

## CHICHESTER DISTRICT COUNCIL (TANGMERE) COMPULSORY PURCHASE ORDER 2020

PINS Ref: APP/PCU/CPOP/L3815/3264148

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### OPENING SUBMISSIONS OF THE ACQUIRING AUTHORITY

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#### Preliminary

1. The purpose of this Inquiry is to consider objections to the Chichester District Council (Tangmere) Compulsory Purchase Order 2020 ('the Order'). The Acquiring Authority is Chichester District Council ('the Council'), which made the Order pursuant to its powers under Section 226 of the Town and Country Planning Act 1990 ('the 1990 Act').
  - In this regard Section 226(1)(a) of the 1990 Act provides:

*'A local planning 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...'*
2. The purpose of the Order is to facilitate delivery of housing, and associated infrastructure, in a sustainable and high quality development. Specifically, it will provide for delivery of the planned development of the Tangmere Strategic Development Location ('the Tangmere SDL') as identified in the adopted Chichester Local Plan ('the Local Plan'), of which more below.
3. The land subject to the Order ('the Order Land') is comprised of some 20 Plots, in respect of which the Council seeks to acquire interests in land. The Order Land is described in the evidence of Mr Andrew Frost, but in summary comprises 76 hectares of farmland situated immediately to the west of Tangmere, lying between the A27 Trunk road to the north, and

Tangmere Road to the South. The area is entirely undeveloped, with no existing buildings. It is generally used for arable purposes.

4. Some 15 statutory objections were submitted to the Secretary of State in respect of the Order. As at the date of opening of this Inquiry there are eight objections which remain outstanding ('the Remaining Objections')<sup>1</sup>. However, as the Inquiry will be aware, notwithstanding these Remaining Objections are maintained by multiple separate entities, those entities almost all comprise parties relating to the Heaver family, one of three primary landowners in the Tangmere SDL ('the Landowning Interests'). The only other Remaining Objection is from a residential property owner adjacent to Plot 6, who alleges he has the benefit of access rights for dog walking over the SDL.
5. The other two primary landowners in the SDL are the Church Commissioners and the Pitts Family. As at the outset of this Inquiry, both the Church Commissioners, the Pitts Family and also Bloor Homes Ltd (who hold an option over land held by the Heaver Family) have withdrawn their objections to the Order, as indeed have other former objectors Seaward Properties Ltd, Southern Gas Networks plc and Saxon Meadow Tangmere Ltd.
6. The purpose of this Inquiry is to consider the Remaining Objections. However, as the Inspector will be aware, yesterday evening the Council received correspondence from solicitors representing the various Heaver related companies objecting to the Order ('the Heaver Objectors') indicating that they no longer intended to appear at the Inquiry, nor to call the witness who had submitted evidence in support of their objections.
7. The letter indicates that the various objections are maintained and the evidence of Mr Bodley still relied upon, and on that basis the Council still intends to call evidence to address both the Heaver objections and Mr Bodley's evidence. However, lest there be any doubt, the Council is quite clear that in deciding not to appear (and so save itself from having to respond to the compelling nature of the Council's case) and in deciding also not to call its witness (and so shield that witness from cross-examination in respect of the untenable position which he has adopted) the Heaver Objectors have conceded that their objections

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<sup>1</sup> These comprise objections from Bosham Ltd, Shopwyke Ltd, CS East Ltd, CS South Ltd, Denton & Co Trustees Ltd, Herbert & Shelagh Heaver, Temple Bar Partnership LLP, Tangmere Medical Centre and Mr Steve Murphy of 113 Cheshire Crescent, Tangmere ('the Remaining Objectors').

are not well-founded, that the Council has indeed demonstrated a compelling case for compulsory acquisition, and that the Order should be confirmed.

### **Summary Context**

#### **Housing in the District**

8. The situation as regards housing needs and delivery within the District is central to the case for the Order. It is addressed in the evidence of Mr Frost and Ms Hannah Chivers.
  
9. Put shortly, the position is that extant policy in the Local Plan stipulates the Council must deliver 7,388 homes over the period 2012-2029, equivalent to an annual requirement of 435 dwellings per annum. However, even at adoption of the plan in 2015 it was recognised that actual housing need outstripped that 435 dpa figure. The need within the Local Plan area was even then identified as 505 dpa, but the target was reduced below that having regard to infrastructure constraints and the reality of what could practically be delivered. As such, even at the outset, it was evident that the Local Plan's housing target represented a material under-provision.
  
10. For several years at the beginning of the 2012-29 housing period the Council failed to meet even that 'sub-optimal' annual housing target, before provision improved. However, as at the time of this Inquiry the position as regards need has become even more acute. Given that the Local Plan is now more than five years old, national policy in the NPPF directs that housing delivery should be assessed against a calculation of Local Housing Need. That need figure is 666 dpa (634 dpa + 5% buffer). It is not being met, and the Council cannot demonstrate a 5 year housing land supply as required by national planning policy.
  
11. At the heart of the Council's strategy to deliver even the 435dpa figure, were its 'strategic development locations ('SDLs'). These various allocations were intended to provide the bulk of housing delivery in the plan period, and represented some 44% of the planned provision. Given the fact that even full delivery on the SDLs (and indeed other allocations within the Local Plan) would not be sufficient to meet housing need within the Local Plan area, the fact of their delivery is extremely important if housing needs are to be met.

12. As at the date of this Inquiry, development has commenced on each of the SDLs identified in the Local Plan save one; the Tangmere SDL. The Tangmere SDL is earmarked to provide some 1,000 dwellings – it is the second largest SDL in the Local Plan – representing some 14% of the total housing provision for the period 2012-2029.

### **Tangmere SDL**

13. Delivery of the Tangmere SDL forms a key part of the strategy for the ‘East-West Corridor’, which is the Council’s main focus for new development in the Local Plan. Notwithstanding the lack of progress to date in terms of delivering development (of which more later), the site remains central to the Council’s strategic planning. In this regard the Inquiry will have noted that it has been ‘rolled forward’ as a draft allocation in the Council’s Emerging Local Plan, but the scale of planned development is increased from 1,000 to 1,300 homes.
14. Adopted policy in the Local Plan requires that the Tangmere SDL (and indeed all the SDLs) be planned on a *comprehensive* basis, as explained in the evidence of Ms Chivers. It is in circumstances where the Tangmere SDL is delivered comprehensively that development will be optimised, both qualitatively and also quantitatively. This will mean that the *full* measure of housing is delivered, supported by the *full* measure of infrastructure – for example, with a spine road that runs north/south throughout the allocation, and with a new primary school located in a situation that will best serve both the existing community and the new development proposed.

### **Countryside**

15. To assist in bringing forward development, the Council has identified a development partner. That development partner is Countryside Properties (UK) Limited (‘Countryside’), which was chosen after a competitive tender process during 2018. The Council resolved on 4 September that year to enter a development agreement with Countryside (completed on 5 February 2019 – ‘the Agreement’), with a supplemental agreement also entered into subsequently (on 3 April 2020). A further such supplemental agreement has been concluded on the eve of this Inquiry to update various matters which have progressed since the Agreement was originally signed.

16. The bona fides of Countryside, and their extensive track record in delivering development of this nature, is addressed in the evidence of Mr Martin Leach. Mr Leach, the Managing Director (Strategic Land) of the company, explains that it is currently the leading mixed-tenure developer in the UK, responsible for delivery of more than 4,000 homes in the year to September 2020. His evidence also records that the company is more than 60 years old, with a track record of working in partnership with local authorities to deliver large-scale residential-led developments such as the Tangmere SDL. Significantly, this has included delivering extensive supporting infrastructure alongside the provision of new dwellings.
17. Mr Leach further speaks to the resources which Countryside brings to bear, and its place within the corporate structure of Countryside Properties Plc<sup>2</sup>, demonstrating that once the Order is confirmed and the Order Land acquired, the company will be able to deliver development of the Tangmere SDL on the basis set out before this Inquiry; namely the 'Scheme'.

#### **The Scheme**

18. In this regard the Scheme comprises a residential-led, mixed-use development comprising up to 1,300 dwellings, an expanded village centre, community uses, a primary school, informal and formal open spaces, playing fields, footpaths, cycleways, associated landscaping, utilities and drainage infrastructure. Crucially, it provides for the *comprehensive* development of the Tangmere SDL, consistent with planning policy, ensuring that the entirety of the allocation is brought forward in a coherent manner.
19. In addition, the Inquiry can note that the Scheme will deliver development in a manner which relates constructively to the existing village. As the Inquiry is aware, Tangmere is identified in the Local Plan as a Settlement Hub, comprising not only of extensive residential development but also a number of community facilities, including a community centre, a convenience store, a health centre and a primary academy school. Central to the Scheme is the objective of ensuring that both new dwellings and new facilities are provided in a manner that integrates successfully with the existing settlement; the 'one village' concept as identified in the Neighbourhood Plan.

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<sup>2</sup> Currently being re-named Countryside Partnerships Plc.

20. A masterplan prepared by Countryside was submitted in 2019 and endorsed by the Council's Planning Committee in January 2020. A planning application was subsequently submitted by Countryside later that year, and on 31 March 2021 the committee resolved to grant planning permission subject to the withdrawal of a holding objection from Highways England, and the completion of a planning obligation pursuant to Section 106 TCPA. That objection has since been withdrawn, and the planning obligation will be completed following confirmation of the Order and compulsory acquisition of any land not currently subject to a voluntary agreement.

### **Compelling Case for Compulsory Acquisition**

21. Before powers of compulsory purchase will be authorised, it is necessary that an authority first demonstrate a compelling case to justify them. In the present instance, the compelling case is essentially twofold, being:

- (a) The public benefit that will be delivered; and
- (b) The historic failure on the part of the Landowning Interests to bring forward development and so deliver that public benefit.

22. However, before turning briefly to those elements, it is worth the Inquiry first noting the limited scope of the Remaining Objections to the Order. Significantly, none of the Remaining Objectors contest the principle that the Order Land should come forward for the type of residential development envisaged by the Scheme. Further, none of them suggest that Countryside is not a suitable body capable of delivering that development, nor do any of them suggest any type of procedural impediment to that delivery. In truth, the only real point of dispute is that of whether the Heaver family should be allowed to pursue piecemeal development in respect of part of the Tangmere SDL, as opposed to the allocation coming forward as a comprehensive whole.

### **Benefits**

23. Beginning with the question of benefits, those which the Scheme would deliver are to a large extent self-evident. If confirmed the Order will enable the Council, in conjunction with Countryside, to deliver a substantial quantum of residential development. The provision of

these dwellings is necessary if the Council is to ensure that there are sufficient homes within its district.

24. As the Inquiry will be well aware, the provision of housing is not an arid, academic question relating simply to whether or not local planning authorities are able to discharge obligations imposed by national planning policy. Rather, it is a 'real' issue, with fundamental implications for the social and economic health of a local area, and for families which live (or want/need to live) there. As such, the benefits which provision of more than 1,000 new dwellings – together with associated infrastructure – are genuine and substantial.
25. The Scheme comprises a well-designed, sustainable development, in a manner well-related to the settlement of Tangmere. The extension to the village comprises part of the Council's long-term strategic plans for the District. Given that the development will come forward hand in hand with the infrastructure necessary to serve both it and the existing community, it will support the vitality of Tangmere more broadly. The provision of substantial housing development in a sustainable form and location will deliver multiple social, economic and environmental benefits
26. Once the Order is confirmed, there will be no barrier to development proceeding and those benefits being delivered. To date the multiple interests in the TSDL have proved a bar to its delivery, as those interests have remained in dispute as to the commercial relationship between them (again, more in a moment). Once under a single control, development can then come forward. In this regard, the Council reiterates the following headline points:
- Crucially, in Countryside the Council has identified a development partner with a strong and proven track record in housing delivery. The company is ready and committed to proceeding, and
  - The Council has resolved to grant planning permission in respect of the Scheme.

### **History of Non-Delivery**

27. The longstanding failure of the Landowning Interests to bring forward the promised development of the TSDL is detailed in the evidence of Mr Andrew Frost. Development has been promised for more than a decade. Throughout that time the Council has supported,

and sought to facilitate, delivery of housing on the land, consistent with its long-term strategic objectives. However, no material progress has been forthcoming.

28. The Inquiry will have noted from the evidence that at the beginning of the last decade, the Landowning Interests were supposedly in collaboration, as forming a 'consortium'. However, despite the promises made as to delivery of a comprehensive scheme, and despite the Council's best endeavours to promote a joint and unified approach, no material progress was achieved. No masterplan was forthcoming for endorsement, let alone a planning application, so that whilst the other SDLs within the district have come forward the TSDL has stood still.
29. At bottom, it appears that there was really only one stumbling block; that was the position which has been adopted by the Heaver Family that they held a 'ransom' over development of the remainder of the allocation, which ransom must be recognised by any commercial arrangement between the parties. The other Landowning Interests, being the Pitts Family and the Church Commissioners, would not accept this alleged 'ransom', and refused to concede to Heaver's terms.
30. This 'stand-off' was not a dispute which lasted weeks, or even months. On the contrary it has meant years of stalemate, during which not only has no development taken place, but the parties could not even agree as to the basis on which such development might come forward.
31. It is on this basis that the Council has stepped into the breach, and determined to exercise its compulsory purchase powers.

### **Acquisition by Agreement**

32. The Council is (and has at all times been) mindful of national guidance which directs that an acquiring authority must take reasonable steps to acquire relevant interests by agreement. In fact strenuous efforts have been made in this regard for a period of years, as the Council has sought to reach terms with each of the Landowning Interests.



33. Negotiations have been conducted by Countryside and its agents, but the Council has had oversight of discussions, and has approved the approaches adopted. Further, the Council has offered to conduct negotiations for acquisition directly.

34. The genuine commitment to reaching voluntary agreements has borne fruit, and it is as a consequence of that commitment that agreements have been reached with the other two Landowning Interests and indeed almost all other statutory objectors save those relating to the Heaver Family, so that their objections have been withdrawn. That the Council has not been able to secure agreements with the Remaining Objectors does not speak to any lack of effort or intent on its part. Rather, it speaks to the fact that there is a commercial disagreement as to the value of the interests held by those Objectors. Clearly, matters of valuation are not for this Inquiry, and can in due course – if agreement is not reached – be the subject of determination by the Upper Tribunal (Lands Chamber). Suffice it to say at present that the Council regards the various bases on which it has offered to acquire the relevant interests as robust, and maintains that the commercial position adopted by the Heaver Objectors is unsound.

#### **Concluding Remarks**

35. It is on this basis, and having regard to these considerations, that the Council will in due course ask that the Order be confirmed.

**Alexander Booth QC**

7<sup>th</sup> September 2021

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