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# **CPO Report to the Secretary of State for Communities and Local Government**

**by Ken Barton BSc(Hons) DipArch DipArb RIBA FCI Arb**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date: 30 January 2017**

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## **TOWN AND COUNTRY PLANNING ACT 1990**

### **ACQUISITION OF LAND ACT 1981**

#### **THE 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**

Inquiry held on 22 and 23 November 2016  
Inspections were carried out on 23 November

File Ref: APP/NPCU/CPO/P1940/76588

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**File Ref: APP/NPCU/CPO/P1940/76588**

**Land At Henbury Way, Oxhey Drive, Bridlington Road, St Andrews Road, The Parade, Prestwick Road, Fairfield Avenue and Station Approach, South Oxhey**

- The Compulsory Purchase Order was made under section 226(1)(a) of the *Town and Country Planning Act 1990* and the *Acquisition of Land Act 1981* by Three Rivers District Council on 27 April 2016.
- The purposes of the Order are facilitating the carrying out of development, redevelopment and/or improvement on or in relation to the order land including the demolition of existing buildings, for the provision of mixed use development including residential, and commercial uses comprising C3, A1, A3, D1 and D2 use with associated infrastructure, car parking and other community facilities thereby achieving the promotion and/or improvement of the economic, social and environmental wellbeing of the area.
- The main ground of objection is that the use of compulsory purchase powers is not justified in the public interest as the Council and the developer have failed to take reasonable steps to secure the land by agreement.
- When the inquiry opened there were four remaining objections and no additional non-qualifying objections. Three objections were withdrawn during the course of the Inquiry.

**Summary of Recommendation: The Order be confirmed without modification.**

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**Procedural Matters and Statutory Formalities**

1. The Compulsory Purchase Order (CPO) Inquiry sat on 22 and 23 November 2016 and an unaccompanied visit to the Order Lands, and three 'satellite' sites, also took place on 23 November.
2. At the opening of the Inquiry the Council submitted a file of documents to illustrate how the statutory requirements for the Order have been met. The planning permission for the proposed scheme sets out a wider range of land uses than those described in the CPO by also including uses A2, A4 and A5. However, there is no legal consequence to this point as the CPO notice does not purport to give an exhaustive description of the proposal, and the land uses on the notice are included in the uses authorised by the planning permission. In any event, the scheme and the CPO have been well publicised and the decision to make the CPO was made for purposes including the development comprising the land uses authorised by the planning permission. I do not consider that anyone has been prejudiced by the inclusion of A2, A4 and A5 uses in the planning permission.<sup>1</sup>
3. The CPO was made under Section 226(1)(a) of the Town and Country Planning Act 1990 to facilitate development and redevelopment of land. This is clearly the appropriate power.
4. This report contains a description of the Order Lands and their surroundings, the gist of the objection made at the Inquiry, and in writing, together with my conclusion and recommendation. Lists of appearances and documents submitted at the Inquiry are attached as appendices.

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<sup>1</sup> INQ/4, CD4.2 p46, CD5.2(iv) para 11.1

## **The Order Lands and their Surroundings<sup>2</sup>**

5. South Oxhey is around 15 miles to the north west of central London some 2 miles south of Watford. It has good links to the M25 and the M1 whilst Carpenders Park Railway Station, adjacent to the Order Lands, provides access to London Euston Railway Station and the wider public transport network. South Oxhey is a large urban estate almost exclusively made up of Council properties built in the 1950s, many of which are now privately owned. Whilst the outer areas have substantial open space and woodlands, there is a general lack of amenity and parking provision in the central parts, which are looking run down and in need of regeneration. Indeed, the area ranks as one of the 10% most deprived areas in England. A 2012 retail study identified that some 85% of the main food shopping expenditure from the local catchment went outside the area.
6. The land to be compulsorily acquired, some 38,400 m<sup>2</sup>, is shown pink edged red on the Order Maps. The Council is the freeholder of the majority of the Order Land. The CPO does not include the 'satellite' sites at Maylands Road, Hayling Road, and Hallows Crescent, as these are already in the Council's ownership. These sites are being redeveloped so that the tenants from the first phase of the Order Lands redevelopment could be decanted to the new buildings allowing redevelopment of the following phase.<sup>3</sup>
7. There are two parts to the Order Lands, which include 78 commercial units and 127 residential units. The largest main area contains a shopping precinct at street level with residential above. It also includes a Public House, public car park with garages and an electrical sub-station all located between Fairfield Avenue, Henbury Way, Oxhey Drive and Prestwick Road. The main area buildings range from 2 to 4 storeys high with first floor terraces giving access to the residential units above the shops.
8. The central St Andrews Road is relatively wide and pedestrianised whilst parking bays front the shops on The Parade and Bridlington Road. Servicing to the shops and access to the flats above is via Fairfield Avenue to the north and Oxhey Drive to the south. Within the rear areas are three storey flat developments known as Luffenham House to the north and Pennard House to the south. Both these blocks have limited parking and amenity areas.
9. The 127 residential units are either, privately owned and self-occupied on a long leasehold basis, privately owned and let out as an investment, or owned by Thrive Homes, a locally based Housing Association, and let by them on a social rent basis. The Thrive Homes housing was acquired from the Council in 2008. Pennard and Luffenham Houses are held by Thrive as freeholder whilst the rest are held on long leaseholds with the Council as freeholder.
10. The second area is Station Approach that provides access to the railway station on the opposite side of Prestwick Road. It consists of small single storey commercial units. Overhead cables provide a restriction and the units would not, on their own, be viable for redevelopment.<sup>4</sup>

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<sup>2</sup> TRDC1.1 Sect 3

<sup>3</sup> CD1.2

<sup>4</sup> Mr Head oral evidence Day 1

## **The Case for the Acquiring Authority**

### **Introduction**

11. The scheme that would be facilitated by the CPO is the phased redevelopment of land at South Oxhey and three 'satellite' sites at Maylands Road, Hayling Road, and Hallowes Crescent. The 'satellite' sites are owned by the Council and are not included in the CPO. The scheme would provide up to 514 new homes, including 96 affordable homes, 48 of which would be at Maylands Road and Hallowes Crescent, with 8 market houses at Hayling Road. The rest of the homes would be on the central site. Eighty four of the remainder would be in Phase 1A with up to 374 homes, including a minimum of 48 affordable homes in the remaining phases on the central site. In addition to the 96 affordable homes in Phase 1A, an additional 21 affordable homes have been secured in Phase 1A on a shared ownership basis.<sup>5</sup>
12. Phasing affects the timing of land acquisition and delivery. Early development of the 'satellite' sites, where work has already started, will allow residents to move off parts of the central site freeing up some of the Order Lands for redevelopment. This would allow a 'one move only' strategy and allow residents and businesses to stay in occupation as long as possible. In this way the scheme would be delivered by the end of 2022 with possession of Phase 2 about March 2018 and Phase 3 around March 2020.<sup>6</sup>
13. The commercial development would comprise up to 5,137 m<sup>2</sup> of town centre floorspace including a food store of up to 1,754 m<sup>2</sup> for which heads of terms have been agreed with Lidl. The scheme would transform the townscape providing an attractive place to live.<sup>7</sup>

### **The Need for Acquisition**

14. The scheme would play a major part in meeting the need to regenerate the South Oxhey area. This need was identified a decade and a half ago in the adopted 2001 Local Plan and has been supported by reports by Terence O'Rourke and Lambert Smith Hampton in 2010-2011 and the promotion of the Core Strategy. The area suffers from: poor housing stock with a poor mix of tenures; out-moded shops and a poor retail offer resulting in depressed rental levels and substantial convenience goods leakage from the area; a run-down, bleak townscape; substantial inequalities, low incomes and barriers to education, skills and training; ranks poorly in terms of deprivation; has high levels of unemployment and exclusion from work; and, suffers from on-going physical decline. Given the location with good accessibility to London and other centres the area ought to be one of the District's gems. Doing nothing would lead to further decline but there is an opportunity for significant beneficial change.<sup>8</sup>

### **Planning Framework**

15. Planning permission ref 16/0005/FUL was granted, on 31 May 2016, for a part detailed (Phase 1) and part outline (Phases 2 and 3) scheme. This was against the background of a development plan comprising the *Core Strategy* (CS)

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<sup>5</sup> CD6.2(i), TRDC/3/1 pp9-11, Mr Head oral evidence Day 1

<sup>6</sup> CD6.1(vi)(a) & (c), TRDC/1/1 p14, TRDC/2/1 paras 6.5-6.8, TRDC/3/1 p13

<sup>7</sup> CD6.1 (v)-(vii), TRDC/3/1 p10, Sect 4.4, TRDC/2/1 para6.11

<sup>8</sup> TRDC/1/1 Sects 3&4, TRDC/3/1 para 5.6.1, TRDC/3/3 Site allocations plan

adopted 17 October 2011; the *Development Management Policies Local Development Document* (Management LDD) July 2013 and the *Site Allocations Local Development Document* (Allocations LDD) November 2014.<sup>9</sup>

16. The residential led mixed use scheme is supported by the CS Spatial Vision and CS Policies PSP2, development in key centres, and CP2, housing. In addition, the Allocations LDD includes the redevelopment of South Oxhey in Policy SA6 which is supported by a Masterplan that the scheme accords with. Retail development is supported by Policy SA4. Many of the core objectives of Policy SA6 would be met including improving access to sustainable transport, improving housing quality and access to housing, improving shopping facilities, reducing deprivation and improving access to employment. The scheme would not provide 45% affordable housing but there would be no net loss and the level that would be provided was justified in a viability assessment that has been independently assessed. The proposal was carefully considered by the Council's Planning Committee and the acquisition would comply with the adopted development plan. The scheme would therefore comply with Tier 2 paragraphs 74 and 76 of the *Government's Guidance on Compulsory purchase process and The Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion* October 2015 (Guidance) and is "an opportunity for a substantial uplift of the South Oxhey area".<sup>10</sup>

### **Viability and Funding**

17. Paragraphs 13 and 14 in Tier 1 of the Guidance seek information on the sources and timing of funding to acquire land and deliver the scheme. The Council is funding the land acquisition from existing resources. The purchase of the land has already been authorised and over £11.8 million has been committed to date. Countryside and Home Group are funding the development themselves. Both have ample funds available through existing credit facilities, £300 million in the case of Countryside with at least £150 million of headroom over the next 3 years. The first phase, which will cost approximately £35 million, has already been signed off and Phases 2 and 3 are in the company's five year business plan. The scheme is given a full appraisal every three months to ensure continued viability. Home Group has undrawn loan facilities of £142 million and unencumbered assets of £1.3 billion. The HCA is also contributing £2.83 million towards affordable housing provision.<sup>11</sup>
18. Countryside and Home have worked together since 2007 and are 'aligned' at board and project level. Development has already begun on the 'satellite' sites and Phase 1, and the developers have committed to orders to the value of around £9.3 million. The funding position is strong and there is no reason to doubt the scheme delivery on financial grounds. Overall the scheme would be at no net cost to the Council, which would benefit from the income from the long leases it will grant under the Development Agreement.<sup>12</sup>

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<sup>9</sup> TRDC/3/1 Sect 3

<sup>10</sup> CD3.2 Para 7.25, TRDC/3/1 Sect 5, CD3.2 particularly the April reports

<sup>11</sup> TRDC/1/1 Paras 8.2-8.3 & p14 Para (d), TRDC/2/1 Paras 7.1, 7.5 & 7.7, Mr Head oral evidence Day 1, Mr Woolliscroft oral evidence Day 1

<sup>12</sup> TRDC/2/1 Sect 5 & Para 7.4, Mr Woolliscroft oral evidence Day1

## **Impediments to Implementation**

19. The regeneration of the core central site, Station Approach and the former car park and garage land off Henbury Way determine the extent of the CPO Lands. Station Approach is included to ensure a connection between the retail and residential development on the main central site and the public transport access at the station and the proposed bus turning point. The 'satellite' sites have been excluded as they are already in Council ownership. Kingdom Hall and William Morris Hall are also excluded but will be considered for the development of a Health Hub in due course. Land between Henbury Way and Bridlington Road, which was used for car parking and single storey garages, is included and would be used more efficiently by providing housing as indicated on the plan accompanying Policy SA6. There would be no parcels of land that could be excluded from the Order Lands whilst retaining the ability to deliver the comprehensive redevelopment sought by the scheme and Policy SA6.<sup>13</sup>
20. The principle of redevelopment, now enshrined in policy, arises from option appraisals by Terence O'Rourke, Lambert Smith Hampton, and the Council. The Statement of Community Involvement indicates 63% were in favour of the proposal with 22% against and 15% neutral.<sup>14</sup>
21. Paragraph 76 in Tier 2 of the Guidance questions whether the purpose of acquisition could be achieved by other means. The purpose of the acquisition is to bring about redevelopment. There is no rival scheme and no similar proposals. The scheme could not progress to completion without compulsory purchase, leading to timely site assembly and the provision of clean title over the Order Lands. The study of options, and the adopted development plan, support redevelopment not refurbishment, which in any event would be riskier and would not deliver the regeneration benefits that could otherwise be delivered.<sup>15</sup>
22. Paragraph 2 of the general overview and paragraph 16 in Tier 1 of the Guidance query whether reasonable steps have been taken to acquire land by agreement and meaningful attempts at negotiation have been pursued or at least attempted. All reasonable steps have been, and are being, taken to acquire interests in the Order Lands by agreement. Negotiations with landowners started in November 2015, five months before the CPO was made, and were preceded by public consultation. A majority of the residential occupiers, some 96, are tenants of Thrive Homes and have the option of being relocated to new homes within the scheme. Alternatively they could be relocated to other homes in the local area if their needs cannot be met within the scheme. Tenants in this position would be prioritised to the top of the rehousing list.<sup>16</sup>
23. Twenty eight long leaseholders, split evenly between owner occupiers and investor owners, have been approached and all those who expressed an interest have been made an offer. Many have expressed a preference not to negotiate at this stage in the phasing as the need to sell their land is still some time away. Commercial leaseholders have been approached individually and through the South Oxhey Shopkeepers Association, with whom meetings have been held regularly for the last three years. Existing businesses have been given the

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<sup>13</sup> TRDC/3/1 pp34-35, TRDC/3/3 App 2 pp8-11 & 65-66

<sup>14</sup> CD5.4(i)&(ii), CD5.1(iv), CD5.5, CD6.2 Paras 4.26-27

<sup>15</sup> TRDC/1/1 Para 3.21, TRDC/4/1 Paras 3.1, 3.4, and 3.14

<sup>16</sup> TRDC/1/1 Sect 11.2, TRSC/4/1 Table p15, & Sect 5

opportunity to register an interest in relocating to the new scheme with some businesses being prioritised where they meet the commercial mix being sought in the final development. Several businesses have taken these opportunities up. In addition, the Council has actively managed the commercial tenants using landlord and tenant powers to terminate leases and put tenants on more flexible leases to enable possession to be secured without recourse to compulsory purchase powers. Compensation in those circumstances is paid under the provisions of the *Landlord and Tenant Act 1954*. Negotiations are supported by published strategies that give details of the process and support those whose land is within the CPO.<sup>17</sup>

24. If the CPO is confirmed there would be no land ownership impediments. In addition two stopping up Orders required to implement the scheme have been made and are unopposed and there are no other legal or physical impediments to delivery. The scheme would accord with paragraph 15 of Tier 1 of the Guidance.<sup>18</sup>

### **Benefits**

25. The scheme would deliver environmental, economic and social benefits within the remit of section 226 and the developer has a track record of successful developments. The issues facing the area are obvious from a site visit, and the deprivation statistics. Redevelopment is favoured as a means of delivering lasting sustainable change and the transformational nature of the scheme is readily apparent. There would be a broad mix of tenures and house types with no net loss of social rented accommodation. The retail provision would meet the needs of modern retailers, and the community, anchored by a Lidl store providing significant footfall. There would be a step change in the appearance, legibility and permeability of the area stitching the centre and Station Approach together, creating an attractive welcoming public realm. The phased scheme would ensure the proposal works for local people. Local employment benefits would accrue from the developer's construction policies and the approach taken by Lidl. Overall the proposal would satisfy paragraph 76 of Tier 2 of the Guidance<sup>19</sup>

### **Equality and Human Rights**

26. The Government's Guidance gives advice, in paragraph 6 of the general overview in Tier 1, on how the public sector equality duty should be taken into account. The Council confirms that consideration was given to the implications for protected groups and concluded that none would be likely to be affected. This conclusion is included in the report seeking authority for compulsory acquisition and in the record of the decision itself.<sup>20</sup>
27. In terms of human rights it is well established that a compelling case for a CPO, as here, would justify interference with the convention rights under article 8 and article 1 of the First Protocol.<sup>21</sup>

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<sup>17</sup> CD6.10 & 6.12, TRDC/4/1/Paras 5.8-5.34 & Summary Table p18TRDC/4/2 App GL1

<sup>18</sup> INQ/5 Paras 53-56

<sup>19</sup> TRDC/1/1 Sect 9, TRDC/2/1 Sect 4, and App 1, TRDC/3/1 pp32-34 & Sect 5, Mr Woolliscroft oral evidence Day 1

<sup>20</sup> CD5.2(iv) para 16.7, CD6.11, TRDC/1/1 para 7.1

<sup>21</sup> CD1.3 pp24-25

## **The Objections**

### **The Case for Mr Naratomo (OBJ 5) – Leaseholder 4 St Andrews Road (Plot G94)**

28. Mr Naratomo trades as Congratulations from 4 St Andrews Road and objects to the CPO via a letter dated 19 May 2016 from Olden Property Consulting Limited. The CPO powers are not justified as the Council and developer have failed to offer reasonable relocation provisions in order to secure the land by agreement and ensure the continuation of his business.

### **The Acquiring Authority's Response to Mr Naratomo**

29. The objection is not directed towards the principle of the scheme and simply asserts that insufficient negotiations have taken place. The Acquiring Authority's evidence sets out the chronology of negotiations but the key matter appears to be a disagreement on price which is not a matter for this Inquiry.<sup>22</sup>

### **The Case for Mr Ramanen (OBJ 2) – Tenant/Occupier 11 The Parade Prestwick Road (Plot G31)**

30. Mr Ramanen was the only objector to appear at the Inquiry. He trades as Boston Chicken and objected to the Order via a letter dated 10 May 2016 from Keith Murray Consultants which expressed a wish to relocate to the new retail development in order to continue to operate the business. At the Inquiry Mr Ramanen was given a copy of a letter from the Acquiring Authority dated 21 November 2016 which formed the basis of discussions outside the Inquiry. When Mr Ramanen returned to the Inquiry he was asked by the Inspector, on a number of occasions, if he had had sufficient time to consider the letter. Mr Ramanen confirmed that he had and that on the basis of discussions held outside the Inquiry he wished to withdraw his objection. Although Mr Ramanen agreed to confirm this in writing no written confirmation was received before the Inquiry was closed.<sup>23</sup>

### **The Acquiring Authority's Response to Mr Ramanen**

31. Mr Ramanen expressed a wish to relocate to the new retail development which is acknowledged in the 21 November 2016 letter. Following discussions with the Acquiring Authority, Mr Ramanen told the Inquiry that he withdrew his objection, albeit that this had not been confirmed in writing by the close of the Inquiry.<sup>24</sup>

## **Withdrawn Objections and Unopposed Lands**

32. At the opening of the Inquiry there were four of the 12 duly made objections remaining. The Acquiring Authority and the developer have continued to seek to resolve these four outstanding objections and acquire the remaining interests in the Order Lands by agreement. In addition to Mr Ramanen, whose position is set out above, two other outstanding objections were withdrawn.

33. Vijay Mistry and Esom's Limited (OBJ 8), leaseholder/occupier of 28 and 32-33 Bridlington Road (Plots G57 and G61) trading as Vik's Pharmacy and Esom

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<sup>22</sup> TRDC/4/2 App GL2 p10, Mr Lawes oral evidence Day 1, INQ/5 Para 1

<sup>23</sup> INQ/2

<sup>24</sup> INQ/2



- respectively, withdrew their objection by a letter from Winbourne Martin French dated 18 November 2016.<sup>25</sup>
34. Mr O'Shea (OBJ 3), leaseholder/occupier of Station Approach (Plot G13) trading as Rickmansworth Sports Cars Limited withdrew his objection in a letter from Keith Murray Consultants dated 22 November 2016.<sup>26</sup>
35. As a consequence at the end of the Inquiry the only outstanding objection is that of Mr Naratomo which is not directed at the principle of the Order.
36. In terms of the unopposed lands, the proposed scheme would play a large part in meeting the need to regenerate the South Oxhey area identified as long ago as the adopted 2001 Local Plan. Doing nothing would simply lead to further decline and dereliction. The extent of the CPO Lands arises from a focus on regenerating the core central site, Station Approach and the former car park and garage land off Henbury Way. Station Approach is included to ensure a connection between the retail and residential development on the main central site and the public transport access at the station and the proposed bus turning point.<sup>27</sup>
37. The 'satellite' sites have been excluded from the Order Lands as they are already in Council ownership. Kingdom Hall and William Morris Hall are also excluded but will be considered for development of a Health Hub in due course. Land between Henbury Way and Bridlington Road, which was used for car parking and single storey garages, is included and would be used more efficiently by providing housing as indicated on the plan accompanying Policy SA6. There would be no parcels of land that could be excluded from the Order Lands whilst retaining the ability to deliver the comprehensive redevelopment sought by the scheme and Policy A6.<sup>28</sup>

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<sup>25</sup> INQ/6

<sup>26</sup> INQ/3

<sup>27</sup> INQ/5 Paras 10, 13 and 14

<sup>28</sup> INQ/5 Paras 15-20

## Inspector's Conclusions

[References in square brackets are to earlier paragraphs in this report]

### Introduction

38. The CPO would enable the phased redevelopment of the centre of South Oxhey. Construction has already begun on three 'satellite' sites, not included within the CPO, which when complete would allow residents from the Order Lands to be decanted freeing up land for subsequent phases and allowing a "one move only" strategy to be implemented. Possession of Phase 2 would be around March 2018 with Phase 3 in March 2020 and completion by the end of 2022.<sup>[11, 12]</sup>
39. The overall scheme, including the development on the 'satellite' sites, would provide up to 514 new homes, including 96 affordable homes. In addition, a further 21 affordable homes have been secured in Phase 1A on a shared ownership basis. The commercial element of the mixed use development would comprise up to 5,137 m<sup>2</sup> town centre uses, anchored by a Lidl food store of up to 1,754 m<sup>2</sup>.<sup>[11, 13]</sup>

### Need for Acquisition

40. Given South Oxhey's location, with good accessibility to London and other centres, it should be one of the District's gems. However, the area has a poor housing stock and a poor mix of tenures. The townscape is hard and bleak. The shops are outdated and the poor retail offer has led to low rental levels and 85% convenience goods leakage to other areas. Residents suffer substantial inequalities, low incomes, barriers to education, skills and training, high levels of unemployment and exclusion from work. Indeed, the area ranks in the worst 10% in England in terms of deprivation. The need to regenerate the area was identified as long ago as the 2001 Local Plan and has since been reiterated in reports by Terrance O'Rourke and Lambert Smith Hampton in 2010-2011, and in consideration of the Core Strategy. Action is required as doing nothing would only lead to further decline. A Statement of Community Involvement indicates that 63% are in favour of the proposal with 22% against and 15% neutral <sup>[5, 14, 20]</sup>

### Planning Framework

41. Planning permission was granted, Council ref 16/0005/FUL, on 31 May 2016 as the regeneration proposal complies with the adopted development plan. The mixed use scheme is supported by the CS Spatial Vision and CS Policies PSP2, Development in Key Centres, one of which is South Oxhey, and CP2 Housing. The retail element of the scheme is supported by Allocations LDD Policy SA4. Allocation LLD Policy SA6 is supported by a Masterplan which the proposed scheme complies with. In addition, many of the core objectives of SA6 would be met. The requirement for 45% affordable housing would not be met but there would be no net loss and the level that would be provided is justified by an independently assessed viability assessment. With the latest 21 dwellings there would be 23% affordable homes provided. The scheme would comply with paragraphs 74 and 76 of Tier 2 of the Guidance.<sup>[15, 16]</sup>

### Viability/Funding

42. The land acquisition is being funded by the Council from existing resources, with over £11.8 million authorised and committed to date. Countryside and Home

Group are funding the development. Countryside has existing credit facilities of £300 million with at least £150 million headroom over the next three years. The first Phase, costing £35 million, has been signed off and Phases 2 and 3 are in the company's 5 year business plan. The scheme is reviewed every three months to ensure viability. Home Group has undrawn loan facilities of £142 million with unencumbered assets of £1.3 billion. The HCA is also contributing £2.83 million towards affordable housing provision. Countryside and Home Group have worked together since 2007. Development has already begun on the 'satellite' sites and Phase 1 with around £9.3 million of orders committed.<sup>[17, 18]</sup>

43. Overall the proposal would be at no net cost to the Council, which would benefit from the long leases it would grant under the Development Agreement. Paragraphs 13 and 14 in Tier 1 of the Guidance would be satisfied.<sup>[17, 18]</sup>

### **Impediments to Implementation**

44. The extent of the Order Lands derives from the principle of redevelopment now enshrined in policy. The 'satellite' sites are excluded as they are owned by the Council. Kingdom Hall and William Morris Hall are also excluded as there is an intention to redevelop that area as a Health Hub. The former car park and garages off Henbury Way are included as they could be developed more efficiently as housing. Station Approach is also included as it would not be viable on its own and is also required to link the new residential and retail areas to the railway station and proposed bus turning area.<sup>[10, 19, 20]</sup>
45. The purpose of acquisition is to implement redevelopment. There is no other scheme or similar proposals and refurbishment would not bring about regeneration benefits. The proposed scheme could not progress without timely site assembly and provision of clean title and the CPO is therefore necessary and would satisfy paragraph 76 of Tier 2 of the Guidance.<sup>[21]</sup>
46. Negotiations with landowners, preceded by public consultation, started in November 2015, five months before the CPO was made. Reasonable steps have been, and continue to be, taken to acquire interests in the Order Lands by agreement in accordance with paragraph 2 of the general overview and paragraph 16 in Tier 1 of the Guidance.<sup>[22]</sup>
47. Ninety six residential occupiers are tenants of Thrive Homes and have an option to be rehoused in the new development or other homes in the area. If they were to choose the latter they would be prioritised to the top of the rehousing list. Fourteen long leasehold owner occupiers and fourteen long leasehold investor owners were approached and all those who expressed an interest in selling were made an offer. Many chose not to negotiate as the need to sell their property is still some time away.<sup>[22, 23]</sup>
48. Commercial leaseholders have been approached individually and through the South Oxhey Shopkeepers Association. Existing businesses have had a chance to register an interest in relocating to the new scheme and several have taken this up. Some, which meet the commercial mix sought, have been prioritised. In addition the Council has managed commercial tenants using landlord and tenant powers to enable possession to be secured without recourse to CPO powers. In these cases compensation is paid under the provisions of the *Landlord and Tenant Act 1954*.<sup>[23]</sup>

49. The development would deliver environmental, economic and social benefits and lasting change. There would be no net loss of affordable homes, the retail provision would meet modern retail needs anchored by a Lidl store increasing footfall. The appearance, legibility and permeability of the area would be significantly improved, and linking the centre with Station Approach would create a welcoming public realm. The developer's construction policies and the approach of Lidl would create local employment benefits. The scheme would accord with the Guidance Tier 2 paragraph 76.<sup>[25]</sup>
50. If the CPO is confirmed there would be no land ownership impediments. In addition, two stopping up Orders required to implement the scheme have been made and are unopposed and there are no other legal or physical impediments to delivery. The scheme would accord with paragraph 15 of Tier 1 of the Guidance.

### **Objections**

51. At the close of the Inquiry there was one outstanding objection (OBJ 8) and that does not concern the principle of redevelopment but seems to be a disagreement on price, which is not a matter for this Inquiry. That said, whilst two of the other three objections outstanding at the opening of the Inquiry have been expressly withdrawn, that of Mr Ramanen (OBJ 2), the only objector to appear at the Inquiry, was not confirmed in writing as having been withdrawn as I requested (which means that it remains). For the avoidance of doubt, therefore, I have treated this objection as remaining. <sup>[28, 29, 30, 31, 32, 33, 34, 35]</sup>

### **Overall Conclusion**

52. The need for redevelopment has long been established and the majority of the community support it. Indeed, regeneration is enshrined in the planning framework and the Order Lands are limited to those necessary for redevelopment. There are no alternatives to the proposed scheme and the CPO is necessary. All reasonable steps have been, and continue to be, taken to acquire properties by agreement. Moreover, there is no reason to doubt the delivery of the scheme on financial grounds. The scheme would deliver environmental, economic and social benefits and lasting change and there is only one outstanding objection, which does not concern the principle of redevelopment. I conclude that there is a compelling need in the public interest to justify confirmation of the CPO.

### **Equality and Human Rights**

53. In terms of the public sector equality duty the Council considered the implications for protected groups and concluded none would be affected. I see no reason to disagree.<sup>[26]</sup>
54. It is well established that where a compelling case for CPO is established, interference with the convention rights under article 8 and article 1 of the First Protocol would be justified. Given the largely unchallenged case of the Acquiring Authority I consider that would be the situation here.<sup>[27]</sup>

## **Recommendation**

55. I recommend that The 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 be confirmed without modification.

*Ken Barton*

Inspector

## **APPEARANCES**

### **FOR THE ACQUIRING AUTHORITY:**

James Pereira QC

He called

Alan Head BSc CEng                      Head of Major Projects, Three Rivers District Council

Mike Woolliscroft BEng                  Operations Director West London Region  
DipStruct Eng                              Countryside Partnerships

Adrian Barker BA(Hons),                Director, Lucid Planning Ltd  
BTP, DMS, MRTPI

Graeme Lawes                              Director Real Estate Team, Deloitte LLP  
BSc(Hons) MRICS

### **OBJECTOR OBJ1**

Plot G31

Mr Thirunavukkarasu Ramanen trading as Boston Chicken, 11 The Parade, Prestwick Road, South Oxhey

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1     Acquiring Authority's Opening Submissions
- 2     Letter sent to Mr Ramanen
- 3     Letter withdrawing Mr O'Shea's Objection
- 4     Documents demonstrating the Acquiring Authority's compliance

with statutory requirements

5 Acquiring Authority's Closing Submissions

6 Letter withdrawing Vijay Mistry and Esom Limited's Objection