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Our Ref: TWA/07/APP/02  
Your Ref:MXC/Y046676

23 July 2009

Dear Sirs,

**TRANSPORT AND WORKS ACT 1992  
TOWN AND COUNTRY PLANNING ACT 1990  
APPLICATIONS FOR THE PROPOSED LONDON UNDERGROUND (VICTORIA  
STATION UPGRADE) ORDER AND FOR DEEMED PLANNING PERMISSION**

1. I am directed by the Secretary of State for Transport to say that consideration has been given to the report of the Inspector, Mr K D Barton BA(Hons), Dip Arch, DipArb, RIBA, FCI Arb, concerning the applications made by your client, London Underground Limited ("LUL"), for :

- a. the London Underground (Victoria Station Upgrade) Order ("the Order") to be made under sections 1 and 5 of the Transport and Works Act 1992 ("the TWA"); and
- b. a direction as to deemed planning permission for the development provided for in the Order, to be issued under section 90(2A) of the Town and Country Planning Act 1990.

2. The Inspector held a public local inquiry into these applications between 28 October 2008 and 23 January 2009.

3. The Order, if made, would authorise LUL to upgrade Victoria Underground Station by constructing a new sub-surface ticket hall beneath Bressenden Place, expanding the existing Victoria Line ticket hall beneath Wilton Road and providing new lifts, sub-surface escalators and pedestrian links (collectively referred to in this letter as "the VSU scheme"). For these purposes the proposed Order would also authorise LUL to acquire and use land compulsorily or by agreement and temporarily or permanently to alter rights of way.

4. Enclosed with this letter is a copy of the Inspector's report. His conclusions are set out in sections 7 and 8 of the report. His recommendations are set out at section 8.2.

**Summary of the Inspector's recommendations**

5. The Inspector recommended that the Order be made and that deemed planning permission be granted for the development proposed in the Order, subject to the conditions set out in Appendix 4 to his report.

## **Summary of the Secretary of State's decisions**

6. For the reasons given in this letter, **the Secretary of State has decided to make the Order, with modifications, and to direct that planning permission be deemed to be granted, subject to the conditions set out in Annex 1 to this letter.**

## **Linked applications and decisions**

7. Concurrently with the inquiry into the TWA Order, the Inspector held an inquiry into your client's applications for three listed building consents under the Planning (Listed Buildings and Conservation Areas) Act 1990 for works to the Victoria Palace Theatre, Little Ben Clock Tower and Victoria National Rail Station associated with the VSU scheme. In a separate letter issued today the Secretary of State for Communities and Local Government has decided to grant those consents subject to conditions.

## **Secretary of State's consideration**

8. Careful consideration has been given to all the arguments put forward by, or on behalf of, the parties. The Secretary of State's consideration of the Inspector's report is set out in the following paragraphs. Numbers in brackets are references to relevant paragraphs of the Inspector's report.

## ***Need, Aims and Objectives, Benefits and Funding***

9. The Inspector noted that Victoria Underground Station was one of the busiest on the system and formed part of a multi-modal transport interchange. Despite this there was no provision for step-free access from the street to the platform or between platforms. Passengers already experienced major congestion during peak periods which, in the Inspector's opinion, was unacceptable in the long term and would be drastically increased by the Victoria Line improvements. The need for a public transport system of sufficient capacity to support sustainable economic development whilst promoting social inclusion and protecting and enhancing the environment was a common theme of national, regional and local transport, economic and environmental policies. For these reasons, the Inspector concluded that there was an urgent need for the VSU scheme, that it was of at least regional importance and that it would accord with regional transport policy objectives. (7.2.1-7.2.7, 8.1.1)

10. The Inspector reported that LUL's objectives for the VSU scheme were to increase the capacity of the Underground station to meet forecast demand; to minimise passenger journey times; and to improve the accessibility and ambience of the station. He considered that these aims were appropriate given the urgent need for the improvements. (7.2.8-7.2.10, 8.1.2)

11. The Inspector was satisfied that the VSU scheme would provide significant benefits in terms of reduced congestion and delay, shorter travelling time at street level for those with origins or destinations to the north and east of the station, step-free access and an improved environment. He considered that these transport benefits would lead to environmental and socio-economic benefits. Taking into account that the overall benefit to cost ratio of the scheme had been assessed at 4.4 to 1, he concluded that it would be very good value for money. (7.2.11-7.2.13, 8.1.2)

12. The Inspector noted that the VSU scheme was fully funded in the Transport for London ("TfL") Business Plan, for which the Department for Transport had confirmed funding until 2017/18. He was accordingly satisfied that the proposals were reasonably capable of attracting the necessary funding. (7.2.14, 8.1.2)

13. The Secretary of State agrees with the Inspector, for the reasons given in the report, that the VSU scheme is urgently needed to address current and future capacity constraints at Victoria Underground Station. He is satisfied that the scheme is consonant with the objectives of national, regional and local transport, environmental and economic policies. Having regard to the considerable benefits which the scheme would be likely to achieve, the Secretary of State agrees with the Inspector that it represents good value for money and that with TfL funding confirmed there is no reason to doubt that the scheme, if approved, would be implemented within a reasonable time frame.

### ***Changes to the Order***

14. The Inspector noted that the changes to the VSU scheme which were submitted and publicised by LUL on 5 August 2008 would result in reduced land take and reduced construction impacts and had been welcomed by English Heritage. He was satisfied that none of the changes would alter the essential nature of the scheme and that no one would be prejudiced by their consideration. (7.3.1–7.3.2, 8.1.3) The Secretary of State agrees.

### ***Adequacy of the Environmental Statement***

15. The Inspector was satisfied that the Environmental Statement ("ES") submitted with the applications, as supplemented by the Supplementary ES dated 5 August 2008 and the Further Information dated 28 November 2008, complied with the relevant statutory requirements. He did not agree with the Victoria Interchange Group ("VIG"), a group representing local residents' organisations and individuals, that the cumulative effects of other schemes had not been fully considered or that a separate impact study on residents was necessary. (7.3.3-7.3.5, 7.7.11, 8.1.13)

16. The Secretary of State agrees with the Inspector that the ES (as supplemented) complies with the relevant legal requirements. He is satisfied that the ES, taken together with the other environmental information submitted by LUL, provides him with sufficient information to assess the likely environmental impacts of the VSU scheme, if implemented. He confirms that, in reaching his decisions, he has complied with the requirements of paragraphs (a) to (c) of section 14(3A) of the TWA about the consideration of the ES.

### ***Whether there is a compelling need in the public interest for compulsory purchase***

17. The Inspector considered that all the land to be acquired was reasonably required to construct and operate the new works and that there was a compelling need in the public interest for the compulsory purchase powers which LUL had sought. He was therefore satisfied that the proposal met the tests in paragraphs 19 and 21 of ODPM Circular 06/2004 *Compulsory Purchase and the Crichel Down Rules*. He considered further that the provision of compensation and TfL's Land Disposal Policy meant that the interference with private rights would be reasonable and proportionate and accord with the provisions of the European Convention on Human Rights ("ECHR"). The Secretary of State agrees with the Inspector, for the reasons he gives, that the criteria for giving compulsory purchase powers, as set out in ODPM Circular 06/2004, are met. (7.3.6-7.3.10, 8.1.2)

### ***Main alternatives to the proposed scheme***

18. The Inspector noted that no one had suggested that any of the main alternatives which had been considered as part of the scheme selection process should be preferred to the VSU scheme. As regards VIG's concerns about particular aspects of the scheme, he considered that the proposed Paid Area Link ("PAL") between the new North Ticket Hall and the existing ticket hall was a fundamental part of the scheme, without which the aims and objectives of the scheme would not be met. He did not consider that an additional entrance to the North Ticket Hall on the south side of Victoria Street or an escalator link from the National Rail station concourse to the Underground, advocated by VIG, was essential, but in any event they were not precluded by the proposed works. (7.4.1-7.4.10, 8.1.4)

19. The Secretary of State agrees with the Inspector, for reasons given in the report, that the PAL is a fundamental part of the VSU scheme and that the other changes suggested by VIG are neither essential to the scheme nor precluded by it. He is satisfied that LUL chose their preferred scheme only after a careful appraisal process.

### ***Compatibility with other projects***

20. In terms of other projects in the area, the Inspector considered that the withdrawal of objections by Land Securities (promoters of the Victoria Transport Interchange 2 scheme) and by Victoria Palace Theatre (who were proposing to extend the theatre) indicated that both schemes would be compatible with the VSU scheme. He noted that LUL had also sought to ensure their proposals were compatible with Network Rail's aspirations to improve the National Rail Station at Victoria. (7.4.11, 8.1.4)

21. The Secretary of State agrees with the Inspector that LUL's proposals are compatible with other projects in the area. He notes further that, since the inquiry closed, Network Rail's development partners at Victoria, Hammerson UK Properties plc, have withdrawn their objection.

### ***Likely impact on listed buildings, townscape and conservation areas***

22. The Inspector was satisfied that the listed Apollo Theatre would not be unacceptably affected by the VSU scheme and that measures were proposed that would enable the listed Victoria Palace Theatre ("VPT") to continue to operate satisfactorily both during construction and operation of the VSU scheme. A change in construction process for the PAL under the VPT had reduced the damage potential to the theatre to repairable levels. He noted also that the listed Little Ben Clock Tower would be temporarily removed during the works and reinstated after their completion; and that nothing of any architectural or historical significance would be lost as a result of works in the basement of the National Rail Station.

23. The Inspector considered that the demolition of buildings adjoining the VPT, including the unlisted 124 Victoria Street, coupled with LUL's Reinstatement Strategy, would preserve the setting of the theatre in the short term and enhance it in the long term. Similarly, the removal of clutter from in front of the National Rail Station and the proposed simple design of the new entrance to the Underground would improve the setting of the Station. The Inspector was also satisfied that the settings of the Grosvenor Hotel and the Apollo Theatre would be preserved and that, following demolition of the unlisted 175-179

Victoria Street, LUL's Reinstatement Strategy would ensure that the character and appearance of the surrounding townscape would be preserved. (7.5.1-7.5.10, 8.1.5-8.1.6)

24. The Inspector considered that the demolition of 120-124 Victoria Street and the construction of the North Ticket Hall would not significantly affect views out of the Westminster Cathedral Conservation Area. He noted that measures could be taken to deter 'rat running' if it occurred during construction and affected the quiet nature of the Conservation Area. Once the VSU works were complete and the status quo resumed, the quiet character of the Conservation Area would be preserved in the long run. As for the Grosvenor Gardens Conservation Area, he did not consider that the increase in traffic during construction would be unacceptably detrimental to its character in the short term. In the long term the character would be preserved when traffic returned to normal routes. The Inspector did not consider that a Conservation Area action plan, as suggested by VIG, was necessary. (7.5.11-7.5.12, 8.1.7)

25. The Secretary of State agrees with the Inspector's assessment of the impacts of the VSU scheme on listed buildings, Conservation Areas and the townscape during construction and operation. In particular, he agrees that the listed buildings and their settings and the character and appearance of the Conservation Areas and the surrounding townscape would be preserved or enhanced in both the short and long term.

#### ***Likely impact on statutory utilities***

26. The Inspector said that there were no remaining objections from any statutory undertakers or telecommunications providers and that the scheme would not unacceptably impact on them carrying out their undertakings in compliance with their obligations. (7.6.1, 8.1.9) The Secretary of State agrees.

#### ***Likely impact of the scheme on people and businesses***

27. The Inspector considered that after construction the improved infrastructure would have a positive effect, due to reduced crowding, with little in the way of adverse side effects. He recognised, however, that there would inevitably be disruption during the lengthy construction period, the brunt of which would be borne by local residents and businesses. (7.1.1, 7.7.1)

28. The Inspector endorsed the use of a Code of Construction Practice ("CoCP") to ensure that mitigation of adverse impacts represented best practice and he noted that the contents of Part A of the CoCP had been agreed with the Council of the City of Westminster ("CoW"). He did not share VIG's concerns about the scope under the CoCP for transport mitigation measures to be amended. Given the length of the project, the Inspector considered it important that the process allowed changes if improvements were identified or external circumstances changed. He did not consider that VIG's representation on all transport committees should be required, as VIG would be consulted through the Community Liaison Group. He considered further that VIG's suggested amendment of the CoCP would amount to a residents' veto on any traffic management scheme and would be inappropriate as the acceptability of any traffic management scheme would properly be a matter for the highway authorities. (7.7.2, 7.7.6, 7.7.33)

29. The Secretary of State agrees with the Inspector, for the reasons given in the report, that LUL's CoCP would provide an effective means for controlling and minimising

the scheme's potential adverse construction impacts. He agrees further that the CoCP should not be amended to require VIG's agreement to traffic management proposals.

#### *Noise and vibration*

30. The Inspector noted that no receptors would experience a significant effect from noise and vibration as a result of the operation of the VSU scheme. During construction and demolition works, he considered that there were unlikely to be any significant residual effects for occupiers in terms of groundborne noise and vibration. There would, however, be significant effects from airborne noise on several residential properties and a number of hotel facades would be affected. The Inspector noted that appropriate trigger levels for mitigation, reflecting those recently adopted for the Crossrail scheme, had been adopted. In his view, the CoCP and the requirement for consents under section 61 of the Control of Pollution Act 1974 would ensure that the best practicable means were used to achieve the minimum noise levels that were reasonably practicable. (7.7.7-7.7.11, 8.1.10)

31. The Secretary of State agrees with the Inspector's conclusions on the effects of noise and vibration. He is satisfied that, with mitigation, these impacts would not be unacceptably harmful.

#### *Dust and air quality*

32. The Inspector said that the changes to the VSU scheme made in August 2008 meant that no significant dust effects were likely to arise during construction. Should there be a problem, remedial action would have to be agreed by CoW, and the CoCP required LUL to take reasonable steps to ensure that those affected were compensated. As for air quality, the Inspector noted that, taking into account the measures in the CoCP, no significant effects were predicted to arise during construction and there would be none after construction. (7.7.14-7.7.18, 7.7.20, 8.1.12) The Secretary of State agrees with the Inspector's assessment of these impacts.

#### *Groundwater*

33. The Inspector noted that the listed Apollo Theatre was sensitive to changes in groundwater levels, but considered that the proposed mitigation would be adequate to preserve the theatre without affecting its use. (7.7.19, 8.1.12) The Secretary of State agrees.

#### *Buses, taxis, other traffic and pedestrians*

34. The Inspector recognised that the diversion of a number of bus services would lead to some disruption and delay with additional walking distances for some passengers during construction. However, he was satisfied that LUL's traffic management proposal, which had been accepted by TfL Buses and TfL Network Assurance, would be workable, including the use of Eccleston Place for temporary standing facilities for buses. The Traffic Management Liaison Group would provide a means to refine the scheme should any unforeseen problems arise. (7.7.21 - 7.7.26, 8.1.11)

35. The Inspector understood the concerns of residents who used taxis that taxi drivers might seek to avoid a congested area. However, he noted that the Public Carriage Office did not object to LUL's proposals for alternative access, pick up points and ranks and that the London Taxi Drivers' Association accepted that satisfactory arrangements could be put

in place. The Inspector recognised that during the closure of Wilton Road, taxi travel distances, taxi passenger journey times and walking distances for passengers would be affected, but he considered that the impact would be relatively minor. (7.7.27-7.7.32, 8.1.11)

36. The Inspector said that Traffic Management Plans, based on the ES and the Supplementary ES, had been prepared and approved in principle by TfL Surface Transport. He considered it important that a monitoring strategy had been agreed with TfL and would be used to refine those Plans when implemented, for example, if 'rat running' through Belgravia or the Westminster Cathedral Conservation Area were to occur. He nevertheless accepted that there would be an effect on traffic in the area, with average journey times being adversely affected. He considered that this temporary effect would have to be balanced against the benefits of the VSU scheme. (7.7.33-7.7.39)

37. The Inspector noted that pedestrian routes would be affected by the provision of work sites and that diversions were proposed. Bus contra-flow lanes would be introduced on Victoria Street and Vauxhall Bridge Road, but he did not consider that pedestrian safety would be compromised. Bus interchange would also be affected, but in the Inspector's opinion regular commuters would soon become familiar with the temporary arrangements. The effects on rail and Underground passengers would be similar to those on other pedestrians, but he considered that the temporary adverse effects during construction would be outweighed by the benefits to pedestrians on completion. (7.7.40-7.7.45, 8.1.11)

38. Overall, the Inspector was satisfied that adequate mitigation measures had been identified for buses, taxis, general traffic and pedestrians. These would be subject to the usual approval requirements and a process had been identified whereby arrangements could be refined if improvements were identified or circumstances changed during the lengthy construction period. (8.1.11)

39. The Secretary of State agrees with the Inspector's assessment of the likely impacts of the VSU scheme on traffic and pedestrians. While he accepts that implementation of the scheme would inevitably have some adverse impacts in terms of delay and disruption to normal journey patterns, he considers that LUL's mitigation measures are adequate and that any residual adverse effects would be outweighed by the benefits of the scheme.

#### *Access to property*

40. The Inspector was satisfied that access to premises abutting streets would be maintained, although there would be some impact on businesses in terms of loading. As regards access to the National Rail Station, he similarly concluded that the access arrangements would be acceptable. (7.7.46–7.7.47, 8.1.12)

41. The Secretary of State agrees with the Inspector's assessment. For the purposes of section 5(6) of the TWA he is satisfied that no alternative is required for the part of the footway at Bressenden Place that would be permanently stopped up under the Order.

#### *Archaeology*

42. Having regard to the likely archaeological effects of the scheme as reported in the ES and the Supplementary ES, the Inspector considered that there would be no unacceptable impact on archaeological interests. (7.7.48, 8.1.12) The Secretary of State agrees.

## ***Mitigation of impacts***

43. The Inspector noted that the main mitigation measures were set out in the ES, the Supplementary ES and the Further Information of November 2008. While some measures had been introduced by design changes, others would be secured by agreements between LUL and CoW and other parties. Conditions to be attached to the deemed planning permission and the listed building consents would provide for other mitigation measures.

44. The Inspector considered that a principal mechanism for mitigating construction effects was the CoCP referred to at paragraph 28 above. He accepted that it would be premature at this stage to settle on the detailed site-specific measures, to be included in Part B of the CoCP, before the appointment of a contractor. With regard to VIG's concerns about CoW's resources to enforce the CoCP, the Inspector saw no reason to doubt that CoW would fulfil its obligations in a proper manner. He was satisfied also that VIG would continue to have an input into the project, including preparation of Part B of the CoCP and the section 61 consent process, through its participation in the Community Liaison Group. (7.8.1-7.8.5, 8.1.13, 8.1.15)

45. The Inspector considered that, on balance, the benefits of the scheme would outweigh the mitigated impacts, particularly in terms of noise, transportation and pedestrian routes, which would be experienced during the construction period. (8.1.14)

46. As regards VIG's objection to article 38 in the Order (defence against proceedings in respect of statutory nuisance), the Inspector considered that this would not remove the rights to a remedy for noise nuisance but would avoid undue delay where methods had already been consented under section 61 of the Control of Pollution Act 1974. Article 38 would not, in the Inspector's view, infringe rights under article 9 of the Aarhus Convention or articles 6 and 8 of the ECHR. As for procedural rights, the inquiry had provided a fair hearing as required by the Aarhus Convention and article 6 of the ECHR. As for the right under article 8 of the ECHR to respect for private and family life and the home, even if there were considered to be an infringement, the Inspector considered that it would be proportionate, since the need for the proposed works in the public interest outweighed the temporary effects that residents would suffer during construction. (7.8.8– 7.8.10, 8.1.15)

47. The Secretary of State agrees with the Inspector's assessment of LUL's mitigation proposals. For the reasons given by the Inspector, he is satisfied that the residual adverse impacts of the VSU scheme would be outweighed by the public benefits it would bring. He further agrees with the Inspector that article 38 of the Order would not infringe rights under the Aarhus Convention or the ECHR for the reasons given by the Inspector. For the purposes of section 14(3AA) of the TWA, the Secretary of State considers that the main measures to avoid, reduce and, if possible, remedy any major adverse environmental effects are those referred to at paragraphs 43 and 44 above.

## ***Agreement and Conditions***

48. The Inspector noted that an agreement had been signed between CoW and LUL which sought to address CoW's concerns about the draft Order and VIG's main concern that an effective, detailed CoCP should be required. The agreement included provisions such as the Reinstatement Strategy which the Inspector considered necessary to make the VSU scheme acceptable. Although VIG was concerned that third parties would not be able to enforce the agreement, the Inspector had no reason to doubt that CoW would carry out its statutory duties and seek to protect the interests of residents in its area.



49. The Inspector endorsed the proposed planning conditions which had been agreed by LUL, CoW and EH, subject to a number of amendments described in paragraphs 7.9.3-7.9.8 of his report. The conditions as so amended were set out in Appendix 4 to his report. (7.9.1-7.9.9, 7.9.12)

50. The Secretary of State agrees with the Inspector as to the importance of the agreement between LUL and CoW for making the VSU scheme acceptable. He agrees also that, subject to the amendments set out below, the conditions recommended by the Inspector should be attached to the deemed planning permission. The amendments which the Secretary of State proposes to make to the Inspector's recommended conditions are as follows:

- to add a set of definitions in the interests of clarity;
- to provide expressly in conditions 2, 5, 8, 11, 12, 16, 17 and 18 that the local planning authority may subsequently vary any approval it has given under those conditions, in the interests of flexibility;
- to remove the caveat proposed by the Inspector (7.9.5) that provisions in the Order and the planning conditions would over-ride any contrary requirement in the CoCP. The Secretary of State considers that it would be for CoW to ensure compatibility between details in the approved CoCP and requirements in the Order and the planning conditions; and the CoCP could not in any event over-ride those requirements as a matter of law;
- in condition 12, to require the local planning authority to consult Thames Water Utilities Limited and the Environment Agency about details of any drainage systems and implementation programme submitted by LUL, because the Secretary of State considers that it is appropriate to ensure that those organisations are consulted;
- to require in conditions 13, 16, 17 and 18 that the local planning authority consult English Heritage ("EH") about details submitted to it for approval under those conditions, because the Secretary of State considers that it is appropriate to ensure that EH is consulted; and
- to make miscellaneous drafting amendments in the interests of clarity which do not materially alter the effect of the conditions.

51. The conditions as amended are set out at Annex 1 to this decision letter. The Secretary of State considers that the proposed conditions meet the tests in DoE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable.

### **The Inspector's recommendations**

52. The Inspector recommended that the Order be made as drafted and that deemed planning permission be granted, subject to the conditions in Appendix 4 to his report.

### **Secretary of State's overall conclusions and decisions**

53. For the reasons given in this letter, the Secretary of State considers that there is a compelling case for authorising the VSU scheme. He is satisfied that there is an urgent

need to address the current and forecast levels of congestion and crowding in Victoria Underground Station. He considers that the scheme would bring substantial benefits in terms of improved accessibility, with consequential environmental and socio-economic benefits. While accepting that the VSU scheme would inevitably have some adverse impacts on the environment and on those who live and work in, or travel through, the area, the Secretary of State is satisfied that the mitigation measures proposed by LUL would reduce those impacts to an acceptable minimum. Overall, he considers that the clear benefits of the scheme would significantly outweigh its residual adverse impacts. He is therefore satisfied that it would be in the public interest to make the Order and to grant the deemed planning permission applied for.

**54. Accordingly, the Secretary of State has decided to make the Order as recommended by the Inspector, but subject to miscellaneous minor drafting amendments which do not affect the substance of the Order, and to direct that planning permission be deemed to be granted, subject to the conditions set out in Annex 1.**

55. The letter conveying the planning direction will issue shortly, at the same time as the Order is made, following publication of a notice of the determination in the London Gazette.

#### **Notice under section 14 of the TWA**

56. This letter constitutes the Secretary of State's notice of his determination to make the Order, with modifications, for the purposes of section 14(1)(a) and section 14(2) of the TWA. Your clients are required to publish newspaper notices of the determination in accordance with section 14(4) of the TWA.

#### **Challenge to decisions**

57. The circumstances in which the Secretary of State's decisions may be challenged are set out in the note attached at Annex 2 to this letter.

#### **Distribution**

58. Copies of this letter and the Inspector's conclusions and recommendations are being sent to those who appeared at the inquiry and to all statutory objectors whose objections were referred to the inquiry under section 11(3) of the TWA but who did not appear.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Ellis Harvey', written in a cursive style.

**Ellis Harvey**  
Head of TWA Orders Unit

## **ANNEX 1**

### **CONDITIONS WHICH THE SECRETARY OF STATE INTENDS TO ATTACH TO THE DEEMED PLANNING PERMISSION**

In these conditions, unless the context otherwise requires –

“the Code of Construction Practice” means the document of that title agreed with the local planning authority on 21 January 2009, subject to any subsequent amendment to it agreed in writing by the local planning authority;

“the development” means the works authorised by the Order;

“the National Rail Station” means Network Rail’s London Victoria Station;

“the Order” means the London Underground (Victoria Station Upgrade) Order 2009;

“the relevant limits” means the limits within which, under the deemed planning permission to which these conditions relate, the development may be carried out;

“stage” means a defined part, section or stage of the development, the extent of which has been submitted to, and in approved in writing by, the local planning authority; and

“the Scheduled Works” has the same definition as in the Order,

and references to numbered works are references to the Works set out in Schedule 1 to the Order.

#### ***Time limits***

1. The development shall be begun not later than five years from the date that the Order comes into force.

Reason: To ensure that the development is commenced within a reasonable period of time.

#### ***Approval of above ground elements***

2. The following above ground works shall not be commenced until details of the siting, design and external appearance have been submitted to, and approved in writing by, the local planning authority in each case:

- (a) In Work No 1 (extension of the Victoria Line ticket hall) the Wilton Road stairway and the air vent shafts.
- (b) All above ground works comprised in Work No 2 (passenger lift from the Victoria Line ticket hall to the National Rail Station).
- (c) All above ground works comprised in Work No 3 (widening of existing stairs beneath the canopy of the National Rail Station).
- (d) In Work No 5 (ticket hall beneath Bressenden Place) the station entrance in Bressenden Place, air ventilation and plant, and escape stairs and fire fighting access.

The submitted details shall include drawings at a minimum scale of 1:50 and samples of materials to be used externally and, in the case of (c) Work No 3, a construction method statement sufficient to demonstrate that the listed National Rail Station will be protected. The works shall be carried out in accordance with the approved details, unless subsequently otherwise approved in writing by the local planning authority.

Reason: to enable reasonable and proper control to be exercised over these aspects of the development.

### ***Advance notice of works***

3. Written notification of the proposed date for the commencement of the above ground works listed in condition 2 shall be given to the local planning authority at least 12 months prior to the date anticipated for the commencement of those works unless a shorter period is mutually agreed in writing between the local planning authority and London Underground Limited.

4. Written notification of the proposed date for starting the development shall be given to English Heritage, London Region, 1 Waterhouse Square 138-142 Holborn, London EC1N 2ST at least 6 months in advance of that date unless a shorter period is mutually agreed in writing between London Underground Limited and English Heritage. A copy of the notification and any agreement to a shorter period shall be sent to the local planning authority.

Reason: to enable reasonable and proper control to be exercised over the development.

### ***Landscaping***

5. No landscaping works relating to the development shall be commenced until a landscaping scheme has been submitted to, and approved in writing by, the local planning authority. Such scheme shall make provision for the following where relevant:

#### *Hard Landscaping Proposals*

- a) Proposed finished ground levels;
- b) Pedestrian access;
- c) Hard surfacing materials;
- d) Proposed and existing functional services above and below ground level such as drainage, pipelines, power and communications cables; and
- e) Minor artefacts and structures such as street furniture, refuse or other storage units, signs and lighting.

#### *Soft Landscaping Proposals*

- a) Schedules and plans of proposed planting noting species, planting sizes and proposed numbers/densities; and
- b) Written specifications including cultivation and other operations associated with plant and grass establishment.

An implementation timetable shall be included in each scheme. The landscaping works shall be carried out in accordance with the approved scheme and implementation timetable to which they relate, unless subsequently otherwise approved in writing by the local planning authority.

Reason: to provide a suitable setting for the development in the interests of visual amenity to enhance flora and fauna.

### ***Replacement of trees***

6. Any trees lost as a result of the works hereby approved shall be replaced on at least a one for one basis in accordance with details, including location, species, and size that shall be submitted to, and approved in writing by, the local planning authority prior to any planting taking place. Planting shall be completed in the first available planting season following the completion of the development and any tree that within five years of the day of planting becomes seriously damaged or diseased shall be replaced in the earliest available planting season with a specimen of the same species and size as that originally planted unless the local planning authority agrees otherwise in writing.

Reason: in the interests of visual amenity and to ensure that planting is carried out in a timely manner.

### ***Code of Construction Practice***

7. The development shall be carried out in accordance with the provisions of the Code of Construction Practice, unless otherwise agreed by the local planning authority in writing.

Reason: in the interests of amenity.

### ***Site Environmental Management Plan***

8. No stage of the development shall be commenced until a Site Environmental Management Plan, or Plans, relating to that stage, and in accordance with the provisions of the Code of Construction Practice, has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved plan(s), unless subsequently otherwise approved in writing by the local planning authority.

Reason: to protect the environment and amenity of the locality.

### ***Construction working hours***

9. Construction work shall not take place outside the hours of 0800 to 1800 Mondays to Fridays, 0800 to 1300 on Saturdays, and shall not take place at all on Sundays and Bank Holidays, except as otherwise agreed by the City of Westminster under Section 61 of the Control of Pollution Act 1974 and in accordance with the provisions of the Code of Construction Practice.

Reason: to protect the amenity of the locality.

### ***Construction work sites***

10. Construction work sites shall be suitably screened and secured prior to the commencement of construction works at the individual site involved. Hoardings shall be of a type(s) agreed in writing by the local planning authority. Details of vehicular access arrangements shall be submitted to, and approved in writing by, the local planning authority prior to any individual construction work sites being occupied.

Reason: to maintain the amenity and security of the area and highway reasons.

### ***Contaminated land***

11. No stage of the development shall be commenced until a scheme to deal with contamination of any land (including groundwater) likely to significantly harm persons or pollute controlled waters or the environment, has been submitted to, and approved in writing by, the local planning authority. The scheme shall include reference to the relevant limits and the stage concerned and an investigation and assessment report which shall identify the extent of any such contamination and the remediation measures to be taken to render the land fit for the intended purpose, together with a management plan setting out any long term measures with respect to contaminants remaining on the site. Development shall be carried out in accordance with the approved scheme, unless subsequently otherwise approved in writing by the local planning authority.

Reason: to ensure that any necessary site investigation and remedial action is undertaken in relation to contaminated land.

### ***Surface and foul water drainage***

12. No individual stage of the development that includes or comprises a new or altered surface and foul water drainage system shall be commenced until details of the proposed drainage system and an implementation programme have been submitted to, and approved in writing by, the local planning authority in consultation with Thames Water Utilities Limited and the Environment Agency. Development shall be carried out in accordance with the approved details, unless subsequently otherwise approved in writing by the local planning authority.

Reason: to ensure the provision of adequate drainage facilities.

### ***Monitoring equipment on listed buildings***

13. Details of the size, location and method of fixing of all monitoring equipment to be affixed to any listed building in connection with the development shall be submitted to, and approved in writing by, the local planning authority, in consultation with English Heritage, before the monitoring equipment in question is affixed. Installation shall be carried out in accordance with the approved details, unless subsequently otherwise approved in writing by the local planning authority.

14. Any monitoring equipment fixed to any listed building for the purposes of the development shall be removed within 28 days of it no longer being required and any damage caused to the building as a result of the affixation shall be immediately made good. Any period of retention beyond the date when the Scheduled Works are brought in to use shall be agreed in writing in advance with the local planning authority.

Reason: in the interests of visual amenity and to protect the appearance and fabric of listed buildings.

### ***Archaeology***

15. No individual stage of the development shall commence until a programme of archaeological work has been implemented in accordance with a written scheme of investigation relating to that stage that has been submitted to, and approved in writing by, the local planning authority. The programme is to comprise an archaeological evaluation, a review of the evaluation results and method statements for any works necessary to mitigate impact.

Reason: to ensure that works are undertaken with due regard to any archaeological remains on the site.

### ***Trial pits***

16. The results and analysis of any trial pits prepared in advance of the development for the purpose of informing mitigation relating to a listed building must be submitted to the local planning authority. Details of their incorporation within the mitigation strategy must be submitted to, and approved in writing by, the local planning authority in consultation with English Heritage before the commencement of works. Mitigation shall be carried out in accordance with the approved details, unless subsequently otherwise approved in writing by the local planning authority.

Reason: to enable the local planning authority to assess the effectiveness of the proposed mitigation.

### ***Repair of damage to listed buildings***

17. Repair of any damage caused as a result of the development to the following buildings shall, in each case, not be commenced until details of the location, extent and methodology of repair have been submitted to, and approved in writing by, the local planning authority, in consultation with English Heritage:

- a) Victoria Palace Theatre;
- b) The National Rail Station;
- c) Any other listed building that is damaged as a direct result of the development.

Repairs shall be carried out in accordance with the approved details, unless subsequently otherwise approved in writing by the local planning authority.

Reason: to ensure that the repairs are adequate to protect the appearance and fabric of any listed buildings that are damaged.

### ***Cleaning of listed buildings***

18. Details of all cleaning proposed to be carried out to the exterior walls of any listed building, except by way of gentle nebulous water spray, shall be submitted to, and approved in writing by, the local planning authority, in consultation with English Heritage, before any such cleaning work is begun. Such cleaning shall be carried out in accordance with the approved details, unless subsequently otherwise approved in writing by the local planning authority.

Reason: to protect the appearance and fabric of listed buildings.

END

## **ANNEX 2**

### **RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA**

Any person who is aggrieved by the making of the Order may challenge its validity, or the validity of any provision in it, on the ground that –

- it is not within the powers of the TWA, or
- any requirement imposed by or under the TWA or the Tribunals and Inquiries Act 1992 has not been complied with.

Any such challenge may be made, by application to the High Court, within the period of 42 days from the day on which notice of this determination is published in the London Gazette as required by section 14(1)(b) of the TWA. This notice is expected to be published within three working days of the date of this decision letter.

### **CHALLENGES TO DEEMED PLANNING PERMISSION GIVEN IN CONNECTION WITH A TWA ORDER**

There is no statutory right to challenge the validity of the Secretary of State's direction that planning permission shall be deemed to be granted for development for which provision is included in the Order. Any person who is aggrieved by the giving of the direction may, however, seek permission of the High Court to challenge the decision by judicial review.

**A person who thinks they may have grounds for challenging the decision to make the Order or the decision to give the direction as to deemed planning permission is advised to seek legal advice before taking any action.**