

Protect Shepherd's Bush Market response to planning application

Response to planning application number: 2023/01093/FUL Application: Shepherd's Bush Market Redevelopment

We would like to make an objection to the above planning application on the grounds listed below. We want Hammersmith and Fulham's planning department to reject the proposal until strict planning obligations are agreed to by the developer. We want this objection to be uploaded on the online portal alongside the application. We would like to make a representation on the day of the application hearing.

We object to the proposals on the following grounds:

1. The proposals are a threat to the security of existing traders as open market rents would be unaffordable to the vast majority of traders

Local planning law states that redevelopment proposals for the market should *"assist market traders so they can continue to trade and remain part of the market"* (**H&F Strategic Site Policy WCRA3**). In their economic statement, Yoo Capital (YC) pledge financial support and a rent freeze for five years after construction. The key issue, however, is the need for long-term safeguards to assist traders beyond this five year period. This need was clearly established in the court judgement on the Compulsory Purchase Order (CPO) linked to the previous attempt at redevelopment, which stipulated the necessity of *"safeguards to ensure that existing businesses or new operators with similarly qualitative and diverse offerings are protected as far as possible during and after the redevelopment process"* (**Horada & Ors Vs Secretary of State**).

YC's redevelopment plan is predicated on traders signing new lease agreements on much worse terms and conditions than the existing protected Transport for London leases. Traders have not agreed to these lease agreements but if the planning permission goes through many will be in a position where it is very difficult or impossible not to sign the new leases. The new leases will lose the existing service charge agreement, which caps any increase to service charges at a maximum of 6%, and changes the way in which rents are calculated. The new leases state that after five years an open market rent review will take place. This would mean huge rent increases for traders. YC state that new rents will be determined *"based on recent actual lettings of stalls, shops and arches to new traders and comparable retail spaces"* (**SBM Economic Statement p.14**).

Some new traders are already paying significantly higher rents than older ones; given the complete lack of protections for new and incoming traders, when new traders continue to be brought in on higher rents, these will drag up rents for older traders. The comparison with 'comparable retail spaces' is also deeply worrying as there are no comparable markets to SBM in West London. Yoo Capital have stated comparisons will be made to Uxbridge Road, Goldhawk Road and Portobello Market. A typical rent per square foot in the market at present is

£10-15 per year. Recent lettings on Goldhawk and Uxbridge Roads were £27/sq ft and £41/sq ft respectively, with average rents at Portobello Market even higher. Open market rent would be unaffordable to traders and therefore violate H&F local plan guidance that *"any proposals should provide viable and reasonable opportunities for them [market traders] to stay part of the market"* (H&F Local Plan p.58).

The previous redevelopment also planned a shift to open market rent, and the court order which rejected the CPO linked to that redevelopment stated its *"ultimate conclusion was that the guarantees and safeguards were not sufficiently robust"* for *"current traders or shopkeepers to continue trading in the market"* (Harada & Ors Vs Secretary of State). YC's offer for 'long-term' support is completely insufficient. Offering training through the creation of the market academy does not constitute the strict safeguards that are needed to protect both existing traders and the character and diversity of the market.

London Plan Policy E9 states that in development plans *"where justified by evidence of local need, policies should secure affordable commercial and shop units (secured through planning conditions or planning obligations as appropriate)"* (p.269). The council should therefore follow London Plan Policy and demand a planning obligation that:

- **Plans for open market rent are dropped and rent caps are included in the lease renewals to ensure rents can increase by a maximum of 10% within the 10 year lease period.**
- **The new lease agreements maintain exactly the same level of protection as the existing protected Transport for London leases**

2. The proposals are a threat to the diversity of the market, both for the future mix of traders and local communities the market serves

Lack of future rent caps and the consequent trader displacement would violate **London Plan Policy E9 C**, which states that councils should *'prevent the loss of retail and related facilities that provide essential convenience and specialist shopping'*. **Policy 2.7.6** states that *'many town centres and high streets serve specific communities, for example they may provide specialist food or clothing that meet the cultural or religious needs of one or more particular group'* and that town centre strategies should recognise this and *'seek to meet the needs of their communities'*.

This is particularly the case for SBM, which *"is an important and distinctive part of the town centre's offer. It attracts trade from a wide area and nearly a quarter of shoppers in Shepherd's Bush visit the town centre to buy specialist ethnic food products and 8% to specifically visit the Market"* (LBHF Compulsory Purchase Order 2012, p.10). The CPO report states that *'the market also offers opportunities not available elsewhere for the local populations (particularly amongst ethnic communities) to establish small and start up-businesses in affordable premises'*. YC's ES gives *'illustrative'* examples of the types of new traders who will be attracted. However, these traders *'will not be on a fixed rent'*, and are being given short-term contracts with no protections, rather than long term leases. There are no guarantees within YC's plans to protect

the essential social role of the market, both in providing affordable goods to lower income local communities and in providing specialist goods not found nearby elsewhere to a diverse range of migrant communities.

YC's **Equality Impact Assessment** completely fails to consider the impact of rent increases for traders and the need for long-term safeguards, and the subsequent impacts for communities with protected characteristics locally who rely on the market, and so fails to address the conclusions of the CPO judgement and clauses D, G and I within Section GG1 of the **Mayor of London Local Plan 2021 (pp.14-15)**. In particular that *'those involved in planning and development must...seek to ensure that London continues to generate a wide range of economic and other opportunities, and that everyone is able to benefit from these to ensure that London is a fairer, more inclusive and more equal city'*.

H&F Local Plan Policy TLC1 stipulates that developments should 'support and protect local markets and clusters of specialist shopping' and 'negotiate planning obligations where appropriate, feasible and viable to mitigate the loss of, and/or secure or support, affordable retail space to encourage small or independent traders.'

The council should therefore demand planning obligations that:

- **Rent caps are enforced for all new traders, at a maximum of 10% above average existing rents in the market**
- **Restrictions are enforced to ensure that only small or independent traders can take up new lettings at the market**

3. The proposals fail to address the interior disrepair of the railway arches

Shepherd's Bush Market is an important and distinctive part of the town centre's cultural and retail offer. *'Heritage assets are a non-renewable resource (Hammersmith and Fulham Local Plan, Feb 2018). [Development] proposals should therefore actively avoid harm and promote developments that reconcile heritage significance with economic and social aspirations to achieve sustainable development' (Hammersmith and Fulham Local Plan, Feb 2018).*

The railway arches, which are *'historically important elements of the market, forming the backbone to the trading environment' (Horada & Ors)*, are overdue to be refurbished. SBMTA indicated in 2016 that the arches are in *"very poor physical condition" (Horada & Ors)*, contradicting Yoo Capital's assertion that *"the existing condition of the Market arches are robust"* (**SBM ES VOL1 CHP4 The Proposed Development April 2023**). The poor condition of the arches and lack of funding to repair them formed part of the basis for a legal victory in 2016 by the traders of Shepherd's Bush Market against Orion Land & Leisure, which subsequently abandoned their plans to gentrify the market (**Hammersmith Today, 8th August 2016**). Orion Land sold the majority ownership of the Market to Yoo Capital in September 2020, making Yoo Capital responsible for repair and maintenance of the arches (**London Assembly MQT on 25/02/2021 between 10:00 and 13:00**).

Whilst YC will '*clean the brickwork of the arches, restoring them to their original condition and removing paint and unsightly additions*' (**DAS CHP 5 PART 3 - Stalls, Arches, Shops**), this is insufficient to address the structural problems to the interior of the arches caused by damp. In 2016, the Mayor noted that '*OSBML are responsible for the interior curve of the arches*' (**London Assembly, 16 March 2016**); this responsibility passed to Yoo Capital after the sale from Orion.

Yoo Capital claims that "*The applicant team are working with each of the traders to secure financial measures that can be invested by each of the traders respectively to develop a personal approach to their shop front and internal refurbishment suitable for the nature of their trade*" (**SBM ES VOL1 CHP4**).

Traders have been offered £10,000 each. This indicates that Yoo Capital knows there is a problem, but the amount of money is insufficient to address the structural, damp and mould issues of the arches.

The council should therefore demand a planning obligation that:

- **Yoo Capital pledge to finance the refurbishment of the interiors of the railway arches to fix the structural disrepair and damp and mould issues**
- **Traders to provide Yoo Capital with their own quotes in order to determine the amount of money needed to refurbish the arches.**
- **Yoo Capital to provide this money to the traders for them to hire independent contractors to refurbish the arches independently, preserving their historical and cultural heritage.**

4. The proposals offer an inadequate proportion of the development to secure long term affordable housing

The proposed residential building on lot B seems well designed with a strong focus on sustainability. The scale of the 40 units largely maintains the existing character of the local area and is fitting for the site. However, in terms of the whole development, the housing component is considerably diminished by the enormous bulk of the adjacent office building on plot A. The data in **Planning Statement 6.47 Table 3 - Proposed Areas by Land Use** shows square metres for each component of the whole development which equate to: Residential Affordable Rent 4.1%; Residential Shared Ownership 2.5%; Commercial/Office 79.2%; Retail 14.1% (these figures are not entirely consistent with those given in **Environmental Statement Ch4: The Proposed Development 4.22**). This shows that the delivery of affordable housing proposed in this development has certainly not been '*maximised to make the most efficient use of the available resources*' as per the expectation in **4.4.1 of The London Plan 2021 - Ch4 Housing - 'delivering more genuinely affordable housing is a key strategic issue'**.

There is a lack of clarity and there are many inconsistencies in the sections of the documents relating to the tenure of the 40 housing units proposed in the development. In different places there are different terms used: shared ownership, intermediate, social, affordable. These are all

contested terms and there is no attempt to define them in the planning application. Furthermore, there is a significant discrepancy between **Planning Statement 9.57** and **Environmental Statement Ch4: The Proposed Development 4.26 Table 4.3** - the stated number of units of the different tenures vary by 12 of the total 40 units. Also the percentage figures stated in DAS do not correspond to those in other documents. In order to meet **LBHF Housing Strategy 2021 to 2026 Objective 4: Delivering More Affordable Homes For Residents**, there needs to be a firm commitment that the 40 housing units are safeguarded as *'genuinely affordable, prioritising council housing-level rents in new developments.'* And that they *'remain at an affordable price for future eligible households'* - **London Plan (2016) Ch3 3.10.**

The stated height of the residential block ranges between *'below 18m'* (**Fire Statement 4.2**) to *'reaches a maximum height of +27.8 AOD'* (**Environmental Statement Ch4: The Proposed Development 4.29**) and on the elevation drawings included in several documents. This is a concerning inconsistency when considering issues of fire safety. The government recently consulted on plans to make second staircases compulsory in new residential buildings over 30 metres (**DLUHC 23/12/2022**) and in February the Mayor's office introduced this rule change with immediate effect in London (**Mayor of London 10/2/2023**). However, during the consultation an alliance of professional bodies representing architects, surveyors and builders joined with fire chiefs to say *"The proposed threshold of 30 metres falls short of what we believe to be best practice. We recommend that new residential buildings of 18 metres and above are designed with two staircases. An 18 metre height threshold would better align height thresholds across the wider regulatory environment and better reflect the reality of a post-Grenfell world."* (**CIOB, RIBA, RICS, NFCC, Disability Rights UK, Inclusion London & Housing LIN and Claddag, the Leaseholder Disability Action Group**). Six years have now passed since the avoidable deaths of 72 of our neighbours in a fire caused by politicians, civil servants, architects, manufacturers, contractors and builders playing fast and loose with fire safety and building regulations. A second staircase should be added to the design of the residential block so that people will be safe in their homes.

The council should demand planning obligations that:

- **A greater proportion of the overall development be designated as affordable housing**
- **That all of the housing units are safeguarded as permanently, genuinely affordable, with a clear guarantee of a social rent tenure on all these units**
- **A second staircase is added to the design of the residential building**