since 2007, some of which have sought to work round or incorporate existing buildings into the proposals, bringing them back into active use. This involved working closely with the Council to explore every alternative to establish a viable option to bring these redundant buildings back into use. A chronology of events during the period from 2004 since Langtree Group were chosen as the preferred developer up to the present time, provides a detail summary of the dialogue with the Council and information exchanged is appended to the Heritage Statement.

The Heritage Statement shows that options to retain 86-90 Duke Street were not considered to be viable, but that the loss of these buildings should be balanced with the incorporation and retention of the existing vinegar warehouse building on Henry Street as part of the application proposals. The retention of the vinegar warehouse was considered in 2008 by the Council's Conservation Officer, Glynn Marsden (now retired) and English Heritage to be the building with most historical and heritage merit.

A series of detailed design and financial appraisals to establish the viability of alternative options were all scrutinised by English Partnership, Liverpool Vision and LCC and their consultants in 2008. This was agreed at that time to show that the building is redundant and it is preventing all reasonable uses of the site in which it sits and hence no viable use of the heritage asset itself could be found in accordance with paragraph 133 of the NPPF and policies HD5, HD7, HD8 and HD9 of the UDP.

Since the financial and architectural options appraisal was undertaken in 2008, the consultant team has undertaken an updated options analysis which considers the viability of retaining and re-using 86 Duke Street as part of a development option. This option was agreed with Liverpool City Council as the most appropriate further option to be assessed.

This options analysis draws together evidence from a series of reports and evidence base appended to the Heritage Statement as follows:

- ARUP Interpretative Structural Desk Top Study (2013). This study provides a review of all existing structural reports and photographic surveys of the existing buildings, which confirms the structural integrity of the building, identifying any structural defects and recommends any remedial works required if the buildings were to be retained.

- Architectural Options study prepared by DLA Architecture. At the request of the Council's Conservation Officers we have considered the architectural feasibility of two alternative options for retention of 86 Duke Street and the vinegar warehouse alongside new build proposals, compared against the Application proposals which only seek retention of the vinegar warehouse building.
- The findings of this Structural Desk Top Study and the architectural options study have informed a cost analysis by EC Harris which provided an order of costs for each of these architectural options including an allowance for structural and demolition works. The project construction costs for each of these options can be referred to in full in Appendix 8 of the Heritage Statement. Commercial Agents Keppie Massie have prepared Development Appraisals for each of these options and have also assessed these from a market perspective to test the commercial and financial viability of each of these options. See Appendix 9 of the Heritage Statement.

This options analysis demonstrates that all options to retain and incorporate 86 Duke Street as part of a proposed office development are unviable and the building cannot be viably reused or retained. A summary schedule of this options appraisal is at Appendix 10 of the Heritage Statement. For further detail and the full options appraisal refer to the Heritage Statement.

In summary, the options analysis confirms that based on the two alternative option scenarios tested, there are significant structural, architectural and economic challenges to delivering these alternative options.

Given the state of disrepair of the existing building and the costs required to refurbish and retain 86 Duke Street it is clear that all options to retain 86 Duke Street are not financially viable and it is evident that the demolition of the buildings is justified under paragraph 133 of the NPPF.

Keppie Massie have looked into both the commercial and financial viability of the two schematic proposals to retain 86 Duke Street. The costs and development value of each scheme option prepared by EC Harris and Keppie Massie against the development value shows that all options to retain 86 Duke Street are not financially viable and will not realise any development value with a significant gap which cannot be subsidised by gap funding.



Keppie Massie concludes that any development to incorporate and retain 86 Duke Street would prove unviable from both a funding and letting/investment perspective and would render the entire development proposal unviable.

It is important to set in context that the application proposals are only viable by provision of a significant gap funding which will be met by £2.4 million of grant aid from the ERDF to make the proposed scheme viable. This gap funding is the maximum available and is only being proposed as it supports Grade A office space for a local user. None of the options to retain 86 Duke Street can meet these requirements and hence no gap funding is available to meet the viability gap.

Based on this detailed options appraisal work it remains clear that Grade A Office accommodation required by ACL Ltd on this site cannot be delivered as part of any scheme which seeks retention of any of the façade on Duke Street with new office buildings behind.

We consider that this options appraisal provides conclusive evidence that every option to secure a viable future for this heritage asset has been exhausted. In 2008 Officers of the Council confirmed that they accepted financial appraisals and justification submitted for the loss of the Duke Street buildings. We trust that the Council will now accept the conclusions of this additional level of detail presented in the recent viability options appraisal presented in the Heritage Statement.

Given these conclusions it is evident that the demolition of the buildings is justified under paragraph 133 (i) and the nature of the heritage asset prevents all reasonable uses of the site.

In accordance with paragraph 133 (ii) of the NPPF the Heritage Statement provides marketing evidence to demonstrate efforts made to market the site since 2002, which confirms no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation.

In marketing the site as part of a development competition Liverpool Vision and English Partnerships (EP) recognised that the property had fallen into a state of serious disrepair and was vacant, and could not continue in its present use as per Paragraph 133 of the NPPF. EP originally acquired the site to facilitate regeneration of the Ropewalks area of the city.

This marketing information also sets out the design competition process initiated by EP and Liverpool Vision once they had acquired these redundant buildings and Langtree Group's marketing campaign since they were chosen as preferred developers. This shows that during this period no interested occupier, other than ACL Ltd has come forward and there have been no viable interest in alternative uses of the site, which include retention of all the buildings on the site.

Consistent with the approach requested in the PPS5 Practice Guide and in accordance with criteria (iii) of paragraph 133 of the NPPF the Heritage Statement confirms that the Applicant has explored the ability to secure alternative sources of funding to find grant funding that may pay for its retention and continued conservation, in addition to the ERDF gap funding application. Given the current scheme requires a funding gap from the ERDF of £2.4 million, no additional conservation grant funding sources that will support retention of this heritage asset have been identified. Bringing this building back into an active and viable use for charitable or public ownership is also demonstrably not feasible.

The Homes and Communities Agency (HCA) have confirmed that the opportunity presented by ACL Ltd to occupy space alongside an ERDF grant is the only opportunity to secure the redevelopment of the site in these challenging economic times.

The ERDF gap funding application confirms that the requirements of ACL Ltd (the final owner of the building) preclude the retention of any of the existing buildings 86-90 Duke Street with the exception of the Vinegar Warehouse. As such any compromise to the floor plates or the building height would mean that Langtree cannot satisfy the specification criteria of ACL and as such the project would not progress.

Consistent with the advice contained in Paragraph 130 of the NPPF the Heritage Statement also provides evidence of HCA's repair and maintenance regime to the building to demonstrate that there has been no deliberate neglect of or damage to the heritage asset.

To support the information and justification provided in the Heritage Statement and summarized above, we consider the harm or loss is outweighed by the following benefits of bringing the site back into use.

In accordance with Paragraph 133 of the NPPF we consider the following benefits outweigh the loss of these buildings:

- Commitment to acquire the 40,000 sq. ft Grade A Office by ACL ensures the regeneration of this site, retention of a high profile local employer within the city, which could lead to further employment growth, safeguarding 66 existing jobs and create 153 new jobs at the UK level.
- Without this committed end user, this site would remain vacant and redundant and continue to blight this part of the Duke Street Conservation Area, the Ropewalks area of the city and the World Heritage Site. There is no speculative finance available to support this project without ACL Ltd.
- Bringing this land back into active use is a public benefit in itself.
- Retention of the vinegar warehouse building which was considered by Glynn Marsden (Conservation Officer) and English Heritage to be the building which had most merit and is fully supported by the end user ACL Ltd.
- The grant of permission for this office development will have clear regeneration benefits and will generate significant local and city-wide economic benefits via direct employment in the construction and operational phases of the development and indirect employment.
- 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.

These regeneration benefits are collectively considered to be substantial positive public benefits.

In summary, it is clear that keeping this land in active use is a public benefit in itself and returning the site to some use has to be balanced with the loss to society of the significance of this heritage asset. In the case of the loss of No. 86-90 Duke Street, we consider the return of this redundant site into an active use and the public benefits of this replacement building should weigh heavily in favour of the loss of these buildings, given this is required to provide a viable replacement building. Without ACL Ltd as a committed end user, this site would remain vacant and redundant and continue to blight this part of Duke Street and the Ropewalks area of the city.

### 7.3.2. Design

The Heritage Statement and Design and Access Statement also consider the merits of the proposed scheme in the context of its setting within the Conservation Area and World Heritage Site and its relationship to adjacent Grade II listed buildings on Duke Street in accordance with the following UDP policies:

- HD5 Development Affecting the Setting of a Listed Building
- HD7 Conservation Areas
- HD8 Preservation and Enhancement of Conservation Areas
- HD9 Demolition of Buildings on Conservation Areas
- HD10 Alterations of Non-Listed Buildings in Conservation Areas
- HD11 New Development in Conservation Areas
- HD18 General Design Requirements

This Design and Access Statement, describes the evolution and final proposals for the Duke Street scheme in the context of the setting of the adjacent listed buildings, the World Heritage Site and the Conservation Area. It also provides a detailed justification for the proposal's layout, form, massing, scale, uses, character and appearance. The Design and Access Statement provides a detailed justification for the development proposals in the context of the UDP policies and supporting SPD's prepared to reinforce and deliver the regeneration of the city centre and the NPPF, in particular paragraph 131 -132 which states the desirability of new development making a positive contribution to local character and distinctiveness.

The Design and Access Statement demonstrates that a new high quality building could make an equally, if not more impressive contribution to what is a key site in the Duke Street Conservation Area. The scale of the development responds to the character of the surrounding area and the wider topography.

In summary, the Design and Access Statement document demonstrates that the development responds to the urban character and contextual character of the area and reinforces the city fabric whilst creating an innovative design solution for this site in accordance with UDP policies HD5, HD7, HD8, HD9, HD10, HD11, HD18 and the Ropewalks and WHS SPD documents and hence that it will positively contribute to the character and appearance of the conservation area. Consequently the Assessment shows

that when tested against NPPF Paragraph 133 and UDP policies the demolition of the buildings are justified.

The proposals have been developed in close dialogue between the Applicants consultant team and the Local Authority following a series of design workshops at pre-application stage.

The key development and design principles for Duke Street site advocated in the Heritage Statement and Design and Access Statement which provide a compelling case for the replacement of the existing buildings are as follows:

- Creation of new dynamic frontages to enhance and respect the streetscape of Duke Street, Suffolk Street and Henry Street, making a positive contribution to the Conservation Area
- Respecting the historic architecture of the retained façade to Henry Street with the use of simple crisp materials and detailing
- Respecting the massing of adjoining and adjacent developments
- Reducing amounts of glazing to accommodate revisions in building legislation and to achieve BREEAM 'Excellent' standards
- Retention of existing building structure between Frenson Building and Henry Street
- Single level massing to respect the Duke Street frontage

The proposed development seeks to respect the historic context of the area and the immediate surroundings in accordance with local and national planning policy set out in the UDP and the NPPF. This is achieved in the following ways:

- The height and scale of the new building matches that of surrounding buildings.
- The differing character of Duke Street and Henry Street, each with its own defined typologies is reflected in the different rhythms and proportions of the front and rear facades of the proposed development. The Duke Street elevation picks up the balance of vertical and horizontal elements seen in the Georgian residential properties, while the Henry Street elevation is more robust and has a greater vertical emphasis. The Suffolk Street elevation forms an intermediate facade, which also has a strong corner treatment to Duke Street.

- Although the three elevations are treated differently, a common language is used to unite the development and give it aesthetic coherence.
- The ground floor treatment to Duke Street is emphasised so as to create a plinth on which the upper floors are placed, reflecting the traditional hierarchy of elevational proportions.
- The horizontal spandrels to the vertical window strips are detailed to provide a subtle articulation of the frontage and give balance to the vertical and horizontal forces.
- The Suffolk Street elevation is given a distinctive character by the introduction of openings with deeply splayed recesses which will provide depth to the facade when seen obliquely within the narrow street.
- The treatment of the retained frontage of the Vinegar Warehouse respects its present state of survival, and the neutral character of the adjoining wall surfaces will create a sympathetic frame.
- The simple palette of materials used in the design matches those that are commonly found within the area.

### **7.3.3. Summary**

Whilst the loss of existing buildings will mean that it will be less easy to appreciate the historical form of the area, the replacement development, is sympathetic in design to the character and setting of the area and will continue the historical process of renewal. It will also enhance understanding of the functional and technological character of the Ropewalks, which is a principal aspect of significance, as encouraged in paragraph 137 of the NPPF.

As a result of both positive and negative effects, the cumulative impact on the setting of the conservation area and the World Heritage Site will be neutral.

Any moderate harmful impact on the aesthetic values of the Conservation Area and the World Heritage Site as a result of the loss of 86 Duke Street will also be offset by the enhancement of the Vinegar Warehouse.

### **7.3.4. Archaeology**

Giffords prepared an archaeological desk based assessment examining the archaeological potential at 86-90 Duke Street, Liverpool.

The report prepared in 2005 describes the cultural history of the site, the nature of the surviving structures and examines the potential for archaeological remains at the site.

The report was undertaken following dialogue with Merseyside Archaeological Service; Glynn Marsden, Principal Conservation Officer, Liverpool City Council and Dominic Wilkinson, Department of Architecture, University of Manchester.

The report confirms that there is a very low potential for archaeological remains in the area dating to the period prior to 1700, although small islands of earlier cultivation soils may survive between later cellars and beneath the construction/demolition debris.

There is a high potential for survival of 18th Century brewery cellars, and an associated well, which may well have been integrated into the foundations of later buildings on the site.

Fragmentary remains of both the above ground and subterranean buildings from the 19th and 20<sup>th</sup> century certainly exist away from the Duke Street frontage. These would be lost during the development ground works.

It is proposed that mitigation of the development could be adopted to facilitate the development of the site, ensuring the recording of the elements to be removed around the core properties on Duke Street, and acting to enhance the existing knowledge of the site's history. A detailed mitigation strategy could be prepared to correspond to the detail of the final design, and tailored to ensure minimum disruption to the construction programme. Such a strategy would probably be centred on a watching brief/photographic survey during site investigations and demolition works, and a watching brief on intrusive ground works.

This document represents the realisation of key objectives in the Liverpool- Maritime Mercantile City Management Plan (Liverpool City Council 2004: 14-15), specifically those relating to "Management of the site", "Regeneration" "Built Heritage Conservation" "New Development" and "Archaeology".

The recommendations contained in this report are made for ensuring that the proposed development successfully accommodates the need to respect the historic nature of the site and surrounding area.

## **7.4. Highways and Transportation**

A Transport Assessment (TA) has been prepared by Infrastructure Planning and Design (IPaD) on behalf of Langtree Group Plc to support this planning application for office use.

The TA confirms the proposed development is fully compliant with government policies at national, regional and local levels, especially in relation to transport planning policies.

The accident record for the relevant roads has been examined and has shown no serious problems caused by either the local highway layout design or due to congestion.

A vehicle trip impact assessment has been undertaken and this has shown that the development will not impact materially on the surrounding highway network in terms of additional vehicle trip impact across the weekday peak periods.

The site has excellent existing levels of accessibility and connectivity by non-vehicular modes of transport to include links with national and regional train services and a wide range of regional bus links.

A site specific travel plan will be implemented on-site to ensure that maximum levels of access by non-car modes of transport are maintained to the site and that awareness of the benefits of the use of sustainable forms of transport is promoted. Consequently, it is expected that the residual levels of traffic generated by the development would be further reduced from the levels as set out within the analysis within this document.

In summary, the TA and Travel Plan confirm that the development is acceptable in transport terms.

## **7.5. Environmental Issues**

### **7.5.1. Ground Conditions**

In July 2006 White Young Green (WYG) were instructed by Langtree Group Plc to undertake a Stage I Preliminary Trial Pit Investigation of the site. Subsequent to this a Desk Top Study was also undertaken by WS Atkins on behalf of English Partnerships prior to them acquiring the site in 2002. The Stage I Preliminary Trial Pit Investigation of the site



prepared by WYG is submitted in support of this application alongside relevant extracts of the Desk Top Study undertaken by WS Atkins in 2002.

In summary these reports confirms that ground investigations undertaken on the site did not identify the presence of significantly contaminated materials. Although slightly elevated concentrations of phenol, zinc and copper were recorded, such concentrations do not pose a risk to site occupiers and the wider environment,

### **7.5.2. Ecology**

Solum Environmental have undertaken a bat roost assessment survey of the site.

The survey was severely constrained by lack of access to the interior of the buildings and to all sides of external walls, due to a combination of unsound structures, potential for asbestos to be present and high fencing around portions of the site.

Despite these constraints surveyors observed a small number cracks and crevices within a number of the six buildings on site, each offering potential, opportunistic roost sites for single or small numbers of crevice dwelling bats such as Pipistrelle (*Pipistrellus*) species.

Restricted access to the buildings only permitted a preliminary assessment of their potential to support roosting bats, the probability of which was deemed as low. However given that the presence of bats could not be ruled out, it is recommended that these buildings undergo a 'soft-strip' demolition with licensed bat ecologist present, if feasible, outside of the bat maternity season.

If this is not possible then, in line with BCT guidelines revised in 2012, further bat surveys will be undertaken prior to determination of a planning application for this site. This further survey effort should consist of a single dusk emergence /activity or dawn re-entry / activity survey, to be carried out at this site between May and August. In line with BCT guidelines a minimum of three surveyors would be required to cover all sightlines of the building.

Should any bats be found emerging or re-entering any of these buildings during this survey then the building would be confirmed as hosting a bat roost and no works should be carried out on the building until a licence to derogate from the Conservation of Habitats and Species Regulations 2010 is obtained from Natural England.

### **7.5.3. Renewable Energy and Climate Change**

Hoare Lea have prepared a Zero Carbon Report to fulfill the requirements for the first credit associated with the BREEAM ENE4 credit and also provide an energy statement to the planning authority in support of this planning application in regard to the considerations made during the design process in respect of the provision of low & zero carbon technologies. This report has been prepared in accordance with the National Planning Policy Framework (NPPF) which supports the transition to a low carbon future and confirms it is the responsibility of applicants to contribute to energy generation from renewable or low carbon sources, which is also advocated in the Council's emerging Draft Submission Core Strategy.

The recommended Low Zero Carbon (LZC) technology for the application proposals is a PV cell installation. This will achieve 25% betterment of Part L2 (A) 2010 requirements and hence achieve the mandatory requirements of the BREEAM ENE1 credit plus, in addition, secure two further BREEAM credits under the ENE4 scoring.

### **7.5.4. Delivering Sustainable Development**

The NPPF also identifies the presumption in favour of sustainable development and that local plans and individual development proposals should be brought forward on this basis. Local Plans should be prepared in accordance with the NPPF and where either absent or silent in relation to specific development, applications which can demonstrate that they represent sustainable development consistent with the NPPF should be granted.

In this context it is essential that the application site is established as a sustainable site in order to benefit from the presumption in favour of development. We have considered the proposals in the context of the key elements of sustainability under the general three broader headings of economic, environmental and social sustainability.

Sustainability in a planning context as set out within the NPPF includes:

- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation, including the provision of infrastructure.

- A social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present, and future generations; and by creating a high quality built environment, with accessible local services that reflect the communities needs and support its health, social ,and cultural well-being; and
- An environmental role – contributing to protecting and enhancing our natural, built, and historic environment; and, as part of this, helping to improved biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

Source: National Planning Policy Framework Proposed (March 2012)

The application site is in sustainable location suitable for accommodating further commercial growth as identified by the Policy E6 which defines the area surrounding the site as a mixed use area, which is complemented by a range of services. This previously developed site is also located in close proximity to the main retail centre of the city, within the Ropewalks area which is within the defined city centre boundary identified in the UDP. This confirm that the application proposals represent sustainable development consistent with the NPPF.

### **The Three Dimensions of Sustainability**

We consider that the application proposals meet the three joint dimensions of sustainability identified in the NPPF. The proposals will contribute towards economic growth and deliver further regeneration in the Ropewalks area of the city.

The application proposals will fulfill a social role, delivering further employment and job growth. Further employment in this area will also complement the role of this part of the city as a mixed use area, making this site more sustainable, given its proximity to existing residential uses. The proposed development would bring this vacant and redundant, previously developed site back into beneficial use, to the benefit of the wider community and the amenities of the locality, without detriment to highway safety, residential amenity and the protection of the Conservation Area and World Heritage Site.

On balance, we consider that the proposal represents sustainable development, based on the economic, social and accessibility contributions that would result from development.

The application proposals can provide significant economic benefits to the local area through increased use of local shops, services and facilities and will provide a domino effect through provision of local jobs in the area. The proposals will also have a positive impact on existing services and businesses within this part of Duke Street including increased demand for local services and increased expenditure within the local area.

These are all matters which should weigh in favour of the proposals and outweigh other matters. On this basis it is considered on balance that the proposal represents sustainable development in line with the NPPF.

## **7.6. SI06 Obligations**

This section sets out the Applicants approach to dealing with planning obligations in accordance with the relevant policies of the UDP and the Community Infrastructure Regulations 2010 which came into force on the 6 April 2010.

Regulation 122 of the CIL Regulations refers specifically to the matter of Planning Obligations, and the limits on the use of such. Circular 05/05 has not officially been cancelled as this is due to be replaced by the upcoming new circular on planning obligations however the tests within the regulations are law, not guidance and therefore this takes precedence over the Circular.

This Regulation refers to the limitation on use of planning obligations, whereby it states that:

*(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.*

*(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—*

*(a) necessary to make the development acceptable in planning terms;*

*(b) directly related to the development; and*

*(c) fairly and reasonably related in scale and kind to the development.*

*(3) In this regulation—*

*“planning obligation” means a planning obligation under section 106 of TCPA 1990 and includes a proposed planning obligation; and*

*“relevant determination” means a determination made on or after 6th April 2010—*

*(a) under section 70, 76A or 77 of TCPA 1990(56) of an application for planning permission which is not an application to which section 73 of TCPA 1990 applies; or*

*(b) under section 79 of TCPA 1990(57) of an appeal where the application which gives rise to the appeal is not one to which section 73 of TCPA 1990 applies.*

In effect, the Regulation condenses the five tests for which planning obligations must meet, into three.

The following sub sections also set out the policy and guidance context that supports the need to consider the economics of a scheme and the acceptability of a viability led approach for development.

### **National Planning Policy Framework (March, 2012)**

The NPPF, published in March 2012, makes specific policy statements which are directly and indirectly relevant to the potential provision of planning obligations as part of a development proposal. In particular, in relation to the context of viability, and ensuring that the planning system does not frustrate an otherwise economically viable and deliverable development, the NPPF addresses this issue in paras. 173-177. In particular, it states,

*"...the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable"*

(para. 173, NPPF, 2012)

In this case, the NPPF clearly sets a context whereby a viability-based approach to the provision of suitable planning obligations is established. Such obligations should therefore only be considered as suitable in the context of this policy, and any additional requirements which led to a scheme which is no longer viable and could not be delivered, would clearly be at odds with this statement of national policy.

### **Areas of Section 106 Contributions**

The Council's policy for securing Section 106 contributions is set out within the UDP. The City Council's Executive Board in 2005 and 2008 agreed a series of short term interim measures to secure S106 planning obligations from developers. These measures were to build on existing national and local planning policies and be adopted for development control purposes pending the adoption of the emerging LDF.

The Council's S106 Planning Obligations Planning Advice Note states that the Council require all major developments to contribute to the provision / planting of street trees, (unless provided in their development) together with ongoing maintenance either in the form of planting of street trees or a financial contribution towards street trees elsewhere. This should be on the basis of 1 tree per 5 dwellings or 1 tree per 1,000 m<sup>2</sup> of floorspace for non-residential elements. The cost of a street tree including maintenance is £4,000.

The application proposals will deliver major physical and economic regeneration and community benefits for the area. This scale of development has been justified in planning policy terms and through an appropriate design solution, but also through a detailed viability assessment to ensure that the proposals are deliverable. The application proposals also seeks to enhance the public realm in the design of the courtyard entrance into the site from Duke Street assimilating the development with the existing environment.

The viability led approach to determining the scale, nature and value of Section 106 contributions is entirely consistent with the NPPF.

The financial viability information submitted as evidence base in support of the Heritage Statement clearly shows the viability of the application proposals are finely balanced and relies on £2.4 million of grant aid from the ERDF to make the proposed scheme viable.

On this basis, it is clear that the provision of street trees on this site which would equate to £24,000, (total floorspace of development 6,341m<sup>2</sup>) would make this scheme unviable and odds with this statement of national policy, therefore no provision towards street trees will be made with this application.

## **7.7. Summary of Reasoned Justification and the Planning Balance**

### **7.7.1. The Planning Balance**

Section 38(6) of the Planning and Compulsory Purchase Act 2004, states that applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

Whilst the NPPF says that from 12 months from the day of publication, decision takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework it does note that in all other cases, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The NPPF also notes that decision makers may also give weight to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant plans in the emerging plan to the NPPF.

This section draws together the assessment section of this report and demonstrates how the scheme complies with the development plan and the weight to be attached to other material policy considerations.

It is clear that new national planning guidance in the form of the NPPF is a key material consideration and should be afforded significant weight when considering this planning application and should be at the forefront of decision making.

The 12 month period from the date of publication has now ended as of the 27<sup>th</sup> March 2013; therefore the ruling in paragraph 215 of the NPPF should now apply.

The Liverpool UDP was first adopted in 2002, therefore within the terms of paragraph 215 of the NPPF, it does not benefit from this full weight provision identified within the NPPF. The weight to be ascribed to relevant policies will therefore be dependent on their conformity with the NPPF.

Whilst the NPPF holds and decision making should follow the approach of the presumption in favour of sustainable development, relevant conservation policies in the UDP are still in general conformity with the NPPF. In these circumstances we have had regard to both the relevant UDP policies and policies contained within the NPPF, but consider the NPPF should be given precedence in the context of this application, given the date the UDP was first adopted.

It is considered that the proposed development sits well within the new planning framework approach outlined within the NPPF, which seeks to encourage growth through a presumption in favour of sustainable development. In addition, the scheme seeks to stimulate economic investment and growth, in conformity with the NPPF which states that significant weight should be placed on the need to support economic growth.

With respect to conservation and heritage, the NPPF is very clear that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, that local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and



- the harm or loss is outweighed by the benefit of bringing the site back into use.

Where a development proposal 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.

In accordance with the policy criteria set out in the NPPF and the PPS5 Practice Guide we have prepared evidence and justification contained within the separate Heritage Statement and Design and Access Statement proportionate to this site and its significance.

Although it is debatable whether the proposed scheme is considered to cause substantial harm to the significance of the conservation, the Heritage Statement still assesses the proposals against the four criteria above set out in paragraph 133 of the NPPF.

The application proposals are in conformity with conservation policies in the UDP and the NPPF and complies with the robust policy criteria set out in these documents, which have a presumption in favour of retaining buildings in a conservation area.

In accordance with paragraph 133 criteria (i) and (ii) of the NPPF, the Heritage Statement confirms that lengthy and detailed efforts have been made which consider alternative options to retain all the Duke Street frontage buildings, or find an alternative use for their conversion and secure a viable future for them. It shows that these have all proved unviable.

In accordance with paragraph 133 (ii) of the NPPF the Heritage Statement provides marketing evidence to demonstrate efforts made to market the site since 2002, which confirms no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation.

Consistent with criteria (iii) of paragraph 133 of the NPPF the Heritage Statement confirms that the Applicant has explored the ability to secure alternative sources of funding to find grant funding that may pay for its retention and continued conservation, in addition to the ERDF gap funding application. This confirms that securing any such funding would prove extremely challenging.

On balance the Heritage Statement confirms that the loss of these buildings is outweighed by the benefits of bringing the site back into use as set out in section 7.3 of this report. It is

also important to note that in conformity with the NPPF the site proposals present an opportunity for enhancement of the conservation area, given the vacant site currently detracts from the character and appearance of the conservation area and WHS. The replacement building will act as a catalyst for regeneration and has been designed to respect the scale and massing of the surrounding properties, strengthening the townscape character. The replacement building will provide a new chapter in the development of the area, which will reveal aspects of significance of the WHS.

We consider the application proposals are also in general accordance and conformity with the relevant, economic, conservation and design policies in the UDP. The principle of office use on this site is in accordance with policies E6, E2 and E5 which seeks to promote economic growth in this part of the city. The Heritage Statement provides a robust justification in the context of the relevant conservation policies HD5, HD7, HD8, HD9, HD10 and the replacement building has regard to design policies HD11, HD18 and the Ropewalks and WHS SPD documents.

Nevertheless, greater weight and precedence should be given to the NPPF as a material consideration in the context of this application, in particular the presumption in favour of sustainable development.

Whilst the policy considerations in relation to this heritage asset should not be ignored, it is clear that economic case is a significant one which is supported by the general thrust and approach to new development by the Government.

Applying the policies contained within the NPPF and using the presumption in favour of sustainable development as a starting point we consider that the application proposals are in accordance with the NPPF and there are no adverse impacts that would demonstrably outweigh the benefits this scheme brings.

Other material considerations, in terms of the technical areas and supplementary planning documents and guidance have also been given due regard in the consideration of the scheme. It is considered that none of these other material considerations, in themselves or cumulatively, would weigh against the national policy and presumption in favour of the development.

The application proposals should therefore be considered favourably having regard to the aforementioned policy context and advice contained in these documents.

We consider the application proposals are in accordance with the spatial approach to development and the general aims and policies contained within the RS.

The Regional Strategy at this stage remains part of the statutory development plan and hence can be given weight pending its anticipated revocation as outlined within the Localism Act (2011). Its weight however is reduced following the publication of the NPPF as it is considered that it is not consistent with the NPPF in many respects.

Policies in the emerging Local Plan are in their infancy and the policies have not been tested rigorously as they have not been subject to consultation or independent scrutiny. Whilst the document is still a material consideration the weight accorded to policies in the document is limited, until it has gone through a period of consultation and an examination process.

## 8. Summary and Conclusions

The Planning and Regeneration Statement has shown that the application proposal has had regard to the provisions of the development plan and other material considerations in the form of the NPPF.

It confirms that the proposed office use is acceptable in principle. The key issue in determining this application is to ensure that this important redevelopment site is brought back into use consistent with the regeneration and conservation aspirations set out in the UDP and the NPPF.

The compelling case for the regeneration of this site is reinforced by the recently published NPPF, which recognises the need to support economic development. The NPPF places regeneration high on its agenda in terms of planning for prosperity and the support for economic development and that planning system should operate to encourage and not act as an impediment to sustainable growth.

The new planning policy context set by the NPPF clearly expresses the Government's desire to facilitate growth, investment and developments which are clearly sustainable.

Unless there is an identifiable harm flowing from this proposal which would outweigh the benefits of delivering economic development and growth, then the NPPF is clear that presumption in favour of sustainability prevails and permission should be granted.

The application proposals would not compromise the principles of sustainable development and the delivery of this development is wholly consistent with the presumption in favour of development. On balance, we consider that the proposal represents sustainable development, based on the economic, environmental and social contributions that would result from development and there is no adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Whilst it is acknowledged that the UDP and NPPF identifies a presumption in favour of retaining and refurbishing heritage assets we have provided a robust structural, architectural and cost/viability assessment in the Heritage Statement to demonstrate that the building is functionally obsolete and there is no viable alternative use which allows retention and or refurbishment of these buildings in accordance with criteria contained in paragraph 133 of

the NPPF. Commercial Agents Keppie Massie have also concluded that any development to incorporate and retain 86 Duke Street would prove unviable from both a funding and letting/investment perspective and would render the entire development proposal unviable.

The accompanying Design and Access Statement and Heritage Statement demonstrates that the scheme has evolved through an appropriate design process. The scheme would secure a high quality development which respects the Conservation and World Heritage context and setting.

Technical reports accompanying this application demonstrate that the site is deliverable and conclude that there are no technical reasons why the application proposal should not be approved. All mitigation measures can be controlled by appropriately worded conditions or legal agreements.

Redevelopment of the land would deliver considerable planning and public benefits that weight heavily in favour of this application proposal. In accordance with Paragraph 133 of the NPPF we consider the following benefits outweigh the loss of these buildings:

- Significant economic benefit to the locality;
- Commitment to acquire the 40,000 sq. ft Grade A Office by ACL Ltd ensures the regeneration of this site, retention of a high profile local employer within the city, which could lead to further employment growth, safeguarding 66 existing jobs and create 153 new jobs at the UK level.
- Without this committed end user, this site would remain vacant and redundant and continue to blight this part of the Duke Street Conservation Area, the Ropewalks area of the city and the World Heritage Site. There is no speculative finance available to support this project without ACL Ltd.
- Bringing this land back into active use is a public benefit in itself.
- Retention of the vinegar warehouse building which was considered by Glynn Marsden (Conservation Officer) and English Heritage to be the building which had most merit and is fully supported by the end user ACL Ltd.

- The grant of permission for this office development will have clear regeneration benefits and will generate significant local and city-wide economic benefits via direct employment in the construction and operational phases of the development and indirect employment.
- 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.

These regeneration benefits are collectively considered to be substantial positive public benefits.

It is clear that the adjacent listed buildings and the wider conservation area and WHS will benefit from the economic regeneration and the increased vibrancy and activity created by the proposed development. Conversely, if this scheme is not developed, then adjacent listed buildings, the conservation area and WHS will continue to be blighted by the Duke Street buildings which have no future viable economic life in its current form. Without an end user this site will not be developed in the medium to long term so this is a once in a “generation” opportunity. ACL Ltd are keen to retain the vinegar warehouse and the Applicant has positively incorporated this into our design development. Langtree Group Plc has a legal agreement to deliver this project for ACL Ltd and are fully committed to the delivery of this development.

Overall, the proposals comply with national and local policy and accordingly satisfy Section 36 (6) of the Planning and Compulsory Purchase Act 2004. Other material considerations also indicate that the development is acceptable.

The Council are therefore invited to support the application proposals in order to realise the substantial regeneration and public benefits which it can provide.



planners | urbanists | architects | landscape | engagement



spawforths

Junction 41 Business Court, East Ardsley, Leeds,  
West Yorkshire, WF3 2AB

t: 01924 873873

f: 01924 870777

[www.spawforths.co.uk](http://www.spawforths.co.uk)