

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

Proof of Evidence

Pursuant to Rule 15 of

The Compulsory Purchase (Inquiries Procedure) Rules 2007

of

Graeme Lawes BSc (Hons) MRICS

On behalf of Three Rivers District Council

On matters relating to compulsory purchase

28 October 2016

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1. INTRODUCTION

Qualifications and Experience

- 1.1 I, Graeme Lawes, have been a Member of the Royal Institution of Chartered Surveyors (RICS) since qualification in 2000. In addition I hold a Bachelor of Science Degree in Land Management from the University of Reading and have been a member of the Compulsory Purchase Association since its inception in 2002.
- 1.2 Following graduation I joined GL Hearn, a privately owned practice of planners and chartered surveyors where, after qualification, I specialised in providing advice on compulsory purchase and compensation matters. In 2006 I joined Drivers Jonas LLP to continue in a similar role.
- 1.3 In March 2010 Drivers Jonas LLP merged with Deloitte LLP to create Drivers Jonas Deloitte. In January 2013 the Drivers Jonas name was rebranded 'Deloitte Real Estate.
- 1.4 Deloitte LLP offers professional services to the UK and European market. With over 14,500 people in 28 offices in the UK and Switzerland, Deloitte has the broadest and deepest range of skills of any business advisory organisation. We provide professional services and advice to many leading businesses, government departments and public sector bodies, and publish many influential studies and thought leadership pieces. Deloitte LLP is the UK member firm of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity.
- 1.5 I am currently a Director in the Real Estate team at Deloitte LLP, where I continue to advise numerous acquiring authorities, developers and claimants in respect of matters relating to compulsory purchase process and compensation.
- 1.6 I have submitted evidence on matters relating to compulsory purchase to various public inquiries, including regeneration schemes in Dover, and the London Boroughs of Ealing and Tower Hamlets. I also have experience of other similar projects that have required the use of compulsory purchase, including the regeneration of Southall Gasworks, and town centre regeneration schemes in Newbury and Bristol.

Involvement with the Project

- 1.6 Deloitte has been advising Three Rivers District Council ("the Council") in respect of various property matters, principally concerning the procurement of a Development Partner, since April 2012.

- 1.7 My role, which commenced in April 2015 has been to advise on matters relating to compulsory purchase and compensation, and specifically on matters relating to the exercise of compulsory purchase powers by the Council in order to facilitate the development of the Scheme, a housing led mixed use development known as the South Oxhey Initiative.
- 1.8 My instructions have involved working with the Council, and their development partners Countryside Properties plc and Home Group (together referred to as “the Developer”) and respective professional teams to:
- (a) establish the boundary of the Compulsory Purchase Order (“the CPO”) and the interests in land within that boundary (the “Order Land”) that are required for the delivery of a development which will achieve the objectives of the Council;
 - (b) advise on likely levels of compensation;
 - (c) engage with landowners and ensure that, where practicable, efforts are made to acquire land by agreement;
 - (d) advise on the likelihood of the Council being able to acquire the required interests in land by agreement;
 - (e) advise on arrangements for the compulsory purchase of the land; and,
 - (f) consider objections.

Scope of Evidence

- 1.9 My evidence primarily relates to the need for a compulsory purchase order to assemble the land to enable the development to proceed, together with the negotiations carried out with affected landowners, and in particular negotiations with objectors.
- 1.10 In carrying out my instructions I have been assisted by my colleagues, officers of the Council and representatives from the Developer together with their professional advisers, some of whom will also provide evidence to the inquiry.
- 1.11 My evidence covers:
- (a) a description of land included within the CPO;
 - (b) a summary of the need for the Order Land;
 - (c) consideration of the justification for the use of compulsory purchase powers, with particular reference to the “*Guidance on compulsory purchase process and The Crichel Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion*” (“the October 2015 Guidance”)(CD4.5);
 - (d) a summary of negotiations with affected landowners to acquire by agreement;

- (e) a summary of the objections and the response of the Council to these; and
- (f) my conclusions on the need for the CPO.

Terminology

- 1.12 In my proof of evidence references to the core documents are made by the abbreviation, for example, "CD1". Other proofs are referred to by the name of the author.

2. **THE LAND INCLUDED IN THE COMPULSORY PURCHASE ORDER**

The Scheme

2.1 The CPO has been made to enable assembly of the land required for the phased comprehensive development of land at South Oxhey Central, and three “Satellite Sites” at Maylands Road, Hayling Road and Hallows Crescent.

2.2 This comprehensive development, or Scheme, is known as the “South Oxhey Initiative” and will provide up to 514 dwellings (96 of which are to affordable), up to 5,137sq m of town centre uses (Use Classes C3, A1, A2, A3, A4, A5, D1 and D2), and associated landscaping, access, transport infrastructure and car parking. The Scheme, for which the Developer has outline planning consent (and detailed consent in part) is described in detail in the proof of Adrian Barker.

The Boundary of the Order Land

2.3 The boundary of the Order Land was drawn to create a site that is necessary for the construction and use of the Scheme.

2.4 With reference to the plans at CD6.1, the Scheme (and boundary of the planning consent) comprises six separate areas: the Core Site; the Station Approach area; and Henbury Gardens (which collectively comprise the area known as South Oxhey Central), and three “Satellite Sites” at Maylands Road, Hayling Road and Hallows Crescent.

2.5 Four areas of the Scheme are owned by the Council and are not subject to any third party interests. These areas the land at Henbury Gardens and the Satellite Sites at Maylands Road, Hayling Road and Hallows Crescent. These four areas are therefore excluded from the Order Land.

2.6 The remaining two areas of the Scheme comprise the Order Land.

Description of the Order Land

2.7 The Order Land comprises the Core Site and the Station Approach area. The Core Site is bordered to the north by the William Morris Hall, a public library and Fairfield Avenue, to the east by the Parade and Prestwick Road, to the south by Oxhey Drive and to the west by Henbury Way. The Station Approach area comprises the land and buildings at, and adjacent to Station Approach, which provides an access loop connecting Prestwick Road to Carpenders Park station.

2.8 The property on the Order Land can be broken down as follows. First, there are 123 residential units on the Core Site. Of these, 96 are occupied by tenants of Thrive

Homes and 27 are owned by long leaseholders. There are two qualifications to this number. First, the dwelling at no. 36 St Andrews Road has been sub-divided by the owner to provide an additional unit. Second, there are three additional dwellings (at nos. 16 and 43 Bridlington Road and no. 23 St Andrews Road) which are owned by the Council and let together with retail units. The inclusion of these units provides a total of 127 residential units (96 Thrive owned and 31 others).

2.9 The Order Land also provides 77 commercial use units on the Order Land (some of which are vacant), that provide a total commercial floor space of approximately 7,432sq m (80,000sq ft) together with an electricity sub-station and the Baden Hall Scout Hall on Henbury Way.

2.10 The Order Land is shown on the Order Plan with the land to be acquired coloured pink. No new rights are required.

2.11 A detailed description of the Order Land is contained in the proof of Alan Head.

Excluded Interests

2.12 The Council is the freehold owner of 237 of the 247 plots contained in the CPO. In accordance with the advice in the October 2015 Guidance (CD4.5), the CPO has been drafted to exclude these interests.

3. **THE NEED FOR THE USE OF COMPULSORY PURCHASE POWERS**

The Purpose of the CPO

- 3.1 The purpose of the CPO is to secure the assembly of all the outstanding interests in the Order Land. The Order Land will then be used to enable the development of the Scheme. Thus, the Council's objective in making the CPO is to bring all of the Order Land into a single ownership and to obtain vacant possession of it to ensure delivery of the Scheme.
- 3.2 The extent of the Order Land has been determined by the requirement to achieve the objectives of the Council, which are to deliver a comprehensive mixed use scheme which supports the long term needs of South Oxhey. The Council's objectives are set out more fully in the evidence of Alan Head.
- 3.3 The Council requires certainty that the Order Land can be acquired, with the timetable for acquisition being aligned with the phased timetable of the works. The table at paragraph 10.1 of the Statement of Case (CD1.7) sets out the anticipated commencement date for works and it will be noted that this covers the period from January 2017 (for some of that land within the control of the Council) to March 2020.

Number of Plot Interests in the CPO

- 3.4 There are 247 plots in the Order Land, as shown in the Order Plans, over ground and three upper levels. Of these, 237 plots are owned by the Council and the remaining 10 plots are owned by Thrive Homes Ltd ("Thrive"). Aside from the 10 plots owned by Thrive, the CPO is required to acquire the lessee and occupier interests in each plot, and to assemble the necessary land with clean title.
- 3.5 All the plots in the Order Land are permanently required for the Scheme.
- 3.6 Where practicable to do so, the Council has sought to acquire the plot interests in the Order Land by agreement, and this is considered in more detail in Section 5 of this proof.

The Statutory Basis for the Compulsory Purchase Order

- 3.7 The CPO has been made pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 (the 1990 Act) (CD4.1). Guidance to acquiring authorities on the use of this power is provided by the October 2015 Guidance (CD4.5) and in particular Section 1 of Tier 2 (Enabling Powers). I address some of this guidance below and do not intend this section to be comprehensive. In the normal way, the acquiring authority relies upon the totality of the evidence submitted, and submissions will be made on how that evidence demonstrates compliance with the Guidance.

3.8 In preparing and making the CPO, the Council has been mindful of the provisions of the 1990 Act together with the October 2015 Guidance (CD4.5). Of particular relevance are the provisions of s.226 (1) (a) of the 1990 Act.

3.9 Section 226(1)(a) of the 1990 Act provides that:

“A local authority to whom this section applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area –

(a) if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land.”

3.10 Subsection 1A provides that:

“...a local authority must not exercise the power under paragraph (a) of sub section (1) unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects –

(a) the promotion or improvement of the economic well-being of their area;

(b) the promotion or improvement of the social well-being of their area;

(c) the promotion or improvement of the environmental well-being of their area”

The October 2015 Guidance Tests

3.11 Paragraph 76 of the October 2015 Guidance (CD4.5) states that any decision about whether to confirm an order made under s226(1)(a) will be made on its own merits but goes on to identify three factors that the Secretary of State can be expected to consider in making its decision. The three matters and the way in which the Council has had regard to each of these, are as follows:

“whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework.

The compatibility of the Scheme with the planning framework for the area is set out in the proof of Adrian Barker.

“the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social and environmental well-being of the area.”

This is explained in the proofs of Adrian Barker, Mike Woolliscroft and Alan Head.

“whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land, or any other persons, for its re-use. It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired.”

As set out in the proof of Alan Head, and in my proof of evidence, the comprehensive redevelopment could not be achieved by any other means. Mr Barker’s evidence explains that redevelopment of the area is supported by the adopted development plan.

Summary of the Need for Compulsory Purchase

- 3.12 In deciding to make the CPO, the Council has considered whether they think that acquisition of the Order Land will facilitate a re-development on it, and whether such redevelopment is likely to contribute to achieving the promotion or improvement of the economic, social and environmental well-being of their area. They have concluded that acquisition of the Order Land will secure the delivery of the Scheme that will satisfy those well-being objectives.
- 3.13 The social, economic and environmental improvements that the Council expects the Scheme to deliver are explained in the proofs of evidence before the Inquiry, particularly the proofs of Alan Head, Adrian Barker and Mike Woolliscroft. Based upon this evidence I consider that such development, redevelopment and improvement is likely to contribute to the promotion and improvement of the economic, social and environmental well-being of the area.
- 3.14 In my experience, I consider it highly unlikely that the development of the Scheme to achieve those objectives would be achieved solely by negotiations without the availability of compulsory purchase powers over the Order Land. In my opinion, without the CPO, it is highly unlikely that the Scheme could proceed within a reasonable timetable.
- 3.15 The Council requires certainty that the Order Land can be acquired, with the timetable for acquisition being aligned with the phased timetable of the works. The table at paragraph 10.1 of the Statement of Case (CD1.7) sets out the anticipated commencement date for works and it will be noted that this covers the period from January 2017 (for some of that land within immediate control of the Council) to March 2020. The programme will provide for acquisition within the three year life of a confirmed Order.
- 3.16 In my opinion the Council is justified in making the CPO and has followed the guidance in the October 2015 Guidance (CD4.5). In particular, the Council has a clear

purpose for the acquisition and is satisfied that the necessary resources are likely to be available to achieve that purpose in an appropriate time-scale. There are no impediments to implementation that will not be overcome by the confirmation of the Order.

4. THE COMPULSORY PURCHASE PROCESS

4.1 The Council has made the CPO pursuant to its powers under section 226(1) (a) of the 1990 Act (CD4.1).

4.2 In doing so, the Council has followed the procedural guidance set out in the October 2015 Guidance (CD4.5) and the requirements of the Acquisition of Land Act 1981 (CD4.2).

4.3 A summary of the key milestone dates in the compulsory purchase process to date is set out below.

- (i) Exchange of Contracts for Development Agreement between the Council, the Developer and Home Group Ltd for the redevelopment of the Order Land – 18 December 2015
- (ii) Planning permission granted (subject to completion of s106 Agreement) – 17 March 2016
- (iii) Full Council resolution to proceed to make the CPO – 21 March 2016
- (iv) Making of the CPO – 26 April 2016
- (v) Expiry of objection period – 27 May 2016
- (vi) Planning permission granted – 31 May 2016
- (vii) Statement of case submitted – 21 July 2016
- (viii) Submission of proofs of evidence/written representations – 1 November 2016

5. **NEGOTIATIONS TO ACQUIRE INTERESTS AND RIGHTS**

- 5.1 The October 2015 Guidance (CD4.5) advises that reasonable steps should be taken to acquire land and interests by agreement. Through a managed collaborative effort, the Council has been seeking to achieve this.
- 5.2 With assistance from Deloitte, and wherever practicable to do so, the Council has sought to pursue negotiations for the acquisition by agreement with all owners and occupiers in Table One of the CPO. These negotiations commenced in mid-2015 (well before the CPO was made) and have been ongoing ever since.
- 5.3 To monitor the conduct and progress of negotiations, the Council has established a Land Assembly Group ("LAG"). The LAG, which meets on a two weekly basis (or more frequently if necessary) is a group comprising internal property and legal representatives of the Council and the Developer. Two members of the LAG team (Alan Head of the Council, and me) are submitting evidence to the Inquiry.
- 5.4 The tasks undertaken by the LAG include: considering the appropriate nature and basis for engagement with different categories of property interests (as considered in more detail below); monitoring and recording landowner engagement (through a shared intranet facility known as "Collaborate"); agreeing and allocating action on individual cases; considering action and issues raised at consultation events and meetings with the local shopkeepers forum; reviewing interest from existing retailers to relocate into the completed development, and other matters relating to the acquisition of property interests required.
- 5.5 Appendix 9a of the Development Agreement between the Council and the Developer (CD6.4) sets out the land acquisition strategy and identifies the process for dealing with all the different types of property interests contained in the Order Land.
- 5.6 I consider that the acquisition strategy being employed by the Council, for all the types of property interests in the Order Land, is consistent with the best practice and policies set out in the October 2015 Guidance (CD4.5).
- 5.7 A commentary on approach, strategy and progress made with the various categories of property interests within the Order Land is set out below.

Residential Property

- 5.8 Thrive Homes Ltd ("Thrive") – Thrive is a Housing Association that owns and manages 96 residential units in the Order Land. Aside from the Council, Thrive is the only freehold owner of the Order Land. The Council and Home Group Ltd have been in extensive without prejudice negotiations with Thrive to acquire their housing stock by

agreement, and this is covered in detail in the evidence of Alan Head. Together with colleagues who specialise in the valuation of affordable housing, I have been involved in these negotiations.

5.9 Tenants of Thrive – All of Thrive's tenants are in the social rented sector, and the options available to them are set out in the “Decant Charter” prepared by the Developer and included as CD6.6. The Decant Charter also sets out how the Developer and the Council will manage the decant process to ensure that statutory requirements are met and that all tenants are provided with appropriate options for re-housing based on housing need and are kept informed about the process.

5.10 In summary, the decant options are:

- i. Move to a new home being built as part of the South Oxhey Initiative, being located on either one of the Satellite Sites or the Core Site; or,
- ii. Move to other existing affordable homes in the district.

5.11 A summary of the communication with Thrive tenants is included as CD6.8.

5.12 Long leasehold owners – This group refers to residential property where a “Right to Buy” has previously been exercised against the Council or housing association. With reference to paragraph 2.8 of this Proof, and excluding Thrive's ownership, there are up to 31 residential dwellings on the Order Land. Of these, three are held alongside commercial leases from the Council and two have been acquired by the Council. Of the remaining 26, I calculate from the initial land referencing exercise and ongoing engagement that 13 are owner occupied and 13 are held as an investment. The investment properties are typically sub-let to the occupier on an assured shorthold tenancy (AST).

5.13 The Council and Deloitte have sought to engage with all the long leasehold tenants. This engagement has included: writing to set out the proposed development timetable and offer to engage in dialogue; arranging residential specific consultation days and evenings (known as “CPO Surgeries”); and, where respondents have sought a financial offer to acquire we have made arrangements to inspect property and then submitted reasoned offers to acquire.

5.14 Appendix GL1 contains copies of correspondence issued to all long leasehold interests by the Council, Countryside and Deloitte. In addition to this correspondence, my contact details were included at paragraph 23 of the Statement of Reasons (CD1.3) and at paragraph 2.4 of the Statement of Case (CD1.7) for anyone to contact who was affected by the CPO who wished to discuss matters of compensation.

- 5.15 Appendix GL1 includes copies of template letters that I wrote to all the long leasehold tenants on 11 November 2015 and 13 September 2016 that provided summary details of the Council's land requirements, and contained an invite to the CPO Surgery event. These letters were sent to all owner at their home addresses, either on the Order Land (for owner occupiers) or elsewhere (for investor owners).
- 5.16 The Council has not made unsolicited financial offers to acquire property without the owner expressing an interest in engaging and without having recently inspected the property. In my experience, such offers, which may need to be heavily conditioned, cannot be supported by reasoned judgment and are likely to be set at cautious levels. As such, they are not conducive to making progress in negotiations.
- 5.17 Many long leasehold tenants have advised they do not yet want to engage in negotiations with the Council. The existing residential property is located in the Core Site, and is required for Phase 2 and Phase 3 of the development. Possession of property for these two phases is not expected to be required until March 2018 and March 2020 respectively and many owners (particularly those affected by Phase 3) wish to retain ownership until a date closer to the date of possession.
- 5.18 As well as being offered compensation in accordance with the compensation code, long leaseholders who are eligible will also qualify for shared ownership properties in the new development.
- 5.19 Private Tenants of long leasehold owners – From my discussions with both the Council and some of the investment long leasehold owners, these are typically let on Assured Shorthold Tenancy arrangements, which can usually be brought to an end on two months notice and under which a market rent is usually paid. As such, these are normally transient in nature and the superior interest could be acquired by the Council and occupational arrangements terminated.
- 5.20 If any private tenants have issues or concerns about their arrangements, the Housing Team at the Council is obliged to provide all tenants with advice on their housing status and options. The Housing Team has drawn up a strategy to address this, and a note outlining their approach to this is contained at CD6.7.

Residential Property - Summary

- 5.21 A summary of the residential interests in the Order Land and when vacant possession is required is set out in the table below:

Summary of Residential interests relative to Phasing

Numbers of Interests	Phase 2 (expected possession March 2018)	Phase 3 (expected possession March 2020)	Total
Thrive Interests			
Social rented (managed by Thrive)	48	48	96
Other Interests			
Number of Long leaseholders – in occupation	7	6	13
Number of long leaseholders – not in occupation (private tenants)	10	3	13
Long leaseholders – acquired by TRDC	1	1	2
Residential held with commercial interests	1	2	3
Total: Other Interests	19	12	31
Total: Thrive Interests + Other Interests	67	60	127

5.22 Of the 26 no. long leasehold interests (13 in occupation and no. not in occupation) set out in the table above, 12 have personally attended one or more of the CPO Surgery events. This number increases to 18 including those where we have met with agents acting for long leaseholders.

5.23 Following initial dialogue and property inspection, Deloitte is in active negotiations to acquire 12 of these 26 interests, and financial offers have been made to unconditionally acquire these properties. Of these 12 interests, 9 are included in Phase 2 (expected possession March 2018) and 3 are included in Phase 3 (expected possession in March 2020). For the reasons set out in paragraph 5.16 we have not made unsolicited financial offers and, for the reasons set out in 5.17, six leaseholders are not yet wishing to engage in negotiations to sell their property. It is not surprising that fewer financial offers have been made in respect of long leasehold interests in Phase 3, as the expected possession date is still some 40 months away.

Commercial Property

- 5.24 This group refers to commercial tenants of the Council, who (with some exceptions) occupy premises under standard commercial leases. These are mainly shops located at Station Approach and within the “H” shaped precinct bordered by Bridlington Road to the west, The Parade and Prestwick Road to the east, and St Andrews Road (pedestrianised route) through the centre. In addition, The Ox public house is located on the western side of Bridlington Road, and Rickmansworth Sports Cars is located at the junction of Station Approach and Prestwick Road.
- 5.25 Appendix GL1 contains copies of correspondence issued to commercial property interests by the Council, Countryside and Deloitte. In addition to this correspondence, my contact details were included at paragraph 23 of the Statement of Reasons (CD1.3) and at paragraph 2.4 of the Statement of Case (CD1.7) for anyone to contact who was affected by the CPO who wished to discuss matters of compensation.
- 5.26 Appendix GL1 includes copies of template letters that I wrote to all the commercial occupiers on 6 November 2015 and 20 June 2016 that provided summary details of the Council’s land requirements, and contained an invite to the CPO Surgery event.

The South Oxhey Shopkeepers Association

- 5.27 The South Oxhey Shopkeepers Association (SOSA) was formed to represent the commercial occupiers in their discussions with the Council, and provides another route for the Council to keep the traders up to date with progress. Members of the Council have met with the SOSA every six weeks or so for about the last three years, and I have attended some of these meetings to provide information on the land acquisition and compulsory purchase process.

Relocation into the completed development

- 5.28 Many existing tenants have expressed an interest in relocating into the completed development. Appendix 10B of the Development Agreement between the Council and the Developer (CD6.3) sets out the Retail Lettings Strategy for the completed scheme. This Strategy confirms (at paragraph 2.11) that the completed development will comprise a mixture of local independent retailers and national multipliers, and (at para 2.12) that the Developer will use reasonable endeavours to secure certain identified Essential Uses in the development. The Essential Uses are identified as: pharmacy; post office and/or bank; newsagent; dental surgery; bakery; hair and beauty salon; and, Citizens Advice Bureau.

- 5.29 The first part of Section 3 of Retail Lettings Strategy (CD6.3) sets out how existing business will be accommodated within the completed development, and paragraphs 3.1 to 3.5 are repeated below:
- i. *At a time to be agreed with the Council, the Developer will commence an open and full dialogue with the existing retailers within the Core Site.*
 - ii. *The Developer will enter into this dialogue with existing retailers prior to marketing the Commercial Units [in the completed development].*
 - iii. *The Council has made no commitments to existing retailers with regard to any preferential terms for occupying the new scheme.*
 - iv. *The Developer shall therefore be permitted to market all of the new Commercial Units at a Market Rent, save where it chooses to offer lower rental levels at its discretion.*
 - v. *In order to assist the Council in its discussions with existing retailers, the Developer will maintain a schedule of Commercial Units available within the development. This schedule will be updated and presented to the Council on a quarterly basis or in accordance with a timetable that the parties may agree.*
- 5.30 In April 2016, the Council produced an “Engagement Charter” to confirm and supplement the intent of the Retail Lettings Strategy for existing commercial occupiers who may wish to move back into the completed development. A copy of the Engagement Charter was distributed to all commercial occupiers as an enclosure to my letter of 20 June 2016 (See Appendix GL1) and placed on the Council’s website.
- 5.31 Under the Engagement Charter, existing retailers can express an interest in relocating into the completed development and they are then placed on a Register of Expressions of Interest (“the Register”). Upon commencement of marketing of the first retail units in the completed development, which is expected to be early to mid-2017, the Developer will contact each of the retailers on the Register to provide more details on the size and configuration of commercial units in the scheme, the rents payable (and other lease terms), and any other issues relating to the occupier mix being sought. If appropriate, negotiations will then continue on a case by case basis between the Developer and the individual tenants (or their agent).
- 5.32 Many of the existing commercial tenants hold leases that have either expired or contain break clauses in favour of the landlord (the Council). In these cases, the Council hopes to obtain possession as landlord but compulsory purchase powers are required in case this is not achieved. Where possession is achieved as landlord, occupiers are provided (subject to the necessary flexible lease terms) to remain in occupation until possession of the property is required for the development.
- 5.33 Where existing retailers do not have an interest in returning to the completed development, and the Council is unable to seek possession as landlord, where

practicable to do so it has engaged with a view to reaching a commercial settlement for lease surrender, either now or at some future date.

5.34 A summary of the commercial interests in the Order Land, and the progress made to acquire by agreement is set out in the table below:

Numbers of Interests	Phase 1 (possession expected during 2017)	Phase 2 (possession expected March 2018)	Phase 3 (possession expected March 2020)	Total
Units – to be acquired by bringing existing leases to an end	4	14	16	34
Units – vacant or acquired by agreement	7	8	8	23
Units – to be acquired by agreement or compulsory purchase	1	11	8	20
Total number of Commercial Units	11	33	32	77
Of which, number that have registered an interest in returning to the completed Scheme	1	16	19	36

General

5.35 The schedule contained at Appendix GL2 sets out a summary of the steps that have been taken to acquire by agreement those interests owned by objectors to the CPO. This schedule contains provides dates of key correspondence, meetings and other events involving the Council, the Developer, their professional teams, the objectors to the CPO and their representatives. This schedule provides a chronology up to the date of this proof, however this engagement is continuing in parallel with the CPO process.

6. OBJECTIONS TO THE COMPULSORY PURCHASE ORDER

- 6.1 The Secretary of State received 12 objections to the CPO.
- 6.2 On receipt of the objections from the National Planning Casework Unit, a representative from the Council wrote to each objector suggesting an approach to progressing discussions and inviting direct contact. A representative from the Council team has then sought to pursue discussions with each objector or their agents.
- 6.3 For ease of reference, Appendix GL2 provides a chronology of contact with each objector and Appendix GL3 sets out a summary of each ground of objection made by each objector, and the author of the proof that provides a response to this. A summary response to each ground of objection is also provided at section 7 of the Statement of Case (CD6.7).
- 6.4 In my commentary below I have included a brief description of each objector's property to assist with identification. Unless otherwise known, the areas identified are extracted from the Valuation Office Agency website.

Objector Number 1

Name: Mr N Bloom

Property: 38 Bridlington Road

Requirements in CPO: Plot G69

- 6.5 The Objector has a long leasehold interest in the land. The objector is in occupation trading as Norman Bloom & Associates, a D1 user class dental practice.
- 6.6 The objection can be summarised as follows:
- i. The CPO should not be confirmed until an appropriate undertaking is provided that the Objector's premises will be accommodated within the new development and Heads of Terms are agreed.

- 6.7 Together with the Council, I am working with the Objector to provide an appropriate form of Undertaking to provide that a relocation back into the completed development will be provided on commercial terms. Engagement with the Objector will continue in accordance with the Land Acquisition Strategy (CD6.4) and the Retail Lettings Strategy (CD6.3).

Objector Number 2

Name: Mr T Ramanen

Property: 11 The Parade

Requirements in CPO: G31

- 6.8 The Objector has a leasehold interest in the land. The Objector is in occupation and trades as Boston Chicken, an A5 user class takeaway premise.
- 6.9 The objection can be summarised as follows:
- i. Public response favoured refurbishment.
 - ii. CPO not in the public interest.
 - iii. No real negotiations with the Council under Circular 06/04 as amended in respect of obtaining an alternative property within the proposed new retail units.
 - iv. Reference to Minutes of the South Oxhey Steering Committee dated 30 June 2014 and plan for retail outlets within the development being offered to local retailers before being offered on the open market.
- 6.10 The Objector has agreed terms for a lease surrender arrangement with the Council.
- 6.11 Notwithstanding this, the Objector has expressed an interest on relocating to the completed development and is on the Register of Interests provided under the Engagement Charter (see letter dated 20 June 2016 in Appendix GL1). Negotiations with the Objector will continue on this basis in accordance with the Land Acquisition Strategy (CD6.4) and the Retail Letting Strategy (CD6.3).
- 6.12 The points of this objection are also addressed in the proofs of Alan Head and Adrian Barker.

Objector Number 3

Name: GG Ansell and Son

Property: 38 The Parade

Requirements in CPO: G/44

- 6.13 The Objector has a leasehold interest in the land. The Objector is in occupation trading as Ansell Bookmakers, an A2 user class betting office.
- 6.14 The objection can be summarised as follows:
- i. Public response favoured refurbishment.
 - ii. CPO not in the public interest.
 - iii. No real negotiations with the Council under Circular 06/04 as amended in respect of obtaining an alternative property within the proposed new retail units.

- iv. Reference to Minutes of the South Oxhey Steering Committee dated 30 June 2014 and plan for retail outlets within the development being offered to local retailers before being offered on the open market.
- 6.15 Together with the Council, I am working with the Objector to provide an appropriate form of Undertaking to provide that a relocation back into the completed development will be provided on commercial terms. Negotiations with the Objector will continue on this basis in accordance with the Land Acquisition Strategy (CD6.4) and the Retail Letting Strategy (CD6.3).
- 6.16 The points of this objection are also addressed in the proof of Alan Head.

Objector Number 4

Name: Mr J O'Shea

Property: Land to the south of Station Approach, Prestwick Road

Requirements in CPO: G/13

- 6.17 The Objector has a leasehold interest in the land. The Objector is in occupation and trades as Rickmansworth Sports Cars, a used car dealer and garage.
- 6.18 The objection can be summarised as follows:
 - i. Public response favoured refurbishment.
 - ii. CPO not in the public interest.
 - iii. No real negotiations with the Council under Circular 06/04 as amended in respect of obtaining an alternative property within the proposed new retail units.
 - iv. Reference to Minutes of the South Oxhey Steering Committee dated 30 June 2014 and plan for retail outlets within the development being offered to local retailers before being offered on the open market.
- 6.19 The Council, my colleagues and I have been in extensive dialogue with Objector and his instructed agent. The nature of the Objector's business is not compatible with relocation into the completed development and to assist with the identification of alternative relocation premises, in February 2016 the Council confirmed they would pay the Objector's reasonable professional fees incurred in instructing a local agent to undertake a property availability search. This instruction did not proceed and in June 2016 the Council directly instructed a local agent to conduct this search.
- 6.20 The Council is continuing to engage with the Objector in an attempt to secure alternative premises that might enable the relocation of the Objector's business. In particular the Council is pursuing a planning application and feasibility study to consider the potential relocation to alternative land in its ownership on Oxhey Drive.

6.21 In September 2016 the Objector put his interest on the market with a local commercial estate agent. Copies of the marketing particulars are attached as Appendix GL4 and the Council remains ready, willing and able to acquire the Objector's interest by agreement.

6.22 The points of this objection are also addressed in the proof of Alan Head.

Objector Number 5

Name: Thrive Homes Limited

Property: Various in Bridlington Road, St Andrews Road and The Parade, and Luffenham House and Pennard House

Requirements in CPO: Various (96 residential units, 61 leasehold in Bridlington Road, St Andrews Road and The Parade and 35 freehold units at Luffenham House and Pennard House

6.23 The Objector has 61 leasehold and 35 freehold residential interests in the Order Land. The properties are owned and managed as affordable housing units.

6.24 The Various Heads of Terms have been agreed for the acquisition by agreement of all the Objector's leasehold and freehold interests in the Order Land. It is expected that contract for sale will be completed shortly, at which point the objection to the CPO will be withdrawn.

6.25 The points of this objection are also addressed in the proof of Alan Head, Adrian Barker and Mike Woolliscroft.

Objector Number 6

Name: Vijay Mistry and Esom's Limited

Property: 28 and 32-33 & 34a Bridlington Road

Requirements in CPO: G/57 and G/61

6.26 The Objector has two leasehold interests in the land. The Objector is in occupation and trades as Vik's Pharmacy (28 Bridlington Road) and Esom's (32-33 & 34a Bridlington Road, two A1 user class pharmacy premises.

6.27 The objection can be summarised as follows:

- i. Regeneration welcome but existing plans too invasive and require revision before CPO powers are confirmed.

- ii. Council has ignored the outcome of consultations preferring refurbishment, refurbishment would also be cheaper without the need to break up the community.
 - iii. Pre-let to Lidl will affect local traders, Council bypassing the sequential test for retail.
 - iv. Phased planning will require fresh EIA.
 - v. Infrastructure could be easily improved, driving out tenants and businesses to provide housing is not equitable nor balanced use of the Council's statutory powers.
 - vi. Shops can be given shop front grants.
 - vii. High rise development not appropriate in South Oxhey.
 - viii. The scheme will cause disruption to residents and local businesses.
 - ix. Removal of the existing carpark in phase 1 will increase disturbance and will exacerbate decline in the retail element, suggests service of notices to treat at the beginning of phase 1.
 - x. No meaningful offers have been made to assist relocation or provide compensation for their business.
- 6.28 As landlord, the Council has served a break notice on the Objector in respect of their premises at 32-33 & 34a Bridlington Road.
- 6.29 Together with the Council, I am working with the Objector to provide an appropriate form of Undertaking to provide that a relocation back into the completed development will be provided on commercial terms. Engagement with the Objector will continue in accordance with the Land Acquisition Strategy (CD6.4) and the Retail Lettings Strategy (CD6.3).
- 6.30 Ongoing constructive dialogue with the Objector should ensure that any disruption is kept to a minimum, however any losses that may be suffered by the Objector will be compensated in accordance with the principles of the compensation code and are not a matter for the public inquiry.
- 6.31 The points of this objection are also addressed in the proofs of Alan Head and Adrian Barker.

Objector Number 7

Name: Jasmina Mandic

Property: 21 Pennard House

Requirements in CPO: S/40

6.32 The Objector has a leasehold interest in the land. The property is held for investment purposes and the Objector is not in occupation.

6.33 The objection can be summarised as follows:

- i. Regeneration of South Oxhey welcome.
- ii. Object to proposed scheme and time tables.
- iii. Pennard House would not be demolished until 2020 and property would therefore be surrounded by disruption for a number of years and will therefore affect income derived from the property;

6.34 The Objector's concerns relate to the potential financial losses resulting from a reduction in rental income being received prior to her property being acquired in 2020. The Council has confirmed to the Objector that, subject to reasonable terms being agreed, it will unconditionally acquire the Objector's interest by agreement now. Progress has been made in negotiations and these negotiations will continue in parallel with the statutory process.

6.35 Notwithstanding this, any losses that may be suffered by the Objector will be compensated in accordance with the principles of the compensation code and are not a matter for the public inquiry.

6.36 The points of this objection are also addressed in the proof of Adrian Barker.

Objector Number 8

Name: Cihan Timur and Embrah Timur

Property: 31 Bridlington Road

Requirements in CPO: G/60

6.37 The Objector has a leasehold interest in the land. The Objector is in occupation trading as Munchies Cafe, an A3 user class café.

6.38 The objection can be summarised as follows:

- i. Regeneration welcome but existing plans too invasive and require revision before CPO powers are confirmed.
- ii. Council has ignored the outcome of consultations preferring refurbishment, refurbishment would also be cheaper without the need to break up the community.
- iii. Pre-let to Lidl will affect local traders, Council bypassing the sequential test for retail.
- iv. Phased planning will require fresh EIA.

- v. Infrastructure could be easily improved, driving out tenants and businesses to provide housing is not equitable nor balanced use of the Council's statutory powers.
 - vi. Shops can be given shop front grants.
 - vii. High rise development not appropriate in South Oxhey.
 - viii. The scheme will cause disruption to residents and local businesses.
 - ix. Removal of the existing carpark in phase 1 will increase disturbance and will exacerbate decline in the retail element, suggests service of notices to treat at the beginning of phase 1.
 - x. No meaningful offers have been made to assist relocation or provide compensation for their business.
- 6.39 Ongoing constructive dialogue with the Objector should ensure that any disruption is kept to a minimum, however any losses that may be suffered by the Objector will be compensated in accordance with the principles of the "compensation code" and are not a matter for the public inquiry.
- 6.40 As landlord, the Council has served a break notice on the Objector in respect of their interest in the Order Land.
- 6.41 The points of this objection are also addressed in the proofs of Alan Head and Adrian Barker.

Objector Number 9

Name: Mr Rajesh Narotomo

Property: 4 St Andrews Road

Requirements in CPO: G/94

- 6.42 The Objector has a leasehold interest in the land. The Objector is in occupation trading as Congratulations, an A1 user class greetings card shop.
- 6.43 The objection can be summarised as follows:
- i. CPO not justified in public interest as the Council and developer have failed to take reasonable steps to acquire by agreement or offer reasonable relocation. There has been no effort to engage.
 - ii. The Order is premature and unjustified.
- 6.44 The Council has been seeking to acquire to Objector's interest by agreement and although agreement has not yet been reached engagement with the Objector will continue in accordance with the Land Acquisition Strategy (CD6.4) and the Retail Lettings Strategy (CD6.3).

6.45 For the reasons set out in this proof, and the proof of Alan Head, I consider that the Order is appropriate and justified.

Objector Number 10

Name: Mr Fokrul Islam

Property: 5 The Parade

Requirements in CPO: G/25

6.46 The Objector has a leasehold interest in the land. The Objector occupies the property which trades as Blue Lagoon, an A3 Indian restaurant.

6.47 The objection can be summarised as follows:

- i. CPO not justified in public interest as the Council and developer have failed to take reasonable steps to acquire by agreement or offer reasonable relocation. There has been no effort to engage.
- ii. The Order is premature and unjustified.

6.48 The Council has been seeking to acquire to Objector's interest by agreement and although agreement has not yet been reached engagement with the Objector will continue in accordance with the Land Acquisition Strategy (CD6.4) and the Retail Lettings Strategy (CD6.3).

For the reasons set out in this proof, and the proof of Alan Head, I consider that the Order is appropriate and justified.

Objector Number 11

Name: UK Power Networks Holdings Limited

Property: Hard standing and an electricity sub station to the east of Henbury Way

6.49 The Objector is a statutory undertaker with apparatus in the Order Land. The Objector has requested that the Council enters into a Deed of Undertaking, which in principle it is willing to do. It is expected that this will be completed shortly and at this time the objection will be withdrawn.

Objector Number 12

Name: Esso Petroleum Company Limited

Property: Corner of Prestwick Road and Station Approach

Requirements in CPO: G/13

6.50 The Objector has an intermediate leasehold interest in the land but is not in occupation.

6.51 The objection can be summarised as follows:

- i. No or insignificant attempts have been made to acquire the property by agreement.
- ii. Insignificant attempts to justify inclusion of the property in the CPO and why it is required for the scheme.
- iii. Insignificant attempts to consult and understand the impact on the viability of the property which may lead to closure and loss of jobs.

6.52 Agreement has provisionally been reached for the Council (as freeholder) to accept a surrender of the Objector's lease, and the objection will be withdrawn when this agreement is completed.

7. **CONCLUSIONS**

7.1 My conclusions on the CPO are that:

- (i) the CPO satisfies the requirements of s. 226 (1)(a) of the 1990 Act;
- (ii) the interests and rights included within the boundary of the CPO are required in connection with the carrying out of the Scheme in accordance with the objectives of the Acquiring Authority;
- (iii) without the CPO, there is no reasonable prospect that the required interests and rights could be assembled within an acceptable timescale;
- (iv) therefore without the CPO, the Developer will not be able to deliver the Scheme;
- (v) reasonable steps to acquire land and interests by agreement have been taken and continue to be taken;
- (vi) the objections made have been fully considered. The Council and the Developer have sought to address the concerns raised where it is practicable to do so without prejudicing the development proposed; and
- (vii) none of the objections made amounts to a good reason to modify or reject the CPO.

7.2 In my opinion the CPO is demonstrably in the public interest and should be confirmed.

8. DECLARATION AND STATEMENT OF TRUTH

8.1 In preparing this Proof of Evidence, I confirm that:

- i. Insofar as the facts stated in this Proof are within my own knowledge, I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion;
- ii. My Proof includes all facts which I regard as being relevant to the opinions which I have expressed and that attention has been drawn to any matter which would affect the validity of those opinions;
- iii. My duty to the Inquiry as an Expert Witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in preparing my evidence impartially and objectively, and I will continue to comply with that duty as required;
- iv. I am not instructed under any conditional fee arrangement; and
- v. This evidence complies with the requirements of the Royal Institution of Chartered Surveyors Practice Statement and Guidance Notes set out in the publication "Surveyors acting as expert witnesses" (4th edition).



Graeme Lawes

28 October 2016