**Tangmere CPO – Response to 1D/22**

1. We have had an opportunity to undertake a preliminary review of ID/22 which is stated to be an Undertaking from the Acquiring Authority to Tangmere Medical Centre (and others).
2. As you are aware, the Undertaking was submitted at 18.31 yesterday. It was drafted without any prior reference to Ashurst. It is my understanding that the purpose of the Undertaking is to address the Inspector's questions, in particular the Inspector's desire to have an understanding as to how it is intended for necessary/comparable replacement arrangements to be available for the Health Centre should the development proceed.
3. We understand that the Inspector is seeking any general clarification as to how it may be intended or any such Undertaking to be secured and delivered (the mechanism/procedure/timing etc) should the Order be confirmed.
4. The objection from the Tangmere Medical Centre (TMC) was submitted on 9 December 2020. It made reference to the TMC's interests in Plots 15, 16 and 17, in particular the benefit of the right to the passage to the services through and the use of conducting media and facilities; right to enter for the purpose of inspecting, maintaining, repairing and renewing any building including boundary walls and fences in Plots 15, 16 and 17.
5. TMC made it clear that they were supportive of the principle of the development of the TSDL but needed to object for the following reasons:
6. we have not been consulted on the specific implications of the CPO on our medical practice;
7. the Council has failed to explain why the precise rights set out in the schedule are required;
8. any necessary rights affecting the medical practice could be secured by agreement rather than through the CPO;
9. the CPO would amount to an unnecessary and unacceptable interference with our rights; and
10. we do not think that the Council has demonstrated that there is sufficient justification for the confirmation of the CPO in the public interest.
11. Paragraph 11.69 of the Acquiring Authority's Statement of Case, indicated that the Developer had offered heads of terms to the TMC such that their rights would be re-granted should they be acquired under the Order, where it has been identified that these rights can be re-granted. The Statement anticipated that completion of a voluntary agreement would remove TMC's objection to the Order.
12. It should be noted that the Acquiring Authority has not provided clear and compelling evidence to justify the interference with the respective Rights.
13. The Acquiring Authority has given the following Undertakings to the TMC and the other owners:

(1) To continue to offer and negotiate with the Owners the re-grant of the Existing Rights post the close of the Inquiry;

(2) Should the Order be confirmed, continue to offer and negotiate with the Owners the re-grant of the Existing Rights including after the compulsory acquisition of Plots 15, 16 and 17;

(3) The Council is hereby bound by the terms of this Deed but only to the Owners which they may so enforce against the Council.

1. From our review of ID/22, the document is a hastily concocted and ill-considered attempt to either deal with the specific points raised by the Inspector or, more importantly, provide a clear and meaningful way forward which provides any form of certainty as to the mechanism, procedure and timing for ensuring that the necessary/comparable replacement arrangements will be available for the TMC (and the other affected parties) should the development proceed.
2. The reasons for coming to this conclusion are as follows:
3. There is no timescale, process or procedure for continuing to negotiate with the Owners post the close of the Inquiry.
4. Should the Order be confirmed, there is no timescale, process or procedure for continuing to negotiate with the Owners to secure the re-grant of the Existing Rights prior to implementation of the development.
5. The fact that the Council is bound by the terms of the Undertaking does not obviate the deficiencies in the absence of the process procedure or timescale for securing the re-grant of the Existing Rights.
6. For reasons which it would be unhelpful to go into for the purposes of this note, there was a significant, unnecessary, delay progressing the negotiations of the heads of terms (we can provide the Inspector with the background correspondence if this would assist). However, negotiations have progressed and we received a draft template agreement on 25 August 2021. We provided our comments on the draft agreement on 27 August 2021 – a copy of the revised template agreement is appended to this note.
7. Rather than rely on an ineffective Undertaking, the most appropriate course of action would be to either:
8. Refuse to confirm the Order in the absence of the re-grant of the Existing Rights which the Acquiring Authority implicitly accepts are necessary; or
9. To delay any decision in respect of the Order until such time as the Acquiring Authority has provided confirmation that there is an effective and agreed mechanism in place for securing the re-grant of the Existing Rights.
10. There is no desire to delay any negotiations with the Acquiring Authority. The TMC and the other affected owners would be willing to sign up to the draft agreement which is appended to this note. Completion of an agreement in this form would facilitate the withdrawal of the respective objections.

**Ashurst LLP**

9 September 2021