

**INQUIRY RELATING TO THE VICTORIA STATION UPGRADE
(VSU)**

**CLOSING SUBMISSION FOR THE VICTORIA INTERCHANGE
GROUP (VIG)**

OB12/10

SECTION A
Elizabeth Frimston

SECTION A Part 2
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SECTION B
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For and on behalf of the Victoria Interchange Group

21st January, 2009

SECTION A

INTRODUCTION

1. In these submissions Mr Bates, Mr Simpson and I will summarise VIG's case using the categorisation of the relevant issues as laid out by the Secretary of State in the Statement of Matters.
2. These submissions are presented by three of the seven VIG inquiry team, four of whom (Mrs Wilson, Mr Miller, Mr Lake and Mr Hurst) are not available this week to attend the Inquiry. The submissions are made on behalf of the Victoria Interchange Group, the umbrella organisation established in 2006 to co-ordinate residents in five wards and provide the authorities with detailed responses to major planning applications in central Victoria.
OB12/P1/A1
3. Save in certain minor respects, VIG's position has not changed as a result of evidence heard during the course of the Inquiry. Our position remains that the application which LUL has chosen to promote and refuses to make satisfactory, should not be permitted.
4. In this submission we are not trying to repeat all the evidence and we may not express all the points we have made during the course of the inquiry. We are focusing on the critical points and examining the evidence for those. It does not mean that some of the points we made earlier and in our various submissions, are no longer relevant.

BACKGROUND

5. VIG has long accepted that the LUL stations at Victoria are both in dire need of a carefully thought through set of improvements. This application concerns the upgrading of the Victoria Line station only. We have welcomed and endorsed most aspects of the proposals* but we are concerned about the failure of LUL to take adequate steps to remedy the new problem that will be caused by the addition of the Northern ticket hall – most especially the lack of safe and adequate provision for the increased numbers of pedestrians who will traverse Victoria Street to access the tube at Cardinal Place. Mr Simpson deals with this specifically in Part 2 of this Section. Additionally we are concerned at the lack of escalator access to the Underground from the mainline concourse.

6. We reject the Paid Area Link (PAL) as an unjustified component of the scheme. LUL has not made out the case for this 9 figure spend and the additional disruption construction of this will cause.
7. I turn now to specific matters using the categorisation laid down in The Secretary of State's Statement of Matters.

*Footnote

These are:

The new northern ticket hall under the junction of Bressenden Place and Victoria Street with access from Cardinal Place

The enlargement of the existing Victoria Line ticket hall (south hall)

Three new banks of escalators – three escalators per bank

New lifts between street, ticket hall and platform levels for both ticket halls and platform and mainline station

The widening of the Sussex side stairs and

The new entrance to replace the current Wilton Road stairs

Statement of Matters

Taking Matters 3 and 8 together:

Item 3

The likely impact on local residents including (a) noise, vibration and dust

8. which is linked to:

Item 8

The adequacy of the Environmental Statement and whether the statutory procedural requirements have been complied with

9. During the course of consultations with LUL and during the Inquiry, VIG has expressed concern about the adequacy of the Environmental Statements. We had severe doubts about the proposed arrangements for surface transport. This is dealt with in detail by Mr Bates in PART B of this submission. We had doubts about the approach to assessing the impacts of the lengthy construction period on the close-by resident population. We questioned and still question, the competence of the conclusions reached.
10. Our oft-repeated request - that in view of the length of this project there should be a comprehensive impact study of residents in the immediate vicinity to ascertain the extent of 'vulnerability' [OB12.P1.A1 p.10 para 4.25](#) - has been ignored by LUL. And beyond having access to the Cathedral Area Residents' Statement of Case, during cross-examination at the Inquiry, Mr Rowell could not evidence he had been de-briefed full about our concerns expressed during meetings with LUL over the summer of 2008. [OB12.P1.A3.4 p. 5 para 4.6.](#) Notwithstanding Mr Rowell would not express a view as to the quality of the information, LUL remain confident that their documents meet the test of 'full information' as required by TWA procedure. [LUL P11/REB/OBJ12 p.2 para 3.2](#)
11. LUL are here part-relying upon the assessment produced by their consultants and contained in the Health Impact Assessment (HIA).

VSU.A22 Parts 1 and 2 The HIA should have identified potential risks to health and helped to identify alternatives or additional measures to avoid or reduce the risks to health. There remain two questions here – (i) was the HIA capable of doing so and in any event to such extent as it may have done so, (ii) were some of its conclusions ignored by LUL?

- 12.(i) The HIA adopted a ‘rapid’ assessment technique (the minimum) to assess the population in the so-called ‘*ES-defined immediate impact zone*’ **VSU A.22 Part 1 p.21 para 4.49** which meant reliance on secondary sources of information, particularly upon census data from 2001. And concluded that there are approx 14,000 living in the zone and relatively few households locally which have young children (6% as opposed to 12% of households across London as a whole) and relatively few households which have elderly people (those over 70 yrs of age). These are the populations assumed by the researchers to have the most *limited geographical range* **Ibid para 4.53** (i.e. they ‘don’t get out much’) and are therefore more likely to be exposed to effects of noise, air quality and disturbances to accessibility in the local area.
13. The HIA specifically noted that ‘*Data for very small areas are limited in availability*’ and that there are many uncertainties about the characteristics of the population in the ES-defined zone - such as actual disease rates.
VSU.A22 HIA Part 1 p.22 para 4.52.
14. We contend that there are better and more recent sources of information which reveal, amongst other things, that the population in St Vincent’s Ward has been growing rapidly over the last three years. There are now over 7000 people on the electoral roll for St Vincent’s Ward alone. **OB12.P1.A1 p.3 para 2.4** And groups with a limited geographical range include people working from home but may exclude some elderly who have access to a second home.
15. Stakeholder involvement in the HIA was very limited, confined to one ‘HIA workshop’ dominated by Local Government Officers and officials. This did not include residents or qualified health practitioners - and most importantly there were no qualified health practitioners with first-hand knowledge of population health in the Victoria area.
16. Notwithstanding the shortcomings of the report, the HIA workshop noted that several properties in Carlisle Place - these include Bentley House and the vulnerable client groups in Montfort House and the Passage day centre - predicted to suffer significant effects

(noise), were not scheduled for mitigation. About these the HIA stated, “*these noise levels are highly likely to lead to health effects within the resident population: annoyance being the most obvious widespread effect. Given the high noise levels, along with chronic noise exposure that may continue over 5-6 years, other physiological and psychological effects cannot be ruled out*”.

[VSU.A22 Part 2 p.44](#) The HIA workshop specifically recommended that “*the vulnerability of residents in addresses cited needs to be investigated.*” (i.e. as listed in Fig 19 which also included 20 Palace Street) [VSU.A22 Part 2 p.45](#)

17. The HIA states “*the situation will be carefully monitored and action taken as appropriate*” [VSU.A22 Part 2 p.44](#) They assumed then, that any inadequacies revealed in LUL’s current approach would be cured through later processes introduced by the Code of Construction Practice.

Statement of Matters Item 6

The measures proposed for mitigating any adverse impacts of the scheme, including c) the measures proposed to alleviate the effects of the scheme on residents, d) any measures to avoid, reduce or remedy any major adverse environmental impacts of the scheme and f) whether, and if so to what extent, any adverse environmental impacts would still remain after the proposed mitigation measures had been put in place.

18. Whilst LUL produced revised noise tables in their SES, they did not take the HIA’s recommendation to investigate vulnerability any further. The SES simply indicates that more properties than were previously identified are predicted to suffer ‘Significant Effects’. [VSU.A31 TA B pps 153-155](#) Although many of those are very close to the trigger levels they will not qualify for noise mitigation under the scheme LUL seek to impose.
19. LUL’s determination to impose the Crossrail noise mitigation scheme accounts for why there are no definite provisions in the proposed VSU Code of Construction Practice [VSU.A20D](#) for varying the trigger levels, however vulnerable the residents. And this is contrary to the impression LUL left with HIA stakeholders.
20. All our attempts to discuss noise trigger levels and mitigation properly with LUL have failed. [OB12/P1/A14 p.9 para 6.3](#)

Furthermore, we suggest that LUL have acted unreasonably during consultations on this particular aspect of the Code of Construction Practice. They chose to leave it until Christmas just past to reveal that they were not prepared to move on this issue.

[OB12/P1/A14 p.9 para 6.3](#)

21. Be that as it may, we reject LUL's assertion that the Crossrail mitigation scheme is fixed - is 'best practice' and 'industry standard'. [OB12/P1/A14 p.9 para 6.2](#) In his rebuttal Mr Thornely-Taylor confirms that mitigation schemes have been continuously refined, [LUL/P6 p.15 para 5.7.1](#) and as a matter of principle we see no reason why this process should not continue. The Crossrail noise mitigation scheme is based on the schemes for the Channel Tunnel Rail Link (CTRL) and the Jubilee Line Extension, the last of which is some 15 years old.
22. The Crossrail noise mitigation scheme was devised to suit a Major Infrastructure Project (MIP). MIPs involve a balancing act between the crucial national benefits and the interests of those locally affected. The Crossrail Noise Mitigation Scheme was designed to ensure that such a huge project remained financially viable.
23. Crossrail was assessed via a Parliamentary process. The TWA and Parliamentary processes differ markedly and materially from each other. The Parliamentary process is by definition democratic and legislative, not judicial or executive: no reasons need be given for the legislature adopting (or declining to adopt) by way of primary legislation the result chosen to be embodied in any Bill which is passed into an Act. The TWA process involves an appointee (the Inspector) acting in a public and judicial manner in order to present the executive decision-maker (the Secretary of State) with a reasoned set of suggestions for permissibly secondary legislation. The TWA process does not involve direct democratic input by the legislature, so the safeguard for those affected is the public nature of the inquiry process and the reasoned approach to propounding conclusions.
24. Further, whilst VIG has always understood that Victoria as a whole constitutes a transport interchange of regional, if not national importance, [OBJ/12/8](#) the changes proposed to be effected by VSU are not of regional, let alone national, significance. This is largely because, for all the expense and disruption foreseen the VSU

scheme is so unambitious in what it seeks to achieve. A more comprehensive project might well have been of regional or national importance, but that is not the case. So VSU cannot credibly be considered even to approach the importance of an MIP like Crossrail. Indeed, the only respect in which VSU raises matters of even regional importance is in effect, during the construction phases on buses travelling through and terminating at Victoria. And this is a matter which LUL still refuses to give comprehensive study, instead planning to rely on the basis of the status quo. The result is that, with regard to the VSU there is not the same balancing exercise to conduct as for an MIP like Crossrail and LUL, as promoter, must recognise and if any Order is to be granted, reflect, the particulars of the local situation at Victoria, including paying sufficient attention to the legitimate and informed concerns of local residents.

- 25 We contend that noise mitigation for those affected should be devised in accordance with the merits of the case, in the context of local acoustic conditions (canyon effect), and local planning conditions, and having regard to the financial implications in this case.
- 26 The City of Westminster recognises the nuisance caused by construction noise and in accordance with EU regulations is developing a Noise Strategy. Unless a more reasonable mitigation scheme for the VSU is introduced, the disparity of conditions between neighbours in Westminster will grow wider over the course of this project. [OB12/P6/A6](#)
- 27 LUL have not modernised their approach. It is clear from the evidence we do have that for example, LUL do not even intend to follow the recommendations of BS5228 which they acknowledge to be one of the drivers of noise control (for example there will be no provision of acoustic hoardings on utilities worksites). [VSU.A31.TA 2 para 8.2.1](#)
- 28 The Project Sustainability Appraisal set the target of *zero exceedences of agreed noise levels during construction and operation*. [VSU.A21 Table 3.1.Ref 10](#) No such noise levels have been agreed. VIG has suggested that this target noise level should be based on zero increase above existing ambient noise levels. In his rebuttal, Mr Thornely-Taylor has calculated that this will require construction noise to be limited to 10dB below existing ambient and this he reports, is impractical.
- 29 [LUL/P6/REB/OBJ12 R14 para 4.2.16 and 17](#) From the information given under cross-examination, it appears that the only work

done on noise mitigation at source is for the VPT.

- 30 VIG considers proposed trigger levels are inconsistent and set too high. For long periods, noise for some will be up to 15dB above their normal level for which the suggested mitigation is ‘close your windows’ – even during the summer. And yet LUL does recognise that closing your windows in the summer is not satisfactory without ventilation. [LUL/P6/REB/OBJ12 R22 para 3.3](#) All trigger levels, referred to as Significant Effect (SE), Noise Insulation (NI) and finally Further Mitigation (FM) are based on one of two parameters. The first is related to the existing ambient noise level and the second is a function only of construction noise. The SE level is the lower of the parameters whilst NI and FM are based on the higher of the two values. The effect of this change (from lower to higher) will penalise not only normal quiet residential areas but also those buildings sheltering the especially vulnerable (e.g. Passage House and Montfort House, Carlisle Place and see para 16 above). In conclusion, the noise tables from the SES demonstrate a greatly deteriorated noise climate for every household in the immediate vicinity. The impact that the residents are expected to bear is disproportionate to the benefits of the project.
- 31 The Noise Mitigation scheme takes no account of the realities of apartment living and how sound from ‘uninhabited rooms’ travels laterally internally to ‘habited rooms’. It is more difficult to ‘capture’ and isolate noise in an apartment. Limited by not having any professional help, we put what we believe is wanted in our revised Code of Construction Practice. [OB12/P7A App 2](#)
- 32 It is clear that the current estimate for noise mitigation forms a relatively low proportion of total scheme costs. LUL appear to have estimated for as little as £1.4m, approx 0.25% of total budget. It therefore makes no sense to argue that any inflation in that budget will jeopardise the project. Especially if, following the settlement reached between LUL and any other Statutory Objectors land acquisition costs remain at or about 17.6%.*
[LUL.P8 p.57 para 10.10.1 ii](#)
- 33 Therefore we accordingly request a condition that:

A comprehensive appraisal of the residents of all properties predicted to suffer ‘Significant Effects’ be undertaken to assess those residents for vulnerability and that a Noise mitigation schedule be developed incorporating mitigation for vulnerability, and that in any event, any mitigation scheme be such as to take properly into account the special characteristics of apartment living.

*Footnote

Since the parties have refused to reveal terms of any deals we cannot do other than make an assumption to this effect.

Statement of Matters Item 6

The measures proposed by LUL for mitigating any adverse aspects of the scheme a) the proposed Code of Construction Practice.

34. The VSU Code of Construction Practice has now been agreed between LUL and the City of Westminster. VIG has received confirmation of the final version of the document just (this week?). Whilst the VIG Inquiry Team has not had time to confer properly we can see that the Code has been clarified in some respects and strengthened by the section (as requested by VIG) on enforcement and responsibilities. We welcome many of the minor amendments and are grateful to see the number of abstract clauses reduced.
35. However, we are disappointed LUL did not take more of our suggestions on board. Many were straightforward (e.g. confirmation of a dedicated interactive information website capable of expanding to take in information about VTI2 and joint working and a step-by-step complaints procedure) - symbols we thought, of a 'modern Code'. Many of our ideas came from Codes already in operation* and therefore do represent 'best practice'. This poses the question of whether LUL is sufficiently conversant with (i) developments in Codes generally and (ii) fully compliant with their duty to improve access to information and public participation.
36. We are particularly disappointed LUL have rejected our suggestions for independent noise and dust monitoring, and the framework we suggested for any dust management plan. Dust nuisance, as well as poor traffic management arrangements, is the abiding memory from the construction of Cardinal Place.
37. Neither are we content that without an explicit reference to covering their costs that the City of Westminster has sufficient resources to apply the new enforcement sections of the Code.
38. Given these factors we are especially concerned that LUL is seeking immunity from action for nuisance from individuals through Article 38 and this is the subject of a separate submission by VIG. [OB12/9](#)
39. We remain concerned that the menu for Part A is unnecessarily limited; making the Code less site-specific than it could, or should be.
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*Footnote

see for example, Crossrail, the Olympic Code and the Bathgate to Airdrie CoCP 2008

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40. We are now unsure of the fate of some of our rejected amendments and whether some will be included eventually or not. This means that the ‘brought forward list’ is longer (for Part B) and reliant on further processes which cannot be known by the time and decision is taken on the application.
41. We remain concerned at the robustness of some Code processes (a condition of any Code). VIG sought representation on the Traffic Management Liaison Group (in addition to the provision for a member of the TMLG to attend the CLG). As we understand it, the City of Westminster, LUL and TfL have agreed on this iterative mechanism to meet fully condition 3 (e) and 3 (g) in the Statement which may be questionable. Whatever, we are confident that a VIG resource will provide an additional (and much needed) competence for this group.
42. If we may need now to look to Part B to resolve our concerns and for the Code to finally pass all six policy tests for planning conditions set out in circular 11/95. We are not content to take part in a ‘talking shop’ nor rely upon the menu of meanings we received recently (and especially in view of the very last-minute ‘rush’ of documents) in a document (e.g. VIG will be able to ‘comment’, ‘make observations’ or we will be ‘informed’ or ‘involved’ and so on). [LUL.27](#)
43. Whilst we would prefer that the Code remain a draft until VIG has had proper time to consult its membership we would take comfort from ‘consultation’ becoming a defined term of the CoCP as follows:

Consultation: LUL guarantee VIG a meaningful influence throughout the lifetime of the construction project. LUL guarantee that they will not seek to withhold information or give incomplete information and that VIG’s views will not be elided. Nor will LUL seek to undermine or weaken their responsibility to guarantee VIG meaningful influence during the lifetime of the project.

44. Accordingly we seek this as a condition.
45. We further request a condition that VIG has membership of the TMLG.

46. In any event, we must now consult our membership fully and therefore we reserve the right to make further representations to the Secretary of State on any aspect of the Code if our membership so directs.

Statement of Matters Item 2

The justification for the particular proposals in the draft TWA Order item c) the main alternatives considered.

- 47 Our concerns with scheme design are very particular: VIG maintains that by insisting on solving all the problems of Victoria at Victoria, the resultant scheme is ‘over engineered’ and overly expensive by the inclusion of the Paid Area Links (the so-called PAL and PAL 22). Because of a combination of factors the value of both links is conceded to be questionable in normal operational circumstances [LUL.P1 19.3.2](#) and VIG maintains that because the combined effect of the Victoria Line Upgrade (will increase loading capacity by 25%) and Thameslink (which will reduce demand on loading further at Victoria) has not been quantified, making the LUL case for this scheme option deficient. [LUL.P1 paras 13.4/13.8/13.10/14.4.3](#).
- 48 Particularly when weighed against the disbenefits of the PAL links: of a difficult alignment; the necessity for three years continuous night and day tunnelling, using inevitably noisy tunnelling techniques and the increased dangers of construction and escalating costs. Together PAL and PAL 22 account for one third (approximately £147m) of total scheme costs.
- 49 If the PAL offered to cure the problem of pedestrian peak flows across Victoria Street PAL would have a worthwhile public benefit. But it does not and nor was it intended for that purpose.
- 50 The justification, such as it is, for the PAL and other contentious aspects of scheme design has been included in the evidence of experts called by LUL. VIG make the following general points with regard to it:
- VIG has not been in a position financially to commission rival experts to go over the views expressed by LUL experts and to propound views of our own;
 - other objectors who have now fallen away did propose to call rival experts to debate scheme selection and design – whilst VIG does not rely on the content of evidence which was not in fact ultimately adduced by LandSecurities (LS) or the Victoria Palace Theatre (VPT), VIG does rely on the fact that ostensibly competent experts

were to have been called on such points as part of the LS and VPT cases (as was made plain during openings by LS and VPT to the Inquiry) as showing at least there is a range of reasonable expert opinion on such matters;

- the dominant feature which the Inquiry may feel emerges from LUL's evidence is that it embodies a search for retrospective decisions which had already been taken on scheme selection and design; [LUL.P3A.B1](#)
- A further important feature which the Inquiry may feel emerges from LUL's evidence is that the decisions taken on scheme design were taken more with an eye to reaching accommodations with interested parties (for example Network Rail, LS and Thames Water) than to achieving the best end result for the travelling public whose fares and taxes fund the system;
- The falling away of LS and VPT as Objectors means there is less evidence on these points than there would have been had they remained active Objectors;
- In so far as the evidence may thus be considered either to fail fully to justify what it proposed or to justify rejection of possible alternatives, the Inquiry should not hesitate to call for further information. If doubts remain and seeking further information is impractical or in the result, unhelpful, LUL's case must be considered not to have been made out.

51. Common sense says that that there should be an escalator link from the mainline concourse to the tube. This lacuna should be addressed immediately by the Promoter and Network Rail and that costs for the link should be shared between them. The public are entitled to a co-ordinated response by two organisations expecting to receive considerable subsidies from the public purse.

52. At the very least nothing in the Promoter's plans should be permitted to prejudice the best possible alignment for such a link.
[LUL P1.REB.OB12 paras 2.29 and 2.30](#)

SECTION A Part 2

Statement of Matters item 2C

Pedestrian Underpass connection to the Northern Ticket Hall.

53. The entrance to the new Northern Ticket Hall located on the corner of Bressenden Place will accommodate pedestrians travelling in a westerly direction on the north side of Victoria Street. This represents 45% of the total pedestrians who travel westerly on Victoria Street. The majority (55%) of pedestrians travelling westerly do so along the south side of Victoria Street. This design will increase the likelihood of accidents as 55% of pedestrians will want to cross the road, to access the new entrance rather than carry on along the south side of Victoria Street to the Wilton Road entrance.

The Northern ticket hall will therefore directly service a minority 45% of pedestrians while costing at least £68 million (figure does not include an overhead allocation of fees and surveying costs-VSU A.28) to construct.

Because of the safety issues, VIG has from the very beginning of this project been advocating the provision of a subway from the south side of Victoria Street linking into the Northern ticket hall. We were told early on that this was not feasible, but were not provided with any written evidence to support the case until the preparation of rebuttals by Mr. Bell (LUL.P2A/REB/OBJ12).

54. Mr. Bell's rebuttal gives two key reasons for not progressing an underpass. These being the difficulties of positioning an entrance and the cost and time involved in its construction.

During the enquiry an alternative site for the entrance was conveyed by VIG, this being to utilise the land that encloses Carlisle Place, Victoria Street and the John Lewis office building (171 Victoria Street). An entrance located in this area will avoid the problems of impeding pedestrian flows along Victoria Street which is the main objection against the three alternative sites in Mr. Bell's rebuttal.(LUL.P2A/REB/OBJ12).

55. The second LUL objection is the cost and time involved in constructing the underpass. The largest and most significant cost element is the redirection of BT telephone wiring and fibre optics located under both the road and public footpath. This has been estimated at between £13-15 million with upwards of two years preparatory work needed before work could begin.(LUL.P2F)

In looking at this issue VIG introduced an example of what is possible by citing the experience at a fire in Manchester that occurred in 2004. The Manchester incident involved a telecommunications tunnel which carried 44% of lines as compared to Victoria Street. (138,000 lines versus 310,000).

From an engineering perspective the only favourable condition at Manchester was tunnel access to the cable area where the fire occurred. Unfavourable conditions include the totally unplanned nature of the event, fire damaged cables requiring a complex identification and rewiring process and the presence of toxic fire residues in the tunnel. These unfavourable conditions represent about the worse set of circumstances that you could envisage in which to under take a recabling exercise.

Mr. Bell's rebuttal argument is that Victoria Street BT redirection work, with just over twice the size in the number of lines, would take several years at commensurate cost. The only unfavourable feature at Victoria is that the cables are ducted and not in a tunnel. A major favourable feature is that the entire exercise can be pre planned to eliminate interruption to customers and minimize road disruption. We are asked to believe that just over twice the number of cables, and the ducting versus tunnel issue will take the unplanned project from a single week as in Manchester to several years.

56. This enquiry has forced LUL to prepare a justification for their position but this arrived late relative to the whole planning process, allowing little time for a proper dialogue between LUL and VIG. There has not been an exhaustive examination of entrance sites for an underpass as clearly VIG were able to suggest at least one viable alternative. We also have seen no evidence that LUL entered into a detailed dialogue with BT or any other of the interested utility parties to this project. We know that LUL consultants met with BT on a number of occasions but we have few details of the meetings and in a project this size meetings would be necessary for LUL to review with BT cable diversions for other parts of the project. Most of the

conclusions seem to be based upon incomplete evidence which does not stack up against what can be achieved as is proven with the case in Manchester.

57. We contend that the underpass costing's are inflated to make the case appear unattractive and further, based upon Manchester's experience, there is no substance to Mr. Bell's engineering objections in the rebuttal.

58. Victoria has a high accident rate for pedestrians and because of the proximity of several school and nursery provisions, large numbers of children traverse Victoria Street each weekday. The pedestrian safety issues of large numbers of people crossing Victoria Street provide a strong motive to find a way to make this underpass a priority.

59. In the recent Agreement between LUL and LandSecurities (LUL3 para 2.3.6) LUL have agreed to approach Thames Water together to promote the idea of them diverting a sewer which currently lies under Allington Street. This evidences that where LUL perceives it to be in its own interests, LUL will put energy into pursuing a major diversion with the relevant utility operator.

60. We contend that LUL have declined to pursue any option which would either have necessitated them in further expense and/or them revising their Application or seeking a second supplementary Order at a slightly later date. It is recommended, as a first step, that a thorough detailed engineering feasibility study be commissioned with all utility parties fully involved. Only with such a study can a conclusion be reached as to the viability of this project.

PART B – TRANSPORT

1. Introduction

- 1.1. Although presented by one person, this part of VIG’s closing has, like Part A, been the subject of contributions from the wider VIG team.
- 1.2. As in Part A, in relation to transport, VIG:
 - (a) is focussing on issues and not upon repetition of the vast body of evidence heard and carefully noted by this Inquiry;
 - (b) is adopting an approach which addresses the principal outstanding issues out of the raft of those raised; and
 - (c) is endeavouring to do so by way of linking those issues to the matters identified on behalf of the Secretary of State in the Statement of Matters for the TWA Order [ID/3].
- 1.3. VIG recognises that any two individuals listening to a body of evidence such as has been heard in this Inquiry will inevitably attach differing weight and importance to different aspects of the evidence, even if their consideration of that evidence leads them to the same ultimate conclusion. Some reference will be made to particular aspects of the evidence which seem to VIG highly illustrative, but the thrust of these submissions is to identify what conclusions VIG invites. To that end, it is likely that the Inquiry may find a number of the pieces of evidence *not* expressly mentioned in these submissions compelling in reaching such conclusions; and the failure in these brief closing submissions expressly to refer to each and every one of those pieces of evidence should not be taken as any indication at all that VIG is resiling from reliance upon them or changing its previously stated position in any way.

2. The Status of LUL’s Transport Evidence

- 2.1. Before addressing the content of the evidence which LUL called on transport, it is necessary to consider what status that evidence should be granted.
- 2.2. The only evidence which LUL chose to call on transport matters came from Mr. Bland. His methodologies and approach do require consideration; so too does the question of what general condition to apply to any grant: each will be addressed in a moment (see sections 3 and 4 below). But, first, VIG turns to the implications of LUL’s election to call him and only him in this crucial field and to present his evidence as that of an “expert”.
- 2.3. The question of what may constitute expert evidence and how an expert must conduct himself has long been the subject of detailed requirements in the civil justice field.

- 2.4. Those requirements, sometimes referred to as *Ikarian Reefer* principles after the name of one of the leading cases, have been repeatedly endorsed in the context of civil justice, family justice and criminal justice; and it is submitted that this Inquiry is no different – the requirement for a fair and public hearing under article 6(1) of the European Convention of Human Rights is no different here from in other contexts.
- 2.5. The *Ikarian Reefer* principles have been conveniently set out in a number of easily accessible contexts:
- (a) in the civil justice arena, the High Court and County Courts are guided by *Civil Procedure*, known also as *The White Book* – the principles are there set out at paragraph 35.3.3 on page 921 of volume 1 of the current (2008) edition;
 - (b) in the criminal justice arena, consideration of expert evidence has been coloured by the unfortunate series of miscarriages of justice resulting from flawed “expert” medical evidence being given by Professor Sir Roy Meadows and other doctors – the resort of the Court of Appeal’s Criminal Division has been not so much to invent new requirements, but rather to give a reminder of the *Ikarian Reefer* principles which always applied: *R. v. Harris, Rock, Cherry and Faulder* [2005] EWCA Crim 1980 at paragraphs 268 to 275 and *R. v. Bowman* [2006] EWCA Crim 417 at paragraphs 174 to 178; and
 - (c) in the family justice arena similar principles apply, as is apparent from *Harris* (at paragraph 272).
- 2.6. For the purposes of considering the status of Mr. Bland’s evidence, two of those universal considerations are of particular relevance:
- (a) the requirement for the “expert” to be independent; and
 - (b) the requirement of access to the information upon which the “expert” has based his opinions.
- 2.7. So far as independence is concerned, Mr. Bland’s shortcomings were flagged up to LUL at an early stage [OBJ/12/P2 at paragraph 6.6], but were never the subject of denial in the rebuttal evidence [LUL/P7/REB/OBJ12, which Mr. Bland confirmed in cross-examination contained his rebuttal of all aspects of VIG’s transport evidence with which he disagreed] or challenged [of the relevant part of OBJ/12/P2] in cross-examination.
- 2.8. Put shortly, this is LUL calling the man who was paid to preside over the design of the traffic measures to explain the very measures he had devised with a view to him again being paid to implement them. He lacks the requisite objectivity and independence on both a financial and professional level. In so far as he opines upon the viability of his own work, he is the paradigm example of a judge in his own cause. LUL should never have placed him in that untenable position.

- 2.9. VIG submits that on that basis alone, he cannot be treated as an “expert” and his evidence must be viewed as simply the explanation of the principal designer of a traffic mitigation scheme as to how that scheme might operate: his evidence cannot independently verify the workability of that scheme as that would require a truly independent expert.
- 2.10. However, the shortcomings do not end there. There is the question of access to information. Neither Mr. Bland’s written evidence (LUL/P7, LUL/P7A, LUL/P7/REB/OBJ3, LUL/P7/REB/12) nor the Revised Transport Assessment [“RTA”, part of VSU.A31] revealed on the basis of which documents Mr. Bland had reached the views espoused in his evidence. In fact, as emerged during cross-examination of Mr. Bland, those views were reached on the basis of (i) thousands of documents, letters and emails, the bulk of which had not been disclosed, (ii) numerous telephone calls and meetings, not all of which were minuted and, in so far as they were, few of which had been disclosed.
- 2.11. It was, therefore, impossible for any expert VIG might have instructed, had VIG had the funds, truly to assess the validity of the conclusions reached. Peer review was ruled out of the equation. Nor was it, or is it, possible to assess to what extent Mr. Bland’s view on each topic, had it been expert, might have fallen within a wide range of possible reasonable expert opinions rather than constituting the only possible expert opinion on that point.
- 2.12. That his views had been reached on such information and in that way underlines his lack of independence. The fact that access has not been, and to a considerable extent cannot be, granted to most of that information reinforces the inequity which would result were this witness to be treated as an independent expert.
- 2.13. The situation is made more acute still by LUL’s unilateral election, despite knowing of all the thrust and much of the detail of VIG’s concerns on transport from months earlier, only to call Mr. Bland on transport matters. The Inquiry will recall that it was established in cross-examination that a number of persons not being called as witnesses, including but by no means only Mr. Hallé, were “alive and well”. By choosing not to call persons from TfL and other bodies directly affected by transport issues, but instead to rely on letters and emails sent to or by them, LUL has taken a line calculated not merely to deny VIG and other objectors the opportunity to test the accuracy and extent of the propositions contained in those secondary hearsay sources, but also to deny the Inquiry the best possible evidence, namely authoritative oral evidence from the individuals concerned.
- 2.14. The disadvantage suffered by objectors and by the Inquiry in those regards is heightened by the often murky circumstances in which the letters and emails relied upon came into existence. For example, it was often some time in cross-examination before any explanation came into being of how the various letters and emails appended to rebuttal evidence [LUL/P1/REB/OBJ12 and LUL/P7/REB/OBJ12] came into existence and the Inquiry might fairly think both that those explanations were not wholly satisfactory and that there must have been a good deal by way of prior exchanges which has not been revealed.

- 2.15. In the circumstances, VIG invites the Inquiry to approach assertions made by third party non-witnesses in the cherry-picked documents relied upon by LUL with the utmost caution and only to accept their contents as true if absolutely satisfied that it is right even in these circumstances to do so.
- 2.16. VIG understands that such an approach may leave a less than complete body of evidence available to go towards making good LUL's case, but if that is so it is the natural concomitant of how LUL has chosen to approach this Inquiry: no one save LUL required or encouraged LUL to build its house upon sand – indeed VIG for one would much rather that LUL's transport case had had solid foundations and proper detailing from the outset, rather than being presented piecemeal and as it has been.
- 2.17. To do the opposite from what VIG contends and thus to treat challenged documentation which has not been and cannot be tested as if it were the unchallenged testimony of witnesses would be to reward LUL's inappropriate approach and to deny objectors the fair and public hearing guaranteed by the European Convention: article 6(1).

3. General Conditions

- 3.1. If there is to be a grant of a TWA order and if, in the reasoning process which leads to that grant, the implementation by LUL of the package of transport mitigation measures advocated by Mr. Bland, or certain essential elements of it, is found to be essential prerequisites to the VSU scheme being deemed sufficiently workable, the package or those essential elements of it, should be secured by conditions requiring LUL to proceed in that manner.
- 3.2. VIG recognises, and recognised under cross-examination by Mr. Tait Q.C., that future conditions may change, but as was made plain in the answers given, VIG considers that the only departure from transport provisions which are deemed workable by this Inquiry should be to cover the unforeseen. And, obviously then there would need to be consultation with the affected parties.
- 3.3. What would not be satisfactory would be for the open, public and accountable process of this Inquiry to result in the grant of a TWA order on the basis of what Mr. Bland has presented, and then for LUL and its Contractor to be able to start afresh with a blank sheet behind closed doors in committees which exclude residents, bypass the TWA process and thus deny interested parties a fair and open hearing.
- 3.4. VIG's concerns in this regard have justifiably increased since the close of the evidence, not least because of the emerging state of affairs between LUL, the rest of TfL and the City of Westminster ["CoW"]. At the tripartite meeting between LUL, CoW and VIG on 16 December 2008 the focus was the CoCP. However, traffic matters were also discussed, and it became clear that CoW had no intention of relying on Mr. Bland's work, proposed to address detailed transport issues after the grant of any TWA order and still sought to exclude residents from a crucial committee [OBJ/12/P1/A14 at paragraphs 7.12-14].

- 3.5. VIG in its response to the draft CoCP sought to introduce forms of wording on transport which required LUL, subject to future contrary agreement with all interested parties and subject to what might emerge from the Inquiry, to do what it said it would do and follow Mr. Bland's traffic management plans [OBJ/12/P7/A.16 at paragraph 4.1.1].
- 3.6. At time of writing these submissions at close of business (5 p.m.) the day before they are to be made, no final CoCP is available. VIG has, however, been given LUL's redraft [LUL.27], which declines to adopt much of VIG's suggested wording. In relation to the crucial paragraph (4.1.1) the reasons given (merely a cross-reference to GN1 and GN4, which are irrelevant to this point) in the table responding to VIG [part of LUL.27], do not justify the text chosen, which leaves LUL free to adopt *a* traffic management plan – in other words, any such plan LUL might choose, not necessarily the traffic management plans advocated by Mr. Bland currently being used in LUL's attempts to procure the grant of a TWA order.
- 3.7. Furthermore, on 13 January 2009 LUL served a document entitled "*STATEMENT ON HOW THE MITIGATION MEASURES SET OUT IN THE ENVIRONMENTAL STATEMENT, SUPPLEMENTARY ENVIRONMENTAL STATEMENT AND FURTHER INFORMATION WILL BE BROUGHT INTO EFFECT*" [LUL.24]. Notwithstanding the title, that document in relation to transport makes no reference whatsoever to the substantial further information served as to transport matters since the RTA (described as SES Tech App A).
- 3.8. More significantly, the mechanism for bringing into effect the first six topics (i.e. the main transport questions) is stated (in LUL.24) to be in every case "*brought into effect through Traffic Management Plan (TMP) required by the CoCP. CoCP subject of both a proposed planning condition (Cdt 11 – LUL.12) and a proposed agreement with CoW (clause 5 – LUL.21)*".
- 3.9. Whilst it is perfectly true that the CoCP is indeed the subject of both a proposed planning condition and a proposed agreement between LUL and CoW, this mechanism is not satisfactory if it relies wholly on the CoCP and the CoCP allows LUL *carte blanche*.
- 3.10. Worse, what LUL.24 does not reveal is that the draft agreement between CoW and LUL [LUL.21] – again no concluded version is available at time of drafting – also contains a provision (clause 11) committing LUL *without qualification* to follow and promote the process for the co-ordination of traffic matters set out in a letter which has become known as the Hallé letter (it is dated 29 September 2008 and was sent from TFL to CoW [Schedule 4 of LUL.21: also at Appendix 3 of LUL/P1/REB/OBJ12]). For the avoidance of doubt, VIG still does not find the Hallé letter to be a source of "comfort".
- 3.11. The Hallé letter, re-read in the light of CoW's attitude to Mr. Bland's work as revealed on 16 December 2008, strongly suggests that what is being sought is not merely "wriggle room" to cater for unforeseen changes of circumstances, but a TWA order which is so untrammelled that the transport assessments upon which it was based can be cast aside as soon as the ink is dry on the Secretary of State's signature.

- 3.12. That impression is rendered all the stronger by LUL's refusal to accept fairly anodyne amendments to the CoCP to require LUL, if granted an order on the basis of what Mr. Bland has said LUL would do, to do that.
- 3.13. It is further reinforced by LUL and CoW's refusal voluntarily to allow VIG or other residents' representatives onto any committee other than the Community Liaison Group. The second page of the Hallé letter refers to a large number of such committees, which on LUL's draft of the CoCP could be the fora for designing a wholly new approach to transport mitigation rather than merely places to fine tune the public debated proposals of Mr. Bland.
- 3.14. Further, re-reading the Hallé letter in the context of CoW's attitude to Mr. Bland and in the context of the sweeping changes to the transport arrangements made since the RTA (before, during and after the evidence was given to the Inquiry) suggests that neither TfL nor CoW much went into the detail of what Mr. Bland proposed in the RTA and that neither has troubled to keep abreast of the many developments in his proposals since the RTA. If each body is working on the basis that Mr. Bland's work can be cast aside after an order has been granted, then that approach is understandable from their viewpoints, though scarcely helpful to the Inquiry.
- 3.15. In so far as it has been possible to test matters in cross-examination of Mr. Bland, the signs that TfL (beyond LUL) have really gone over the plans with an informed and careful eye are not good. It will be recalled in cross-examination that the supposedly complete schedule setting out London Buses' acceptance of the proposed bus changes [LUL/P7/REB/OBJ12 Appendix 2] proved incomplete when compared to LUL's own chart of changes [LUL/P7/REB/OBJ12 Appendix 3], demonstrating that London Buses did not appear fully to have grasped all the changes involved in these complex proposals.
- 3.16. It may be contended for LUL that the inference drawn as to TfL and CoW's approaches is unjustified by the evidence. VIG does not so consider. But even if VIG is wrong on that, there is certainly not evidence to justify the opposite conclusion – that TfL and CoW have gone over every aspect of the transport proposals, including the recent developments in them, with a fine tooth comb and satisfied themselves accordingly as to their adequacy. Had the position of TfL and CoW been the subject of witness testimony, this could have been explored. Since it emerges only from third party letters and emails, it cannot. It is LUL, as applicant, which has chosen to proceed with this application notwithstanding that such is the state of affairs.
- 3.17. In the premises, VIG invites the Inquiry (by means of such form of words as the Secretary of State may deem fit in a condition to or a term of any order granted):
- (i) to put LUL under obligations in essence the same as LUL would have been under had LUL agreed to VIG's draft clause (4.1.1) of the CoCP [OBJ/12/P7/A.16]; and

- (ii) to require that residents and other interested parties have representation on all relevant transport committees so that decisions are not made behind their backs.
- 3.18. An example from the oral evidence may indicate what could happen were that not done. In about June 2008 there was for a time a proposal to put a taxi rank in Lower Belgrave Street and to route taxis through much of Belgravia. VIG pointed out the shortcomings of this proposal, both as a proposal and as one which had not yet been the subject of proper consultation [see OBJ/12/P1/A3.5 at paragraph 3.18]. That proposal was abandoned not long afterwards. But on the basis of the grant which LUL seeks it could be revived and imposed without any public debate or consultation of either the many Belgravia residents who would be affected or the primary school outside which this taxi rank was to have been imposed. LUL may say that it does not have the slightest intention of reviving that proposal. But the point is that if an order is to be granted, the grant should not permit LUL the option of exercise any such intention, either as to that proposal or any other which officials at LUL, TfL and CoW might find unobjectionable but persons outside those organisations may find objectionable in the extreme.

4. Mr. Bland's Methodology and Approach

- 4.1. Mr. Bland's work is based wholly on modelling. VIG maintains its stance that modelling is a necessary, but not a sufficient, safeguard.
- 4.2. It is also readily apparent from the evidence that much of the modelling and related work relied upon is of poor quality, of limited scope, rushed or incomplete.
- 4.3. Poor quality enters the modelling through oversimplification – for example a roads model which ignores the traffic lights at the junction of Victoria Street, Palace Street and Thirleby Road – or through use of inadequate data.
- 4.4. Perhaps the most striking example of inadequate data is the pedestrian movements data for Terminus Place and the surrounding streets [LUL/P7/REB/OBJ12 Appendix 1]. As emerged in cross-examination, neither Mr. Bland nor his staff had picked up on the shortcomings of the work done by those compiling that information, who had in at least one important respect marked the number going east as going west and vice versa. Worse, the numbers going on to and coming off finite pedestrian islands were obviously awry – in one case by over 2,000 people. That cannot just be dismissed as “*within a 10% margin of error*” as Mr. Bland claimed. This data is for pedestrians counted in a three hour period. In such a period it may be an acceptable margin of error, albeit unfortunate, to be 2 people – or 10% – out, so that 25 people are counted when in fact 27 passed by. But to be 2, 210 people out, by counting 25,442 coming off a small traffic island when simultaneously counting 27,652 going on to it, is what was alleged by VIG in cross-examination: gross incompetence.

- 4.5. Limited scope is also a problem. An example is the very limited work done (notwithstanding the Inspector's direction) on the effects of CCWEZ removal [see the commentary in OBJ/12/P2.A15 at paragraph 6 on LUL/P7/G, which comments as to the depth of modelling and analysis are neither addressed nor resolved by LUL/P7/G.Rev or LUL/P7/H]. There are many examples of rushed work having to be corrected or qualified at a later date – the CCWEZ work just referred to is merely the most recent.
- 4.6. A prime example of incomplete work is the analysis of the effects of VT12, to which LUL has committed itself [LUL.3, particularly at paragraph 1.2]. LUL's lawyers have asserted that VT12 would make no difference to transport issues [LUL.15]. Mr. Bland, however, has let the cat out of the bag [OBJ/12/P2.A15 at paragraphs 7(2)(f), 7(6) and 8 and LUL/P7/H] – the reality is that the work simply has not yet been done to work out what effect this might have. LS are to give VIG a presentation on their latest plans on 26 January 2009. So, having cleared LS off as an objector *inter alia* by promising to endorse and assist VT12, LUL are seeking a grant *without* there being *evidence* (as opposed to the non-witness' assertions in LUL.15) that the two can work together and *despite* there being evidence from LUL's only transport witness that he has not been able to study that yet.
- 4.7. The shortcomings of that work which has been done are exacerbated by the lack of any detailed contingency planning. The balance of the evidence shows that many of the types of measures which Mr. Bland has cited to deal with impacts upon the residential amenity [LUL/P7/REB/OBJ12 at paragraph 2.8], such as closing off roads and introducing 20 m.p.h. zones, are ones to which CoW, which would have to consent to them, has in the past been hostile.
- 4.8. The hallmark of LUL's approach to transport has been late changes to seek to correct inadequacies in documents which should have been better to begin with: to characterise that process as "iterative" is overly generous. Put simply, the RTA transport proposals [in VSU.A31] were markedly different from those originally promulgated in November 2007 [in VSU.A13] and the proposals as they stand today are markedly different from the RTA. Before turning to the detail of the persisting inadequacies, VIG makes two points:
- (i) the driving force for LUL's undoubted improvements – though VIG says those take the position from the thoroughly inadequate to the more adequate but still inadequate – has been VIG's interventions: if there is to be a grant of an order and if transport is to be managed by committees, those who are on those committees appear (on the basis of VIG's experience to date) desperately to need the advantage of help from knowledgeable residents – they should be welcoming residents onto the committees, not trying to blackball them; and
 - (ii) the result of Mr. Bland's work to date is a package which, even if the Inquiry determines that it is capable of working, contains a body of significant and more moderate demerits to measure against the alleged merits of the VSU scheme when considering both whether to grant an order and, if so, on what terms and conditions.

5. Statement of Matters paragraph 3(e) – Buses

- 5.1. The most recent figures obtained by LUL [LUL/P7/D section 1 and LUL/P7/REB/OBJ12 Appendix 18] enable the Inquiry to proceed on the basis of figures which are only approaching six months old, as opposed to figures dating back to 2007. The vast number of bus movements is apparent from VIG's analysis of those figures [OBJ/12/P2.A13 at paragraphs 13.1 to 13.16].
- 5.2. Because no concession or limitation has been sought by LUL from London Buses as to London Buses' future conduct, it remains impossible to say what number or size of buses London Buses will attempt to run in the Victoria area during the long lifetime of the VSU project.
- 5.3. What does appear safe to say is that there are a very large number of buses terminating at and passing through Victoria and that looks set to remain the position. LUL's approach has deliberately eschewed any opportunity to persuade London Buses to reduce the number of buses run, to reconsider the types/sizes assigned to each route, to terminate some services short of Victoria or to run some on past Victoria.
- 5.4. By having taken that approach, LUL has put itself in a position where it can only show that the VSU scheme is workable by showing that it can deal with the buses through all phases of that scheme, and deal with them in a way which keeps the traffic moving but does not compromise public safety.
- 5.5. To achieve that end LUL is compelled to seek to reduce the number of buses passing through Terminus Place and Wilton Road. The alleged solution LUL has elected to adopt, and to which it has clung notwithstanding the manifest difficulties, is to redirect three routes – the 16, 52 and 82 – on a long loop of wasted mileage via Eccleston Place.
- 5.6. Of all the many remaining shortcomings in the transport proposals, this proposal is plainly the most vivid. VIG's position has been since it was first unveiled, and remains to this day, that it is simply unworkable.
- 5.7. The numbers speak for themselves – 800 coaches a day (Monday to Saturday – and 500 on Sundays) was Mr. Lake's evidence, based on his discussions with the Managing Director of the Coach Station: VIG contends that Mr. Lake's figure is to be preferred to Mr. Bland's late figure, a figure of uncertain origin, of 30 to 40 coaches an hour [LUL/P7/D at section 3], though that would be still some 500 a day. How 800 coaches a day are really to interact without gridlock with the passage of, and bus stand facilities for, between 27 and 33 double decker buses an hour has simply not been adequately explained. The suggestion, which emerged principally if not wholly during the cross-examination of Mr. Lake, that marshalling might cure the problem shows the thoroughly unrealistic approach being adopted by LUL.
- 5.8. Given the choice between the evidence of Mr. Bland and that of Mr. Lake, VIG unhesitatingly invites the Inquiry to accept that of Mr. Lake.

- 5.9. This proposal may have attraction for LUL, at least now when seeking the grant of an order, and it may even have attraction for London Buses. But it is very far from being workable, let alone satisfactory, for users of the coach station and local residents.
- 5.10. What is especially striking is LUL's persistent refusal to run a field trial, as suggested by VIG in the summer of 2008. On the evidence the only "trial" to date has been back in February 2008 to send a single bus around the route, presumably to check that it did not hit anything. What is patently needed is a full trial, with *all* buses on *all three* routes diverted and a careful note taken of what happens. VIG invites the Inquiry to conclude that the only reason this has not been done is that LUL fears what might emerge – namely that the Eccleston Place loop proposal is unworkable – and the consequences of having to return to the drawing board.
- 5.11. If the Inquiry is not persuaded to find that proposal unworkable, notwithstanding the compelling evidence to that effect, VIG would invite the Secretary of State, by such wording as may be deemed fit, to require LUL before it is permitted to implement any order granted, to conduct a full field trial (all three routes for at least a week and not during an unrepresentative time of year) and publicly to demonstrate the workability of this proposal from the result of that trial. LUL, on its own case, should have nothing to fear from such a requirement.
- 5.12. The potential knock-on effect of these Eccleston Place bus proposals on the efficacy of the vital right turn from Eccleston Bridge into Buckingham Palace Road has simply not been sufficiently addressed. Backed up buses, coaches and other traffic could be a significant impediment to a turning which would be an essential component of the northbound inner ring road throughout the long time of partial and total closures of Wilton Road.
- 5.13. As striking as LUL's refusal to acknowledge the slightest shortcoming in its proposals for Eccleston Place is its refusal to acknowledge any merit in, or even fairly and objectively to consider, the Stop P alternative. The proposition put in cross-examination by Mr. Tait Q.C. that VIG should, by reference to a plan [LUL.11] itself detail the arrangements to be made, and do so from the witness box, is nothing short of breathtaking. Had there been a thorough and impartial consideration of the alternatives – as might have been expected from a fully independent expert – the possible details of any Stop P alternative, and the pros and cons of each choice, would have been set out in the original application documents [i.e. in VSU.A13]. Even so, VIG invites the Inquiry to conclude on the evidence that the Stop P alternative, notwithstanding that it is not and has not been suggested to be perfect, is sufficiently credible to require proper independent consideration and remains so despite the possible start of VT12 works in the vicinity. VIG further invites the Inquiry to require by such wording as the Secretary of State may deem fit, that LUL commission someone demonstrably independent to conduct a proper review of the matter and to report publicly on what can be achieved and how the advantages and disadvantages compare to the Eccleston Place loop proposal.

- 5.14. VIG remains extremely concerned about the implications of introducing bus contraflow lanes in Victoria Street and Vauxhall Bridge Road. It remains VIG's position that *whenever possible* the Allington Street loop should be used instead of any contraflow lane in Victoria Street. If LUL's lawyers' assertions are correct [LUL.15 paragraphs 9 to 12] – there is of course no study of this yet by Mr. Bland – the VTI2 scheme would not affect the availability of the Allington Street loop. So it could be used, whether or not VTI2 proceeds, at all times except when the parts of Elliott House overhanging Allington Street are being demolished. In any event, Mr. Bland's evidence [LUL/P7/REB/OBJ3, paragraphs 4.3 and 4.4, as confirmed in oral evidence] was that the contraflow lane in Victoria Street was *not* essential.
- 5.15. VIG invites the Inquiry to conclude from the cross-examination of Mr. Bland that there has been no real safety review – at least none worthy of the name or reflected in any documentary record – of the implications of introducing contraflow lanes. The safety risks which inherently arise from such lanes may be well known [see LUL/P7/D section 7]; LUL has, however, done no work of substance towards detailing how those risks might in this context be reduced to as low a level as reasonably practicable.
- 5.16. VIG invites the Inquiry to conclude that the evidence fails to show that the proposed contraflow lane in Victoria Street is necessary to VSU and fails to show that either of the proposed contraflow lanes would necessarily be safe, particularly the one in Victoria Street and particularly if a pedestrian crossing of that street at its junction with Bressenden Place [i.e. crossing No.8] is permitted at any time when the contraflow lane is in operation. If VSU is permitted to proceed at all, it should be a requirement that no contraflow lane is used in Victoria Street, alternatively that one is only used during the demolition of Elliott House and only once there has been an independent and publicly published review clearing its detailed design from a safety standpoint.
- 5.17. LUL has pointed to the very modest saving of mileage for a bus using a Victoria Street contraflow compared to the Allington Street loop and also to the not insignificant increase in mileage if (whilst Elliott House is being demolished) buses had to go round by Grosvenor Gardens, Lower Grosvenor Place and Bressenden Place. VIG does recognise that such mileage considerations have implications for bus operators' commercial interests and LUL's budget. However, neither mileage issue, but most particularly the former, which offers only a very modest improvement on the status quo, begins to compare in importance to the consideration of pedestrian safety.
- 5.18. Finally as to buses, there is the issue of passenger interchange. Mr. Bland's table [LUL/P7/REB/OBJ12 Appendix 18] shows *some* attractively short walk distances for those who know where to interchange. But those who do not may find themselves in considerable difficulty. And the biggest problem, which Mr. Bland did not appear to appreciate until VIG pointed it out, and for which he has since found no real cure, is the difficulty of inbound and outbound passengers passing each other when access to the Terminus Place "platforms" for the busiest buses is restricted to being from their western extremity only, the furthest point from any bus being boarded.

6. Statement of Matters paragraph 3(e) – Taxis

- 6.1. During this Inquiry there has not been a satisfactory solution from LUL for a number of issues raised in respect of taxis and VIG would invite the Inquiry to direct that the shortcomings must be resolved as a condition for VSU to proceed.
- 6.2. The major areas still unresolved are:
- (a) There seems to be a consensus from LUL documents submitted to the Inquiry and from the subsequent cross-examinations that Hudson's Place would be an ideal site for the alternative taxi facility while the front of the main line station is closed. Despite this observation there appears to be a lack of any conviction on the behalf of LUL to seek agreement with Network Rail over the temporary use of this space. The alternatives offered leave a poor compromise in terms of ease of passenger and taxi access and overall suitability. Hudson's Place should be pursued as the alternative taxi site with Network Rail.
 - (b) A consequence of providing two ranks instead of the obvious Hudson's Place facility is the adequacy of the feeder ranks, especially the taxi pick up facility in Buckingham Palace Road. VIG is concerned that the Allington Street feeder will not provide a proper solution, due to a lack of taxi volumes, and this could be further undermined if the VT12 project is undertaken during the life of VSU. The faintly suggested and ill thought through alternative at Eaton Lane [see LUL/P7/D section 8] is unworkable and has not been the subject of proper consultation (e.g. of the Goring Hotel).
 - (c) There has not been any firm solution to address VIG's concerns over the provision of proper signage for the two new taxi ranks. To date there has been no indication that discussions have progressed with Network Rail to provide a practical solution to this problem.
 - (d) Equally there has been no firm commitment on weather cover for waiting passengers.
 - (e) Mitigation of increased taxi travel times by allowing taxis to use the proposed northbound bus contra flow lane in Vauxhall Bridge Road makes good sense from the point of view of taxi users and drivers: whilst it may be that the interests of bus users preclude this, the email [LUL/P7/REB/OBJ12 Appendix 9] relied upon to justify LUL's stance is a very slender basis for such a decision.
- 6.3. In summary, the taxi proposals put before this Inquiry are complex and considerably less effective than the status quo: that is plainly not merely VIG's view, on behalf of local taxi users, but the Licensed Taxi Drivers' Association's view on behalf of the drivers too. However, these are not insoluble problems which simply have to be lived with as the price for VSU going ahead: they can be solved to be benefit of the travelling public. If they are not improved as suggested by VIG, then they represent a notable disadvantage to be weighed against VSU generally.

7. Statement of Matters paragraph 3(f) – Private and Commercial Vehicles

- 7.1. VIG remains extremely concerned by the projected 76% increase in traffic on Eccleston Bridge, most of which is intended to turn right into Buckingham Palace Road [see LUL/P7/REB/OBJ12 Appendix 6]. As already identified (see paragraph 5.12 above), any backing up of traffic from the Eccleston Place bus loop could result in gridlock. However, VIG has concerns even if that does not occur.
- 7.2. Mr. Hurst’s evidence rightly and fairly accepted that it might be impossible to devise a better route for the inner ring road during any VSU construction work in and around the Beach and Wilton Road. But the absence of a better alternative does not of itself render this proposal workable. Nor, in so far as this proposal may be considered workable, does it mean that its likely adverse effects on traffic represent anything other than a significant disadvantage to be weighed against VSU. As Mr. Bland accepted in cross-examination, the increase of vehicles in this locale will represent an “*increased hazard to pedestrians*” and there would be a benefit to Wilton Road with a “*disbenefit*” in this area.
- 7.3. VIG’s concerns are all the greater since there is, as all sides accept, no practicable alternative route to adopt if this proposal proves a disaster. Having as the only major control the “gating strategy” to discourage traffic from using the inner ring road north of Vauxhall or south of Marble Arch is not a happy state of affairs.
- 7.4. In this context, VIG also continues to entertain significant concerns about rat-running through Belgravia from traffic on Eccleston Bridge which does not choose to turn right into Buckingham Palace Road, instead continuing up Eccleston Street. Such documents and modelling as has been filed by LUL in relation to CCWEZ removal [LUL/P7/G and, later, LUL/P7/G.Rev and LUL/P7/H] are not accepted as accurate predictors of how traffic will in fact behave [see generally OBJ/12/P2.A15 at paragraph 6 and especially at paragraph 6(8)].
- 7.5. Rat-running remains a danger to the Westminster Cathedral Conservation Area at the Thirleby Road junction and is all the more so given the shortcomings of the contingency planning (see paragraph 4.7 above).

8. Statement of Matters paragraph 3(g) – Pedestrians

- 8.1. The most severe problem for pedestrians, namely the proposed halving of the time to cross the essential crossing from the Little Ben island to the corner of Victoria Street south and Vauxhall Bridge Road east [crossing No.4 as now numbered – No.3 in the RTA] has, as VIG has acknowledged [see OBJ/12/P2.A15 at paragraph 7, commenting on LUL/P7/F], potentially been cured. However, that cure is dependent upon CoW’s permission temporarily to suspend the crossing of Victoria Street at its junction with Bressenden Place [crossing No.8].

- 8.2. Without that Victoria Street crossing suspended, sufficient time cannot be given to cross to and from the Little Ben island. Without sufficient time to do that, this scheme is dangerous and unworkable. It *must* be a requirement (howsoever the Secretary of State may secure it) of any grant that *any* traffic management plan adopted in *any* circumstances preserves sufficient time for pedestrians to cross all the essential crossings from outside the mainline station, across Wilton Road, across to the Little Ben island and then eastbound along Victoria Street. It is inevitable that VTI2, if it proceeds, will have an effect on pedestrians' desires to make crossings and the crossings which might be available to them. Though Mr. Bland has not yet worked through the implications of VTI2, VIG suggests that the construction of VTI2 would either leave unchanged or increase further the demand to use the sets of crossings from outside the mainline station to go eastbound on Victoria Street.
- 8.3. VIG does not welcome the temporary loss of the crossing of Victoria Street at Bressenden Place [crossing No.8] – it is a disadvantage to be weighed against VSU.
- 8.4. VIG has already outlined the pedestrian safety issues arising from the proposals to introduce bus contraflow lanes (see paragraphs 5.15 to 5.17 above). VIG has also identified already the disadvantage of having the Terminus Place bus “platforms” accessible from the western end only (see paragraph 5.18 above) – that disadvantage is not only a question of bus passengers' convenience, but must also be one of pedestrian safety when large numbers of boarding and alighting passengers are milling about on narrow platforms alongside bendy and double decker buses which are constantly drawing in, moving up and then drawing out.
- 8.5. VIG has also already outlined many of the difficulties with the junction of Buckingham Palace Road, Eccleston Bridge and Eccleston Street from the point of view of vehicular movements (see paragraphs 5.12 and 7.1 to 7.4 above). There are of course, as Mr. Lake explained in his evidence [OBJ/12/P3 paragraph 4 and orally], significant potential hazards here.
- 8.6. As noted already (see paragraph 7.2 above) Mr. Bland in cross-examination accepted that increased risks to pedestrians would result. Nor does his rebuttal evidence [LUL/P7/REB/OBJ12 at paragraphs 4.1 to 4.8 and Appendices 6, 7 and 15 to 17] answer the meat of Mr. Lake's concerns as to pedestrian safety.
- 8.7. It is furthermore striking, as noted by Mr. Lake in his oral evidence and not cured anywhere in the welter of material forthcoming since, that nowhere in the RTA [part of VSU.A31: see section 5.2 and 8.3 at pages AA8-11 and AA35-40 and, in the second run of pagination therein, sections 6 and 15 at pages 55-75 and 184-198] or in the LUL transport evidence [see LUL/P7, LUL/P7A, LUL/P7/E.Rev and LUL/P7/F] is there detailed analysis of the pedestrian crossing at this location. The location is marked as a crossing on one map [Figure AA5.2 on page A-10, repeated as Figure TA_6.7.2 on page 66], but all the analysis of pedestrian crossings has been of those at and around Terminus Place – unsurprisingly given what was until very recently proposed for the Little Ben island.

8.8. Generally, on any view pedestrians are going to suffer during VSU. It will be inconvenient and dispiriting for commuters and able bodied residents. For the elderly, the disabled and those encumbered by shopping or children, the already difficult state of affairs will be close to impossible. These are very real disadvantages to be weighed against the benefits claimed for VSU.

8.9. These observations concern the effect on pedestrians of the VSU construction period: VIG has addressed in Part A the disadvantages for pedestrians of building VSU without a pedestrian underpass to the NTH from the south side of Victoria Street and without escalators down from the main line station concourse to the STH.

9. Statement of Matters paragraph 3(h) – Main Line and Underground Rail users

9.1. VIG considers that the principal effect upon main line and underground rail users during the construction of VSU will be upon them as pedestrians seeking to board or alight from services – their position is part and parcel of that of other pedestrians, as already addressed, save that their opportunities to avoid the area or take alternative routes would be much more restricted.

10. Statement of Matters paragraph 4 – VTI2

10.1. In so far as it is possible to establish how VTI2 may impact on the various transport modes during VSU, that has been addressed already (see paragraphs 4.6, 5.13, 5.14, 6.2(b) and 8.2 above).

22 January 2009

Pascal Bates
For and on behalf of VIG (OBJ/12)