

**Town and Country Planning Act 1990 and**

**The Acquisition of Land Act 1981**

**Public Local Inquiry into:**

**THREE RIVERS DISTRICT COUNCIL (LAND AT HENBURY WAY, OXHEY DRIVE, BRIDLINGTON ROAD, ST ANDREWS ROAD, THE PARADE, PRESTWICK ROAD, FAIRFIELD AVENUE AND STATION APPROACH, SOUTH OXHEY) COMPULSORY PURCHASE ORDER 2016**

**Statement of Evidence**

**Pursuant to Rule 15 of**

**The Compulsory Purchase (Inquiries Procedure) Rules 2007**

**of**

**Alan William Head**

**Head of Major Projects**

**On behalf of Three Rivers District Council**

**On matters relating to the need for regeneration and the evolution of the project.**

**28 October 2016**

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## **1. QUALIFICATIONS AND EXPERIENCE**

- 1.1 My name is Alan William Head. I have a degree in Civil Engineering from Swansea University and subsequently qualified as a Chartered Building Surveyor.
- 1.2 I have been employed by Three Rivers District Council (TRDC), the Acquiring Authority, since the beginning of 2009 and am Head of the Major Projects section of the Council, having previously been Head of Asset Management. In my current role I am accountable for the direction and viability of the Council's major development and construction projects, facilitating regeneration, multi-tenure housing and other commercial activities. For the past five years I have been the Lead Officer for the South Oxhey Initiative (SOI) thus taking the project from its strategic planning origins, through the concept and procurement stages to the current day with a Developer in contract to deliver the agreed scheme. Early stages of the works, not requiring the CPO, have commenced on site.
- 1.3 Prior to my role at TRDC I have worked in the private property development sector for some thirty years, primarily in senior roles for a number of major housebuilding companies. Whilst these roles varied in the specifics, I was always actively involved in site assembly and acquisition, project viability and delivery of the resultant schemes.
- 1.4 A good example of my experience, which is relevant to my responsibilities in the SOI project, is the negotiation, acquisition and subsequent development of the site and buildings of a substantial city centre General Hospital. The site included other commercial uses and residential accommodation. I took the lead in competing for the site, securing the opportunity on commercial terms, negotiating vacant possession with multiple land interests, achieving a complex planning consent and ultimately delivering the mixed tenure project.
- 1.5 In addition to my role at TRDC I was, until the end of July 2016, on the main board of Network Homes, a substantial London housing association and I chaired its Investment Committee for the last three years. This role has been of benefit to my work on the SOI, particularly in the areas of affordable housing, project governance and the financial evaluation of major development activity.

## **2. SCOPE OF EVIDENCE**

- 2.1 My evidence covers:-
  - 2.1.1 A description and the characteristics of the Order Land and the need for regeneration (section 3).
  - 2.1.2 The evolution of the project through the early days of public and stakeholder engagement and its connectivity to the Council's strategy (section 4). In this respect the evidence of Adrian Barker should be read alongside mine.

- 2.1.3 The procurement process (section 5).
  - 2.1.4 Selection of the preferred developer partner and concluding a Development Agreement with Countryside Properties and Home Group including the Council's approval proceedings (section 6).
  - 2.1.5 Making the CPO and appropriation of land for planning purposes (section 7).
  - 2.1.6 Project funding and delivery (section 8). The evidence of Mike Woolliscroft is relevant to these matters.
  - 2.1.7 The benefits of the scheme (section 9).
  - 2.1.8 Other initiatives in South Oxhey (section 10)
  - 2.1.9 Response to Thrive Homes objections (section 11). The evidence of Graeme Lawes also deals with this general subject matter.
  - 2.1.10 Conclusions (section 12)
- 2.2 My evidence is to be read along with the evidence of Mr Adrian Barker (Planning), Mr Graeme Lawes (acquisitions, negotiations and other issues) and Mr Mike Woolliscroft (Countryside Properties).

### **3. DESCRIPTION OF THE ORDER LAND AND THE NEED FOR REGENERATION**

- 3.1 The land included within the Order to be compulsorily acquired is shown edged red coloured pink being the Order Land and shown on the Order Maps (CD 1.2). The total area of land to be compulsorily acquired is approximately 38,400 sq. m. (9.49 acres). The Council is the freeholder of the majority of the Order Land. In addition to the Order Land there are three other sites, known as the Satellite Sites, which form part of the project but do not require a CPO.
- 3.2 South Oxhey lies some fifteen miles from the centre and to the north west of London and two miles south of Watford. It is well connected to the northern and western Home Counties and beyond, with good linkages to the M25 and M1. Carpenders Park Railway Station, adjacent to the site, and on the London Overground line, provides convenient access into London Euston station and the wider public transport network.
- 3.3 South Oxhey is essentially a large urban estate almost exclusively made up of Council built properties, although many of these flats and houses are now privately owned. The estate was built primarily in the 1950's to help alleviate housing pressures in London. The central parts of South Oxhey now have the appearance of a run-down estate, dominated by inadequate

housing and out-moded shops, all in need of regeneration. I refer to the photographs in CD 6.13.

- 3.4 The Core Strategy (CD 2.1) makes specific references to South Oxhey being “particularly affected by income, barriers to education, skills and training, living environment and crime and disorder”. It goes on to identify an aim of reducing inequality across the District “in particular through regeneration of the South Oxhey area”.
- 3.5 The South Oxhey community most impacted by the proposed development is the central part of South Oxhey (LSOA 12D) as defined by the Index of Multiple Deprivation rankings published in 2015. This area ranks as one of the 10% most deprived in England.
- 3.6 The wider neighbouring area of South Oxhey (LSOA 12B) in the rankings is in the bottom 30% and the whole of South Oxhey falls into the bottom 50%. The need for regeneration and investment action in South Oxhey is therefore very evident.
- 3.7 Relative deprivation has increased since 2010 in employment, skills, education, health and housing but on the positive side crime and disorder and environmental conditions have improved over the same period, according to the index.
- 3.8 Looking at income and employment levels, around 25% of the community are ‘excluded’ from work and employment levels are also low on a comparative basis. There is clearly a need to create greater levels of access to employment for local residents.
- 3.9 The central parts of South Oxhey have been in a state of decline for some time. Several of the structures have become defective, redundant or semi-derelict, and much of the area is outdated and not fit for purpose by modern standards. There is a lack of general amenity and parking provision in the core area, which is in contrast to the outer areas of South Oxhey which have substantial open space and woodland areas.
- 3.10 As well as the built form of central South Oxhey being in decline, the current retail provision is very poor despite the Council having suppressed rental levels over a long period of time. A retail study commissioned by the Council covering the whole Three Rivers District and prepared by Lambert Smith Hampton in 2012 identified that some 85% of the main food expenditure from the local catchment area went outside South Oxhey.
- 3.11 Accordingly this regeneration project has as its core requirement the need to bring about significant improvement in the design and specification of the buildings in order to make a step change to the local environment and arrest the downward spiral of deterioration suffered in the area. The primary aims of this project are therefore to provide modern and well-designed mixed tenure housing with current specification retail provision. This will undoubtedly address the problems and provide a sustainable environment and a new central focus for the district.

- 3.12 The Order Land is in two parts, the larger main area containing the shopping precinct at street level with residential above, and which includes the Ox Public House, a public Car Park with garages, an electrical sub-station and a former scout hut, now demolished. These are all located between the adopted highways of Fairfield Avenue, Henbury Way, Oxhey Drive and Prestwick Road. The second area being Station Approach, located on the opposite side of Prestwick Road and to the west of Carpenders Park Railway Station, which just contains commercial premises.
- 3.13 The main area buildings range in height from two to four storeys, with first floor access terraces serving the residential units above the shops. The central St. Andrews Road is a relatively wide pedestrianised street with limited hard and soft landscaping. Parking bays front the shops along The Parade and Bridlington Road. The Order Land includes 78 commercial units.
- 3.14 Servicing for the shops and access to the flats above is achieved via Fairfield Avenue to the north and Oxhey Drive to the south. Within the rear areas, are three storey flatted developments known as Luffenham House, to the north, and Pennard House to the south. These blocks have very limited parking and amenity areas.
- 3.15 There are 127 existing residential units in total within the Order Land. These are either, privately owned (on a long leasehold basis) and self-occupied, privately owned and let out by those owners as an investment to their tenants, or owned by Thrive Homes (a locally based Housing Association) and let by them on a social rent basis.
- 3.16 Station Approach provides access to Carpenders Park Railway Station and consists of single storey small commercial units, a former bank, a vehicle workshop, a bus turning and passenger drop off area with a taxi stand and a public car park to the rear.
- 3.17 The Thrive Homes social rented housing was acquired by them, from the Council, in 2008 under a stock transfer arrangement. Those elements comprised in Pennard House and Luffenham House are held by Thrive as freeholder and they are the long leaseholder of the remainder of that housing, the Council being the freeholder. All Thrive tenants will be rehoused in the new development constructed as part of the Scheme; possession of any existing property would not be required until a replacement property is available and has been offered to the tenant. It is therefore possible for them to have continuity of occupation if they accept the property on offer.
- 3.18 The car park and garages are owned freehold by the Council. The garages were let on weekly tenancies which have now been terminated, and are vacant, without recourse to the exercise of CPO powers.

- 3.19 The commercial units are predominantly retail shops but also include a used car sales yard and servicing garage, a public house and a former taxi office. The properties are owned freehold by the Council and subject to occupational leases. There are 3 commercial tenants of units which have residential accommodation incorporated.
- 3.20 The Council has already secured vacant possession of various properties within the Order Land as detailed in Mr Graeme Lawes evidence. However in order to ensure that the regeneration of the area and development can take place it is necessary for the Acquiring Authority to compulsorily acquire the land needed.
- 3.21 The purpose of the Order is to enable the delivery of the Scheme to facilitate the carrying out of redevelopment of the South Oxhey Central area and ensuring that clean title to land can be transferred from the Acquiring Authority and interests granted to the Developers in a timely manner, free of encumbrances which could otherwise prevent development. The Order is also necessary to ensure site assembly in a timely manner.

#### **4. PUBLIC AND STAKEHOLDER ENGAGEMENT**

##### **4.1 Local Plan**

The Local Plan was adopted in July 2001. It included a number of policies relating to South Oxhey and in particular a "South Oxhey Regeneration Scheme" which was one of several schemes identified to ensure the vitality and viability of various centres (the others were Abbots Langley and Chorleywood). It was envisaged that regeneration of those settlements would be implemented during the Plan Period (1996 to 2011) subject to funding being available from the Council and its public and private sector partners. Whilst this regeneration did not come forward during that plan period, the Council did commence work on a strategy for regeneration of the South Oxhey area.

##### **4.2 Terence O'Rourke report**

- 4.2.1 Terrence O'Rourke (TOR) were appointed in November 2010 to advise the Council on the Masterplanning aspects of the South Oxhey Initiative. They facilitated a series of workshops and consultation events between March and September 2011 which culminated in a final report published in December 2011. This report was presented to both the Council's Executive Committee and the South Oxhey Steering Committee, (a body comprised of Parish, District and County Councillors), during January 2012 (CD 5.5).
- 4.2.2 The evidence of Adrian Barker details the issues but in summary the TOR report covered the wide ranging matters from the masterplanning consultation events, including retail provision, residential design and condition, community facilities, parking, open space and general estate condition.

- 4.2.3 As part of the consultation, public votes were sought on four options:
- (a) do nothing;
  - (b) complete refurbishment;
  - (c) part refurbishment and part redevelopment; or,
  - (d) complete redevelopment.
- 4.2.4 The two most popular options were complete refurbishment and complete redevelopment. The Council committed to considering these two options in greater detail and instructed work from Lambert Smith Hampton referred to at section 4.3 as below.
- 4.2.5 Although recognising the preference of some residents in South Oxhey for refurbishment of the 'heart', the TOR report (CD 5.5) ultimately suggested that a high level of intervention should be pursued. Indeed complete redevelopment would provide a mixed-use development to act as a focus for the community whilst delivering significant retail improvements. It would also facilitate public realm enhancement to make most efficient use of available space and improve the image of the area. It would provide additional housing in close proximity to the station and offer the most opportunities to respond to planning policy requirements.
- 4.2.6 The recommendations outlined how a mixed- use development could be progressed and recognised the need for market testing, survey work, and preparation of a Master plan, in line with the parameters plans, as part of the emerging Site Allocations Development Plan Document (CD 2.4). The Master plan would also form the basis for any planning application submission.

### 4.3 **Lambert Smith Hampton (LSH) reports**

- 4.3.1 To review the two shortlisted options referred to at 4.2.4 above, Lambert Smith Hampton (LSH) was instructed by the Council in autumn 2011 to prepare two reports for the Council. The first report appraised the properties within the Order Land to assess their condition and suitability for repair and refurbishment and the second considered the viability of the area for redevelopment.
- 4.3.2 In the light of LSH's first report (dated November 2011) it was concluded that:
- (a) The existing buildings were already over sixty years old and the design and facilities of the properties reflected the social and economic factors that existed at the time of construction and they were therefore not suited to modern day retail;

- (b) It was also evident that the buildings required significant financial investment beyond the routine maintenance provided by the Council;
- (c) The existing buildings could be modernised and adapted to perform for a further period, but this refurbishment would require compromise in comparison to their complete redevelopment, in terms of their layout, accessibility and energy efficiency;
- (d) A comprehensive programme of reinvestment would need to be undertaken to improve the feel of the area and provide any chance of alleviating the social decline currently being experienced. This would be very expensive and would achieve limited success; and
- (e) In order to implement this comprehensive programme, the existing residents would need to be rehoused for the period of the works (which would include new water, gas and electrical services being installed) and the existing retailers would suffer varying degrees of disruption. Compulsory purchase may be necessary to proceed with these works.

4.3.3 LSH's second report (also dated November 2011) considered the principle and viability of a comprehensive development and the requirement to fund further work necessary to appoint a development partner.

#### 4.4 **South Oxhey Initiative**

4.4.1 The TOR South Oxhey Initiative report brought together engagement with stakeholders, the public and other technical work to produce a Masterplan to set out future development in South Oxhey in order to deal with the challenge of reducing inequality in this part of the District. It was used to inform the emerging Site Allocations DPD and form the basis for any town centre planning application. The Site Allocations DPD (CD 2.4) was adopted in November 2014 and includes at Chapter 9 specific reference to the SOI and planning policies for regeneration of the area.

4.4.2 On 30th January 2012 the Council's Executive Committee agreed (CD 5.1) that the Council progress with the regeneration of the heart of South Oxhey and that regeneration be in the form of complete redevelopment for reasons including;

- (a) The retention of a greater proportion of local retail spend creating a more sustainable community;
- (b) Least exposure to development risk for the Council;

- (c) Lowest requirement for capital funding and ultimately self-financing;
- (d) Being the driver for a wider area improvement;
- (e) Cross-subsidy will allow investment in the public realm;
- (f) Providing modern housing to accessibility and sustainability standards;
- (g) Opportunity for residents to do daily shopping locally rather than travel elsewhere;
- (h) Potential income stream without management issues; and
- (i) Potential for external grant funding.

4.4.3 The evidence of Adrian Barker sets out the specific planning policies supporting the proposed redevelopment of South Oxhey in terms of regeneration and improving the housing stock quality.

## **5. PROCUREMENT PROCESS**

- 5.1 It was determined that the development envisaged would constitute a “public works contract”. It would therefore be necessary to run a developer selection process in accordance with Public Procurement Regulations.
- 5.2 Initially a procurement process using the Homes and Communities Agency’s Developer Panel was pursued but that ultimately failed to secure a developer of suitable expertise and appropriate financial standing.
- 5.3 Accordingly the current procurement process commenced with a Contract Notice being advertised within the Official Journal of the European Union (OJEU) on 10th September 2014 and also published in the 13th September 2014 issue of the Estates Gazette, a leading journal for the UK property market. This notice invited expressions of interest from the entire development market, with prospective developers invited to complete a Pre-Qualification Questionnaire (PQQ). By the return deadline of 13th October 2014, responses were received from eleven companies. All such companies were “substantial names” in the development sector and the level of interest was considered to be very satisfactory.
- 5.4 The PQQ responses were evaluated against a range of criteria designed to test the capability and financial standing of prospective developers to deliver the SOI. Five bidders were shortlisted and invited to participate in a competitive dialogue process. These bidders were issued with an “Invitation to Participate in Dialogue” (ITPD) document on 28th October 2014 which set out instructions for the competitive dialogue process.

- 5.5 The first stage of the ITPD process involved the preparation of “Outline Solutions” which had two principle purposes. Firstly this allowed bidders to test a range of their initial development ideas with the Council, who for themselves were able to refine their requirements. Following a period of structured dialogue meetings, four bidders (one having previously withdrawn from the process) submitted their Outline Solutions on the 19<sup>th</sup> December 2014.
- 5.6 Then (secondly) the evaluation of those submissions resulted in the shortlist being reduced to three parties who were invited to enter into another round of dialogue with instructions to develop detailed proposals. During this stage further meetings were held with each of the bidders on specific topic areas and appropriate external advisors attended relevant sessions. Each of the bidders was required to engage with the Council’s planning officers, Hertfordshire CC officers (in its capacity as Highways Authority) and the Homes & Communities Agency. Towards the end of this stage one of the remaining shortlisted bidders advised that they were withdrawing from the process.
- 5.7 Dialogue was closed on 20<sup>th</sup> March 2015 and two final tenders were received on 27<sup>th</sup> March 2015.

## **6. SELECTION OF PREFERRED DEVELOPER AND THE DEVELOPMENT AGREEMENT**

### **6.1 The Tender Process**

- 6.1.1 The final tender submissions from Countryside Properties (UK) Ltd (CP) and United House Developments (UH) were the subject of detailed evaluation and clarification over wide ranging topic areas. For reasons of commercial confidentiality, the following section relates only to a summary of the ultimate winning bid presented by CP.
- 6.1.2 CP were proposed as the lead bidder and their ultimate UK parent company were offered as guarantor. CP would be the residential and commercial developer and the main design and build contractor with responsibility for marketing and sales. The Home Group (HG), a Registered Provider, was part of that bid and they would be responsible for the management of the affordable housing component of the development.
- 6.1.3 The design submitted by CP would create an integrated community, with a commercially strong retail offering at its heart. The proposal included all three Satellite sites and the Core Site. It comprised some 507 residential units, 96 of which would be for affordable rent, and approximately 40,000 sq. ft. of commercial provision plus an estimated 12,000 sq. ft. at Station Approach. The planning strategy proposed by CP was that of a single hybrid planning application for the entire development with certain phases in outline and to be the subject of

subsequent reserved matters applications. The suggested timetable for achieving the necessary consents was realistic.

- 6.1.4 The retail strategy proposed by CP was informed by their advisor's independent market research and was based on realistic financial parameters. As well as provision of smaller units to accommodate the re-location of some of the existing traders, a mid-sized food retail store was promoted to address the current lack of provision in this regard and provide a "footfall draw" for the other retail outlets.
- 6.1.5 CP submitted a tenant decant strategy which identified its approach for an early development of the Satellite Sites and also outlined the basis upon which the Home Group would provide support to existing residential tenants within the scheme boundary.
- 6.1.6 It was proposed that the Satellite Sites would be developed generally in advance of the main Core Site and that CP were also interested in commencing development off Henbury Way in advance of a CPO being confirmed. CP proposed that they and HG would be able to adopt measures, found to work well from their experience in other schemes, for the support of residents affected by the development. Detailed proposals as regards Estate Management both during the construction stage and post development completion were included in their bid.
- 6.1.7 The CP financial offer comprised staged fixed capital payments to the Council linked to milestone events and also a revenue stream to the Council derived from residential ground rents. CP also offered planning overage and profit overage mechanisms.
- 6.1.8 CP submitted an indicative project programme showing timescale assumptions for all aspects of the development including procurement, planning, build periods and sales activity. In overall terms it was indicated that the programme would be concluded by the end of 2022.
- 6.1.9 The procurement culminated in an evaluation process that had both qualitative and financial measures. The Council was assisted in the evaluation stage by Levitt Bernstein Architects, Terence O'Rourke Planners, Clarke Willmott Solicitors and Deloitte Real Estate in their respective specialist areas.
- 6.1.10 The outcome of the evaluation process was concluded at a moderation meeting on 29<sup>th</sup> April 2015 and on the basis of the evaluation and the fact that they have a proven track record of delivering regeneration schemes of a similar scale as that envisaged for the SOI, Countryside Properties with Home Group would be put forward as the Council's preferred bidder. Evidence of the Developer's extensive

experience in successfully delivering regeneration schemes is set out in section 4 of the evidence of Mike Woolliscroft.

## **6.2 Selection of the Preferred Bidder**

The recommendation that CP and HG be selected as the Council's preferred bidder was agreed at an Extraordinary meeting of the Council's Policy & Resources Committee on 20<sup>th</sup> May 2015.

## **6.3 The Development Agreement**

6.3.1 The Policy & Resources Committee on 21<sup>st</sup> July 2015 considered various options as to the definitive boundary of the development. It agreed the recommendation that Station Approach and the Ox Pub sites are included from an urban design and place making perspective but that the William Morris and Kingdom Hall sites would be excluded as they constituted planning and CPO risks.

6.3.2 As part of the final due diligence before entering into the Development Agreement, further work was done on the detail of the Council delivering vacant possession of the site in accordance with the development programme, the issues surrounding the need for a CPO and pre-planning application discussions to refine the proposal in advance of an application. The Council had already secured an allocation of affordable housing grant from the Homes & Communities Agency for part of the scheme and the arrangements to transfer that allocation to the Home Group had to be agreed. These various matters took place during the middle of 2015.

6.3.3 The Council's Policy & Resources committee on the 13<sup>th</sup> October 2015 considered the position regarding the provision of affordable housing in the CP scheme. The proposed re-provision of 96no. social rented homes was in accordance with instructions in the procurement process and assisted with the overall delivery of the project at "no nett cost" to the Council, bearing in mind its responsibility to secure vacant possession of the entire site at its own cost. The committee agreed with the recommendation that it would not require more affordable housing to be provided in the CP scheme as it stood, but that provision should be made in the Development Agreement for the Council to acquire more units for those purposes should the project finances so allow.

6.3.4 The terms of the Development Agreement were approved for exchange between the parties at the Council's Policy & Resources committee and then Full Council on 2<sup>nd</sup> November 2015. The parties' exchanged signed copies and completed the agreement on the 18th December 2015.

6.3.5 The Development Agreement contains the following key provisions:-

- (a) Countryside Properties (UK) Limited (Countryside) takes on the principal role of the developer for the entire project, with its obligations guaranteed by Copthorn Holdings Limited, the current holding company of the Countryside Group
- (b) Countryside is carrying out the development jointly with Home Group Development Limited (HGDL) on a 50/50 basis. HGDL is providing 50% of the funding for the private development and will benefit from 50% of the profit from the private development. Home Group Limited (the Registered Provider) will fund and take over all the affordable/social rented units on the scheme.
- (c) The development encompasses a high quality regeneration of the core site. The initial part of the development will comprise the construction of 48 social rented units with 8 private housing units to be delivered on three "satellite sites" at Hayling Road, Hallowes Crescent and Maylands Road. The remaining social rented units (a further 48 are to be provided) and the balance of the private housing, food store and retail will be carried out on the core development site in phases and in accordance with certain key requirements relating to the types of housing which are set out in the development agreement. The development of the first 48 social rented homes will be built on the Hallowes Crescent and Maylands Road satellite sites and must be practically complete by March 2018 to secure the HCA grant funding of £2,830,000.
- (d) The parties have agreed that the Council will have the right to request Countryside to convert private housing units in one or more of three blocks in the final phase to affordable housing units, subject to an adjustment in the land price the Council receives to reflect this.
- (e) The satellite sites will be developed first (with all conditions having now been satisfied for the drawdown of the leases in respect of these three sites), together with Phase 1A (currently comprising the garages and surface car park adjacent to Henbury Way) and thereafter Phase 1B (currently Station Approach). Phase 1B may be drawn down and built out in sub phases, subject to the availability of vacant possession of the existing properties.
- (f) In order to enable the development of Phase 1A, it will be necessary to provide a temporary car park for local businesses and the public to use until permanent replacement car parking has been delivered as a later phase of the scheme. An undeveloped site on Henbury Way has been identified for a temporary car park. The Development Agreement provides for Countryside to enter this land under licence to lay out a temporary car park, which the Council

will have responsibility for management. Following completion of the permanent public car parking in the scheme, Countryside will be required to reinstate the Henbury Way site as a reshaped area of public open space.

- (g) The Council's and Countryside's obligation to enter into a lease of a phase (and for Countryside to then pay for the phase and carry out the building works) is subject to the various lease drawdown conditions first being satisfied (largely related to obtaining approval of reserved matters and road closure orders) before various end dates.
- (h) Countryside will make phased payments over the course of the development.
- (i) In addition to the price payable for land there is also a mechanism for Countryside to pay the Council an overage which is a proportion of its gross private proceeds of sale, after exceeding a threshold (subject to increase in line with increases to the BCIS Index from the date of the Agreement to the date of payment and an adjustment for sales incentives).
- (j) The form of the lease also imposes an obligation on Countryside (as tenant) to pay ground rent throughout the Lease term over the entire development. When fully occupied, this generates revenue to the Council of about £115,000 per annum. The ground rent is subject to review in line with the retail price index every 10 years.
- (k) Other than in respect of Phases 1A and 1B, none of the leases on the core development site can be drawn down until the re-provision on the satellite sites of no fewer than 48 social rented units has been practically completed.

## **7. MAKING THE CPO AND APPROPRIATION OF LAND FOR PLANNING PURPOSES**

7.1 Graeme Lawes evidence summarises the steps taken to make the CPO. The Council has complied with its public sector equality duty when making the CPO. The Council's Community Partnerships Unit carried out a "Form A" Relevance Test in accordance with the Council's Equality Policy. In summary, this concluded that no protected groups were likely to be negatively affected by the CPO and the Scheme so that a Second Stage Assessment was not required. A record of the decision is found at CD 6.11.

### **7.2 Appropriation**

7.2.1 As already referred to in paragraph 3.1, all of the interests in the Order Land which are not already in third party ownership are owned freehold by the Acquiring Authority. The Council undertook a review of the basis in which all of this land is held to understand the purposes of the ownership. A review concluded that

although the Acquiring Authority's interests have been acquired and appropriated for various planning purposes in the past it was prudent to appropriate the land again for planning purposes in accordance with the regeneration scheme now proposed.

7.2.2 On 21st March 2016 the Council resolved to appropriate interests within its freehold ownership and as listed in the Order for planning purposes to ensure that all the interests held by the Acquiring Authority are held for the redevelopment purposes now proposed.

7.2.3 I understand that a local authority can appropriate land for any purpose for which it is authorised to acquire land by agreement. The appropriation process is set out in the 1972 Act Section 122(1) which provides:

“Subject to the following provisions of this section, a principal Council may appropriate for any purpose for which the Council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation; but the appropriation of land by an Council by virtue of this sub-section shall be subject to the rights of other persons in, over or in respect of the land concerned.”

7.2.4 Whilst the Acquiring Authority currently holds the land for various purposes including planning purposes, it is clearly required for regeneration. The Acquiring Authority resolved that all the land within the Order Land should be appropriated for planning purposes prior to its disposal to Countryside.

7.2.5 In addition to the land within the Order Land being appropriated for planning purposes the Council also resolved to appropriate the land within the Satellite Sites for planning purposes. The Council followed the statutory process which applies in connection with the elements of the Satellite Sites which is also held as public open space by first advertising its intention to appropriate. The Council also advertised its proposal to also dispose of the land to Countryside.

### **7.3 Effect of Appropriation and CPO on third party rights**

7.3.1 The appropriation process is a statutory power which can deal with private rights of way and other easements over the Order Land. On any compulsory acquisition the Acquiring Authority can use section 236 of the 1990 Act to extinguish private rights of way across the Order Land. For all other easements and where any land is acquired by agreement the Acquiring Authority is able to rely upon the provisions of Section 237 of the 1990 Act if land has been appropriated for planning purposes.

- 7.3.2 The Acquiring Authority has this statutory power to override easements, rights of way and restrictive covenants affecting land. Section 237 authorises the overriding of any private rights (such as restrictive covenants and including rights of light) affecting the use of land which is held for planning purposes where development is carried out in accordance with planning permission. The power extends not only to development by the local planning authority itself but also to any person deriving title from it. That being so, statutory undertakers are exempt from the provisions of Section 237 such that their rights cannot be overridden. Where the Council does not need to exercise CPO powers for any interest within the Order Land – such as the garage sites then the appropriation of that land means that third party rights in that land can still be overridden.
- 7.3.3 The ability to interfere with these rights is important in the context of enabling the development to proceed. Whilst the power exists to override such rights it does not prevent such rights being compensated. Section 237(4) of the 1990 Act provides that compensation will be payable to those parties whose interests have been affected by the appropriation. The justification for proceeding with any appropriation was set out in the Council's reports of 21 March 2016, given the need for comprehensive redevelopment within the relevant plots.
- 7.3.4 Whilst not forming part of the Order Land the Council can also override third party rights which affect the Satellite Sites having undertaken the appropriation process for those parcels as set out above.

## **8. PROJECT FUNDING AND DELIVERY**

- 8.1 The commerciality of the Development Agreement between the Council and the Developers is predicated upon a risk sharing approach whereby the Council take responsibility for funding the acquisition and delivering vacant possession of the site and the developers are tasked with maximising value from the scheme and paying an income made up from phased fixed capital receipts, ground rent and potentially an overage for the land to be transferred. The price offered by CP is competitive in that it is in excess of the under bidder and based upon suitable assumptions from the Council's perspective.
- 8.2 The Council's Executive Committee (now the Policy & Resources Committee) agreed in 2011 that it would provide budgetary support for the establishment of the SOI project and ultimately made a budget of £2.1m available over time to facilitate the process. To date some £1.8m of that provision has been expended to bring the project to its current status.
- 8.3 The Council's Policy & Resources committees on 7th December 2015 and 25th January 2016 considered reports on the financing of the SOI project. Additional to the "facilitating" monies referred to above, it was agreed that the expenditure of further monies necessary to fund the

CPO process, and the total costs of land acquisition was duly authorised. Those costs were based on professional advice.

- 8.4 The December meeting also considered the Council's estimated costs, as referred to at section 8.3, and matched them against the income, arising from the land value that CP would ultimately be paying for the leasehold interests. The (positive) difference between income and cost provides for a residual land value (RLV), which accrues to the Council. That RLV has to be sufficient, taken as an investment, to replace the existing rental streams the Council is giving up. On that basis there is effectively "no nett cost" to the Council for their participation in the project. Independent advice was also received from Deloitte Real Estate confirming that the Council in following the procurement as adopted would be receiving "best consideration" for its land.
- 8.5 The January meeting considered various ways in which the required project funding could be best provided, including the availability and likely cost of money from external sources, such as the Public Works Loans Board. It was ultimately agreed that the project would be best funded through the use of the Council's own cash investments and reserves. The Council has sufficient funds to meet these costs while discharging its other functions.
- 8.6 The Developer's funding arrangements were considered as part of the evaluation process and are set out in section 7 of Mike Woolliscroft's evidence.

## **9. THE BENEFITS OF THE SCHEME**

- 9.1 The proposed redevelopment will improve the quality of life of those living and working in the South Oxhey area. The Scheme will renew the economic vitality of South Oxhey by replacing a dated retail centre, containing many of the typical high street retail problems, with a new vibrant district centre.
- 9.2 Recent economic development studies have highlighted the low level of economic activity in South Oxhey compared to its potential. For example 86% or about £22m of its potential convenience retail spend is expended outside of the area. When complete the new retail centre will be more concentrated to focus footfall for businesses, enhancing their viability and sustainability. The new facilities will contain an anchor foodstore and will be more physically attractive and varied to win back shoppers being lost to other centres.
- 9.3 By halting the degeneration of the current shopping centre the scheme aims to safeguard local employment in retail and related uses. In addition, during construction a significant number of construction jobs will be created. The Council's appointed development partners Countryside and Home Group will be able to facilitate training and apprenticeship opportunities for local people, as well as focussing on local labour sources.
- 9.4 The Scheme will contribute to the social well-being of South Oxhey by creating high quality

public spaces, such as Market Square, that are attractive and welcoming and encourage a sense of community. It will also provide a significant number of new homes built to modern standards that will benefit residents in terms of accessibility, energy efficiency and choice of tenure from private sale to social rent. Importantly the scheme has been designed to minimise opportunities for crime and anti-social behaviour compared to the current facilities and so will also feel safer.

9.5 As well as being more physically attractive, the scheme is designed to enhance environmental well-being by reinforcing the district centre in terms of density to better exploit the sustainable location, particularly the links to Carpenders Park Station, as well as incorporating other environmental benefits such as brown roofs and solar panels.

9.6 In addition, the Council has a number of broader strategies which the Scheme will support. These include the Strategic Plan 2016-2019. This has a number of objectives including:

9.6.1 Reducing anti – social behaviour;

9.6.2 Ensuring the safety of people across the district;

9.6.3 Improving access to recreational and leisure activities for adults;

9.6.4 Reducing health inequalities;

9.6.5 Working with the community and voluntary sector to meet the needs of the local community;

9.6.6 Encouraging business and championing the local economy;

9.6.7 Improving or facilitating access to housing.

9.7 The Scheme will contribute towards these.

## **10. OTHER INITIATIVES IN SOUTH OXHEY**

10.1 The Council is participating, to varying degrees, in three other initiatives which build on the outworking of the SO Initiative. These are variously referred to as the SO Leisure Centre (known as The Centre), the Health Hub and the development of properties on Oxhey Drive. These initiatives will enhance the benefits which the Scheme will realise.

### **10.2 The Centre**

10.2.1 Alongside the provision of the new district centre and housing, the Council is about to improve the current leisure and sports facilities in South Oxhey.

10.2.2 It is currently procuring a new leisure operator and it is intended that they will extend and improve the current sports centre, “The Centre”, adding a swimming pool. The procurement exercise is underway and will be complete in May 2017 and it is expected that the new facilities will be available to residents in South Oxhey in 2020.

10.2.3 It is expected that this will have a significant impact on the health and well-being of local residents but also contribute to crime reduction and ASB in terms of the additional activities available for younger people.

### 10.3 **The Health Hub**

In addition the Council is working with Hertfordshire County Council and NHS Property on feasibility studies to provide a new Health Hub in South Oxhey where day care and health services can be co-located in a state of the art facility. Again this will positively impact on the health outcomes for South Oxhey residents, particularly the elderly.

### 10.4 **Oxhey Drive**

Once the main SOI project is complete it is envisaged that several of the existing buildings along the eastern end of Oxhey Drive will become available and capable of redevelopment for uses of benefit to the local community.

## 11. **RESPONSE TO THRIVE HOME OBJECTIONS**

As described at section 3.15 there are three distinct types of residential property within the Order Land, the Thrive Homes social rent units, the properties occupied by residential leaseholders, and the properties that are the subject of commercial tenancies. Accordingly the objections that have been received can also be categorised under the same three headings. The evidence of Graeme Lawes covers the objections received from residential leaseholders and commercial tenants and my statement deals solely with the discussions that have taken place with Thrive Homes and the Council’s dialogue with their tenants.

### 11.1 **The Council’s dealings with Thrive Homes**

11.1.1 As part of the early master planning stages of this scheme the Council engaged with a number of key stakeholders including Thrive Homes. The Council ran a series of public workshops and events in which Thrive Homes participated. Further details of these are included in the evidence of Adrian Barker.

11.1.2 Following the decision by the Council in January 2012 to go ahead with the redevelopment option, the Council appointed Deloitte Real Estate as advisors and commenced an intensive round of monthly meetings with Thrive Homes, at senior

level, exchanging ideas for the redevelopment of the stock and discussing arrangements to accommodate the existing tenants. The parties were however unable to reach final terms in the timetable allowed before the launch of the developer procurement exercise in October 2012.

- 11.1.3 As part of that procurement exercise Thrive Homes presented as a bidder in a consortium with Bougyes Construction and therefore direct negotiations were suspended for the duration of the exercise.
- 11.1.4 In June 2014 further talks were held with Thrive Homes regarding their aspirations on value and the Council's intention to launch a fresh developer procurement exercise as referred to at section 5.3.
- 11.1.5 During this round, launched in September 2014, Thrive Homes again chose to join one particular bidding team and it was therefore considered inappropriate to continue to discuss commercial matters during the procurement process.
- 11.1.6 However in November 2015, once the development agreement was finalised with the appointed developer, meetings resumed. One of the joint developers, Home Group, was a Registered Provider (RP) and it was prepared to buy out Thrive Homes property interests at an early stage. As a result a period of time was set aside for direct negotiations between Home Group and Thrive Homes with no involvement from TRDC. An early RP to RP transfer of stock was thought to be the best option in terms of continuity for tenants.
- 11.1.7 During this time the Council was also in contact with Thrive Homes officers to check that they felt progress was being made, that they were content with this arrangement and to offer direct meetings with the Council if they were not. There were a number of email exchanges and correspondence between the Council and Thrive Homes during January, February and March 2016. Since then negotiations with Thrive have been ongoing.

## **11.2 Thrive's Tenants and their Relocation**

- 11.2.1 As part of the early master planning stages of this scheme the Council engaged with residents in the affected area. Thrive tenants were consulted through a series of public workshops and events in 2011. In addition tenants were invited to attend workshops on possible designs in September 2012 and March 2014. Further details of these are included in the evidence of Adrian Barker.
- 11.2.2 Tenants were kept up to date via the Council's website and bulletins or direct mail during the course of 2014 and once selected Home Group carried out surgeries for Thrive tenants to establish housing need and answer any questions.

- 11.2.3 Once the design had been worked up for planning the Council published its “Guidance for Thrive Tenants” which set out the basic offer for residents and provided contact details. See CD 6.10.
- 11.2.4 More recently Home Group and Countryside have held a further round of surgeries with resident and a “Meet the Team” event in September 2016. A detailed list of tenant contact by Home Group and the Council is provided at CD 6.8. Copies of relevant correspondence are provided at CD 6.9
- 11.2.5 All ninety six Thrive tenants will be provided with appropriate alternative accommodation. To minimise disruption all tenants will only have to move once to their new permanent home.
- 11.2.6 Forty eight social rent homes are being provided on the Satellite Sites for Thrive tenants living in the blocks to the North of St Andrew’s Road. These will be ready for those residents to move into early in 2018. This will release the “North Block” for demolition.
- 11.2.7 The mix on the Satellite Sites matches current housing needs of residents in the North Block as established at the time of detailed design and part of the planning application.
- 11.2.8 A further forty eight social rent homes are being provided in blocks D, D1 and N1 as part of Phase 2 of the central site. This will be complete in early 2020 in time for the re-housing of the Thrive Homes tenants currently living to the south of St Andrew’s Road. This will then release the “South Block” for demolition.
- 11.2.9 In view of the particular shortage of two bed social rent homes in the area the Council’s housing team requested that the mix for the second tranche of 48 replacement homes to be provided on the core site, contain more two bed and fewer three and four bed homes than the mix it is replacing. This is the basis of the agreement with the Developer.
- 11.2.10 All tenants from both phases will be invited to attend an allocations meeting with Home Group about 12 months before their new property is complete. At this point tenants will be able to confirm their acceptance of the new property and housing needs.
- 11.2.11 Although 96 new homes are being provided, if the property being built does not match the housing need of the existing Thrive Homes tenants at the time of moving, within any phase, then those tenants will be prioritised to bid for any available registered provider stock in the district via the Choice Based letting scheme and so will be assured of suitable alternative accommodation.

- 11.2.12 Further detail of the re-housing process is set out in Home Group's "South Oxhey Initiative Decant Charter" at CD 6.6.
- 11.2.13 The diagrams at CD 6.1 (vi) in the Core Documents set out the phasing and re-housing proposal in a graphic form.
- 11.2.14 Further detail of the communications that Home Group have already had with tenants and their analysis of housing needs and tenant preference are set out in Home Group's "Tenant Requirements and Communication" report at CD 6.5.
- 11.2.15 As a consequence the Council is satisfied that Thrive tenants will be assured of options for suitable alternative accommodation in the local area that fit their needs.

## **12. CONCLUSIONS**

- 12.1 In conclusion the Council considers that the case for compulsory acquisition of the Order Land necessary to facilitate the redevelopment and regeneration pursuant to the South Oxhey Initiative is strong and compelling. It is rooted in a robust analysis of problems that currently exist in central South Oxhey in terms of the physical environment and the provision of a sustainable local retail offer.
- 12.2 There is an adopted planning policy basis for the proposed intervention, appropriate community engagement has taken place which resulted in support for the Council's proposals.
- 12.3 The Council has funding approved to pursue site acquisition in the event that the Order is confirmed and it has appointed a suitably qualified developer. A hybrid planning permission is in place for the site which includes detailed planning for the earlier phases of the scheme and the Council therefore does not envisage that there will be any impediments that would be likely to prevent the scheme being delivered in due course.
- 12.4 It is considered that the Order is necessary to facilitate redevelopment and will contribute to economic, social and environmental well-being. The Order is therefore commended to the Secretary of State. In the light of the totality of the evidence and the Council's submissions, I respectfully request its confirmation on behalf of the Council.