

OBJ3/P1

Transport and Works (Inquiries Procedure) Rules 2004

Proposed London Underground (Victoria Station Upgrade) Order

LAND SECURITIES GROUP plc AND OTHERS (Objector No. 3)

PROOF OF EVIDENCE of COLETTE O'SHEA MSc, MRICS
of LAND SECURITIES GROUP plc

1 INTRODUCTION

Qualifications

1.1 My name is Colette O'Shea. I am a Chartered Surveyor and a Member of the Royal Institution of Chartered Surveyors. I also have a Master of Science degree (MSc).

1.2 For the purposes of RICS rules I confirm I am not acting as an expert witness in this matter. My evidence is given as a Development Director and Head of Development for the London Portfolio of Land Securities.

Experience

1.3 I joined Land Securities Group plc ("**Land Securities**") in August 2003. I am currently a Development Director and Head of Development for the London portfolio, a role to which I was appointed in 2008. Prior to that I was a Development Director.

1.4 In my current role at Land Securities I am responsible for all current and proposed mixed use developments within the London Portfolio. These are predominantly located in the City of London, Westminster and Southwark.

Scope of Evidence

1.5 My evidence to this Inquiry covers the matters raised in Land Securities' letter of objection to VSU (**Land Securities core document OBJ3/1/1**) and in our Statement of Case (**Land Securities core document OBJ3/1/2**). In particular the following issues are covered:

1.5.1 matters referred to in the Secretary of State's letter dated 8 May 2008 which set out the "Statement of Matters". My evidence provides an overview of Land Securities' case to this inquiry and hence it touches on most of the matters set out by the Secretary of State, however those predominantly referred to by me in my evidence are the following:

Matter 1: aims and objectives of and need for improvements to Victoria Underground Station;

- Matter 2: justification of the proposals in the draft TWA Order;
- Matter 3: the likely impact of the VSU proposals on local businesses;
- Matter 4: compatibility of the VSU proposals with other development proposals;
- Matter 6: the measures proposed by the promoters for mitigating adverse effects of the VSU scheme;
- Matter 7: whether there is a compelling case in the public interest for granting LUL compulsory purchase powers; and
- Matter 11: changes to the originally proposed TWA Order;

1.4.2 Land Securities' interests in the Victoria area, and in particular our commitment to the regeneration of the area as evidenced by our previous developments, future planning applications and importantly the promotion of our Victoria Transport Interchange ("VTI") development schemes. These are all described below, but the main relevant development is the scheme known as Victoria Transport Interchange 2 ("VTI2" for short);

1.5.3 the detrimental effect which I consider the VSU scheme as applied for would have on the delivery of regeneration in the Victoria area and in particular on the VTI developments, a vital part of that regeneration; and

1.5.4 negotiations that have taken place with both Transport for London ("TfL") and London Underground Limited ("LUL") in relation to both of our VTI development proposals and LUL's own Victoria Station Upgrade ("VSU") proposals.

1.6 My colleague Nigel Earp gives evidence about technical development issues from the perspective of Land Securities.

1.7 Engineering evidence is being given by Tim Chapman of Arup.

1.8 Transport evidence is being given by Roy McGowan of SDG.

1.9 Planning policy evidence is being given by Hugh Bullock of Gerald Eve.

1.10 Technical valuation evidence is being given by Robert Fourt of Gerald Eve.

- 1.11 Although my evidence touches on all of these disciplines it is by way of an overview of our case only, and the other witnesses whom I have identified above will speak to the detail of them as necessary.

Summary of the Key Points of Our Objection, and Proposed Solutions

- 1.12 The key points of Land Securities' objection, and a statement of what we are seeking from the Secretary of State, are summarised below. Where relevant, a draft of how we ask that the draft Order be changed will be provided in the form of a note following discussion with the Promoters.
- 1.13 Our requests for amendments to the draft Order are, of course, without prejudice to any claim for compensation that may arise from the actions of LUL pursuant to an Order so amended. Robert Fourt addresses in his evidence the question of the compensation that would be payable to Land Securities if the draft Order were confirmed as proposed by LUL and subsequently acted upon by them. As was explained in our original objection, whilst it is accepted that the determination of any specific compensation claim is not a matter for this inquiry the magnitude of likely compensation payable is nevertheless relevant when considering the viability of the proposed VSU scheme. A related point is that it is very much in the public interest to ensure that the VSU scheme involves a prudent use of public funds. LUL should therefore strive to reduce the amount of compensation it will need to pay out in conjunction with implementing VSU.
- 1.14 Our overriding objective is to see the delivery of development that will achieve the regeneration of the Victoria area in a timely fashion. I describe below Land Securities' proposed Victoria Transport Interchange development schemes, and Land Securities' desire is to see such a scheme implemented alongside VSU (to the current programme) in a manner which does not prejudice either.
- 1.15 The key points of Land Securities' objection at this inquiry are as follows:
- 1.15.1 it will be seen that our proposed VT12 development comprises three separate planning applications. These applications were submitted to Westminster City Council (the "**Council**") on 19th September 2008. Of these three applications, Application 1 covers the development of Buildings 5, 6b and 7a within the overall VT12 scheme (as shown on **Land Securities**

core document OBJ3/2/26. We seek the ability to commence work on the development forming Application 1 by September 2010. To achieve this we ask that the Order be amended or provision made so as to require LUL to adopt a particular method of constructing, or a particular route for, the Paid Area Link ("**PAL**") within VSU. In order of preference to Land Securities these alternatives are as follows:

- (a) for LUL to construct a shorter PAL along the route shown on the plan which is at **Land Securities core document OBJ3/2/8A**, utilising the construction method which employs an Earth Pressure Balance Machine ("**EPBM**") to create the tunnel (Option 1a); failing which
- (b) for LUL to construct the PAL along the alignment shown in light green on the plan which is **Land Securities core document OBJ3/2/6** with appropriate safeguards (Option 1); failing which
- (c) for LUL to construct the PAL along the alignment shown in the current application for the draft Order (as shown on **Land Securities' Core Document OBJ3/2/8**) but using the "open cut" method of construction rather than any other construction method (for example jet grouting and tunnelling) with appropriate safeguards (Open Cut Option); failing which
- (d) if Land Securities so elects no later than 31 March 2011 (and Land Securities will commit to notify LUL within a reasonable period after taking the decision to proceed with construction, if in advance of this date) that we will be permitted to construct the shell of the 'box' for the PAL in the basement of our Building 7a (as shown on the plan which is **Land Securities core document OBJ3/2/7**) enabling LUL to fit out the PAL within such 'box' (Option 2).

If LUL is not required to adopt one of the above alternatives, Land Securities will be delayed by a minimum of four years in commencement of construction of the development in Application 1;

- 1.15.2 it is also worth noting that if the alignment of the PAL is resolved in one of the ways described in paragraph 1.15.1, but Land Securities does not proceed with construction of VTI 2 during the VSU programme, then Land

Securities will still suffer significant losses in respect of the buildings to the west of Allington Street (essentially those within the boundary for Application 1 as shown on Land Securities Core Document OBJ3/2/26) due to tenants not renewing leases/new tenants not taking leases and/or seeking compensation for disturbance due to the VSU, as evidenced by the complaints and claim we have received in respect of the jet grouting trial at Elliot House, as to which please see below;

1.15.3 by way of example, in the case of the delay referred to in paragraph 1.15.1, and as described in detail in Robert Fourt's evidence, our entitlement to compensation for losses arising out of VSU will be substantial. LUL's Business Case includes a figure over £70million for all land acquisition and compensation costs (a figure for which we have seen no justification notwithstanding repeated requests). In our opinion, therefore, the making of payments by LUL of the order of magnitude assessed by Robert Fourt should render VSU not financially viable (given that liability to such compensation is clearly avoidable through our proposed alternatives);

1.15.4 we contend that there is no need for LUL permanently to acquire the land shown hatched green (the "**Green Hatched Land**") on the plans which are **Land Securities core documents OBJ3/2/20**. This land is required for use by LUL as works sites to enable construction of below ground infrastructure and the VSU works generally. As such, it is only necessary for LUL permanently to acquire as much of the freehold of the subsoil of those parts of that land as will contain below-ground infrastructure, plus a temporary right to use all the land in question, pursuant to Article 24 of the draft Order. As to permanent acquisition of the land coloured pink on the plans at **Land Securities core document OBJ3/2/20**, please see below. Within this main point there are the following separate concerns:

- (a) that there is no need for LUL permanently to acquire the Green Hatched Land because they only need permanently certain parts of the subsoil and temporary use of surface area for work sites;
- (b) that there remains a disagreement between Land Securities' advisers Sharpe Pritchard and LUL's advisers Bircham Dyson Bell as to whether Article 24 of the draft Order would allow LUL to take the Green Hatched Land only temporarily, as Land Securities

propose. Land Securities' position is that Article 24 is sufficient for LUL's reasonable purposes, but LUL has not accepted that;

- (c) it is important to Land Securities that the Green Hatched Land be returned as soon as possible by LUL so that our VT12 development is not impeded unreasonably and so even if LUL were to accept that Article 24 did apply, the suggested provision in Article 24(3) of the draft Order - that the land simply be handed back within one year after completion of all the VSU works - is not acceptable. It would, for example, cause delay to the delivery of our Building 6a (as shown on **Land Securities core document OBJ3/2/26**). Land Securities' proposal is therefore that:
- (i) the parties should work together in order to achieve a hand back of the Green Hatched Land by no later than the time specified in the Land Securities programme (**Land Securities core document OBJ3/2/24**) and
 - (ii) that LUL should be required to hand back the Land as soon as practicable after it ceases to be required for the purposes of construction of the connected works
 - (iii) if such handback cannot be delivered to accord with our construction programme, then further and potentially avoidable compensation will be due to Land Securities.
- (d) return of the land will also enable Land Securities to provide, free of charge, a 6-metre strip of freehold land to the rear of the Victoria Palace Theatre ("**VPT**") to enable construction by the VPT of a fly tower for scenery movement, in part securing the future of the theatre for the benefit of the Victoria area; and
- (e) the extent of the Green Hatched Land radically changed from that shown on the plan attached to the Heads of Terms agreed in March 2007 (the "**Heads of Terms**") (**Land Securities core document OBJ3/2/16**), most notably by the inclusion of Elliot House for permanent acquisition and demolition. As to the detail of this please see below;

1.15.5 I acknowledge that LUL seeks the freehold of the Northern Ticket Hall area, but upon a transfer to LUL of the freehold of the land coloured pink on the plans at **Land Securities core document OBJ3/2/20** we require the immediate grant of a 135-year lease (with an option for Land Securities to renew for a further 135 years, exercisable if LUL are not redeveloping the Northern Ticket Hall) by LUL of the surface and airspace of all that land. A bare licence would be granted to LUL to enable construction of the Northern Ticket Hall and other parts of VSU, for the duration of the LUL programme. It is not acceptable for LUL to be seeking permanent acquisition in the draft TWAO and confirmed in the Supplementary Environmental Statement: Technical Appendix D (**inquiry core document VSU.A3**) (which was not issued until August 2008), and to offer to negotiate the terms of an Agreement for Lease (as opposed to a lease) at a later date. We need certainty now as to the lease. The reasons for this are explained in more detail in the main body of this proof of evidence;

1.15.6 Building 6a (forming Application 3 of VT12) would require the installation of piles at the three corners of the proposed building footprint. The location of the piles to the south east and south west corners is shown on the plan which is **Land Securities core document OBJ3/2/23**. The location of certain of these piles is close to an area of underground working to be undertaken as part of VSU which itself requires piles to be installed. We have proposed to LUL that they install the piles needed for building 6a, at our cost, at the same time as they install their VSU piles. This would result in:

- (a) a better engineering solution than would be achieved by Land Securities piling subsequently close to LUL's permanent works;
- (b) a time saving for us, thus speeding up delivery of regeneration and reducing the amount of compensation that would otherwise be due to us following an exercise of LUL's rights under the Order as proposed, which is clearly in the public interest;
- (c) less disruption being caused by two sets of heavy construction works in the local area; and
- (d) a saving of overall resources.

- 1.15.7 VSU's Northern Ticket Hall would need to support the loads from our proposed Buildings 7b and 7c (forming Application 2 of VT12) (as shown on **Land Securities core document OBJ3/2/26**). We have provided to LUL the required loadings we would need in order to achieve this. LUL have confirmed that their current design will not provide sufficient support in certain areas. The consequence of the Northern Ticket Hall not supporting enough load to accommodate our Buildings 7b and 7c is that they would have to be reduced in height or massing in certain areas, and that a basement could not be included in Building 7b. We seek an undertaking that LUL will design and build the Northern Ticket Hall so that it will have sufficient load-bearing capacity to support our Buildings 7b and 7c as designed, failing which if we are forced to reduce the developable area of Buildings 7b and 7c on account of inadequate load-bearing capacity in the Northern Ticket Hall we seek compensation from LUL calculated on the basis of the loss of developable area. In addition, we should also be compensated for the fact that Buildings 7b and 7c would need to be re-designed and an amended planning application submitted, resulting in increased cost and abortive fees.
- 1.15.8 construction of VSU will require the temporary diversion of certain utilities, specifically Thames Water's sewers and water mains. The construction of VT12 would also require the permanent diversion of these services. In our contention it makes no sense for these services to be diverted twice, once for the construction of VSU (because LUL's proposed diversion is to a location incompatible with VT12) and then a second time for the construction of VT12. This would cause unnecessary disruption to residents and businesses in the area and would be wasteful of public money. Accordingly, we have proposed to LUL that the services be diverted by them to an agreed location in which they would not need to be moved again when VT12 is built, and that the overall cost saving of diverting the services once only be shared proportionately between Land Securities and LUL. The cost to both Land Securities and LUL would thereby be reduced and the disruption to the local area would be minimised;
- 1.15.9 we seek an assurance from LUL that they will co-operate with us in jointly planning the logistics for the construction of both VSU and VT12. The objective is to ensure that both VSU and VT12 could be built at the same

time and to agreed programmes. A mechanism for agreeing matters such as site entrances, hoardings and working areas would be required. A copy of Land Securities' current construction programme for the VT12 development is at **Land Securities core document OBJ3/2/24**. We seek an undertaking from LUL that they will use all reasonable endeavours to accommodate our requirements within the logistics planning for VSU in a manner that results in no delay to our development programme, with an ability to refer any disagreements to independent dispute resolution; and

1.15.10 finally the full extent of Article 14 of the draft Order, relating to the power for LUL to undertake protective works, has unacceptable implications for Land Securities' estate. There are two separate issues here:

(a) the limit of the protective works area projects into the titles for Eland House and Portland House even though it has been drawn to avoid the physical buildings themselves (see the plan at **Land Securities core document OBJ3/2/27**. We require confirmation from LUL that Article 14 gives us protection should damage be caused by the VSU works to these buildings. Further, we require confirmation from LUL that the indemnity contained in Article 14 will apply to all losses suffered by us referable to Eland House and Portland House as a result of VSU whether or not protective works are actually carried out;

(b) insofar as:

(i) Article 14 relates to our property within the VT12 development site (edged blue on **Land Securities core document OBJ3/2/11**) and

(ii) we are in the course of constructing the VT12 development

Article 14 should be modified so as to be made mutual as between LUL and Land Securities: if one party's works cause damage to the other then, save only in a situation requiring remedial works to be undertaken in a life-threatening emergency, the extent of protective works and also who carries out such works should upon the service of notice be agreed between the parties. Any dispute should be resolved by reference to an independent person.

2 LAND SECURITIES AND ITS LAND OWNERSHIP IN VICTORIA

- 2.1 Land Securities is the country's largest listed property company. Land Securities is a leading Real Estate Investment Trust and a FTSE 100 listed company. Our national portfolio of commercial property includes some of the UK's best-known shopping centres and landmark buildings in London.
- 2.2 We are at the forefront of urban renaissance through our multi-billion pound development programme, transforming regional city centres and key sites in Central London. We are also one of the leading names in property outsourcing and Public Private Partnership markets as well as being involved in long-term, large-scale regeneration projects in the South East. Our commitment to urban regeneration is illustrated by the statement from our 2008 Annual Report, an extract of which is my **exhibit OBJ3/P1/A1**.
- 2.3 The value of landholdings within the London Portfolio alone amounted to approximately £7.35 billion as at August 2008.
- 2.4 Land Securities has owned property in the Victoria area since the 1940s. Details of the properties making up our VTI development site, and those found in the wider Victoria area, are shown on the plan at **Land Securities core document OBJ3/2/12** and described in **exhibit OBJ3/P1/A2** to my evidence. Our holdings within the administrative area of the Council are substantial and represent approximately 40% of the Land Securities' London portfolio by value.
- 2.5 The press releases to be found in my **exhibit OBJ3/P1/A3** show that Land Securities is not only a landowner, it is also a highly experienced and successful developer as well as a company which takes its role in the community very seriously. We have already undertaken numerous developments within Westminster, for example:
- 2.5.1 Eland House, Bressenden Place: (currently occupied by the Department for Communities and Local Government) was redeveloped in the mid-1990s;
- 2.5.2 The View, 20 Palace Street: the refurbishment of over 100 residential apartments, was completed in 2005;
- 2.5.3 Cardinal Place, 80-100 Victoria Street: our 650,000 square feet mixed use scheme (directly opposite the VTI site) opened in 2006. This scheme has

led to a huge transformation in the area (which we intend to continue with our VTI development and the redevelopment of certain buildings along Victoria Street). It has also brought new occupiers including Marks and Spencer, Microsoft, EDF, Wellington Financial and 3i to Victoria;

- 2.5.4 50 Queen Anne's Gate: refurbishment for the Government was completed in April 2008; and
- 2.5.5 Wilton Plaza (on the corner of Wilton Road and Gillingham Street): a mixed use scheme providing 74 units of affordable housing, 37 units of private housing, 158 student units and retail space. It is due to be completed in April 2009

More details about the above schemes are also contained in Exhibit OBJ3/P1/A2.

- 2.6 Our ongoing commitment to the Victoria area and the City of Westminster is also evidenced by the recent submission of a series of planning applications. These include:

- 2.6.1 VT12: 131,946 square metres of mixed use space, submitted on 19th September 2008;
- 2.6.2 Selborne House, Victoria Street: 38,513 square metres of office and entertainment space, submitted on 23rd September 2008; and
- 2.6.3 Arundel Great Court, The Strand: 96,449 square metres of mixed use space, due to be submitted on 26th September 2008.

- 2.7 The plan forming **Land Securities core document OBJ3/2/11** illustrates, by green colouring, the freehold land owned by Land Securities and its subsidiary companies in the immediate area of VSU as at the date of this proof of evidence. Land is owned either by Land Securities itself or by various subsidiary companies. In the case of the land affected by VSU, the land is owned by a combination of our subsidiary companies LC25 Limited and LS Victoria Properties Limited, as set out in the table below. The letter of objection to VSU (**Land Securities core document OBJ3/1/1**) was submitted by our solicitors on behalf of us and these two companies, and all are "Objector OBJ/O3" for the purposes of this inquiry.

- 2.8 With regard to the freehold land coloured brown on **Land Securities core document OBJ3/2/11**, we are actively negotiating to acquire these interests. With regard to the remaining occupational interests we have a vacant possession strategy which we are implementing to accord with our construction programme.
- 2.9 To the extent that outstanding interests cannot be acquired or vacant possession achieved, the Council through paragraphs 8.58/9 of the Victoria Area Planning Brief (**inquiry core document VSU.C42**) has confirmed, in principle, that it would use its compulsory purchase powers to assist with site assembly. This has been confirmed by the letter dated 6th February 2008 from the Council's Director of Planning, Rosemarie MacQueen (**Land Securities core document OBJ3/1/31**).
- 2.10 The plot numbers of the land to be taken by VSU are set out below. As has been mentioned above all of the land in question is owned by subsidiary companies of Land Securities Group plc. **Exhibit OBJ3/P1/A4** to my evidence is a corporate structure illustrating the relationship between the owning companies and the ultimate holding company Land Securities Group plc. The final column in the table below shows which company owns legal title to the plots in question:

Plot nos.	Address	Interest	Comment	LS owning company
39, 40	Allington House, 136-150 Victoria Street	Freehold	Partly within limits of land to be acquired or used (subsoil below 4.5m) (Art. 22) and within limits of land for protective works (Art. 14)	LC 25 Limited
41	The Stage Door Public House	Freehold	Within limits of land for protective works (Art.14)	LC 25 Limited
42	Allington Court	Freehold	Within limits of land for	LC 25 Limited

			protective works (Art. 14)	
43	Allington Street (insofar as LS ownership extends out over highway)	Freehold	Subject to power to execute street works - (Art. 7)	LC 25 Limited
44	Allington Street (insofar as LS ownership appears to extend out over highway)	Freehold	Subject to power to execute street works (Art. 7)	LC 25 Limited
50	124 Victoria Street	Freehold	Within limits of land to be acquired/used permanently (Art. 17)	LC 25 Limited
51	122 Victoria Street	Freehold	Within limits of land to be acquired/used permanently (Art. 17)	LC 25 Limited
52	120 Victoria Street	Freehold	Within limits of land to be acquired/used permanently (Art. 17)	LC 25 Limited
53	Loading bay car park between 120-124 Victoria Street and 3-11 Bressenden Place	Freehold	Within limits of land to be acquired/used permanently (Art. 17)	LC 25 Limited
54	3 Bressenden Place	Freehold	Within limits of land to be acquired/used permanently (Art. 17)	LC 25 Limited
55	Substation to rear of 3 Bressenden	Freehold	Within limits of land to be acquired/used	LC 25 Limited

	Place		permanently (Art. 17)	
56	5 Bressenden Place	Freehold	Within limits of land to be acquired/used permanently (Art. 17)	LC 25 Limited
57	7-11 Bressenden Place	Freehold	Within limits of land to be acquired/used permanently (Art. 17)	LC 25 Limited
58	Elliot House, 10-12 Allington Street	Freehold	Within limits of land to be acquired/used permanently (Art. 17)	LC 25 Limited
59	Estate car parking	Freehold	Within limits of land to be acquired/used permanently (Art. 17)	LC 25 Limited
60, 61, 62	Alley/car park between Bressenden Place and Allington Street	Freehold	Subject to power to execute street works (Art.7)	LC 25 Limited
[66] ¹	[Lakeview Court/Thistle Hotel (the north-eastern corner) and Carrier House (the north-western corner)]	[Freehold]	Subject to power to execute street works (Art. 7)	LC 25 Limited
63, 64	The Stag Pub, car park and paved area	Freehold	Partly within limits of protective works boundary – (Art. 14). Partly subject to power	LC 25 Limited

¹ this plot is not shown as being in LS ownership in the book of reference, however under common law LS owns this plot subject to public highway rights.

			to execute street works (Art. 7) Partly within limits of land to be acquired/used permanently (Art. 17)	
65	Carrier House, 1-9 Warwick Row	Freehold	Within limits of protective works (Art. 14)	LC 25 Limited
67, 72	Bressenden Place (Part LS)	Freehold	Subject to power to execute street works (Art.7)	Part owned by LC 25 Limited Part owned by LS Victoria Properties Limited Part owned by third party
68, 69	Bressenden Place (Part LS)	Freehold	Within limits of land to be acquired/used permanently (Art. 17)	Part owned by LC 25 Limited Part owned by LS Victoria Properties Limited Part owned by third party

[71] ² 73	Portland House	Freehold	Partly within limits of protective works (Art. 14) Partly subject to power to execute street works	LS Victoria Properties Limited
74	Cardinal Place	Freehold	Within limits of land to be acquired/used permanently (Art. 17)	LS Victoria Properties Limited
75	Cardinal Place	Freehold	Within limits of land to be acquired and used temporarily (Art. 24) subject to power to execute street works (Art.7)	LS Victoria Properties Limited

Note:

1. LS also have interests in the subsoil of highway in plots 32 and 33 and which accordingly would make their interest subject to the Article 7 and 8 powers to execute street works and stop-up/extinguish rights (33 is also subject to permanent acquisition)
2. The Order contains very broad Article 9 powers for temporary stopping-up/diversion of highway
3. There are various general powers (e.g. Articles 10 and 16) which we do not identify here but which would affect LS interests.
4. LS interests may also be affected indirectly by the carrying out of works on land belonging to others, particularly where essential utilities are to be affected by the works³

² 71 (previously 41d) is not shown as being in LS ownership in the book of reference, but the northern portion of it is owned by LS Victoria Properties Limited a wholly owned subsidiary of Land Securities Group plc

³ Note: Land Securities plc has been served a notice in relation to plot 76 (ex-plot 44) which is public footway on the corner of Victoria Street and Bressenden Place, but it is not listed in the book of reference as being in Land

2.11 It should be noted that LUL made a number of errors in the compilation of the book of reference in the draft Order. These would need to be corrected in the draft Order even if none of Land Securities' objections are upheld. Particular errors are shown in the footnotes to the table, and a comprehensive schedule of the necessary changes will be provided for the Inspector. It can be seen from the table above the considerable extent of the land to be taken permanently. **Land Securities' Core Documents OBJ3/2/13 and OBJ3/2/13A** show the impact of the TWAO on our VT12 planning applications and the buildings proposed by them. This would have a significant and adverse effect upon regeneration of the Victoria area through the detrimental effect on our ability to deliver redevelopment and renewal in the form of a VTI scheme, and therefore would be contrary to the public interest in that respect. As our evidence explains, this detriment is unwarranted in that there are better ways of delivering an upgrade to the facilities at the Victoria Underground Station than the VSU as applied for. These better alternatives would be compatible with delivery of the regeneration objectives as a whole, including both the station upgrade and VTI.

3 REGENERATION AND THE VTI DEVELOPMENTS

Regeneration in the Victoria Area generally

3.1 The area within the blue VT12 planning boundary, shown on **Land Securities core document OBJ3/2/11**, is a tired and worn out area in need of regeneration. The built environment as a whole, the public realm and the pedestrian experience are very poor.

3.2 Regeneration of the wider Victoria area is in the public interest and supported by planning policy at all levels, as explained by Hugh Bullock in his evidence. The proposed regeneration optimises the opportunity for economic and social development in this highly sustainable location.

3.3 We are committed to the regeneration of the Victoria area and were the instigator and founding partner of the Victoria Partnership, whose aim is to

Securities ownership – however under common law Land Securities owns this plot subject to the public footway rights.

work with local businesses and residents to deliver a comprehensive social economic agenda that will benefit businesses, visitors, and residents in the area.

3.4 Our aim is to deliver VTI and VSU to a simultaneous programme, to ensure disturbance to the local area is kept to as short a period as possible. If VTI commencement is delayed by VSU, construction works in the area will last for 11 years as opposed to 7 years. As the evidence of Nigel Earp explains, the consequence of not being able to achieve simultaneous construction is that commencement of our VTI scheme would be delayed by approximately four years from September 2010 to August 2014. Such a delay to the regeneration benefits for the Victoria area as a result of the VTI scheme would be contrary to the public interest, as described above.

3.5 I describe briefly below the genesis of our proposals for a redevelopment of the Victoria area, from 2003 up to the recent submission of the VT12 planning applications on 19th September 2008. Throughout this period our development strategy has been informed by advice from specialist commercial agents. The latest such advice is comprised in the reports prepared for us by our specialist agents Savills (advising on residential), Strutt & Parker (advising on retail) and Knight Frank (advising on offices) which are found at respectively **Land Securities core documents OBJ3/1/34 to 36**.

Early Stages of Land Securities' VTI Regeneration Proposals

3.6 Land Securities first began the promotion of a major regeneration scheme in Victoria in 2003 through conversations with the Council, GLA and TfL/LUL.

2003 Land Securities' Track 1 and Track 3 Proposals

3.7 Land Securities began discussions with the Council in 2003 for two parallel mixed use schemes, Track 1 (which encompassed Lake View Court, Carrier House, The Stag, Elliot House, 120-124 Victoria Street and 3-11 Bressenden Place) and Track 3 (which covered all land from the north of Victoria Station to Bressenden Place). The Council preferred the comprehensive solution offered by Track 3. The Track 3 proposals subsequently developed into the VTI proposals.

Earlier VTI Proposals: 2005 - 2007

- 3.8 Discussions then commenced between Land Securities, the Council, TfL/LUL and the GLA on the VTI project in early 2005. We agreed with TfL to work jointly with them on a comprehensive regeneration scheme including the land they owned at Terminus Place, south of Victoria Street.
- 3.9 An initial Masterplan was submitted to the Council in November 2005 which represented an earlier version of the VTI scheme now proposed.
- 3.10 The Council consulted on our Masterplan in conjunction with its draft Victoria Area Planning Brief (as to which see below).
- 3.11 A more detailed Masterplan was prepared and submitted in March 2006. This was considered by officers in their report to Committee along with the revised Victoria Area Planning Brief which was being recommended for adoption.

Victoria Area Planning Brief

- 3.12 In 2005 the Council published for consultation a draft of its Victoria Area Planning Brief (the "**Brief**"). We made representations on the draft Brief.
- 3.13 Following a Committee meeting in March 2006 the Brief was eventually adopted by the Council in April 2006. A copy of the Brief as adopted is **core document VSU.C42**.
- 3.14 Hugh Bullock comments on the guidance contained within the Brief to the extent relevant to our objection. He concludes that:
- 3.14.1 the regeneration of Victoria is of great significance to London as a whole;
- 3.14.2 large scale change and comprehensive development is contemplated;
- 3.14.3 the opportunity to use compulsory purchase powers to support land assembly is confirmed;
- 3.14.4 Land Securities are a key stakeholder and facilitator in achieving this regeneration;

- 3.14.5 the objectives for the Victoria area go well beyond transport infrastructure improvement; and
- 3.14.6 nonetheless the improvement to the transport infrastructure is of great importance to London

The Original VTI Scheme

- 3.15 Following the adoption of the Brief, Land Securities prepared a planning application for the development of what became our original Victoria Transport Interchange scheme ("**Original VTI Scheme**"). This was done in consultation with representatives of TfL and LUL.
- 3.16 Both Land Securities and TfL agreed to assist one another in furthering the objectives for (respectively) their VTI and VSU schemes. To this end, Heads of Terms were signed and exchanged in relation to both VTI and VSU on 14th March 2007. A redacted copy of each of the sets of Heads of Terms (omitting commercially confidential information) is **Land Securities core document OBJ3/1/3** and I comment on the details of these Heads of Terms in relation to our objection later.
- 3.17 From this point until the submission of the application for VSU in November 2007 representatives of Land Securities and TfL/LUL, and their respective professional advisers, met on a regular basis (as described in **Land Securities core document OBJ3/1/4**) to review progress with each of the two schemes and to negotiate legal documentation based upon the Heads of Terms.
- 3.18 In August 2007 Land Securities made a planning application to the Council for the Original VTI Scheme. Land Securities Core Document OBJ3/2/14 is the Masterplan - Ground Floor Land Use Plan. The application was in detail, and was accompanied by a full range of supporting documentation including an Environmental Statement. The proposals included TfL's land at Terminus Place and Land Securities' Portland House, and proposed three tall buildings. The underground bus station that had been included in the 2005 Masterplan was replaced by a surface solution designed by TfL, and this is also now partially used in VT12.
- 3.19 The description of the development applied for was as follows:

(Planning Application): The demolition of the existing buildings on site with the exception of the Victoria Palace Theatre, Duke of York pub and the Little Ben Clock, and the comprehensive redevelopment of the site for transport works above and below ground, new public spaces and pedestrian routes and a mixed use development comprising 146,760 sq.m. of offices (Use Class B1), 36,233 sq.m. of retail including retained Duke of York pub (Use Class A1-A5), 6,298 sq.m. of flexible office / retail (Use Classes B1/A1-A5), 1,331 sq.m. of art gallery / cinema space (Use Class D1/D2), 5,265 sq.m of retained Victoria Palace Theatre (sui generis) and 77,234 sq.m. (up to 811 units) of residential development (Use Class C3) and associated highways, utilities and other ancillary works. The Little Ben Clock is proposed to be temporarily relocated and replaced in its current position.

(Listed Building Consent): The temporary relocation of the Little Ben Clock Tower as a result of the proposed development

A copy of the Planning Statement accompanying the application for the Original VTI Scheme is **Land Securities core document OBJ3/1/27**.

TfL support for the Original VTI Scheme

- 3.20 TfL was aware of the planning application, and indeed reviewed drafts of the application documentation before it was finalised and submitted. A letter of support for the application for the Original VTI Scheme was submitted to the Council by the Transport Commissioner, Peter Hendy, on behalf of the TfL on 31st July 2007. It should be noted that whilst the promoter LUL is strictly a separate legal entity it is a wholly-owned subsidiary of TfL, its sponsor of VSU.
- 3.21 The letter from Peter Hendy not only supported the Original VTI Scheme, it also recognised the compatibility of the Original VTI Scheme with VSU and confirmed that the development would satisfy the key policy objectives of the Mayor and TfL and meet the requirements of the Victoria Area Planning Brief. A copy of the letter is **Land Securities core document OBJ3/1/29**.

Interim Council Report on the Original VTI Scheme

- 3.22 We had agreed with the Council that the objective would be for the Council to determine the VTI application in the spring of 2008, but with an interim report being made to the Council's Planning and City Development Committee in December 2007. The purpose of the interim report to Committee was to allow Members the opportunity to comment on the application as it was progressing, and therefore to have the opportunity of giving an informal "steer" prior to having to make a final determination of the application.
- 3.23 The interim meeting of the Planning and City Development Committee took place on 6 December 2007. A copy of the report to that Committee is **Land Securities core document OBJ3/1/30**.
- 3.24 By the time the report to Committee was finalised officers of the Council had expressed concerns about certain elements of the scheme. Ultimately these concerns were shared by Members and were reflected in the resolution passed at the Committee meeting. A copy of the resolution is **Land Securities core document OBJ3/1/30**. Notwithstanding the concerns about the detail of the Original VTI Scheme, however, I note paragraphs 1) and 2) of the recommendations to Members (which Members accepted and incorporated into the resolution in identical terms to the recommendation) namely that:
- 1) *a comprehensive approach to the redevelopment of the site is welcomed and represents the best opportunity to achieve the complex aspirations set out in Westminster's adopted planning brief, and*
 - 2) *the physical regeneration effects of the intended investment in the Victoria area are highly significant and welcomed*
- 3.25 Accordingly Land Securities undertook further work to review the VTI scheme, in the context of the comments made by officers and Members, with a view to addressing the matters raised by the Council in respect of the Original VTI Scheme.
- 3.26 At the same time the period for a determination of the VTI planning applications has been extended to 1st March 2009.

- 3.27 Land Securities' position is that although it is presently focusing its attention on the VT12 development (as to which see below) it has not abandoned the Original VTI Scheme. LUL therefore has no basis for asserting, as it does at paragraph 3.2.1 of Technical Appendix D to the Supplementary Environmental Statement (**inquiry core document VSU.A31**), that *"it is now unlikely that [the Original VTI Scheme] will proceed"*.
- 3.28 That said, the Original VTI Scheme could not go ahead unless:
- 3.28.1 Land Securities secured a return of the airspace above VSU's Northern Ticket Hall;
- 3.28.2 the Northern Ticket Hall was constructed with enough load-bearing capacity to enable the construction of the Original VTI Scheme buildings above it;
- 3.28.3 a number of interface issues with TfL's infrastructure are resolved;
- 3.28.4 TfL makes available its land at Terminus Place as originally envisaged when the Heads of Terms were exchanged; and
- 3.28.5 the scheme is financially viable even with the additional delays being experienced.

The Heads of Terms contemplated, through working together, that all of these issues could and would be resolved.

Evolution of the VT12 Scheme

- 3.29 The discussions with officers following the 6th December 2007 Committee meeting resulted in an alternative scheme, known as "VT12". **Land Securities Core Document OBJ3/2/15** is the VT12 Masterplan - Ground Floor Level.
- 3.30 I mention in passing at this point that LUL now appears to insist on calling VT12 the "Land Securities Commercial Development" or "LSCD" in its documents. LUL has explained that the reason for this is it does not accept that the VT12 scheme constitutes a "transport interchange" and so it refuses to refer to it by any prefix that includes "VTI". Quite apart from the fact that I feel this insistence is likely to cause unnecessary confusion at the inquiry, because Land Securities and everyone else will be referring to our scheme

as "VTI2", I do not accept the explanation given. As will be seen below the VTI2 scheme incorporates significant improvements to public transport, not least provision for the relocation of buses away from Terminus Place.

3.31 The description of the VTI2 development is as follows:

- **Application 1**

(This relates to buildings 5, 6b and 7a in the VTI2 scheme, as shown on the drawing that is **Land Securities core document OBJ3/2/26**). Demolition of the existing buildings on site and the comprehensive redevelopment of the site including new public realm and pedestrian routes and a mixed use development comprising three new buildings with 65,653 sq.m. of offices (Use Class B1), 11,497 sq.m. of retail (Use Class A1-A5), and 31,006 sq.m. (up to 170 units) of residential development (Use Class C3) and associated highways, utilities and other ancillary works.

- **Application 2**

(This relates to buildings 7b and 7c in the VTI2 scheme, as shown on the drawing that is **Land Securities core document OBJ3/2/26**). Demolition of the existing buildings on site and construction of two new buildings including 2,829 sq.m. of office (Use Class B1), 935 sq.m. of retail (Use Class A1-A5), 127 sq.m. of flexible library / retail (use Classes D1/A1-A5), 1,525 sq.m. of flexible library / office space (Use Classes D1/B1), 4,228 sq.m. (up to 35 units) of affordable residential development (Use Class C3), and associated highways, utilities and other ancillary works.

- **Application 3**

(This relates to building 6a in the VTI2 scheme, as shown on the drawing that is **Land Securities core document OBJ3/2/26**). Demolition of the existing buildings on site and a new building including 13,844 sq.m. of office (Use Class B1), 302 sq.m. of retail (Use Class A1-A5) and associated highways, utilities and other ancillary works.

3.32 The three planning applications/permissions strategy has been progressed by Land Securities with the support of officers at the Council to help mitigate against the potential adverse effects of VSU on the timely and

comprehensive regeneration of Victoria through the VTI development. Depending on the adoption of the steps set out below the three application strategy will allow Land Securities to:

3.32.1 build out Application 1 whether or not it retains rights to the land needed for Buildings 6a (Application 3) and/or 7b and 7c (Application 2); and

3.32.2 amend the permissions for Buildings 6a, 7b and 7c to allow for design development of VSU in terms of piling, loadings, below ground works etc. (as to which see the evidence of Nigel Earp and Tim Chapman for further details)

3.33 Some key aspects of the VT12 applications are as follows:

3.33.1 the VT12 scheme involves a smaller site area than did the original VTI application as it excludes Portland House and TfL's site, Terminus Place. The surface bus station solution still forms the basis of the proposals, however;

3.33.2 whilst VT12 no longer includes works to the District and Circle Lines, it still provides significant surface transport benefits through:

(a) creating a wide perimeter around the site to enable road and pavement widening, which in turn facilitates the removal of buses from the front of Victoria Station to the surrounding street network. Corresponding improvements in public realm will be generated by such removal of the buses by creating a new public space which could be incorporated into emerging schemes from Crossrail, TfL and Network Rail;

(b) improvements to Allington Street;

(c) provision of generous north/south and east/west pedestrian routes which enhance the public realm in this area;

(d) safeguarding for the Chelsea/Hackney line (also known as "Crossrail 2"); and

(e) provision of 140 car parking spaces, 837 cycle spaces and 20 motorcycle spaces.

All of these benefits have been discussed with and signed off by TfL. The value of the Terminus Place site has also been significantly enhanced by these improvements, in particular the removal of the buses. TfL has already benefited from and banked the expertise of Land Securities. TfL clearly recognise this, as they have recently appointed a new professional team to review the feasibility of developing the Terminus Place site.

3.34 Following the initial discussions with the Council early in 2008 the Director of Planning, Rosemarie MacQueen, indicated her general support for what the scheme had evolved into as a result of discussions. A copy of her letter dated 6th February 2008 expressing her support is **Land Securities core document OBJ3/1/31**.

3.35 The Mayor has also responded positively to VT12 in pre-application discussions. A copy of the GLA letter dated 8th July 2008, attaching the pre-application assessment report, is **Land Securities core document OBJ3/1/32**. The Mayor noted that further information was required and he encouraged Land Securities to enter into further discussions with TfL, but importantly I note his conclusion at paragraph 42 of the report that:

“The proposal to redevelop the site adjacent to Victoria Station for a mixed-use, office led development accords with London Plan policies and is supported in principle. The design rationale of the proposal is sound and the illustrations of the proposed buildings indicate that the scheme will be delivered to a high quality”

3.36 The GLA is responsible for setting and implementing strategic planning policy in the form of the London Plan. As has been noted above the GLA considers that the VT12 development would accord with the London Plan and that it is deserving of its support. I note that TfL, and therefore LUL, are part of the GLA. To the extent that VSU would unreasonably compromise the ability of Land Securities to implement the regenerative development that is VT12, therefore, LUL can be seen to be at odds with the Mayor.

3.37 The VT12 planning applications were submitted formally to the Council on 19th September 2008. **Land Securities core documents OBJ3/2/15A to 15C, OBJ3/1/28 and OBJ3/1/28A** comprise a selection of the relevant documents supporting the applications, namely the Planning Statement,

Masterplan Statement and red-line application plans for each of the three applications.

4 VSU AND ITS IMPLICATIONS

Land-Take in the VSU Application

- 4.1 The application for the VSU Order was made by LUL on 22 November 2007.
- 4.2 A copy of the land take plan from the TWA Order application is at **Land Securities core document OBJ3/2/25**. The extent of the land take shown on this plan is significantly different from that shown on the land take plan attached to the Heads of Terms (**Land Securities core document OBJ3/2/16**) referred to above. Significantly more land was proposed to be taken in the TWA Order plan than had originally been expected by Land Securities.
- 4.3 **Land Securities core document OBJ3/2/28** is a composite plan showing the relationship between the TWA Order plan and the Heads of Terms plan. The increase in land take had not been discussed (notwithstanding repeated requests for a plan) with Land Securities until the end of October 2007, leaving very little time for discussions prior to the making of the TWAO application by TfL in November 2007.
- 4.4 As previously mentioned, Land Securities was in regular and detailed discussions with TfL/LUL up to November 2007 (please refer to **Land Securities core document OBJ3/1/4** which sets out brief details of those meetings) and at many of those meetings repeated requests were made for additional information and an updated land take plan. I refer, for example, to the following meeting minutes forming part of **Land Securities core document OBJ3/1/6**.
- 4.4.1 paragraph 1 in the minutes of the meeting on 1st August 2007;
- 4.4.2 paragraph 1 in the minutes of the meeting on 15th August 2007;
- 4.4.3 paragraph 1 in the minutes of the meeting on 12th September 2007; and
- 4.4.4 paragraph 1 in the minutes of the meeting on 26th September 2007

All of these extracts illustrate that requests were made of LUL for updated information concerning the draft VSU Order plans.

- 4.5 Land Securities finally received the revised land take plans together with a draft of the Order application at the end of October 2007. I note that in correspondence with our solicitors, Berwin Leighton Paisner, Bircham Dyson Bell on behalf of LUL accepted in terms that the draft land take plans disclosed with the draft Order differed from the land take plans attached to the Heads of Terms (see the letter at **Land Securities core document OBJ3/1/9**). Having finally seen the draft Order Land Securities asked TfL/LUL to delay making the TWA Order application to allow more time in which to reach agreement. This request was by letter on 5 November 2007 from my Managing Director London Portfolio, Mike Hussey, to Peter Hendy. A copy of this letter is at **Land Securities core document OBJ3/1/10**. (As to further evidence of the prematurity of the TWAO application please see my evidence below and that of Nigel Earp).
- 4.6 TfL/LUL did not agree to our request for a deferral of the application and applied for the TWA Order on 22 November 2007.
- 4.7 Notwithstanding this, we continued to engage with TfL/LUL after submission of the TWA Order application. Discussions with LUL continued virtually up to the expiry of the objection period for VSU. The interface and construction issues under discussion then were broadly similar to those outstanding now but in principle it seemed that these were capable of resolution.
- 4.8 Land Securities was extremely disappointed that negotiations foundered at this late stage. I personally (along with a number of senior and other colleagues) invested a significant amount of time in seeking to reach agreement with TfL/LUL (as to which please refer to the schedule of meetings at **Land Securities Core Document OBJ3/1/4**), having recognised Land Securities and TfL/LUL all had major investments in the Victoria area and therefore would need to work closely together for in excess of ten years. To illustrate the extent of our commitment to the resolution of the situation with TfL/LUL I can say that we had a large professional team acting on our behalf, including Freshfields (lawyers), Berwin Leighton Paisner (lawyers), Jones Lang LaSalle (surveyors), Gerald Eve (planning consultants and surveyors), Arup (engineers), Faber

Maunsell (mechanical and electrical engineers), Mace (programming), KPF (architects and master planners), EC Harris (cost consultants) and Steer Davis Gleave (transport consultants). We have spent in excess of £30 million in connection with our VTI schemes, a significant proportion of which relates to our negotiations with TfL/LUL.

4.9 Whilst TfL and LUL signed the Heads of Terms in March 2007 their late delivery of key information, failure to conclude agreements and refusal to accept our offer to mediate with us (as to which see below) is indicative of their attitude that VSU should be delivered at all costs. TfL/LUL have failed to take an holistic approach in relation to the fact that the upgrade to Victoria Station is part only of the wider regeneration of the Victoria area. This is borne out of the comments made in paragraph 5.3.2 below. Our proposals have always sought to enable each organisation to meet its respective commercial and social objectives, which are clearly aligned to the need to achieve regeneration of the Victoria area.

4.10 Land Securities' objection to VSU was made on 11 January 2008. A copy of the objection letter is **Land Securities core document OBJ3/1/1**. The substantive points in our objection were as follows:

4.10.1 that the extent and nature of land take in the draft Order should be amended to reflect what was shown in the Heads of Terms;

4.10.2 that there is no need for the permanent acquisition of all the Land Securities' land shown on the draft Order plan;

4.10.3 that there are alternatives to the proposed VSU scheme which should be implemented instead, and that as a consequence it would not be in the public interest to confirm the Order in the form applied for; and

4.10.4 that there had been insufficient negotiations between LUL and Land Securities prior to LUL making the application for the draft Order, and that as a consequence the application was premature (as to which please see below).

These grounds of objection remain just as valid today, and LUL has not addressed our concerns in any substantial way since the objection was lodged.

4.11 We have met with LUL on a number of occasions since lodging our objection, including meetings on:

4.11.1 25th March 2008;

4.11.2 2nd June 2008;

4.11.3 16th July 2008;

4.11.4 19th August 2008; and

4.11.5 23rd September 2008.

4.12 The purpose of these meetings was to clarify the areas where we and LUL were not in agreement and to try and resolve them.

4.13 Also taking place have been (a) technical meetings, headed by Nigel Earp and (b) financial/compensation discussions.

4.14 In tandem with our negotiations with LUL we instructed our lawyers Berwin Leighton Paisner to put a proposal to LUL that we both mediate the unresolved issues on the VSU application. This was offered by Berwin Leighton Paisner by letter dated 23rd June 2008 (**Land Securities core document OBJ3/1/25**) but the offer was declined by Bircham Dyson Bell on behalf of LUL.

5 **LAND SECURITIES OBJECTIONS TO VSU**

5.1 As has been summarised in section 1 of my proof of evidence above Land Securities' objection seeks to achieve specific objectives through proposed amendments to the draft Order. In substance these have not changed since Land Securities' letter of objection to VSU was submitted in January 2008, although we are able to elaborate upon them now as the details of LUL's case for VSU have since developed.

5.2 In this section of my evidence I summarise both Land Securities' general objections to VSU, and the specific objections culminating in requests of the Secretary of State to amend the draft Order.

5.3 **General Objections**

Impact on Regeneration Opportunities

- 5.3.1 My evidence and that of other witnesses, including Nigel Earp (in relation to engineering) and Hugh Bullock (in relation to regeneration and policy) in particular, describes the engineering and related effects which VSU as currently proposed would have on our development aspirations and how they would impede the regeneration objectives of both our Original VTI Scheme and the VTI2 proposals.
- 5.3.2 The importance of this regeneration is recognised by LUL at paragraph 2.2.5 of its Supplementary Environmental Statement: Technical Appendix D (**inquiry core document VSU.A31**). I note, however, that in its Statement of Case (**inquiry core document VSU.A38**) LUL refers to VTI at paragraph 9.6 but makes no significant reference to the importance of regeneration elsewhere in the papers supporting its application, including in the environmental statement. For example, the Updated Business Case (**inquiry document VSU.B36**), which was only disclosed to us by LUL a matter of days before the date fixed for exchange of evidence, appears to disregard the adverse effects of VSU on the wider regeneration of the area.
- 5.3.3 The regenerative benefits of VTI are not confined to the VTI development itself. The commitment of a major developer like Land Securities to a significant scheme like VTI has every prospect of encouraging other developers to come forward with their own proposals to support the regeneration of Victoria, because in my experience major investment such as this signals confidence to others and hence attracts them to invest themselves. A VTI development would be expected to act as a catalyst for more wide-ranging regenerative schemes in the Council's administrative area.
- 5.3.4 As Land Securities' evidence highlights, VSU should not be approved in a form which unnecessarily prejudices the regeneration of the Victoria area through the implementation of VTI. To do so would be seriously harmful to the public interest.
- 5.3.5 At this time we await sight of LUL's evidence, but I simply comment that it is difficult to see why the detailed points made below remain at issue when the

principles underlying them were accepted by LUL in the Heads of Terms exchanged with us in March 2007.

5.3.6 I refer in particular to the following paragraphs of the VSU Heads of Terms (**Land Securities core document OBJ3/1/3**):

- (a) 2.3, regarding complementary design and construction methodologies;
- (b) 3.2, regarding LUL's consultation with Land Securities about progress with VSU;
- (c) 4.1.1, regarding permanent and temporary transfers;
- (d) 4.1.3/4, regarding licences to occupy and rights relating to tunnel and access shafts;
- (e) 4.3, regarding a lease of airspace;
- (f) 4.9, regarding a return of working areas to Land Securities with vacant possession;
- (g) 4.11, regarding the timing of a return of any working areas taken by LUL, and
- (h) 6.2, regarding the principle of and terms for an underlease to LUL of land below our Cardinal Place development (known as the "Cardinal Place Nib")

Impact on Land Securities' Existing Estate and the Interests of its Tenants

5.3.7 I note that the Secretary of State's "Matter 3" to be considered at the inquiry asks for evidence about the likely impact of VSU on local businesses.

5.3.8 Of course, by virtue of its landholdings in the Victoria area I anticipate there could be no dispute that Land Securities would itself be considered to be a "local business" for the purposes of Matter 3. My evidence deals extensively with the impact of VSU on Land Securities and its interests and I do not repeat that evidence under this subsection dealing with general objections.

5.3.9 However, I am also concerned about the impact of VSU on the interests of our tenants.

5.3.10 The VSU works will involve major construction over a long period of time, and there will be interference with the quiet enjoyment of our tenants' occupation. A tangible example is provided by LUL's initial jet grouting trial works. We permitted LUL to carry out works adjacent to and beneath Elliot House earlier in 2008. These works led to complaints from all the occupiers of Elliot House by reason of noise and vibrations, fumes and the blocking of access roads by contractors' vehicles. We are currently facing a compensation claim from one occupier. I therefore dispute the conclusion at paragraph 6.6 of Appendix G to the Supplementary Environmental Statement (**inquiry document VSU.A31**) to the effect that:

"Noise and vibration monitoring revealed that the jet grouting could be carried out without causing nuisance ... There were a few isolated complaints during the works but this was attributed to percussive breaking of concrete obstructions and when simple soundproofing was erected the noise was significantly reduced"

As I have indicated above, I have direct evidence to the contrary.

5.3.11 I accept that a necessary consequence of carrying out major improvement works is that some noise and disturbance will be inevitable, especially when works are carried out in a dense urban location like Victoria. However, this evidence of tenants' complaints illustrates still further the advantages in LUL adopting the suggestions made below about an alternative route for, or way of constructing, the PAL. This would ensure that the two schemes could be constructed simultaneously, materially reducing the length of time during which major construction will be ongoing in the area.

Viability

5.3.12 As I have stated above, it is clearly an important matter for this inquiry to consider the financial viability of the proposed VSU scheme. It is essential and clearly in the public interest that public funds are utilised in the most cost-effective manner. There are a number of different strands to this issue (the detail of which is covered by Robert Fourt and Tim Chapman (as appropriate) in each of their proofs of evidence), namely:

- (a) unnecessary payment of compensation to Land Securities (in the main) for the effects of the CPO powers (permanent acquisitions as opposed to temporary);
- (b) faulty optioneering in relation to selection of the PAL route, which will result in further avoidable payments of compensation and unnecessarily high construction costs;
- (c) the choice of construction method for the PAL (jet grouting and open face tunnelling) is very risky (as evidenced by Tim Chapman) and therefore has the potential to cause delays and increased costs if failures occur;
- (d) the LUL Business Case has not properly taken into account the level of compensation due to landowners; and
- (e) if properly assessed on the basis of the evidence provided by Robert Fourt and Tim Chapman, I do not believe the VSU as proposed would meet LUL's own Business Case criteria

Prematurity

5.3.13 As stated in paragraph 4.5 above, we requested LUL to delay making the TWAO application to allow time to resolve the outstanding interface issues between us. LUL refused, stating that their design was complete. Further evidence of the prematurity of the TWAO application is the fact that LUL has substantially re-designed VSU since November 2007 culminating in an amended application for an Order issued as late as August 2008. During this lengthy period of re-design little attempt was made by LUL, notwithstanding a number of meetings between us, to resolve the interface issues with the VTI proposals and thus regeneration of the Victoria area.

5.3.14 I turn now to consider specific grounds of objection to the draft Order.

5.4 VT12 Application 1 Should Remain Capable of Implementation in 2010

5.4.1 It will be seen above that our proposed VT12 development comprises three separate planning applications.

- 5.4.2 It is intended that Application 1 - comprising the development of Buildings 5, 6b and 7a - would be the first to be commenced, in September 2010.
- 5.4.3 The buildings within Application 1 have been designed so as to incorporate two levels of basement. This is important as each of the buildings needs to be serviced below ground, because the Council has made clear to us in the context of our pre-application discussions with them that at-grade servicing of the buildings would not be acceptable to them in this location. The basements are also required in order to accommodate plant and machinery, because the only alternative would be to use what is otherwise lettable floorspace above ground for this.
- 5.4.4 As both Nigel Earp and Tim Chapman explain, the works required for the excavation of the Application 1 basements are extensive. The works would also need to be undertaken in close proximity to tunnelling works forming part of VSU.
- 5.4.5 As Tim Chapman explains, the prudent engineering advice we have received is that in this particular case two sets of below-ground works should not be undertaken in close proximity to one another owing to the risk of collapse arising from LUL's chosen method of tunnelling. Please refer to **Land Securities Core Document OBJ3/2/29** for a drawing showing the extent of the Cordon Sanitaire and the impact upon our basement. If this advice were to be followed and the VSU construction works take precedence over VT12 construction works (as LUL insists should be the case) it would mean, as Nigel Earp explains, a delay of some four years to commencement of our construction programme from September 2010 to August 2014. It is inevitably the case that any delay to the commencement of our development increases the risk that it may not happen at all, because the number of unknown factors influencing our investment decisions increases.
- 5.4.6 The feared delay assumes that LUL elected to construct the VSU tunnels using the "jet grouting" (to strengthen the unstable ground) and open face tunnelling methods of construction. I note that although LUL has submitted evidence about its likely use of the jet grouting and open face tunnelling method of construction (and has carried out jet grouting trials and reported the results in its Supplementary Environmental Statement) there is nothing

in the terms of the draft Order that would tie LUL to use this construction method to the exclusion of all others. LUL has indicated to Land Securities that the detailed construction methodology for VSU will be largely guided by the views of the contractor submitting the successful tender for the works in the future. This reinforces the view that the draft Order does not preclude other construction methods.

5.4.7 The impact of VSU on the construction programme for our Application 1 derives from the use of the jet grouting and open face tunnelling methods to construct the PAL. Land Securities has proposed to LUL alternatives to its proposals for the construction of the PAL. These are described in more detail in the evidence of Tim Chapman and Nigel Earp, but they are set out briefly below in the order of preference to Land Securities:

- (a) that the PAL be constructed along a shorter distance, as shown on the plan at **Land Securities core document OBJ3/2/8A**, and utilising an EPBM to create the tunnel (this has been referred to by Land Securities as "**Option 1A**"). Tim Chapman describes this technique in detail but I understand that it is commonly used in the formation of tunnels through permeable and unstable ground and that it was (for example) recently employed to construct two tunnels under the Olympic Park at Stratford. Tim Chapman also explains that use of an EPBM is less risky than construction methods contemplated by LUL in the material supporting its application for VSU, that it would allow the PAL tunnels to be constructed more quickly, and that by reason of these factors it would be significantly cheaper for LUL. Should the Secretary of State accept this proposed solution the draft Order would need to be modified. A note will be produced for the Inspector indicating the precise wording of the proposed change;
- (b) that the alignment of the PAL should be moved further away from the area of the below-ground works proposed as part of Application 1, to the route shown on **Land Securities core document OBJ3/2/6** (this has been referred to by Land Securities as its "**Option 1**"). This would move the required PAL works well away from our own below ground works, and so should allow a safe distance to be maintained between the two of them. If this solution

were adopted by LUL and subject to an undertaking to co-ordinate the respective works programmes at the south east corner of Building 7a, it would allow the PAL works still to be constructed using the jet grouting and open face tunnelling methods. Should the Secretary of State accept this proposed solution the draft Order would need to be modified. A note will be produced for the Inspector indicating the precise wording of the proposed change;

- (c) our third preference would be for the alignment of the PAL to be maintained but for LUL to be required to use a different method of construction, namely the "open cut" method (as shown on **Land Securities Core Document OBJ3/2/8**). I refer to the evidence of Tim Chapman and Nigel Earp for the relevant detail but as I understand it the advantage of adopting this method of construction is that, subject again to an undertaking by LUL to co-ordinate the works programme alongside Building 7a, this option would allow both sets of works to be undertaken at the same time. Should the Secretary of State accept this proposed solution, we propose that additional conditions should be imposed on the grant of the deemed planning permission under section 90(2A) of the Town and Country Planning Act 1990. A note will be produced for the Inspector indicating the precise wording of the proposed change; and finally
- (d) if the Secretary of State is not prepared to adopt any of the above solutions then our last preference, if the Order is to be approved in any form with or without supplemental provision, would be to have the option to construct within the basement of Building 7a a self-contained shell to accommodate the PAL in the location shown on **Land Securities core document OBJ3/2/7** (this has been referred to by Land Securities as its "**Option 2**"). This would enable us to construct the basements for the Application 1 buildings without delay and similarly would enable LUL, at a later stage, to construct its PAL tunnel by breaking into this part of our basement and out again. LUL would be responsible for fitting out the tunnel but the structure will have been provided for them by Land Securities. Sufficient rights would be granted to LUL to enable this to happen,

and our title to the land in question does not contain any encumbrances that would prevent it.⁴

Land Securities wishes to retain the right to elect for this option or not for as long as possible, and its decision whether to elect or not will depend upon whether it has chosen to proceed with the implementation of Application 1. If Land Securities does not so elect then LUL will be permitted to construct the PAL along the alignment proposed in the draft Order. It is accepted that LUL will require reasonable prior notice of whether Land Securities will be making such an election, so as to be able to plan the construction of the PAL. Land Securities considers that a long-stop date of 31 March 2011 would be sufficient, after which the option to construct the PAL in the basement of Building 7a would be lost to us even if Application 1 is implemented subsequently. In discussions LUL has asked for an earlier long-stop date but has been unable to give a persuasive justification for its request, given the fact that its programme does not show commencement of the PAL works until October 2011. Should the Secretary of State accept this proposed solution the draft Order would need to be amended. A note will be produced for the Inspector indicating the precise wording of the proposed change

- 5.4.8 Land Securities' opinion is that the open cut option and Option 2 could be implemented without the requirement for any supplemental provisions to the draft Order. Option 1A and Option 1 would each require a supplemental Order to enlarge the limits of deviation.
- 5.4.9 It is the view of Land Securities that there would be no material detriment to LUL, or to the public at large, in LUL having to accept any of the above alternative solutions. In particular Roy McGowan illustrates in his evidence that there would be no adverse implications for traffic management during the construction period.

⁴ details of our title have already been provided to LUL and accepted by them.

- 5.4.10 It is the view of Land Securities that there would be no material detriment to LUL, or to the public at large, in LUL having to accept any of the above alternative solutions. In particular Roy McGowan illustrates in his evidence that there would be no adverse implications for traffic management during the construction period.
- 5.4.11 On the contrary, employing any of the above solutions would bring about significant advantages. For example:
- (a) it should ensure that works for the construction of VT12 and VSU can be undertaken without delay to either, and thus without delay to the regenerative benefits of both to the Victoria area;
 - (b) Robert Fourt demonstrates in his evidence that were LUL to employ any of the solutions it would result in a financial saving to LUL, due to a reduced liability to pay compensation to Land Securities. Reducing the cost of VSU to the public purse is very much in the public interest; and
 - (c) Tim Chapman demonstrates in his evidence the problems often encountered with the tunnelling method proposed to be employed by LUL and the attendant risk of collapse. Accordingly, utilising a less risky construction method must also be in the public interest as it is likely to improve the chances of delivery of VSU on time and on budget. Tim Chapman also describes the potential for costs and construction time savings, in particular if Option 1A is employed.

5.5 **No need for Permanent Acquisition of all the Land in the Draft Order**

- 5.5.1 Land Securities contends that there is no need for LUL permanently to acquire the land shown hatched green on the plans which are **Land Securities core document OBJ3/2/20**. In this case LUL will have to make a substantial capital payment to Land Securities in 2010, as opposed to paying licence fees over the life of the VSU project. This is not an effective use of public funds. As to the permanent acquisition of the land coloured pink on the plans which form **Land Securities core document OBJ3/2/20**, please refer to paragraph 5.6 below.

- 5.5.2 According to the draft Order this land is required for use by LUL as works sites to enable construction of below ground infrastructure and the VSU works generally. That being so it is only necessary for LUL to acquire a freehold to the subsoil of those parts of the land containing below-ground infrastructure, plus a temporary right to use all the land in question, pursuant to Article 24 of the draft Order.
- 5.5.3 It is a fundamental principle of compulsory purchase and human rights that interference with property rights should only be condoned to the extent that it is justified, and to that extent should be minimised so far as possible to reduce the detriment arising out of the expropriation.
- 5.5.4 Our specific concerns under this heading are set out below.
- 5.5.5 Firstly, commencement of the construction of buildings within Applications 2 and 3 is dependent upon land currently shown to be acquired permanently being returned to us by LUL. If the draft Order were confirmed in its current form it would therefore have very serious implications indeed for the delivery of a VT12 development.
- 5.5.6 LUL has never been able to provide a sufficient justification for why it needs to take this land permanently. It is another fundamental principle that land should not be taken by LUL for any longer than is necessary. It follows that if land is only required temporarily it should not be taken on a permanent basis. Although a Land Disposal Strategy is referred to in the documentation supporting the application for the Order, as at 23rd September the final version of the document has still not been provided to us⁵.
- 5.5.7 Secondly, I understand that part of LUL's concern derives from its belief that Article 24 of the draft Order would not allow LUL to acquire temporarily the land referred to by Land Securities in this case. This point is disputed by Land Securities.
- 5.5.8 There remains a disagreement between Land Securities' advisers Sharpe Pritchard and LUL's advisers Bircham Dyson Bell as to whether Article 24 of

⁵ the document was eventually provided to us by LUL's solicitors on 23rd September, but still as a draft; in its present form it confirms the inadequacy of what is proposed as discussed in my proof.

the draft Order would allow LUL to take the land temporarily as Land Securities propose. I refer to the correspondence between the two of them at **Land Securities core documents OBJ3/1/20 to 23**.

- 5.5.9 In their letter of 22nd May (**Land Securities core document OBJ3/1/21**) LUL's lawyers Bircham Dyson Bell stress that the foundations of the VT12 buildings have not yet been designed, and that as a consequence it is necessary for LUL to retain control of its subterranean infrastructure by ownership. In their letter of 1st July 2008 (**Land Securities core document OBJ3/1/22**) our solicitors Sharpe Pritchard rebut that suggestion on the basis that permanent acquisition is not the only way in which LUL's infrastructure can be protected. The point was returned to by Bircham Dyson Bell in its letter dated 17th September 2008 (**Land Securities core document OBJ3/1/23**), although nothing new was added and it was simply proposed that the matter would be dealt with by LUL in its evidence to the inquiry.
- 5.5.10 Land Securities' position remains that Article 24 is sufficient to achieve all that LUL needs.
- 5.5.11 Thirdly, if LUL were to accept, or be ordered to accept, that Article 24 did apply it is nonetheless important to Land Securities that any land taken by LUL be returned as soon as possible so that our VT12 development is not impeded unreasonably.
- 5.5.12 The suggested provision in Article 24(3) of the draft Order - that the land simply be handed back within one year after completion of all the VSU works - is not acceptable. It would, for example, cause delay to the delivery of our building 6a. Land Securities' proposal is therefore that:
- (a) the parties work together in order to achieve hand back of the area hatched green on the plans at **Land Securities core document OBJ3/2/20** by no later than the time specified in the Land Securities programme (**Land Securities core document OBJ3/2/24**), and
 - (b) that LUL should be required to hand back the land as soon as practicable after it ceases to be required for the purposes of construction of the connected works.

- 5.5.13 Fourthly, return of the land will also enable Land Securities to provide, free of charge, a 6-metre strip of freehold land to the rear of the Victoria Palace Theatre (“VPT”) to enable construction by the VPT of a fly tower for scenery movement, in part securing the future of the theatre for the benefit of the Victoria area.
- 5.5.14 Finally, it should be noted that the extent of the Green Hatched Land radically changed from that shown on the plan attached to the Heads of Terms agreed in March 2007 (the “**Heads of Terms**”) (**Land Securities core document OBJ3/2/16**), most notably by the inclusion of Elliot House for permanent acquisition and demolition. The detail of this is covered elsewhere in this Proof.

5.6 Requirement for Grant of Lease at the Outset

- 5.6.1 Land Securities accept that they should transfer some freehold land to LUL for the purposes of the Northern Ticket Hall. Upon transfer to LUL of the freehold of the land coloured pink on the plans **Land Securities core document OBJ3/2/20** we require the immediate grant of a 135-year lease (with a Land Securities option to renew for a further 135 years, exercisable if LUL are not redeveloping the Northern Ticket Hall) by LUL of the surface and airspace of all that land.
- 5.6.2 A bare licence would be granted to LUL to enable construction of the Northern Ticket Hall and other parts of VSU for the duration of the LUL programme. It is not acceptable for LUL simply to offer to negotiate the terms of an Agreement for Lease at a later date, we need certainty now as to the lease we will get.
- 5.6.3 VT12 is a major scheme of development. Any external funder will require the more certain interest represented by a lease, in terms of being offered security for construction finance. An inability to offer what the lending market will require would impede Land Securities’ ability to secure construction finance for the scheme.
- 5.6.4 Moreover requiring the immediate grant of a lease results in a significant saving in stamp duty land tax. The principle of Land Securities procuring the grant of a lease, rather than simply the benefit of an Agreement for

Lease, was accepted by LUL in the Heads of Terms it exchanged with us in March 2007 (as to which see **Land Securities core document OBJ3/1/3**).

- 5.6.5 In his evidence Tim Chapman confirms that there is no special engineering reason why the land in question has to be acquired on a permanent basis. Nigel Earp likewise can point to no reason why it should be required.
- 5.6.6 Whilst latterly as part of Appendix D to the Supplementary Environmental Statement - Strategy for the Reinstatement of the Sites of Demolished Buildings ("**Appendix D**") - LUL have started to address the implications in this respect, their "Land Disposal Policy" is still not available in its final form. In any event what is referred to in paragraph 2.1.4 of Appendix D, namely proposals to agree an Agreement for Lease with Land Securities, wholly fails to address the point as I explain above.
- 5.6.7 Should the land in question be acquired by LUL permanently it would inevitably increase substantially the amount of compensation that would have to be paid to Land Securities. Robert Fourt addresses the question of compensation in his evidence. If, as we say, a permanent acquisition of the land is unnecessary then (quite apart from the absence of a compelling case for the acquisition in the public interest) implementation of the Order would be wasteful of public money and this is not in the public interest either.
- 5.6.8 Should the Secretary of State accept this objection the draft Order would need to be modified. A note will be produced for the Inspector indicating the precise wording of the proposed change.
- 5.7 **Co-operation in Installing Piles**
- 5.7.1 Building 6a (forming Application 3 of VT12) would require the installation of piles at the three corners of the proposed building footprint. The location of the piles to the south east and south west corners is shown on the plan which is **Land Securities core document OBJ3/2/23**.
- 5.7.2 The location of certain of these piles is close to an area of underground working to be undertaken as part of VSU which itself requires piles to be installed. We have proposed to LUL that they install our piles for Building 6a, at our cost, at the same time as they install their VSU piles.

- 5.7.3 Being able to agree acceptable arrangements would result in:
- (a) a better engineering solution than would be achieved by Land Securities piling subsequently close to LUL's permanent works;
 - (b) a time saving for us, thus speeding up delivery of regeneration and reducing the amount of compensation that would otherwise be due to us, following an exercise of LUL's rights under the Order as proposed (as explained by Robert Fourt in his evidence), all of which is clearly in the public interest; and
 - (c) less disruption being caused by two sets of heavy construction works in the local area, as Roy McGowan confirms in his evidence.
- 5.7.4 Should the Secretary of State accept this objection then we would suggest that LUL be required to enter into appropriate undertakings. A note will be produced for the Inspector indicating the precise wording of the proposed undertakings.
- 5.8 Load-Bearing of Northern Ticket Hall**
- 5.8.1 VSU's Northern Ticket Hall would need to support the loads from our proposed buildings 7b and 7c (forming Application 2 of VT12).
- 5.8.2 We have provided to LUL the required loadings we would need in order to achieve this. LUL have confirmed that their current design will not provide sufficient support.
- 5.8.3 The consequence of the Northern Ticket Hall not supporting enough load to accommodate our buildings 7b and 7c is that they would have to be reduced in height or massing in certain areas and that a basement could not be included. This would have an adverse effect not only on the extent of regeneration that would be provided by VT12 for the Victoria area (not least because Application 2 comprises the on-site affordable housing element of VT12), but it may also affect the viability of the VT12 development overall.
- 5.8.4 Our proposals for Buildings 7b and 7c within Application 2 have already had to be compromised as a result of VSU. In particular the additional venting requirements and the LUL entrance and staircase at ground floor level have

reduced the amount of space available to us and have compromised the usability of that space. We have accepted these compromises, but to have to accept yet more compromises in the form of further reductions in floorspace is not reasonable in the circumstances. It would impact on the viability of the VT12 development and would diminish the regenerative benefits of the VTI scheme.

5.8.5 Accordingly we seek an undertaking that LUL will design and build the Northern Ticket Hall so that it will have sufficient load-bearing capacity to support our Buildings 7b and 7c as designed, failing which if we are forced to reduce the developable area of Buildings 7b and 7c on account of inadequate load-bearing capacity we seek compensation from LUL calculated on the basis of the loss of developable area.

5.8.6 Should the Secretary of State accept this objection the draft Order would need to be modified. A note will be produced for the Inspector indicating the precise wording of the proposed change.

5.9 **Co-Operation in Diversion of Utilities**

5.9.1 Construction of VSU will require the temporary diversion of certain utilities, specifically Thames Water's sewers and water mains. The construction of VT12 would also require the permanent diversion of these services.

5.9.2 In our contention it makes no sense for these services to be diverted twice: once for the construction of VSU (because LUL's proposed temporary diversion is to a location incompatible with VT12) and then a second time for the construction of VT12. This would cause unnecessary disruption to residents and businesses in the area and would be wasteful of public money.

5.9.3 Accordingly, we have proposed to LUL that the services be diverted by them to an agreed location in which they would not need to be moved again when VT12 is built, and that the overall cost saving of diverting the services once only be shared proportionately between Land Securities and LUL. The cost to both Land Securities and LUL would thereby be reduced (in the case of LUL, this is clearly in the public interest) and the disruption to the local area would be minimised.

5.9.4 Should the Secretary of State accept this objection the draft Order would need to be modified. A note will be produced for the Inspector indicating the precise wording of the proposed change.

5.10 **Co-Operation in Jointly Planning Construction Logistics**

5.10.1 We seek an assurance from LUL that they will co-operate with us in jointly planning the logistics for the construction of both VSU and VT12. The objective is to ensure that both VSU and VT12 could be built at the same time and to agreed programmes. We are confident that the combined expertise of LUL and Land Securities working together will achieve a shorter and more trouble free construction period than would otherwise be achieved.

5.10.2 A mechanism for agreeing matters such as site entrances, hoardings and working areas would be required. A copy of the current construction programme for the VT12 development is at **Land Securities core document OBJ3/2/24**. We seek an undertaking from LUL that they will use all reasonable endeavours to accommodate our requirements within the logistics planning for VSU in a manner that results in no delay to our development programme, with an ability to refer any disagreements to independent dispute resolution.

5.10.3 Should the Secretary of State accept this objection the draft Order would need to be modified. A note will be produced for the Inspector indicating the precise wording of the proposed change.

5.11 **Amendment to Protective Works Provisions**

5.11.1 There are two separate issues here:

- (a) the limit of the protective works area projects into the titles for Eland House and Portland House even though it has been drawn to avoid the physical buildings themselves. We require confirmation from LUL that Article 14 gives us protection should damage be caused by the VSU works to these buildings. Further, we require confirmation from LUL that the indemnity contained in Article 14 will apply to all losses suffered by us referable to Eland House and Portland House

as a result of VSU whether or not protective works are actually carried out; and

(b) insofar as;

(i) Article 14 relates to our property within the VT12 development site (edged blue on **Land Securities core document OBJ3/2/11**) and

(ii) we are in the course of constructing the VT12 development,

Article 14 should be modified so as to be made mutual as between LUL and Land Securities: if one party's works cause damage to the other then, save only in a situation requiring remedial works to be undertaken in a life-threatening emergency the extent of protective works and also who carries out such works should, upon the service of notice, be agreed between the parties. Any dispute should be resolved by reference to an independent person.

5.11.2 Should the Secretary of State accept this objection the draft Order would need to be modified. A note will be produced for the Inspector indicating the precise wording of the proposed change.

6 CONCLUSIONS

6.1 In conclusion I contend that:

6.1.1 whilst recognising the importance of improving Victoria Underground Station it is incumbent on the Secretary of State to ensure that this can take place without unreasonably impeding other vital regeneration proposals;

6.1.2 Land Securities' VTI proposals constitute such vital regeneration proposals;

6.1.3 the evidence demonstrates that the VSU proposals as contained in the draft Order do not achieve a proper balance between the need to improve Victoria Station and the proposals to regenerate the Victoria area through a scheme such as VTI;

6.1.4 the evidence further demonstrates that if the CPO powers under the draft Order were to be exercised it would result in a compensation liability of such magnitude that it would make VSU undeliverable, as the estimate of expense accompanying the TWAO application grossly undervalues the cost of land acquisition and compensation;

6.1.5 there is a clear public interest in the proper use of public funds - achieving value for money - and the evidence has shown that LUL has not properly carried out its engineering optioneering so as to achieve a design solution for VSU which not only delivers the required level of upgrade to the Victoria Underground Station but does so in as risk-free and cost-effective a manner as possible;

6.1.6 the design of VSU seriously prolongs the period during which major construction works will be ongoing in this already busy part of Victoria. It must be incumbent on LUL to promote a VSU scheme that will enable the regeneration of this part of Victoria through our VTI scheme to take place simultaneously with VSU, reducing this period by more than one third;

6.1.7 it would appear that LUL has not considered or proposed any measures to mitigate the adverse effects of the VSU scheme;

- 6.1.8 accordingly there is an absence of a compelling case in the public interest for the confirmation of the draft VSU Order as proposed by LUL;
- 6.1.9 nevertheless it would be possible to achieve a proper balance between these interests by amending the draft Order as proposed by Land Securities in its objection. As will have been appreciated from my evidence, it is my opinion that the best way to achieve this is Option 1A (paragraph 5.4.7(a)) and return of our land (paragraph 5.5).
- 6.2 Accordingly I respectfully ask the Secretary of State to make the amendments to the draft Order summarised in section 5 of this proof of evidence

Colette O'Shea