
APPENDIX 1: COUNTRYSIDE HEADS OF TERMS PROPOSED HYBRID OPTION AGREEMENT

SUBJECT TO CONTRACT

HEADS OF TERMS - PROPOSED HYBRID OPTION AGREEMENT

TANGMERE STRATEGIC DEVELOPMENT LOCATION

1. Landowners	Bosham Limited and Shopwyke Limited, 22 Chancery Lane, London WC2A 1LS
2. Developer	Countryside Properties (UK) Ltd
3. Existing Interest	Bloor Homes Limited and Bloor Holdings Limited ('Bloor') are the holders of an existing interest in the Property by way of a Promotion / Option Agreement dated 21 December 2012.
4. Property	<p>The land parcels identified for this agreement are as follows:</p> <ul style="list-style-type: none"> • Bosham Limited and Shopwyke Limited, measuring approximately 55.2 acres/22.3 ha (the 'Heaver Land'); and • CS South Ltd and CS East Ltd (combined known as the 'Strips'). <p>For the avoidance of doubt the parcel of land known as Tangmere Corner (measuring approximately 2.9 acres / 1.2 ha) is excluded from the definition of the Property and will not form part of the land the Developer will have option to acquire. The Landowners will however enter into a Section 106 agreement in respect of both the Property and Tangmere Corner.</p>
5. Agreement Summary	<p>The Landowners and Countryside will facilitate the delivery of the Tangmere SDL by way of a hybrid-option agreement where Countryside will be obligated to service the Property and Tangmere Corner and will have the option to draw down up to 50% of the developable land within the Property (always subject to a minimum of 140 units across 50% the Property). An indicative layout and phasing plan prior to exchange will be provided for agreement prior to an exchange. The Landowner will be permitted to share this with Bloor Homes. It is accepted that the indicative layout and phasing plan may evolve and any proposed changes will be provided for agreement.</p> <p>The Landowners will seek to agree a Deed of Variation with Bloor Homes that will enable Bloor to acquire up to 50% of the developable land within the Property. The Deed of Variation will be exchanged simultaneously with this agreement.</p> <p>Countryside will be subject to overriding objectives to maximise value and minimise costs.</p>
6. Premiums	<p>Initial Premium: £150,000 (plus VAT); and</p> <p>Extension Premium: £100,000 (plus VAT).</p> <p>Both payments are to be deductible on exercise of the Countryside Parcel, but not refundable.</p>

7. Period	<p>Initial Term: 5 years</p> <p>Extension: 2 years in the event of a planning slippage, or a delay to the CPO across the TSDL and subject to performance hurdles.</p>
8. Planning and Promotion Costs	<p>A planning and promotion cost cap of £600,000 to reflect the Landowners' share of the real and budgeted costs to date in relation to the Tangmere SDL's promotion and preparation of the Outline Planning Permission. It is agreed that this excludes any internal Countryside costs or any Countryside costs in relation to the compulsory purchase of other land interests within the Tangmere SDL which will not be included in any development account relating to the Property.</p> <p>It is currently assumed that Countryside do not have to prepare to defend a CPO Inquiry in relation to the Property and Tangmere Corner. If contracts are not exchanged prior to the date on which Countryside draws down the Property, the Property will be acquired pursuant to the CPO.</p> <p>The planning and promotion costs as reasonably evidenced by Countryside (up to the agreed cap) will be deductible upon exercise of the first Countryside Parcel.</p>
9. Phasing	<p>Prior to an exchange of contracts, it is proposed that a Phasing and Disposals Plan will be agreed as soon as possible that will locate the Countryside Parcel(s) and Bloor Parcel(s). The Phasing and Disposals Plan will also set out the timing of each parcel draw down and the apportionment of infrastructure / s106 / CIL costs. The Phasing and Disposals Plan will be indicative and evolve over time and any proposed changes will be provided for agreement.</p>
10. Countryside Parcel(s)	<p>Countryside will have the option to draw down up to 50% of the developable land within the Property (always subject to a minimum of 140 units across 50% of the Property).</p> <p>Countryside will acquire the Countryside Parcel at 90% of Market Value. Countryside will drawdown 100% of its share in the land following exercise of the option, subject to Countryside having the ability to defer 50% of the purchase price by 12 months. The Countryside Parcel will include developable land and any infrastructure land required to service the parcel acquired, or any other parcels.</p> <p>There will be a Minimum Price equal to the greater of £350,000 per Net Developable Acre or £175,000 per Gross Acre (for the avoidance of doubt, no more than 50% of the infrastructure land required to service the Heaver land) and subject to upwards only indexation (RPI). For the avoidance of doubt, Gross Acre includes all land within the Property, including infrastructure land required to service the Net Developable Acre land.</p>

	<p>For the avoidance of doubt, no costs associated with the compulsory purchase of the Tangmere SDL will be considered when calculating Market Value.</p> <p>In the event that the Landowners and Countryside cannot agree an appropriate Market Value then the matter will be referred to an Independent Expert for determination.</p> <p>The contract will also provide for an anti-embarrassment provision in the event that a land parcel is acquired and traded at a greater price within 5 years. The net uplift over the purchase price will reflect the costs set out below, reasonably and properly incurred (and evidenced on an open book basis), by Countryside in the process of achieving an enhanced consent:</p> <ul style="list-style-type: none"> • Planning costs only in relation to an additional planning application relating to the sale parcel and proportionate where this may part of a wider planning application. • Holding costs incurred by Countryside up to a cap of 4% over LIBOR and calculated over the period of Countryside's ownership of the land where it is demonstrable that these arise from an extended period over and above the delivery strategy for the Tangmere SDL. • Additional agents and legal costs applicable to the third party sale • Any non-recoverable VAT liability applicable to the third party sale <p>Where parts of the land are sold the calculation would be adjusted on an appropriate pro-rata unit basis.</p> <p>The payment calculation will be on the basis of an un-serviced land value of the sale parcel to be shared equally between Countryside and the Landowners.</p> <p>Countryside will draw down the Countryside Parcel within three years from Satisfactory Planning Permission. The Parcel will be subject to an automatic extension in the event the Price is not agreed and has been referred to an Independent Expert. There will be a Long Stop Date of 4 years from Satisfactory Planning Permission subject always to the Countryside Parcel being drawn down within 3 years from the date of the first acquisition (whether by Bloor or Countryside).</p>
<p>11. Bloor Parcel(s)</p>	<p>It is anticipated that Bloor will acquire the Bloor Parcel(s) from the Landowners at an agreed percentage of Market Value.</p> <p>If Bloor do not exercise their option within an agreed period the Landowners may opt to dispose of all or part of that land to Heaver Homes Ltd which will deliver the requisite dwellings, subject to the delivery being pursuant to and not prejudicing Countryside's Outline Planning Permission.</p> <p>Any parcel(s) not acquired by Bloor or sold to Heaver Homes Ltd will be taken to the market with Countryside obligated to service the parcel in accordance with the Phasing and Disposals Plan. If a sale does not exchange within an agreed period, Countryside can elect to acquire the parcel(s) at</p>

	<p>100% of Market Value to ensure continuity of development (the Market Value of the parcel(s) acquired will be have regard to the value of the previous Countryside parcel(s)). This sale and / or purchase by Countryside shall complete within 3 years of Countryside’s first land acquisition of the Property.</p> <p>The Landowners may appoint a selling agent to advise on the draw down of the respective Countryside and Bloor land parcels over the Property.</p> <p>A reasonable Project Management Fee will be charged by Countryside in relation to any parcel that has been serviced but not drawn down by Countryside. This Project Management Fee will reflect competitive rates in the marketplace at that time up to a cap of 6% of that parcel’s pro-rata share (x/1300 or subsequent increase in residential units) of infrastructure costs across the Tangmere SDL.</p> <p>NB RICS Market Value definition to be referenced as defined by the Royal Institution of Chartered Surveyors – Global Standards (28 November 2019) and Valuation of Development Property 1st edition October 2019 (Guidance note, Global) or any replacement.</p>
<p>12. Tangmere Corner</p>	<p>Tangmere Corner will be serviced by Countryside and the Landowners will dispose of it as . a relatively freestanding plot capable for coming forward for development within 30 months of Countryside's implementation on site, subject to extension for force majeure.</p> <p>No Project Management Fee will be charged by Countryside in relation to Tangmere Corner.</p> <p>In accordance with Countryside’s outline planning permission, the number of units at Tangmere Corner will be restricted to up to 18 under the outline planning permission. Any subsequent new planning application prepared by the Landowners in respect of Tangmere Corner must not prejudice Countryside’s Outline Planning Permission, Section 106 Agreement, delivery of site wide infrastructure or any Reserved Matters Approvals secured pursuant to Countryside’s Outline Consent. Countryside also reserves the right to access Tangmere Corner for the purposes of carrying out any surveys or technical investigations required.</p> <p>Countryside will be responsible for fully servicing Tangmere Corner to the boundary, including permanent and construction access.</p>
<p>13. S106 / CIL / Infrastructure</p>	<p>Countryside will use reasonable endeavours to maximise the value of the scheme and minimise the obligations and costs when negotiating the s106 agreement/CIL liability. The Landowners will enter into the s106 agreement (in respect of both the Property and Tangmere Corner) as reasonably required to enable Satisfactory Planning Permission.</p>

	<p>Countryside will indemnify the Landowners against all s106 / CIL liability where they implement a liability on the Landowners.</p> <p>Where land is subsequently drawn down by Bloor Homes or becomes a market sale parcel then the liability will be indemnified by the purchaser.</p> <p>All costs relating to site-wide strategic infrastructure / s106 / CIL will be equalised across the Tangmere SDL and apportioned to each parcel on a pro-rata gross acreage basis. As Countryside will be servicing the Bloor Parcels and Tangmere Corner, those servicing costs attributed to those parcels as set out in the Phasing and Disposals Plan will be taken into account in the calculation of the Price for the Countryside Parcel.</p> <p>Chichester District Council ("the Council") do have an adopted CIL charging schedule, however Countryside will use commercially reasonable endeavours to achieve zero-rated CIL for Tangmere SDL, in line with the objective to minimise costs and maximise value.</p>
<p>14. CPO</p>	<p>Upon entering into the agreement:</p> <ul style="list-style-type: none"> • Countryside and the Council will undertake not to execute any confirmed CPO or compulsorily acquire any of the Property and Tangmere Corner. The Council will also be required to provide an undertaking to this effect (NB the Council will be the Acquiring Authority. The Landowners require direct privity of contract with the Council – they will not be reliant upon an undertaking from Countryside. This is a standard approach. Such an undertaking would be conditional upon: (1) the Landowners complying with the terms of the Agreement; (2) should any unknown interests arise the Council can exercise their CPO powers; and (3) it will not otherwise prejudice or fetter the Council’s discretion in exercise of its functions as a Local Authority. • The Landowners will agree not to object to any CPO, subject to the CPO not being in conflict with any of the terms of the agreement.
<p>15. Balancing Payment</p>	<p>Where the Countryside option to acquire is exercised in advance of an open market land sale within the Tangmere SDL, a balancing payment will apply, whereby should the average sale price of the individual residential units be greater than the average sale price evidenced to determine the negotiation of the sale price then the following calculation will be applied to determine a further payment to the Seller:</p> <p>Sales receipts above this level will be split 50:50 between Countryside and the Landowners.</p> <p>. The calculation will determine any true increase in sales receipts and will allow for the appropriate BCIS indexation and any increase in S106/CIL costs, from a baseline figure fixed to the date of the parcel sale. The balancing payment will be payable on the sale of the final residential unit or three months from the practical completion of the final unit. A valuation</p>

	assessment will be applied [3] years from completion from the purchase date to determine the increase in the GDV in the event that the two trigger events have not occurred.
16. Professional Fees	<p>An undertaking will be provided to meet the Landowners' reasonable legal, and surveyor fees, as follows:</p> <ol style="list-style-type: none"> 1. A contribution of £80,000 (plus VAT) towards the Landowners' costs accrued to date from the appointment of Countryside as the Development Partner of The Council. This will be paid upon exchange of the Agreement. 2. Costs anticipated in negotiating the proposed Hybrid Option Agreement with a cap of up to £60,000 (plus VAT). This sum will be increased if both parties agree to do so, acting reasonably. Both parties will work towards exchanging the agreement at the earliest opportunity. Countryside will undertake to cover these costs through staged undertakings, where reasonably and properly incurred, irrespective as to whether or not the agreement is exchanged other than in the event that the Landowner seeks a material departure to these HoTs, or fails to progress the transaction, or withdraws unilaterally 3. The Landowners' reasonable justified and evidenced monitoring costs for Planning, and other development consultants as required, capped at £3,000 plus VAT per quarter. 4. For the avoidance of doubt, the costs related to this clause will be included as deductible costs under the Agreement but outside of the planning promotion cost cap.
Vacant Possession	Prior to Countryside's Implementation of works on the Property, the Landowner will ensure Vacant Possession of both the Property and the land known as Tangmere Corner, as defined within Clause 4 of these Heads of Terms.

17. Landowner's Solicitors	<p>Henry Moss, Partner Ashurst LLP Fruit & Wool Exchange 1 Duval Square London E1 6PW Tel: 020 7859 2767 Henry.Moss@ashurst.com</p>
18. Developer's Solicitors	<p>Dave Kerr, Partner Osborne Clarke LLP One London Wall, London, EC2Y 5EB Tel: 020 7105 7402 dave.kerr@osborneclarke.com</p>
19. Conditionality	<p>The agreement is Subject to Contract and Countryside Board Approval; and will be conditional upon:</p> <ol style="list-style-type: none"> 1. Either a Compulsory Purchase Order being confirmed, and / or contracts having been exchanged on all other land interests within the Tangmere SDL; 2. The simultaneous exchange of a Deed of Variation between the Landowners and Bloor. Prior to exchange, the two agreements (being; i) the Deed of Variation between Bloor and the Landowner; and ii) the agreement between Countryside and the Landowners) will be shared between Countryside and Bloor to ensure compatibility, save for confidential commercial terms being redacted. 3. Countryside will confirm to the Landowners the variations they are seeking to the Bloor Option Agreement to ensure its compatibility with Countryside's Option Agreement as soon as possible and no later than 10 working days from agreeing Heads of Terms with Bloor; 4. As required, any part of the Strips being transferred to the Landowners simultaneous to any completion by Countryside or Bloor; and 5. As required, the Landowners to sign a S106 agreement in respect of the Property and Tangmere Corner. 6. Prior to any completion by Countryside of the acquisition of the CS East Ltd and CS South Ltd interests (combined known as the 'Strips'), the Landowners will be obligated to procure the release

	of the associated restrictive covenants benefitting Herbert George Heaver and Shelagh Heaver.
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Landowners

Signature: _____ Date: _____

Developer

Signature: _____ Date: _____

Additional Headings

Parent Company Guarantee
Non Assignment
Non competition
VAT
Tax suspension
Access for Farming activity; and crop compensation

APPENDIX 2: MR BODLEY HEADS OF TERMS 30 JULY 2021

Subject to Contract

Heaver Land, Tangmere

Heads of Terms

1	Landowners	Bosham Limited and Shopwyke Limited of 22 Chancery Lane, London WC2A 1LS; and CS South Limited and CS East Limited of New Kings Court Tollgate, Chandler's Ford, Eastleigh, Hampshire SO53 3LG
2	Council	Chichester District Council
3	Developer	Countryside Properties (UK) Ltd
4	Property	The freehold land identified as plot 16 in the CPO measuring approximately 55.22 acres.
5	Tangmere Corner	The freehold land identified as plots 2, 3 and 4 in the CPO measuring approximately 2.9 acres.
6	Control Strips	The freehold strips of land identified as plots 15 and 17 in the CPO and measuring 1,028m ² and 292m ² respectively.
7	Bloor Option	The Promotion and Option Agreement between: (1) Mr and Mrs H G Heaver; (2) Bloor Homes Limited; and (3) Bloor Holdings Limited dated 21 December 2012.
8	TSDL	The Tangmere Strategic Development Location
9	CPO	The Chichester District Council (Tangmere) Compulsory Purchase Order 2020
10	Compensation Code	The body of statute and case law and the established practices for the assessment, payment and determination of compensation for compulsory acquisition of land and rights, including the Land Compensation Acts of 1961 and 1973, the Compulsory Purchase Act 1965, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, the Housing and Planning Act 2016 and the Neighbourhood Planning Act 2017, in each case as amended from time to time.
11	Land Consideration	A sum to be agreed or determined for the acquisition of the Property and the Control Strips in accordance with the Compensation Code subject to the Minimum Land Price. The Land Consideration will include an appropriate sum in respect of ransom for the provision of access to the land to the south of the Property and the Control Strips. In no circumstances will the Land Consideration be less than the Minimum Land Price.
12	Determination of Land Consideration	In the absence of agreement either party may refer the assessment of the Land Consideration to the Upper Tribunal (Lands Chamber) for determination at any time following service of a Trigger Notice, pursuant to section 1(5) of the Lands Tribunal Act 1949. The standard statutory limitation period of six years from the Transfer Date will apply to any reference to the Upper Tribunal (Lands Chamber).
13	Basic Loss Payment	£75,000 per interest (x 3 making a total of £225,000)
14	Minimum Land Price	£30,000,000 (thirty million pounds)

Subject to Contract

15	Valuation Date	The Transfer Date
16	Transfer Date	The date that the Property and the Control Strips transfer from the Landowners to the Council in accordance with the arrangements under the “ Agreement ” as described below.
17	Agreement	<p>The Agreement will be in the form of a put and call option to be triggered by the service of a “Trigger Notice”. The Trigger Notice can be served either by the Council serving notice on the Landowners or the Landowners serving notice on the Council. A notice period of three months will apply in both cases. The Trigger Notice can be served at any time following confirmation of the CPO. The requirement for the CPO to be confirmed can be waived by the Council. Three months from the date of service of the Trigger Notice the following events will occur:</p> <ul style="list-style-type: none"> • Transfer of the Property from the Landowners to the Council. • Transfer of the Control Strips from the Landowners to the Council. • Payment of the Land Consideration by the Council to the Landowners. In the event that the Land Consideration has not been agreed by the Transfer Date the Council will pay the Minimum Land Price. The balance of the Land Consideration will be payable on agreement between the parties or determination by the Lands Chamber. • Payment of a Basic Loss Payment in respect of the Property and each of the two Control Strips (i.e. three payments making a total of £225,000) from the Council to the Landowners. <p>The Council will acquire the Property subject to the Bloor Option. The Landowners will be under no obligations with regard to the Bloor Option.</p>
18	Dealings with Tangmere Corner	Tangmere Corner is excluded from the Property to be transferred by the Landowners to the Council, and the Council undertakes not to acquire Tangmere Corner pursuant to the CPO. The Landowners will, however, enter into a Section 106 Agreement in respect of Tangmere Corner. The Developer will be obligated to fully service Tangmere Corner to the boundary, including permanent and construction access, subject to payment of a reasonable Project Management Fee. The Project Management Fee will reflect competitive rates in the market place at that time subject to a cap of 6% of Tangmere Corner’s pro-rata share of 1,300 units (or any subsequent increase of residential units at the TSDL) of infrastructure across the TSDL.
19	Longstop Date	30 June 2025. If the Trigger Notice has not been served by the Longstop Date the Agreement can be terminated by either party.
20	Exchange and Completion	As soon as reasonably practicable.
21	Deposit	Non-refundable deposit of £300,000 payable on exchange of the Agreement which will be deductible from the Land Consideration payable on agreement or determination of the Land Consideration.

Subject to Contract

22	Non use of CPO Powers and Objection	<p>The Council will undertake not to exercise the CPO over the Property, Tangmere Corner and the Control Strips. This undertaking will be conditional upon: (1) the Landowners complying with the terms of the Agreement; (2) should any unknown interests arise the Council can exercise their CPO powers against the unknown interests; and (3) it will not otherwise prejudice or fetter the Council's discretion in exercise of its functions as a Local Authority.</p> <p>The Landowners agree to withdraw their objections to the CPO and not to challenge the confirmation of the CPO (s23 ALA 1981), subject to the confirmed CPO not being in conflict with any of the terms of the Agreement.</p>
23	Professional Fees	<p>The Council (or at their election the Developer) will pay the Landowners' reasonable professional fees (details to be confirmed) on exchange of the Agreement.</p>
24	VAT	<p>All sums referred to in these Heads of Terms (and in the subsequent Agreement) exclude VAT which will be payable in addition where applicable.</p>
25	Landowners' Surveyor	<p>Matthew Bodley Matthew Bodley Consulting Limited 5th Floor, St George's House 15 Hanover Square London W1S 1HS</p> <p>Email: matthew@matthewbodleyconsulting.com Mobile: 07814 545287</p>
26	Landowners' Solicitor	<p>Henry Moss, Partner Ashurst LLP Fruit and Wool Exchange 1 Duval Square London E1 6PW</p> <p>Email: henry.moss@ashurst.com Tel: 020 7859 2767</p>
27	Council's Surveyor	TBC
28	Council's Solicitor	TBC

Matthew Bodley
For and on behalf of Matthew Bodley Consulting Ltd

30 July 2021

APPENDIX 3: COUNTRYSIDE HEADS OF TERMS (MARKET VALUE)

Subject to Contract

Heads of Terms

1	Landowner	See accompanying schedule
2	Council	Chichester District Council
3	Developer/Purchaser	Countryside Properties (UK) Ltd
4	Property	See accompanying table
5	TSDL	Tangmere Strategic Development Location
6	CPO	The Chichester District Council (Tangmere) Compulsory Purchase Order 2020
7	Compensation Code	The body of statute and case law and the established practices for the assessment, payment and determination of compensation for compulsory acquisition of land and rights, including the Land Compensation Acts of 1961 and 1973, the Compulsory Purchase Act 1965, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, the Housing and Planning Act 2016 and the Neighbourhood Planning Act 2017, in each case as amended from time to time.
8	Consideration	See accompanying table Statutory loss payments, where applicable, will be calculated in respect of each interest and paid in addition.
9	Determination of Compensation	<ul style="list-style-type: none">• The Landowner may submit a formal Claim for Compensation in accordance with the provisions that would normally apply following the service of a GVD and thereby trigger the following provisions.• Following submission of such a claim the Landowner and the Developer/Purchaser will seek to agree terms.• Either party may refer the determination of the compensation claim to the Upper Tribunal (Lands Chamber) for determination, pursuant to section 1(5) of the Lands Tribunal Act 1949.• The standard statutory limitation period of six years from the date of the confirmation of the CPO will apply to any reference to the Upper Tribunal (Lands Chamber).• The compensation will be assessed in accordance with the Compensation Code• In the event that the sum total of compensation agreed or otherwise determined is less than the Consideration the landowner will reimburse the difference. In any event the Consideration will be

		<p>deducted from compensation so agreed or determined.</p> <ul style="list-style-type: none"> The Valuation Date for the assessment of compensation shall be the date of this agreement.
10	Conditions	<p>The Council will undertake not to exercise the CPO against the Landowner.</p> <p>The Council may exercise their CPO powers in respect of any other interests in the Property.</p> <p>The Landowner will;</p> <p>(1) transfer its interest in the Property; (2) not otherwise prejudice or fetter the Council's discretion in exercise of its functions as a Local Authority. (3) Withdraw all objections to the CPO (4) Refrain from any challenge to the confirmation of the CPO (s23 ALA 1981)</p>
11	VAT	All sums referred to in these Heads of Terms (and in the subsequent Agreement) exclude VAT which will be payable in addition according to the registered VAT status.
12	Landowner's Surveyor	<p>Matthew Bodley Matthew Bodley Consulting Limited 5th Floor, St George's House 15 Hanover Square London W1S 1HS Email: matthew@matthewbodleyconsulting.com Mobile: 07814 545287</p>
13	Landowner's Solicitor	<p>Henry Moss, Partner Ashurst LLP Fruit and Wool Exchange 1 Duval Square London E1 6PW Email: henry.moss@ashurst.com Tel: 020 7859 2767</p>
14	Countryside's Surveyor	<p>Ged Denning DWD LLP 6 New Bridge Street London EC4V 6AB</p>
15	Countryside's Solicitor	<p>Dave Kerr Osborne Clarke LLP One London Wall London EC2Y 5EB Email: dave.kerr@osborneclarke.com</p>

		020 7105 7402
16	Conditionality	The agreement is Subject to Contract and Board Approval of Countryside and will be conditional upon the Compulsory Purchase Order being confirmed

APPENDIX 4: LICENCE FOR SITE INVESTIGATIONS

DATED

20

- to -

COUNTRYSIDE PROPERTIES (UK) LIMITED

LICENCE TO ACCESS
Land at Tangmere, Chichester



COUNTRYSIDE

Places People Love

BETWEEN

- (1)
- (2) **COUNTRYSIDE PROPERTIES (UK) LIMITED** whose registered office is at
Countryside House The Drive Brentwood Essex CM13 3AT

RECITALS

- (1) The Licensor has agreed to grant a licence of the Site to the Licensee
- (2) The Licensee wishes to use the Site for the purpose of carrying out any surveys or technical investigations including intrusive and archaeological surveys and investigations (which for the avoidance of doubt shall include any mitigation works or measures required pursuant to those surveys and investigations) in connection with the proposed development of the Site.

OPERATIVE PROVISIONS

1. **DEFINITIONS AND INTERPRETATION**

- (a) In this Agreement the following expressions (arranged in alphabetical order) shall have the following meanings that is to say: -

“Licensee”	The said Countryside Properties (UK) Limited
“Licensor”	
“Licence Period”	From [15] August 2022 until [14] August 2023
“Occupation Date”	[15] August 2022 relating to the land shaded green on the Plan
	[12] September 2022 relating to the land shaded pink on the Plan
Permitted Use	Carrying out of any surveys or technical investigations by the Licensee including intrusive and archaeological surveys and investigations (which for the avoidance of doubt shall include any mitigation works or measures required pursuant to those surveys and investigations) in connection with the proposed development of the Site.

"Plan" The Plan annexed

"Site" The land edged red on the Plan being land [] forming the land registered at the Land Registry under title numbers [WSX217492, WSX355209, WSX355210, WSX225302, WSX276484]

- (b) Words importing the singular meaning shall include the plural meaning and vice versa
- (c) The clause headings in this Agreement shall not in any way affect its interpretation but are for the convenience of the parties only
- (d) Reference to clauses clause numbers and schedules are references to clauses clause numbers and schedules of this Agreement
- (e) In this Agreement reference to any statute shall be deemed to include any corresponding sections in any similar amending or re-enacting statute or in any Local Act

2. LICENCE

- 2.1 Subject to the terms of this Agreement the Licensor permits the Licensee, its employees, agents, contractors and consultants during the Licence Period to occupy and use the Site for the Permitted Use.
- 2.2 The Licensee acknowledges that:
 - (a) The Licensee shall occupy the Site as a Licensee and that no relationship of the landlord and tenant is created between the Licensor and the Licensee by this agreement.
 - (b) The Licensor retains control, possession and management of the Site and the Licensee has no right to exclude the Licensor from the Site PROVIDED THAT the Licensor will comply with any reasonable health and safety requirements required by the Licensee or any contractor employed by the Licensee .
 - (c) The licence to occupy granted by this agreement is personal to the Licensee and is not assignable and the rights given in Clause 4 may only be exercised by the Licensee, its employees, agents, contractors, consultants and all other persons authorised by the Licensee

3. LICENSEES' UNDERTAKINGS

The Licensee agrees and undertakes with the Licensor: -

- (a) To keep the Site clean and tidy and clear of rubbish and to leave the same in a clean and tidy condition and free of the Licensees' furniture equipment goods and chattels at the end of the Licence Period
- (b) Not to do any act matter or thing which would or might constitute a breach of any statutory requirement affecting the Site or which would or might vitiate in whole or in part any insurance effected in respect of the Site from time to time
- (c) To insure the Licensee, its employees, agents, contractors, consultants and all other persons authorised by the Licensee and the Site and all lawful visitors against all claims arising from the exercise of the rights granted by clause 2 or from any negligence or default (including any breach or non-observance of the terms of this Licence however expressed or implied) in connection with the Site so as fully to satisfy all claims for which the Licensees may be liable under this Agreement
- (d) To make good all physical damage caused at its own expense to the reasonable satisfaction of the Licensor.
- (e) To pay reasonable compensation for any physical damage or disturbance caused (including crop damage) which may be incapable of being made good and will indemnify the Licensor against losses of Agricultural Payments which are directly attributable to the carrying out of the Permitted Use by the Licensee.
- (f) The Licensee shall maintain adequate public liability insurance to cover its obligations under this licence and to provide the Licensor with reasonable evidence on request that the Licensee has insurance policies in force to cover its obligations under this licence.
- (g) The Licensee shall indemnify the Licensor against all damage, costs, expenses, proceedings and liabilities ("Claims") that at the date of this licence are the reasonably foreseeable consequence of any negligence or other wrongful act or omission that is a breach of the terms of this licence except such Claims which arise out of the negligence or wrongful act or omission of the Licensor its servants or agents.

4. **TERMINATION**

This Agreement shall continue for the Licence Period and shall terminate automatically as follows:-

- (a) upon the expiry of one months notice served by the Licensee;
- (b) upon the expiry of one months notice served by the Licensor PROVIDED THAT the Licensee is in material breach of its obligations pursuant to this Licence and PROVIDED FURTHER THAT the Licensor has provided the Licensee with a reasonable opportunity of at least 10 working days to remedy such breach

5. **GENERAL**

- (a) The Licensor shall not be liable to the Licensee for any personal injury damage loss or inconvenience caused to them or to any goods or chattels brought by any person onto the Site it being the intention of and agreed between the parties that the Licensee exercising the rights granted by clause 2 shall do so at the risk of the Licensee
- (b) Nothing in this Agreement shall create the relationship of landlord and tenant between the parties

6. **NOTICES**

All notices given by either party pursuant to the provisions of this Agreement shall be in writing and shall be sufficiently served (but without prejudice to any other proper method of service) if marked for the attention of the Company Secretary and delivered by hand or sent by Recorded Delivery to the addresses shown above

THE COMMON SEAL of)
COUNTRYSIDE PROPERTIES (UK) LIMITED)
 was hereunto affixed in the)
 presence of:)

Director

Director/Secretary

**APPENDIX 5: LETTER SETTING OUT THREE OPTIONS DATED 16 DECEMBER
2022**

16 December 2022
Our Ref: 13252

Matthew Bodley Consulting
5th Floor
15 Hanover Square
London
W1S 1HS



6 New Bridge Street
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Dear Matt

TANGMERE – YOUR CLIENT - HEAVER

I refer to our previous exchanges and the Heads of Terms previously issued in respect of this matter. I have set out below an update as to the current position together with three proposals.

As you are aware, the previous CPO was confirmed with the inclusion of Plot 18, which was owned by National Highways, on the basis that it comprised the full extent of unadopted land required to construct the road junction to an adoptable standard in accordance with the planning permission.

However, it has subsequently transpired that additional land is required to create highway access from Plot 16 to the A27. This additional land is not adopted, was not included in the Order and there are no existing rights over that land, nor does the Council have the ability pursuant to either Section 38 or 278 of the Highways Act 1980 to carry out the required works and take access.

It is not possible to construct the proposed spine road without acquiring both Plot 18 **and** this additional land. It is therefore the case that the additional land, in the absence of any rights to construct a highway, needs to be acquired, preferably by private agreement but, if not, by the exercise of additional compulsory purchase powers.

The Council was aware, at the time of securing the existing Order, that your client claimed to benefit from unspecified rights over the additional land to allow access from Plot 16 to the A27 that were sufficient to enable the construction of a revised junction to adoptable standards. If your client was correct on this point, the Council could simply address this issue by acquiring Plot 16 and thereby take the benefit of such rights that would pass with the ownership thereof (i.e., assuming that they were not personal to your client).

However, your client has, to date, not presented any evidence as to the existence of any rights to take access and/or construct a new road, and the Council has been unable to find any evidence thereof. In addition, National Highways have advised the Council that they have not granted any such rights.

In any event, this additional land does not, by itself, provide sufficient capacity for an adoptable road junction without the addition of Plot 18 and I am not aware that your client has claimed any rights over Plot 18. This means that, even if your client was able to evidence rights over the additional land, they still could not construct a spine road access/junction that would be capable of satisfying either Section 38 or Section 278 without also acquiring Plot 18.

Partners

R J Greeves BSc (Hons) MRICS
G Bullock BA (Hons) BPL MRTPI
A Vickery BSc MRICS IRRV (Hons)
S Price BA (Hons) DipTP MRTPI

A R Holden BSc (Hons) FRICS
G Denning B.Eng (Hons) MSc MRICS
B Murphy BA (Hons) MRUP MRTPI
A Meech BSc MRICS
S Page BA MA (Cantab) MSc MRTPI

P Roberts FRICS CEnv
T Lodeiro BA (Hons) PGDip MSc MRICS
A Pilbrow BSc (Hons) MRICS IRRV(Hons)
C Turnbull BSc (Hons) MSc MRTPI



In this regard, National Highways have told me that, notwithstanding their lack of knowledge as to the existence of any explicit rights, the width of the existing access from the A27 roundabout is only sufficient for a single large agricultural vehicle and was never intended to accommodate multiple vehicles accessing and entering the land.

In practical terms, your client would have had to negotiate the acquisition of additional land even if they had the rights that your client claims to have.

The Council has been in negotiations with National Highways to negotiate the acquisition of Plot 18 and that part of the additional land registered within their ownership as illustrated on the attached plan. National Highways instructed Carter Jonas to advise them as to the market value of that land having regard to “no scheme” principles and terms have been agreed. As part of those negotiations, National Highways and their agents spent considerable time exploring the potential for development to be released by the sale of their land in the “no scheme” world.

Whilst it was agreed with National Highways that nominal compensation would be due pursuant to the Compensation Code on the basis that development would not come forward absentia the exercise of compulsory purchase powers, the Council offered £10,000 as a “goodwill” purchase price which has been accepted by National Highways. This only leaves that part of the additional land that is currently registered as belonging to your client.

Having reviewed the 1988 Deed it appears that this land should have been registered with National Highways and this anomaly has arisen through the registration of inaccurate Land Registry Plans following the completion of the 1988 Deed. In theory, therefore, the Council, in their capacity as the new owners of this land, could now apply to the Land Registry for rectification. However, the preferred alternative is for your client to agree voluntary terms for the transfer of this land failing which further compulsory purchase powers would be exercised.

For clarity, the purpose of a second CPO would be solely to regularise the position in respect of this parcel and once this is vested with the Council the consented development will be implemented. Site surveys are therefore underway ahead of a formal Council resolution. The Council have every expectation that, regardless as to whether or not your client objects, the CPO will be confirmed in a timely manner. As such, CPO 2 is being run in parallel with these discussions.

For the avoidance of doubt, the Council would much prefer to reach a voluntary agreement with your client and be able to abandon CPO 2. However, the lack of agreement would hold up the delivery of significant housing provision and it is therefore in the public interest that further delay is minimised.

In this regard, I have set out below three alternative options that would allow the Council to settle the ownership of the parcel and implement the scheme whilst preserving your client’s ability to fully argue their claim should it be necessary to do so.

I should stress that Options 1 and 2 are offered as a pragmatic solution by the Council and these proposals should not be relied upon as indicating that the Council accept that your client owns this land.

Option 1

The Council are prepared to treat with your client on exactly the same basis as that agreed with National Highways. As such, whilst the Council are of the opinion that the value of the land is already accounted for within the agricultural value of Plot 16 such that any additional payment is effectively

double counting, the Council offers your client the same terms as agreed with National Highways (i.e., £10,000) for the acquisition thereof. For the avoidance of doubt, this offer should not be construed as the Council's opinion of market value.

Following acquisition of this land, the Council would serve compulsory purchase acquisition notices on the remainder of your client's land thereby triggering their right to claim compensation.

Option 2

I have previously offered terms (my email 18 June 2022) whereby compensation in respect of Plot 16 would be calculated on the assumption that the land comprises part of Plot 16.

If you were to persuade the Tribunal that planning permission for the development of Plot 16 in isolation could be secured in the "no scheme world" you would then only need to consider the need to acquire access over Plot 18 and the additional land that has been acquired by the Council.

Your previous response was that your client would consider terms on this basis but only if it was also assumed that your client already had the unfettered ability to construct a spine road access. This is despite the fact that your client has never owned or had any rights over Plot 18 and has not produced any evidence that they have the necessary rights to construct a highway junction to adoptable standards.

As previously advised, the Council cannot agree your client's proposals, even if they wanted to, but, as I have already commented previously, there is nothing stopping your client from presenting evidence as part of any Tribunal proceedings to support your arguments in this regard. In other words, these proposed terms do not in any way prejudice your client's ability to argue their position at the Upper Tribunal.

In this context, as your client is currently unable to demonstrate any rights of access from the A27, a prospective purchaser could conclude that Plot 16 is landlocked which would obviously impact both on its existing and potential alternative use value.

I would point out that, as previously requested, if your client does have any evidence to support its position in respect of access issues it would be helpful to everyone if that could be provided to the Council as soon as possible.

The Council is still prepared to enter into the terms as offered previously but with the addition of a premium of £10,000 i.e., the same as agreed with National Highways.

Option 3

The Council will rely upon the obtaining and exercise of a second CPO for the sole purpose of acquiring that section of the additional land registered into your client's title and your client will be put to proof at the appropriate time in respect of ownership if they wish to claim compensation for that strip.

In the absence of any development potential, the Council's position is that the compensation payment in respect of this plot will be nominal regardless as to the ownership position.

For clarity, the scheme being promoted by the second CPO is the same as that permitted under the existing Order. The Council are therefore confident that the second CPO will be confirmed.

I would be grateful if you would take instructions. In the meantime, I would be very happy to discuss this further and clarify anything that is unclear.

Just so you are aware, I reserve the right to bring this letter to the attention of the Inspector as part of any future Inquiry proceedings in respect of the second CPO.

I have attached two plans. The first details the land acquired by the Council from National Highways. The second plan details that part of the additional land that is currently registered with your client.

As a final point, it would be helpful if you could confirm whether or not your client intends to elect for VAT on disposal of any/all of the various plots?

I look forward to hearing from you.

Yours faithfully,

A handwritten signature in blue ink, appearing to be 'PR' with a large flourish.

Peter Roberts

FRICS CEnv

Partner

DWD

peter.roberts@dwdllp.com

020 7489 4835

APPENDIX 6: REDACTED COUNTRYSIDE HEADS OF TERMS DATED 16 AUGUST 2023

PROPOSED HEADS OF TERMS

PURCHASE OF HEAVER LAND BY COUNTRYSIDE PROPERTIES (UK) LTD

DRAFT 16 AUGUST 2023

SUBJECT TO CONTRACT AND BOARD APPROVAL

CONFIDENTIAL

BACKGROUND

The Council secured a CPO for the assembly of land and interests to enable Countryside Properties (UK) Ltd (CPUK) deliver the TSDL. It transpired that this CPO did not include land owned by the Vendors and National Highways without which it is not possible to implement the scheme. It has therefore become necessary to secure a second CPO.

However, CPUK would prefer to agree terms with the Vendors and, to the extent that necessary agreement can be reached with National Highways, avoid the need to rely upon the Council to exercise **any** compulsory acquisition powers. CPUK therefore seek a voluntary purchase of all the Property in accordance with the terms set out below.

The Vendors will transfer their freehold interests in the Property to CPUK for the Consideration and will take all reasonable measures to transfer the Property with vacant possession. In the event that vacant possession cannot be provided by completion of the agreement, the Vendors will provide full assistance to CPUK prior to completion to establish the extent of the existing rights together with the provision of unredacted copies of all documents and correspondence by which occupation rights are claimed failing which the Council will be called upon to exercise their powers in respect of those interests following completion of the agreement.

The costs to CPUK and/or the Council of obtaining vacant possession of any part of the Property post completion will be reimbursed to CPUK by the Vendors. Conversely, CPUK will pay the difference between the Consideration and the sum of the total compensation, if greater, as determined by the UTLC.

The Vendors will also secure the assignment of all rights benefitting the Property to CPUK including, but not restricted to, all rights between plot 17 and the A27 roundabout.

Following the completion of the transfer, the Vendors may provide a fully supported claim for further consideration from CPUK in accordance with the principles of the Compensation Code. In the absence of agreement, either party may make a voluntary reference to the Upper Tribunal Lands Chamber (UTLC).

In the event that the UTLC determine that the sum of Rule 2 and Loss compensation is less than the stated Consideration, the Vendors shall reimburse the difference together with statutory interest from the date of this agreement.

The Council will not exercise any compulsory purchase powers in respect of the Vendors' interests, following completion of the agreement.

These terms are confidential to the Parties and shall not be referred to or disclosed as part of any proceedings before the UTLC. In this regard, the consideration on offer within these terms is significantly in excess what both CPUK and the Council consider to be Rule 2 Market Value.

However, CPUK are willing to agree these terms in order to avoid further delay and cost in funding the Council to secure and exercise compulsory purchase powers.

1	Vendors	<ul style="list-style-type: none"> • Bosham Limited • Shopwkye Limited • CS South Limited
2	Occupiers	<ul style="list-style-type: none"> • Shores Meadow Farming Partnership • John Heaver Farming Partnership
3	Council	Chichester District Council
4	Purchaser	Countryside Properties (UK) Ltd
5	Property	<p>Land as described within the CPO under the following plot numbers:</p> <ul style="list-style-type: none"> • Bosham Limited and Shopwyke Limited: - Freehold interest in plots 1, 3, 4, 5, 16, 17, 18 and 19E • CS South Limited:- Freehold interest in plot 16 • John Heaver Farming Partnership:- occupational rights in plots 1, 3, 4 and 5 • Shores Meadow Farming Partnership – occupational rights in plot 18.
6	Access Rights	Bosham Limited and Shopwyke Limited – access rights over plots 19B, 19C and 19D.
7	CPO	The Chichester District Council (Tangmere) (No. 2) Compulsory Purchase Order 2023 - https://www.chichester.gov.uk/article/31554/Tangmere-strategic-development-location
8	Compensation Code	The body of statute and case law and the established practices for the assessment, payment and determination of compensation for compulsory acquisition of land and rights, including the Land Compensation Acts of 1961 and 1973, the Compulsory Purchase Act 1965, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, the Housing and Planning Act 2016 and the Neighbourhood Planning Act 2017, in each case as amended from time to time.
9	Consideration	██████████ inclusive of Loss Payments but exclusive of VAT and professional fees.
10	Determination of Compensation	<p>The Vendors may submit a fully reasoned and evidenced Claim for Compensation to CPUK in accordance with the provisions that would normally apply following the service of a GVD and thereby trigger the following provisions.</p> <ul style="list-style-type: none"> • Following receipt of such a claim the Vendors and CPUK will seek to agree terms.

		<ul style="list-style-type: none"> • Either party may refer the determination of the compensation claim to the Upper Tribunal (Lands Chamber) for determination, pursuant to section 1(5) of the Lands Tribunal Act 1949. • The standard statutory limitation period of six years from the date of the confirmation of the CPO will apply to any reference to the Upper Tribunal (Lands Chamber). • The compensation will be assessed in accordance with the Compensation Code • In the event that the sum total of compensation agreed or otherwise determined is less than the Consideration the landowner will reimburse the difference together with statutory interest. • The Consideration will be deducted from compensation so agreed or determined. • The Valuation Date for the assessment of compensation shall be the date of this agreement. • The Upper Tribunal will not be provided with any information in respect of the Consideration.
11	Conditions	<p>The Council will undertake not to exercise any compulsory purchase powers against the Vendors but may exercise their CPO powers in respect of any other interests in the Property.</p> <p>The Vendors will;</p> <ol style="list-style-type: none"> 1. Transfer their freehold interest in the Property 2. Assign all rights benefitting the Property 3. Not otherwise prejudice or fetter the Council's discretion in exercise of its functions as a Local Authority. 4. Withdraw all objections to the CPO 5. Refrain from any challenge to the confirmation of the CPO (s23 ALA 1981) 6. Unless already elected, the Vendors shall not elect the Property for VAT and will provide a warranty in the contract to that effect. 7. Subject to para. 19 of these Heads of Terms, the Property is to be sold with full vacant possession and free from all third-party rights including restrictive covenants. The Vendors shall therefore terminate all existing rights affecting the Property.
12	Vacant Possession	<p>In the event that vacant possession has not been secured by the date of completion, the Vendors will reimburse all costs incurred by CPUK and/or the Council in securing vacant possession either through voluntary agreement or the exercise of compulsory purchase powers and resultant compensation costs.</p>
13	VAT	<p>All sums referred to in these Heads of Terms (and in the subsequent Agreement) exclude VAT which will be payable in addition according to the registered VAT status.</p>

14	Fees	<p>CPU will pay the reasonable fees of the Vendor's solicitors as incurred in connection with the drafting and finalisation of the agreement.</p> <p>CPUK will pay £7,500 (net of VAT) in respect of surveyor's fees for negotiation and agreement of these Heads of Terms and subsequent advice as may be required in finalising the Agreement.</p>
15	Vendor's Surveyor	<p>Matthew Bodley Matthew Bodley Consulting Limited 5th Floor, St George's House 15 Hanover Square London W1S 1HS Email: matthew@matthewbodleyconsulting.com Mobile: 07814 545287</p>
16	Vendor's Solicitor	<p>Henry Moss, Partner Ashurst LLP Fruit and Wool Exchange 1 Duval Square London E1 6PW Email: henry.moss@ashurst.com Tel: 020 7859 2767</p>
17	CPUK's Surveyor	<p>Peter Roberts DWD LLP 6 New Bridge Street London EC4V 6AB</p>
18	CPUK's Solicitor	<p>Dave Kerr Osborne Clarke LLP 6 New Bridge Street London EC4V 6AB</p>
19	Conditionality	<p>Subject to Contract and CPUK Board Approval.</p> <p>Subject to waiver by CPUK (in their absolute discretion), this agreement is conditional upon the Compulsory Purchase Order being confirmed.</p>
20	Other Matters	<p>Subject to being provided with evidence of occupational rights, CPUK would be prepared to discuss terms to allow continued occupation (i.e., for the purposes of harvest) following the purchase of the freehold interests until occupation is required in order to deliver the TDSL scheme.</p>

APPENDIX 7: ASHURST LETTER DATED 17 NOVEMBER 2023



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17 November 2023

Davitt Jones Bould
Level 24 The Shard
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London SE1 9SG

For the attention of Yohanna Weber

Yohanna.Weber@djblaw.co.uk

Dear Sir/Madam

**Chichester District Council (Tangmere) (No 2) Compulsory Purchase
Order 2023 ("CPO 2")
Agreement in relation to Plot 19E
Subject to Contract and Final Client Approval
Our Clients: Bosham Limited and Shopwyke Limited**

We refer to our letter dated 24 October 2023 and to your subsequent email response of 25 October 2023 which stated:

'Thank you for your letter. As the Council's solicitors, we are engaging in the process to assist with resolution of the outstanding points so that the agreement can be finalised and completed. We provided our comments to Peter Roberts, who consolidated them into the overall response from the Council to Matt Bodley yesterday. We are continuing the group effort with DWD, yourselves and Matt Bodley to reach agreement on the heads of terms so we can finalise the agreement.'

With the greatest respect, your response is totally inadequate. There is no 'group effort' or meaningful engagement.

The Council, in its capacity as acquiring authority, is required to demonstrate that the acquisition of our clients' land is necessary and that such an acquisition is in the public interest.

We understand that your firm is appointed to provide legal advice and support to the Council in relation to CPO 2 which includes appropriate engagement with

statutory objectors with the aim of seeing whether objections can be addressed through some form of agreement or undertaking and withdrawn.

There is, in our view, a clear need for your firm to adopt a far more involved approach than simply deferring to Mr Roberts who clearly has a separate agenda, is seeking to dictate terms to our client which he should realise are both unreasonable and unacceptable and in clear conflict with the advice contained within the CPO Guidance.

We note that we have not received a substantive response from you to the points raised in our letter of 25 October 2023 or any comments on the draft agreement. We have however, received two further contradictory emails from Mr Roberts, the first dated 2 November 2023 (attaching draft Heads of Terms) and the second dated 15 November 2023 (attaching a draft agreement).

Whilst we appreciate that some effort is being made by Mr Roberts to be seen to be seeking to engage, this is, in our view, a futile exercise and requires all parties to step back and seek to have meaningful negotiations in the hope that a mutually acceptable agreement can be reached.

Engagement in this aggressive and one-sided manner is extremely unhelpful - there is a need for input from yourselves, or someone else representing the Council, who is tasked with seeking to enter into meaningful engagement with the aim of trying to resolve an objection – especially in this situation where our clients have set out some very clear and reasonable terms which would enable their objection to be withdrawn.

Our clients' objective

As stated on previous occasions, our clients' objective is to have certainty of the timing for the transfer of *all* of its land comprised within the Tangmere CPO.

The Council already has the statutory power to acquire all of our clients' land comprised within CPO 1 and our client has agreed to the voluntary transfer of the additional land comprised within CPO 2.

There is recognition of the significant difference of opinion concerning the quantum of compensation to be paid in respect of our clients' land comprised within CPO 1. That difference of opinion is a matter to be dealt with at a later stage, following a reference to the Upper Tribunal.

Our clients are willing to accept an initial advance payment and agree terms for the immediate transfer of their land and would be keen to have meaningful dialogue with the Council, with the aim of agreeing those terms. We have previously sent you a draft contract based on the vesting of our clients' land within CPO1 and simultaneous transfer of the residue within CPO2, this being the

agreement structure proposed by Mr Roberts between May and December 2022. This structure was acceptable to our clients as it addressed their concerns at that time regarding Capital Gains Tax. It is clear that the Council (or Mr Roberts) are no longer prepared to proceed on their previously proposed structure and in August 2023 Mr Roberts proposed proceeding by way of private treaty acquisition of the whole of our clients' land by agreement without implementation of the CPO powers but with a structure which contained no certainty or clarity as to the actual timing for acquisition

Our clients are now in a position to proceed on the basis of a transfer of the whole by agreement following assurances it has received from HMRC, subject to clarity about the actual timing for the transfer of the land which, from our clients' perspective, should be as soon as possible. This would be in keeping with the Council's stated desire to acquire both the CPO 1 land and the CPO 2 land within a few months of confirmation of the respective Orders.

In order to assist the process of reaching agreement with the Council in order to effect the transfer of our clients' land, we will summarise the proposed terms.

Proposed terms for the transfer of the land comprised in CPO 1 and CPO 2

1. Parties

- (1) Bosham Limited and Shopwyke Limited
- (2) Chichester District Council.

2. Nature of Transfer

Transfer of all interests in the land comprised in CPO 1 and CPO 2 with vacant possession.

3. Purchase Price

The purchase price in respect of the land comprised within CPO 1 is to be determined by the Upper Tribunal following a reference with provision for the parties to reach agreement. Our clients are willing to accept the Council's offer for the land comprised within CPO 2 at £10,000 plus VAT.

4. Advance Payment

The Council initially offered an advance payment of 90% of an estimated value of £2.3 million in respect of the acquisition of the CPO 1 land. It should be noted that valuation is in respect of circa 58 acres of land on a site allocated for residential development. This figure is clearly well below market value. However, for the

purpose of reaching agreement, that figure would be acceptable to our clients in the knowledge that the Upper Tribunal will arrive at a different valuation.

5. **Timescale for exchange and completion**

Our clients have received clearance from HMRC that a transfer of the CPO 1 land to the Council (not Countryside) would fall within section 246 of the Taxation of Chargeable Gains Act 1992. The advice from HMRC is that they would treat the date of disposal as the date upon which the amount of compensation is agreed or determined by a Tribunal. This advice paves the way for the immediate transfer of both the CPO 1 land and the additional land comprised within CPO 2, therefore avoiding the need for a general vesting declaration. We would propose that the agreement be exchanged as soon as possible – preferably by 30 November 2023 and for completion to take place within two months of exchange.

6. **Valuation Date**

For the purpose of assessing compensation, the agreed valuation date will be the date of exchange of the agreement.

7. **Reservation of right to refer to the Upper Tribunal**

The agreement will contain a provision for either our clients or the Council to make a reference to the Upper Tribunal pursuant to section 1(5) of the Lands Tribunal Act 1949 within six years from the date of completion of the transfer.

8. **Withdrawal of objection**

The objection will be withdrawn simultaneously with exchange of the agreement – preferably by 30 November 2023.

9. **Costs**

Our clients will be entitled to reimbursement of all reasonable costs incurred in connection with CPO 2, including costs of the objection corresponding with the Council, negotiating the terms of the agreement and effecting the transfer. The derisory figures offered by Mr Roberts are unacceptable.

Next Steps

As stated on previous occasions, our clients would like to reach agreement with the Council as soon as possible so that the objection can be withdrawn.

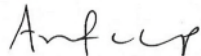
We are aware that the public inquiry into objections to CPO 2 is due to open on 12 December 2023. Our clients wish to avoid incurring the cost and expense of appearing at the public inquiry – particularly when an agreement is capable of being agreed by the end of this month.

Please find enclosed draft Heads of Terms setting out the details of the proposed agreement. We would welcome an early meeting with you and the Council's representatives to discuss these Heads of Terms. We have availability to meet next week. Once the Heads of Terms are finalised, we will proceed immediately with preparing the draft agreement.

Finally, we note that Mr Roberts has expressed a wish to be updated on the negotiations between our clients and National Highways concerning access rights over and ownership of Plot 19D of CPO.2. Mr Roberts claims in his email of 15 November to "have no information in this regard". This is despite the Council inaccurately describing the dispute in its Statement of Case. We are pleased to inform the Council that agreement has been reached between our clients and National Highways and that National Highways should now soon be ready to proceed with the transfer to the Council without risk of being in breach of any commitments given to our client. A signed consent Order permitting the transfer of the land has been submitted to the Court and it is anticipated that the Order will be sealed by the Court within the next 14 days.

This should hopefully mean that resolution of our clients' objection should pave the way to confirmation of CPO 2 without the need for a public inquiry -assuming that all other objections have now been resolved.

Yours faithfully



Ashurst LLP

Enc

**APPENDIX 8: HEADS OF TERMS AS ATTACHED TO ASHURST LETTER DATED 17
NOVEMBER 2023**

Subject to Contract

Shores Meadow, Tangmere - Sale and Purchase Agreement

Heads of Terms

BACKGROUND

Chichester District Council (the “**Council**”) secured a CPO (“**CPO1**”) for the assembly of land and interests to enable Countryside Properties (UK) Ltd (“**CPUK**”) to develop the TSDL (the “**Scheme**”). It transpired that CPO1 did not include land owned by the Sellers and National Highways without which it is not possible to implement the Scheme. It has therefore become necessary to acquire these interests and the Council has made a second CPO (“**CPO2**”).

We understand the Council would prefer to agree terms with the Sellers and, to the extent that necessary agreement can be reached with National Highways (“**NH**”), avoid the exercise of any compulsory acquisition powers. The Sellers therefore propose terms for a voluntary purchase of the Property in accordance with the terms set out below.

The Sellers have reached agreement with NH that will enable the existing proceedings between the Sellers and NH to cease and the injunction over plots 19B, C and D of CPO2 (the “**NH Land**”) to be withdrawn. This means that NH can transfer its interest in the NH Land to the Council by agreement and obviate the need for CPO2.

The Sellers have recently obtained clearance from HMRC which satisfies its concerns regarding a sale of the Property to the Council by agreement (without the need to proceed by way of GVD).

The Sellers will transfer their freehold interests in the Property to the Council for the Consideration. The Seller will procure vacant possession of the Property prior to completion of the transfer.

The Sellers will also secure the assignment of all rights benefitting the Property to the Council including, but not restricted to, all rights between the Property and the A27 roundabout.

An Advance Payment will be paid on completion of the transfer. Following the completion of the transfer, the Sellers may provide a fully supported Compensation Claim for further Consideration from the Council in accordance with the principles of the Compensation Code. In the absence of agreement, either party may make a voluntary reference to the Upper Tribunal Lands Chamber (the “**UTLC**”).

In the event that the UTLC determine that the sum of Rule 2 and Loss compensation is less than the stated Advance Payment, the Sellers shall reimburse the difference. In the event that it is more, the Council will pay the difference plus statutory interest.

The Council will not exercise any compulsory purchase powers in respect of the Property, following completion of the Sale and Purchase Agreement (“**SPA**”).

1	Sellers	<ul style="list-style-type: none">• Bosham Limited• Shopwyke Limited• CS South Limited
2	Occupier	Shores Meadow Farming Partnership, by way of licence.
3	Purchaser	Chichester District Council (the “ Council ”))
4	CPO1	The Chichester District Council (Tangmere) Compulsory Purchase Order 2020
5	CPO2	The Chichester District Council (Tangmere) (No.2) Compulsory Purchase Order 2023.

Subject to Contract

6	Property	The land described within CPO2 under the following plot numbers: 16, 17, 18 and 19E.
7	Compensation Code	The body of statute and case law and the established practices for the assessment, payment and determination of compensation for compulsory acquisition of land and rights, including the Land Compensation Acts of 1961 and 1973, the Compulsory Purchase Act 1965, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, the Housing and Planning Act 2016 and the Neighbourhood Planning Act 2017, in each case as amended from time to time.
8	Compensation	The compensation that the Sellers would otherwise be entitled to if the Property was compulsorily acquired, assessed in accordance with the Compensation Code.
9	Advance Payment	The sum of £[****] inclusive of statutory loss payments but exclusive of VAT and professional fees.
10	Consideration	A sum to be agreed or determined for the acquisition of the Property based on the Compensation that would otherwise be payable if the Property had been compulsorily acquired.
11	Sellers' Costs	<p>The sum of £[****] exclusive of VAT being a contribution to the reasonable fees, costs and expenses incurred by the Seller (including legal and surveyor's fees) in connection with:</p> <ul style="list-style-type: none"> • negotiations for the sale of the Property and of the SPA; and • making representations in relation to CPO2. <p>The Sellers consider the costs incurred in connection with CPO1 and CPO2 to exceed the Seller's Costs as defined within the SPA. The Sellers are entitled to include the additional costs to which they consider they are entitled within any subsequent claim for Compensation and the agreement of Seller's Costs for the purposes of the SPA does not prejudice this.</p>
12	Sale and Purchase	<p>The Sellers shall sell and the Purchaser shall purchase in consideration of the payment to the Sellers by the Purchaser of the Consideration. As the Consideration has not yet been agreed or determined the payment made on the Completion Date will comprise:</p> <ul style="list-style-type: none"> • the Advance Payment; and • the Sellers' Costs.
13	Exchange and Completion	Exchange will take place as soon as reasonably practicable and, in all circumstances, prior the commencement of the public local inquiry into CPO2. Completion date to be agreed.
14	Determination of Compensation	<p>The Sellers may submit a fully reasoned and evidenced Compensation Claim to the Council in accordance with the provisions that would normally apply following the service of a GVD and thereby trigger the following provisions:</p> <ul style="list-style-type: none"> • Following receipt of such a Compensation Claim the Sellers and the Council will seek to agree the Compensation.

Subject to Contract

		<ul style="list-style-type: none"> • Either party may refer the determination of the Compensation to the UTLC for determination, pursuant to section 1(5) of the Lands Tribunal Act 1949. • The standard statutory limitation period of six years from Completion will apply to any reference to the UTLC. • The Compensation will be assessed in accordance with the Compensation Code. • In the event that the sum total of Compensation agreed or otherwise determined is less than the Advance Payment the Sellers will reimburse the difference. • In the event that the sum total of Compensation agreed or otherwise determined is more than the Advance Payment the Council will pay the difference together with any statutory interest. • The Advance Payment and the Seller's Costs will be deducted from the Compensation so agreed or determined. • The Valuation Date for the assessment of Compensation shall be the date of the SPA. • The Sellers shall be entitled to submit further requests for advance payments in accordance with the provisions of section 52 of the Land Compensation Act 1973 at any time and the Purchaser will deal with such a request in accordance with such provisions.
<p>15</p>	<p>Conditions</p>	<p>The Council will undertake not to exercise any compulsory purchase powers against the Sellers but may exercise their CPO powers in respect of any other interests in the Property.</p> <p>The Sellers will;</p> <ol style="list-style-type: none"> 1. Transfer their freehold interest in the Property. 2. Assign all rights benefitting the Property. 3. Not otherwise prejudice or fetter the Council's discretion in exercise of its functions as a Local Authority. 4. Withdraw their objections to CPO2. 5. Refrain from any challenge to the confirmation of CPO2 (s23 ALA 1981). 6. The Council will not exercise any compulsory purchase powers in respect of the Sellers' interests, following completion of the SPA. 7. The Property is to be sold with full vacant possession.

Subject to Contract

16	VAT	The Property has been elected for VAT. All sums referred to in these Heads of Terms (and in the subsequent SPA) exclude VAT which will be payable in addition where applicable.
17	Vendors' Surveyor	Matthew Bodley Matthew Bodley Consulting Limited 26 Market Place London W1W 8AN Email: matthew@matthewbodleyconsulting.com Mobile: 07814 545287
18	Vendors' Solicitor	Henry Moss, Partner Ashurst LLP Fruit and Wool Exchange 1 Duval Square London E1 6PW Email: henry.moss@ashurst.com Tel: 020 7859 2767
19	Council's Surveyor	Peter Roberts DWD LLP 6 New Bridge Street London EC4V 6AB
20	Council's Solicitor	TBC

Matthew Bodley
For and on behalf of Matthew Bodley Consulting Ltd
17 November 2023

APPENDIX 9: HEADS OF TERMS DATED 6 NOVEMBER 2023

HEADS OF TERMS

PURCHASE OF PLOT 19E BY CHICHESTER DISTRICT COUNCIL

6 NOVEMBER 2023

SUBJECT TO CONTRACT

BACKGROUND

The Council secured the First Order. However, it transpired that this did not include land owned by the Vendors and National Highways without which it is not possible to implement the scheme. It has therefore become necessary to secure the Second Order.

However, the Council would prefer to agree terms with the Vendors and, to the extent that agreement can be reached with National Highways, avoid the need for the Second Order. The Council therefore seeks a voluntary purchase of Plot 19E in accordance with the terms set out below.

1	Vendors	<ul style="list-style-type: none">• Bosham Limited• Shopwkye Limited
2	Occupiers	<ul style="list-style-type: none">• Shores Meadow Farming Partnership• John Heaver Farming Partnership
3	Purchaser	Chichester District Council (the "Council")
5	Property	Plot 19E as described in the Second Order
6	Access Rights	<p>The land shall be transferred subject to any existing rights benefitting the Occupiers.</p> <p>In the event that such rights are insufficient for the Occupiers to access Plot 17 (as described in the Second Order) for the purposes of farming, the Council will grant a rolling licence at nil consideration that will terminate upon a GVD becoming effective in respect of Plot 17.</p> <p>Such GVD may be served under either the First or Second Order, whichever the Council deem appropriate having regard to all the circumstances including, but not limited to, the successful acquisition of Plots 19B, C and D from Network Rail.</p>
7	The First Order	The Chichester District Council (Tangmere) Compulsory Purchase Order 2020
8	The Second Order	The Chichester District Council (Tangmere) (No. 2) Compulsory Purchase Order 2023
9	Consideration	£10,000 (net of VAT)
10	Conditions	The Parties agree that this transfer will be disregarded when assessing the amount of compensation payable in respect of the remaining land

		<p>owned by the Vendors and located within the relevant Order Plan following the service of GVD(s) pursuant to either the First Order or the Second Order. It shall therefore be assumed, for compensation purposes, that as at the relevant valuation date Plot 19E is still owned by the Vendors.</p> <p>The Vendors will withdraw their objection against the Second Order immediately on signing of these Heads of Terms.</p> <p>The Transfer will complete on the earliest of:</p> <ul style="list-style-type: none"> a) National Highways transferring their freehold ownership of plots 19B, C and D to the Council; or b) Confirmation of the Second Order. <p>In the event that the First Order expires prior to the service of a GVD(s), but after the confirmation of the Second Order, the Purchaser shall immediately transfer Plot 19E back to the Vendors at nil consideration. Such transfer shall be entirely without prejudice to the ability of the Purchaser to subsequently a GVD in respect of Plot 19E pursuant to the Second Order</p>
11	VAT	All sums referred to in these Heads of Terms (and in the subsequent Agreement) exclude VAT which will be payable upon the production of evidence that Plot 19E has been elected to VAT.
12	Fees	<p>The Purchaser will pay £7,500 (net of VAT) in respect of the reasonable fees of the Vendor's solicitors as incurred in connection with the drafting and agreement of the Transfer Agreement</p> <p>The Purchaser will pay £5,000 (net of VAT) in respect of surveyor's fees for negotiation and agreement of these Heads of Terms and such input as may be required to the Transfer Agreement subject to the production of timesheets.</p>
13	Vendor's Agent	<p>Matthew Bodley Matthew Bodley Consulting Limited 5th Floor, St George's House 15 Hanover Square London W1S 1HS Email: matthew@matthewbodleyconsulting.com Mobile: 07814 545287</p>
14	Vendor's Solicitors	<p>Henry Moss, Partner Ashurst LLP Fruit and Wool Exchange 1 Duval Square London E1 6PW Email: henry.moss@ashurst.com</p>

		Tel: 020 7859 2767
15	Council's Agent	Peter Roberts DWD LLP 6 New Bridge Street London EC4V 6AB
16	Vendor's Surveyor	TBC
Signed on behalf of the Council		
Signed on behalf of the Vendors		

APPENDIX 10: FORMAL AGREEMENT TERMS DATED 15 NOVEMBER 2023

Dated

2023

BOSHAM LIMITED AND SHOPWYKE LIMITED

CHICHESTER DISTRICT COUNCIL

AGREEMENT

relating to the Chichester District
Council (Tangmere) Compulsory
Purchase Order 2020 and the
Chichester District Council
(Tangmere) (No 2) Compulsory
Purchase Order 2023

Contents

	Clause	Page
1	Definitions and Interpretation	3
2	Conditionality	5
3	Withdrawal of Objections	5
4	Acquisition of Plot 19E	5
5	Access	6
6	Costs	6
7	Assignment	6
8	Notices	6
9	VAT	6
10	Third Party Rights	6
11	Governing Law and Jurisdiction	6
12	Counterparts	7

Between

- (1) **BOSHAM LIMITED** (Company No. 11145803) whose registered office is at 22 Chancery Lane, London, England, WC2A 1LS and **SHOPWYKE LIMITED** (Company No. 11145921) whose registered office is at 22 Chancery Lane, London, England, WC2A 1LS (the "**Vendors**") which expression shall include successors in title; and
- (2) **CHICHESTER DISTRICT COUNCIL** of East Pallant House, Chichester, West Sussex PO19 1TY (the "**Council**")

BACKGROUND

- (A) On 28 October 2020, the Council made the Chichester District Council (Tangmere) Compulsory Purchase Order 2020 pursuant to section 226(1)(a) of the Town and Country Planning Act 1990.
- (B) CPO 1 was subsequently confirmed by the Secretary of State for Levelling Up, Housing and Communities on 11 November 2020.
- (C) CPO 1 authorises the Council to compulsorily acquire 18 plots of land (as more particularly described in CPO 1 and being the **CPO 1 Order Land**), in order to facilitate the development of the Tangmere Strategic Development Location ("**Scheme**").
- (D) On 30 March 2023, the Council made the Chichester District Council (Tangmere) (No 2) Compulsory Purchase Order 2023 in order to facilitate the Scheme. CPO 2 relates to the same land as the CPO 1 Order Land with minor corrections and the inclusion of additional parcels of land.
- (E) The parties have agreed to enter into this Agreement in order to agree the terms upon which Plot 19E shall be transferred from the Vendors to the Council.

It is agreed:

1 Definitions and Interpretation

- 1.1 In this Agreement where the context so admits the following words and expressions shall have the following meanings:

"**Compensation Code**" means the body of statute and case law and the established practices for the assessment, payment and determination of compensation for compulsory acquisition of land and rights, including the Land Compensation Acts of 1961 and 1973, the Compulsory Purchase Act 1965, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, the Housing and Planning Act 2016 and the Neighbourhood Planning Act 2017, in each case as amended from time to time.

"**Completion Date**" means the earliest of:

- (a) the date upon which National Highways transfer the freehold ownership of the National Highways Land to the Council; and
- (b) confirmation of CPO2.

"**CPO 1**" means the Chichester District Council (Tangmere) Compulsory Purchase Order 2020.

"CPO 1 Order Land" means the land described in the Schedule to CPO 1 and shown delineated and edged red and shaded pink on the map referred to in CPO 1.

"CPO 2" means the Chichester District Council (Tangmere) (No 2) Compulsory Purchase Order 2023.

"CPO 2 Order Land" means the land described in the Schedule to CPO 2 and shown delineated and edged red and shaded pink on the map referred to in CPO 2.

"National Highways" means National Highways Limited (Company No. 09346363) whose registered office is at Company Secretary, Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ.

"National Highways Land" means the land described in CPO2 as Plots 19B, 19C and 19D.

"Objection" means the Vendors' objection to CPO 2 submitted on 5 May 2023.

"Occupiers" means Shores Meadow Farming Partnership and John Heaver Farming Partnership.

"Plot 17" means the land described in CPO2 as Plot 17.

"Plot 19E" means the land described in CPO2 as Plot 19E.

"Price" means £10,000 (exclusive of VAT).

"Remaining Land" means the land described in CPO2 as Plots 1, 3, 4, 5, 17 and 18.

"Standard Conditions" means the Standard Commercial Property Conditions (Third Edition – 2018 revision).

"VAT" means value added tax charged under the Value Added Tax Act 1994 and any similar replacement and any similar additional tax.

"Working Day" means a day other than Saturday, Sunday or any public or statutory bank holiday.

1.2 Throughout this Agreement unless the context otherwise requires:

- (a) words importing the masculine gender only shall include the feminine gender and neuter; and
- (b) words importing the singular number only shall include the plural number and vice versa.

1.3 Any reference to any statute shall include any re-enactment consolidation and/or renewal thereof for the time being in force and any references to any statute or statutes in general any order instrument plan regulation permission and direction made or issued thereunder or deriving validity therefrom.

1.4 Any obligation on a party to do any act, matter or thing includes an obligation to procure that it be done and any obligation not to do any act or thing includes an obligation not to suffer or permit the doing of that act or thing.

1.5 Any consent approval authorisation or notice required or given under this Agreement shall only take effect if given in writing.

- 1.6 All Schedules and Appendices to this Agreement shall be deemed to form part of this Agreement.
- 1.7 The headings in this Agreement are inserted for convenience only and shall not affect its construction or interpretation.
- 1.8 References to a Clause, Schedule or Appendix are (unless otherwise stated) to a Clause in and an Appendix or Schedule to this Agreement.
- 1.9 Words preceding "include", "includes", "including", "included", and "in particular" shall be construed without limitation by the words which follow those words.

2 Conditionality

This Agreement will come into effect on the date of this Agreement.

3 Withdrawal of Objections

- 3.1 In consideration of the terms of this Agreement, the Vendors agree to withdraw their Objection immediately after the date of this Agreement.
- 3.2 The Vendors agree and covenant that the Vendors shall not make raise or submit (or cause to be made raise or submit) any further objection, representation or challenge in respect of CPO1 and/or CPO2.

4 Acquisition of Plot 19E

- 4.1 The Vendors agree to transfer Plot 19E to the Council for the Price on the Completion Date.
- 4.2 Vacant possession of Plot 19E will be given on the Completion Date.
- 4.3 This Agreement incorporates the conditions in Part 1 of the Standard Conditions as varied by this Agreement so far as they are applicable to the sale of freehold property and are not disappplied by or inconsistent with the other provisions of this Agreement.
- 4.4 Terms which are used or defined in the Standard Conditions have the same usage or meaning where used in this Agreement save where inconsistent with the other provisions of this Agreement.
- 4.5 In the event that CPO1 expires prior to the service of a general vesting declaration but after confirmation of CPO2, the Council shall immediately transfer Plot 19E back to the Vendors at nil consideration provided that such transfer will be entirely without prejudice to the ability of the Council to subsequently serve a general vesting declaration in respect of Plot 19E pursuant to CPO2.
- 4.6 The Council acknowledge and agree that nothing in this Agreement affects the Vendors' right to claim compensation in accordance with the Compensation Code in respect of Plot 19E as a result of the Scheme, CPO 1, CPO 2 and/or the exercise of powers under CPO 1 and/or CPO 2.
- 4.7 The Council agrees that the transfer of Plot 19E shall be disregarded when assessing the amount of compensation payable in accordance with the Compensation Code in respect of the Remaining Land following the service of a general vesting declaration pursuant to either CPO1 and/or CPO2 and that it shall be assumed for compensation purposes that as at the relevant valuation date, Plot 19E is still owned by the Vendors.

5 Access

Plot 19E shall be transferred subject to any existing rights benefitting the Occupiers, the Vendors (and their authorised agents) and in the event that such rights are insufficient for the Occupiers, the Vendors (and their authorised agents) to access Plot 17 for the purposes of farming, the Council agrees to grant a rolling licence at nil consideration that will terminate upon a general vesting declaration (either under CPO1 and/or CPO2) becoming effective in respect of Plot 17.

6 Costs

On or before the date of this Agreement, the Council shall pay to the Vendors a contribution of £7,500 plus VAT for their reasonable and proper legal costs in connection with this Agreement and £5,000 plus VAT for their reasonable and proper surveyor's fees in connection with this Agreement.

7 Assignment

The benefits and rights conferred by this Agreement may be assigned or novated by any party with the written consent of the other parties (such consent not to be unreasonably withheld or delayed).

8 Notices

8.1 All notices given by a party pursuant to the provisions of this Agreement are to be in writing and shall be sufficiently served if delivered by hand or recorded delivery post to the other party:

(a) (in the case of the Vendors) to the addresses given in this Agreement;

(b) (in the case of the Council) to the address given in this Agreement;

or in each case such other address as the relevant party may from time designate to the others in writing.

8.2 If a notice is served after 4.00pm on a Working Day, or on a day which is not a Working Day, it is to be treated as having been served on the next Working Day.

9 VAT

All sums payable by the Council are exclusive of any VAT that may be chargeable and shall include any VAT which the Vendors are unable to recover. The Council shall pay VAT in respect of all supplies made to it in connection with this Agreement on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes subject to receipt of evidence that Plot 19E has been validly opted to tax by the Vendors.

10 Third Party Rights

Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

11 Governing Law and Jurisdiction

11.1 This Agreement shall be governed by and construed in accordance with English law.

11.2 The parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement.

12 Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Delivered as a deed on the date of this document.

EXECUTION PAGE

Signed as a deed by **BOSHAM LIMITED**)
acting by two directors:)
)
)

Director

Director

Signed as a deed by **SHOPWYKE LIMITED**)
acting by two directors:)
)
)

Director

Director

EXECUTED as a **DEED** by affixing the common)
seal of **CHICHESTER DISTRICT COUNCIL**)
in the presence of:)

APPENDIX 11: SMTL HEADS OF TERMS DATED 13 JUNE 2023

SUBJECT TO CONTRACT

HEADS OF TERMS – PROPOSED CONDITIONAL CONTRACT

TANGMERE STRATEGIC DEVELOPMENT LOCATION

<p>1. Landowner</p>	<p>Saxon Meadow Tangmere Limited (SMTL), Cawley Place, 15 Cawley Road, Chichester, West Sussex, PO19 1UZ</p>
<p>2. Developer</p>	<p>Countryside Properties (UK) Ltd (CPUK)</p>
<p>3. Acquiring Authority</p>	<p>Chichester District Council (CDC)</p>
<p>4. Property</p>	<p>SMTL are the freehold owners of the land outlined red in Appendix 1, consisting of Title numbers WSX172343 and WSX407547.</p> <p>Plot 8, 8A, 8B of CPO 1 / Plot 9, 9A, 9B of CPO 2 sits within Title WSX407547. Refer to CPO1 and CPO2 plan provided in Appendix 2.</p>
<p>5. Agreement Summary</p>	<p>It is understood that the Landowners may have the benefit of access rights over the ‘Access Land’ (forming part of CPO 1 Plot 6 & CPO 2 Plot 7) which is within the ownership of the Pitts Family.</p> <p><u>Access Land</u></p> <p>In respect of the ‘Access Land’ outlined yellow in Appendix 3:</p> <ul style="list-style-type: none"> a) In the event that CPO 1 or CPO 2 is exercised over the Pitt's land (CPO 1 Plot 6 & CPO 2 Plot 7) by the Acquiring Authority, the freehold of the Access Land as shown will be transferred to SMTL, subject to Clause 8 and first complying with the Crichel Down rules; b) In the event that CPO 1 or CPO 2 is not exercised over the Pitts land (as above) and the ‘Hybrid Agreement’ proceeds, the freehold of the Access Land as shown will be transferred to SMTL by CPUK subject to Clause 8. <p>Any obligation required by any planning agreement (including S106 agreement) required to be delivered over the Access Land relating to the wider scheme (for example a cycle route the position of which has not yet been determined) will be delivered prior to transfer of the land to SMTL (including any easements required). During this period CPUK will not interfere with SMTL's existing access over the Access Land or use of it.</p> <p><u>Garden Land</u></p> <p>In respect of the ‘Garden Land’ outlined blue in Appendix 4, the same arrangements as set out in bullet points a and b above will apply.</p> <p>Any obligation required by any planning agreement (including S106 agreement) required to be delivered over the Garden Land relating to the wider scheme will be delivered prior to transfer of the land to SMTL (including any easements required).</p> <p>CPUK reserve any rights required to drain into any existing surface water infrastructure (if required to do so as part of the planning permission for the wider scheme) located within the Garden Land.</p>

6. Exchange	<p>SMTL's freehold interest of CPO 1 Plot 8, 8A, 8B / CPO 2 Plot 9, 9A, 9B will be transferred voluntarily to CDC in exchange for the transfer of the Access Land, Garden Land and any part of a Crossover Plot. This exchange shall also be in full and final settlement of all and any claims by SMTL and its leaseholders.</p>
7. CPO	<p>Upon entering into the agreement:</p> <ul style="list-style-type: none"> • SMTL together with all leaseholders will remove their CPO and planning application objections (via submission of the proforma letter to be appended to the agreement) and agree not to object to any CPO or planning application thereafter, subject to the CPO or planning application not being in conflict with any of the terms of this agreement. • For the avoidance of doubt, the parties required to remove their CPO objections are as follows: <ul style="list-style-type: none"> ○ Keystone Law (on behalf of Saxon Meadow Tangmere Ltd) ○ Lindsay Davey ○ Adele Craig ○ Susan John ○ Alison Gale ○ Coleen Ayton and Brian Ayton ○ John Wolfenden and Moira Wolfenden ○ Elspeth Rendall and Jamie Hutchinson ○ Matthew Rees ○ Morag Mills ○ Kathy Ternan ○ Paula Riches
8. Permitted Development	<p>CPUK will develop Plot 8, 8A, 8B of CPO 1 / Plot 9, 9A, 9B of CPO 2 in accordance with the masterplan to be approved as part of the outline planning consent. For the avoidance of doubt, the land is proposed for a Community Orchard.</p> <p>CPUK reserve any rights required over the Access Land to deliver and maintain any obligation required under any planning agreement (including S106 agreement) relevant to the wider development scheme.</p>
9. Title	<p>It is understood that there is a title overlap (the 'Crossover Plot') with CPO1 Plot 6 and 7 & CPO2 Plot 7 and 8. Refer to CPO1 and CPO2 plans provided which shows the Crossover Plot as being CPO1 Plot 7 and CPO2 Plot 8.</p> <ul style="list-style-type: none"> • In the event that CPO 1 or CPO 2 is exercised over the Crossover Plot by the Acquiring Authority, the plot will be transferred to SMTL subject to first complying with the Criche Down rules. • In the event that CPO 1 or CPO 2 is not exercised over the Crossover Plot and the 'Hybrid Agreement' proceeds, the Crossover Plots will be transferred to SMTL by CPUK by reference to the position upon the ground. The transfer to SMTL will occur no later than 24 months from CPUK acquiring the land.

	During this period CPUK will not interfere with SMTL's existing access over the Crossover Plot or use of it.
10. Professional Fees	An undertaking will be provided to meet the SMTL's reasonably incurred professional fees (cap to be agreed).
11. Landowner's Agent	Tom Olden MRICS Director Olden Property 16 Mount Pleasant Road Tunbridge Wells TN1 1QU Tel: 077 0880 7362 tom@oldenproperty.com
12. Landowner's Solicitors	Emma Lloyd, Partner Keystone Law 48 Chancery Lane London WC2A 1JF Tel: 020 3319 3700 Emma.lloyd@keystonelaw.co.uk
13. Developer's Solicitors	Dave Kerr, Partner Osborne Clarke LLP One London Wall, London, EC2Y 5EB Tel: 020 7105 7402 dave.kerr@osborneclarke.com
14. Conditionality	The agreement is Subject to Contract and CPUK Board Approval; and will be conditional upon: <ol style="list-style-type: none"> 1. The Compulsory Purchase Order ('CPO2') being confirmed (unless waived by the CDC in their absolute discretion), and / or contracts having been exchanged on all other land interests within the Tangmere SDL. 2. If required, the Landowners to sign a S106 agreement and any other planning agreement as may be required by the CDC in respect of the Property.

Saxon Meadow Tangmere Ltd

Signature: _____

Date: _____

Countryside Properties (UK) Ltd

Signature: _____

Date: _____

Chichester District Council

Signature: _____

Date: _____

DRAFT

APPENDIX 12: FURTHER SMTL HEADS OF TERMS DATED 26 JULY 2023

SUBJECT TO CONTRACT

HEADS OF TERMS – PROPOSED CONDITIONAL CONTRACT

TANGMERE STRATEGIC DEVELOPMENT LOCATION

<p>1. Landowner</p>	<p>Saxon Meadow Tangmere Limited (SMTL), Cawley Place, 15 Cawley Road, Chichester, West Sussex, PO19 1UZ</p>
<p>2. Developer</p>	<p>Countryside Properties (UK) Ltd (CPUK)</p>
<p>3. Acquiring Authority (AA)</p>	<p>Chichester District Council (CDC)</p>
<p>4. Property</p>	<p>SMTL are the freehold owners of the land outlined red in Appendix 1, consisting of Title numbers WSX172343 and WSX407547.</p> <p>Plot 8, 8A, 8B of CPO 1 / Plot 9, 9A, 9B of CPO 2 sits within Title WSX407547. Refer to CPO1 and CPO2 plan provided in Appendix 2.</p>
<p>5. Agreement Summary</p>	<p>It is understood that the Landowners may have the benefit of access rights over the 'Access Land' (forming part of CPO 1 Plot 6 & CPO 2 Plot 7) which is within the ownership of the Pitts Family.</p> <p><u>Access Land</u></p> <p>In respect of the 'Access Land' outlined yellow in Appendix 3:</p> <ul style="list-style-type: none"> a) In the event that CPO 1 or CPO 2 is exercised over the Pitt's land (CPO 1 Plot 6 & CPO 2 Plot 7) by the Acquiring Authority, the freehold of the Access Land as shown will be transferred to SMTL, subject to Clause 8 and first complying with the Crichel Down rules; b) In the event that CPO 1 or CPO 2 is not exercised over the Pitts land (as above) and the 'Hybrid Agreement' proceeds, the freehold of the Access Land as shown will be transferred to SMTL by CPUK subject to Clause 8. <p>Any obligation required by any planning agreement (including S106 agreement) required to be delivered over the Access Land relating to the wider scheme (for example a cycle route the position of which has not yet been determined) will be delivered prior to transfer of the land to SMTL (including any easements required). During this period CPUK will not interfere with SMTL's existing access over the Access Land or use of it.</p> <p><u>Garden Land</u></p> <p>In respect of the 'Garden Land' outlined blue in Appendix 4, the same arrangements as set out in bullet points a and b above will apply.</p> <p>Any obligation required by any planning agreement (including S106 agreement) required to be delivered over the Garden Land relating to the wider scheme will be delivered prior to transfer of the land to SMTL (including any easements required).</p> <p>CPUK reserve any rights required to drain into any existing surface water infrastructure (if required to do so as part of the planning permission for the wider scheme) located within the Garden Land.</p>

<p>6. Community Orchard</p>	<p>The Developer / AA have put forward through an amendment to the TSDL planning application the proposal to relocate the proposed Community Orchard outside of CPO 1 Plot 8, 8A, 8B / CPO 2 Plot 9, 9A, 9Bt. In the event that the alternative location is approved through the planning process as a policy compliant scheme, the following will apply:</p> <ol style="list-style-type: none"> 1. In the event that CPO 1 is exercised that CPO 1 Plot 8, 8A, and 8B will not be acquired by compulsory acquisition; 2. The AA will seek a modification of CPO 2 that CPO 2 Plot 9, 9A and 9B will be removed from CPO 2; <p>If the Secretary of State does not modify CPO 2 to remove CPO 2 Plot 9, 9A and 9B, the AA confirms that CPO 2 Plot 9 will not be acquired by compulsory acquisition.</p> <p>For the avoidance of doubt, should the above come into effect, the obligations regarding transfer of the Access Land and Garden Land to SMTL will remain applicable.</p> <p>Should the alternative location not be approved through the amendment to the TSDL planning application currently submitted, SMTL's freehold interest of CPO 1 Plot 8, 8A, 8B / CPO 2 Plot 9, 9A, 9B will be transferred voluntarily to CDC in exchange for the transfer of the Access Land, Garden Land and any part of a Crossover Plot. This exchange shall also be in full and final settlement of all and any claims by SMTL and its leaseholders.</p>
<p>7. CPO</p>	<p>Upon entering into the agreement:</p> <ul style="list-style-type: none"> • SMTL together with all leaseholders will remove their CPO and planning application objections (via submission of the proforma letter to be appended to the agreement) and agree not to object to any CPO or planning application thereafter, subject to the CPO or planning application not being in conflict with any of the terms of this agreement. • For the avoidance of doubt, the parties required to remove their CPO objections are as follows: <ul style="list-style-type: none"> ○ Keystone Law (on behalf of Saxon Meadow Tangmere Ltd) ○ Lindsay Davey ○ Adele Craig ○ Susan John ○ Alison Gale ○ Coleen Ayton and Brian Ayton ○ John Wolfenden and Moira Wolfenden ○ Elspeth Rendall and Jamie Hutchinson ○ Matthew Rees ○ Morag Mills ○ Kathy Ternan ○ Paula Riches
<p>8. Permitted Development</p>	<p>CPUK will develop Plot 8, 8A, 8B of CPO 1 / Plot 9, 9A, 9B of CPO 2 in accordance with the masterplan to be approved as part of the outline</p>

	<p>planning consent. For the avoidance of doubt, the land is proposed for a Community Orchard.</p> <p>CPUK reserve any rights required over the Access Land to deliver and maintain any obligation required under any planning agreement (including S106 agreement) relevant to the wider development scheme.</p>
9. Title	<p>It is understood that there is a title overlap (the 'Crossover Plot') with CPO1 Plot 6 and 7 & CPO2 Plot 7 and 8. Refer to CPO1 and CPO2 plans provided which shows the Crossover Plot as being CPO1 Plot 7 and CPO2 Plot 8.</p> <ul style="list-style-type: none"> In the event that CPO 1 or CPO 2 is exercised over the Crossover Plot by the Acquiring Authority, the plot will be transferred to SMTL subject to first complying with the Crichel Down rules. In the event that CPO 1 or CPO 2 is not exercised over the Crossover Plot and the 'Hybrid Agreement' proceeds, the Crossover Plots will be transferred to SMTL by CPUK by reference to the position upon the ground. The transfer to SMTL will occur no later than 24 months from CPUK acquiring the land. During this period CPUK will not interfere with SMTL's existing access over the Crossover Plot or use of it.
10. Professional Fees	An undertaking will be provided to meet the SMTL's reasonably incurred professional fees (cap to be agreed).
11. Landowner's Agent	<p>Tom Olden MRICS Director Olden Property 16 Mount Pleasant Road Tunbridge Wells TN1 1QU</p> <p>Tel: 077 0880 7362 tom@oldenproperty.com</p>
12. Landowner's Solicitors	<p>Emma Lloyd, Partner Keystone Law 48 Chancery Lane London WC2A 1JF</p> <p>Tel: 020 3319 3700 Emma.lloyd@keystonelaw.co.uk</p>
13. Developer's Solicitors	<p>Dave Kerr, Partner Osborne Clarke LLP One London Wall, London, EC2Y 5EB</p> <p>Tel: 020 7105 7402 dave.kerr@osborneclarke.com</p>
14. Conditionality	The agreement is Subject to Contract and CPUK Board Approval; and will be conditional upon:

	<ol style="list-style-type: none">1. The Compulsory Purchase Order ('CPO2') being confirmed (unless waived by the CDC in their absolute discretion), and / or contracts having been exchanged on all other land interests within the Tangmere SDL.2. If required, the Landowners to sign a S106 agreement and any other planning agreement as may be required by the CDC in respect of the Property.
--	---

Saxon Meadow Tangmere Ltd

Signature: _____

Date: _____

Countryside Properties (UK) Ltd

Signature: _____

Date: _____

Chichester District Council

Signature: _____

Date: _____

DRAFT

**APPENDIX 13: LETTER TO SAXON MEADOWS RESIDENTS DATED 26
SEPTEMBER 2023**

26 September 2023
Your Ref:
Our Ref: 13252

DWD

6 New Bridge Street
London EC4V 6AB
T: 020 7489 0213
F: 020 7248 4743
E: info@dwdllp.com
W: dwdllp.com

Mr M Rees
4 Saxon Meadow
Tangmere
West Sussex
PO20 2GA

Dear Matthew,

CHICHESTER DISTRICT COUNCIL (TANGMERE) (NO.2) COMPULSORY PURCHASE ORDER 2023

I am contacting you on behalf Chichester District Council in relation to your objection to the Chichester District Council (Tangmere) (No.2) Compulsory Purchase Order 2023.

During recent months my firm has been engaging with Saxon Meadows Tangmere Limited (SMTL) and its advisory team progressing with the basis of an agreement that was hoped would resolve outstanding issues identified by SMTL and the residents of Saxon Meadows in relation to the CPO and the development of the Tangmere Strategic Development Location. The Council's Statement of Case has recently been submitted and is available online to review. This contains an appendix that summarises various issues raised in objections and the Council's response. I would encourage you to review that and a copy can be provided if that would be of assistance.

The primary concern raised by both SMTL and residents appears to have been the proposed acquisition of part of the amenity land to the rear of Saxon Meadows (identified as Plot 9 in the CPO) which was to be used to provide a community orchard. You may be aware that an amendment to the previous planning permission has been sought to remove the community orchard from Plot 9. Countryside (the Council's development partner) submitted an amendment to the planning application in June 2023 to relocate the Community Orchard.

On 16 August 2023 the Local Planning Authority passed a resolution to grant to the effect that the community orchard due to be placed on Plot 9 can be accommodated outside of the Saxon Meadow estate. A modification will be sought to remove Plots 9, 9A and 9B from the Order, but this can only be actioned by the Inspector/Secretary of State as part of the Inquiry process. This process is uncontroversial and was the same used in the original CPO to reduce the land proposed to be acquired from SMTL at that time.

A secondary concern raised by SMTL and residents was to ensure that existing rights are protected regarding land that served to provide access to Saxon Meadows from Church Lane. The Council and Countryside consider that the proposed agreement with SMTL satisfactorily deals with that issue and would like to discuss that with you directly.



The agreement also proposes a number of other benefits to SMTL and the residents including providing additional freehold interests to regularise boundaries and deal with pre-existing issues of land registration. Further commitments in terms of concerns raised about surface water drainage are also matters we would like to discuss with you in the hope that any concerns can be resolved.

It is considered that an agreement is capable of being concluded which will not only include SMTL but also yourself as an objector to the CPO. The agreement will see SMTL remove its objection to the CPO. Mindful of the fact that you are a shareholder in SMTL, the Council/Countryside would like to discuss that agreement with you and the issues raised in your own objection. It is hoped that in doing so, this would enable objections to be withdrawn comprehensively.

I would be grateful if you could contact me in the first instance to let me know if you would be happy to meet to discuss this with representatives of the Council's CPO team. This can either be an in person meeting (at Saxon Meadows or at Council offices) or using Teams/Zoom online platforms. The Council hopes that meetings can be arranged early in October w/c 9th October.

I look forward to hearing from you in due course.

Yours faithfully,



GED DENNING

Partner

DWD

ged.denning@dwdllp.com

DD: 020 7332 2108

APPENDIX 14: SMTL HEADS OF TERMS DATED 28 SEPTEMBER 2023

SUBJECT TO CONTRACT

HEADS OF TERMS – PROPOSED CONDITIONAL CONTRACT

TANGMERE STRATEGIC DEVELOPMENT LOCATION

1. Landowner	Saxon Meadow Tangmere Limited (SMTL), Cawley Place, 15 Cawley Road, Chichester, West Sussex, PO19 1UZ
2. Developer	Countryside Properties (UK) Ltd (CPUK)
3. Acquiring Authority (AA)	Chichester District Council (CDC)
4. Property	<p>SMTL are the freehold owners of the land outlined red in Appendix 1, consisting of Title numbers WSX172343 and WSX407547.</p> <p>Plot 8, 8A, 8B of CPO 1 / Plot 9, 9A, 9B of CPO 2 sits within Title WSX407547. Refer to CPO1 and CPO2 plan provided in Appendix 2.</p>
5. The Pitts Land	The land comprised within title number WSX345601
6. Agreement Summary	<p>It is understood that the Landowners may have the benefit of access rights and rights for the supply of gas water, electricity and other utilities and services and other rights as set out in the First Schedule to a conveyance dated 26 October 1984 (“the Conveyance”) over the ‘Access Land’ (forming part of CPO 1 Plot 6 & CPO 2 Plot 7) which is within the ownership of Deidre Jane Pitts, Michael William Pitts and Diana Mary Pitts and which forms part of the Pitts Land.</p> <p><u>Access Land</u></p> <p>In respect of the ‘Access Land’ outlined yellow in Appendix 3:</p> <p>In the event that CPO 1 or CPO 2 is exercised over the Pitt's Land or part thereof (CPO 1 Plot 6 & CPO 2 Plot 7) by the Acquiring Authority, the freehold of the Access Land as shown will be transferred to SMTL as soon as reasonably practicable following such exercise, subject to Clause 6d) and Clause 9 and first complying with the Crichel Down rules;</p> <p>In the event that CPO 1 or CPO 2 is not exercised over the Pitts Land and the ‘Hybrid Agreement’ proceeds, the freehold of the Access Land will be transferred to SMTL by CPUK as soon as reasonably practicable subject to Clause 6(d) and Clause 9.</p> <p>In any interim period following exercise of CPO 1 or CPO 2 by the Acquiring Authority pursuant to clause (a) or following the implementation of the Hybrid Agreement pursuant to clause (b) SMTL will be afforded rights of access to and egress from the Property together with rights in respect of the supply of services and utilities to and from the Property and rights equivalent to all existing rights set out in the Conveyance over under or through the Access Land.</p>

	<p>Any obligation required by any planning agreement (including S106 agreement) required to be delivered over the Access Land relating to the wider scheme (for example a cycle route the position of which has not yet been determined) will be delivered prior to transfer of the land to SMTL (including any easements required). During this period CPUK will not interfere with SMTL's existing access over the Access Land or use of it.</p> <p>It is agreed that:</p> <ul style="list-style-type: none"> (a) the Access Land shall only be used for the delivery of a cycle pathway and the provision of the cycle pathway: (b) the cycle pathway over the Access Land shall connect to the tarmac surface of the existing access road at the point marked by the red dot marker on plan reference [PP-04-M] and be delivered to a specification approved under the Reserved Matters approval in respect of dimensions, materials, edging and drainage; (c) the tarmac surface of the access road shall not otherwise be altered to provide the cycle pathway; unless required to be under the Reserved Matters approval. (d) the pond forming part of the Access Land will remain in existence at all time; (e) the Access Land shall at no time be used for access of plant or machinery of any kind, other than those required for the delivery of the cycle pathway (f) SMTL shall continue to maintain the Access Land until transfer of the same to SMTL in accordance with the provisions set out above; and <p><u>Garden Land</u></p> <p>In respect of the 'Garden Land' outlined blue in Appendix 4: Any obligation required by any planning agreement (including S106 agreement) required to be delivered over the Garden Land relating to the wider scheme will be delivered prior to transfer of the land to SMTL (including any easements required).</p> <p>Subject to demonstrating that any right to drain into any existing surface water infrastructure will not overload the drainage system or lead to surface water flooding CPUK will have the right to drain into any existing surface water infrastructure (if and only if required to do so as part of the planning permission for the wider scheme and in accordance with the approved Surface Water Drainage Strategy associated with the planning permission) located within the Garden Land.</p>
<p>7. Land Forming Part of Title Number WSX407547</p>	<p>The Developer and the Acquiring Authority agree that the following provisions will apply:</p> <ul style="list-style-type: none"> 1. In the event that CPO 1 is exercised that CPO 1 Plot 8, 8A, and 8B will not be acquired by compulsory acquisition or otherwise; 2. The AA will seek a modification of CPO 2 CPO 2 Plot 9, 9A and 9B will be removed from the scope of CPO 2; 3. If the Secretary of State does not modify CPO 2 to remove CPO 2 Plot 9, 9A and 9B, then CPO 2 Plot 9, 9A and 9B will not be acquired by compulsory acquisition.

8. CPO	<p>Upon entering into the agreement:</p> <ul style="list-style-type: none"> • SMTL together with all residents/leaseholders within Saxon Meadow agree not to object to any CPO or planning application thereafter, subject to the CPO or planning application not being in conflict with any of the terms of this agreement. • SMTL together with all residents/leaseholders will not make further objections to CPO1 or CPO 2 ahead of or during any Public Inquiry.
9. Permitted Development	<p>Subject to the foregoing provisions, CPUK will reserve any rights required over the Access Land to deliver and maintain any obligation required under any planning agreement (including S106 agreement) relevant to the wider development scheme.</p>
10.Title	<p>It is understood that there is a title overlap (the 'Crossover Plot') with CPO1 Plot 6 and 7 & CPO2 Plot 7 and 8. Refer to CPO1 and CPO2 plans provided which shows the Crossover Plot as being CPO1 Plot 7 and CPO2 Plot 8.</p> <ul style="list-style-type: none"> • In the event that CPO 1 or CPO 2 is exercised over the Crossover Plot by the Acquiring Authority, the Crossover Plot will be transferred to SMTL within 12 months of such exercise subject to first complying with the Crichel Down rules. • In the event that CPO 1 or CPO 2 is not exercised over the Crossover Plot and the 'Hybrid Agreement' proceeds, the Crossover Plot will be transferred to SMTL by CPUK within 12 months of the Developer acquiring the land via the Hybrid Agreement . • In any interim period following exercise of CPO 1 or CPO 2 by the Acquiring Authority pursuant to the first bullet point above or following the implementation of the Hybrid Agreement pursuant to the second bullet point above, SMTL will be granted rights equivalent to all rights set out in the Conveyance over under or through the Crossover Plot.
11. Professional Fees	<p>An undertaking has been provided to meet SMTL's reasonably incurred professional fees . A cap in relation to Professional Fees to be incurred to complete the Agreement will be agreed between the Parties.</p> <p>Such fees will not be paid until all objections have been formally withdrawn (see point 2 of section 15 "Conditionality".)</p>
12. Landowner's Agent	<p>Tom Olden MRICS Director Olden Property 16 Mount Pleasant Road Tunbridge Wells TN1 1QU</p> <p>Tel: 077 0880 7362 tom@oldenproperty.com</p>

13. Landowner's Solicitors	<p>Nicholas Brown Keystone Law 48 Chancery Lane London WC2A 1JF</p> <p>Tel: 020 3319 3700 nicholas.brown@keystonelaw.co.uk</p>
14. Developer's Solicitors	<p>Dave Kerr, Partner Osborne Clarke LLP One London Wall, London, EC2Y 5EB</p> <p>Tel: 020 7105 7402 dave.kerr@osborneclarke.com</p>
15. Conditionality	<p>The agreement is Subject to Contract and CPUK Board Approval; and will be conditional upon:</p> <ol style="list-style-type: none"> 1. The Compulsory Purchase Order ('CPO2') being confirmed (unless waived by the CDC in their absolute discretion), and / or contracts having been exchanged on all other land interests within the Tangmere SDL. 2. Withdrawal of all CPO Objections made by SMTL and residents/leaseholders. For the avoidance of doubt, the parties to which the preceding provision applies is as follows: <ul style="list-style-type: none"> • Keystone Law (on behalf of Saxon Meadow Tangmere Ltd) • Lindsay Davey • Adele Craig • Susan John • Alison Gale • Coleen Ayton and Brian Ayton • John Wolfenden and Moira Wolfenden • Elspeth Rendall and Jamie Hutchinson • Matthew Rees • Morag Mills • Kathy Ternan • Paula Riches 3. Subject to such indemnities as may be reasonably required by the Landowners from CPUK in respect of costs and liabilities contained in any Section 106 Agreement, then if required, the Landowners to sign a S106 agreement and any other planning agreement as may be required by CDC in respect of the Property.

Saxon Meadow Tangmere Ltd

Signature: _____

Date: _____

Countryside Properties (UK) Ltd

Signature: _____

Date: _____

Chichester District Council

Signature: _____

Date: _____

DRAFT

APPENDIX 15: LETTER FROM DWD DATED 18 OCTOBER 2023

18 October 2023
Your Ref:
Our Ref: 13252

Olden Property
16 Mount Pleasant Road
Tunbridge Wells
TN1 1QU

By email: tom@oldenproperty.com

DWD

69 Carter Lane
London EC4V 5EQ
T: 020 7489 0213
F: 020 7248 4743
E: info@dwdllp.com
W: dwdllp.com

Dear Tom,

SMTL – HEADS OF TERMS – CPO 2

I refer to our previous conversations together with the attached Heads of Terms and email dated 16 October 2023 from John Webster to Nicholas Brown.

As you know, these terms not only remove the orchard from CPO 2 in its entirety but also include rights of access that will significantly enhance the value of the various properties at Saxon Meadows. These go well beyond replacement rights and are new rights that enable the residents and future residents clear and unambiguous rights of access to their properties. If the Heads of Terms are not agreed, the residents will have to rely on their existing questionable rights and will forgo the certainty and potential value uplift.

The Council recognise SMTL's status and have agreed to make a contribution towards their fees as part of the agreement. These fees, as included within the Heads of Terms, were agreed by you in accordance with your client's instructions as set out in your email dated 9 October 2023.

I understand from conversations between CPOK's solicitors and Keystone Law that the structure set out in the attached email and Heads of Terms is acceptable to SMTL. These address the key points of your client's concerns regarding the withdrawal of the objections by both SMTL and the leaseholders and the timing thereof together with the payment of costs.

It is therefore extremely disappointing that, having reached a common position on all other matters, your client's solicitor has indicated to CPOK's solicitor that, despite this, your client will not sign the Heads of Terms and withdraw their objection unless all fees are recovered, howsoever incurred and including those for objecting to the CPO. It is even more disappointing that this change of direction, which directly contradicts the position as agreed with you, has been raised by your client at the very last minute.

I have seen invoices that amount to £12,596.06 + VAT for you and £33,073.95+ VAT for KL giving a current total of £54,745.06 + VAT but KL have told us that they are seeking in excess of £40K+VAT for their fees and I have no doubt that you will have racked up further costs such that the total cost, at you current trajectory, is going to be over £70,000 + VAT.

I have previously commented in respect of fees and made the point that, in addition to being excessive, it is clear from the timesheets that they also include significant objection costs and costs relating to



other matters that are nothing to do with CPO 2. I would remind you that you explicitly maintained that you were instructed that these costs did not form part of your client's cost claim.

I cannot recommend any increase in the fees from those set out in the Heads of Terms and agreed, in good faith, with you. As you know, these, together with those fees already reimbursed, go well beyond what is reasonable or proportionate to the complexity of this matter. I would therefore ask that you have a full and frank conversation with your client and KL.

In this regard, I understand that KL are advising your client that they have a strong case at Inquiry against the CPO and that they are entitled to receive their fees as they have been successful, according to KL, with their objection. I fear that their confidence is misplaced hence my comments below.

Whilst not previously stated, it appears that KL are arguing that the Statement of Case is defective. Seemingly this argument is built on alleging that a case has not been made for CPO 2 whilst CPO 1 is still in force. However, the Council's Statement of Case clearly sets out the reasoning and justification for the Order and will, in any event, be supplemented by legal argument and evidence at the Inquiry.

Neither I nor the Council's legal advisors consider KL's reliance upon such an argument to be credible and I am unaware of any CPO where such grounds been upheld by either the Inspector or the Secretary of State. However, in the highly unlikely event that KL are correct, and the CPO falls down, the concomitant consequence will be that the Heads of Terms will fall away and your client will not receive any reimbursement of costs. In this scenario your client will have to make an application to the Secretary of State for costs with the considerable risk that such a claim will fail or, at best, be only partially successful. I return to this point below.

KL appear to be advising your client that they would be entitled to their full costs as the orchard will be removed from the CPO. The point that seems to be overlooked is that the Council made a successful planning application to remove the orchard from the Order and the Inspector is being invited by the Council to remove it from the Order as it is no longer required on planning grounds. It is entirely normal for acquiring authorities to review their land requirements regardless as to whether an objection is received and that is precisely what has happened here.

I would also remind you that your client previously agreed that part of the orchard would remain in CPO 1 and the Order was confirmed on that basis. It was entirely reasonable for the Council to rely upon the agreement with your client when drafting CPO 2. Notwithstanding this, the Council have responded to your client's change of position by securing a revised planning permission to remove the need for any part of the orchard and, whatever, happens, that will be the Council's position before the Inquiry.

It is therefore the case that the inclusion of part of the orchard was agreed with your client in respect of CPO 1 but they changed their mind in respect of CPO 2 and the Council has taken all action reasonably required to remove the orchard from CPO2 having regard to planning policy requirements.

Turning back to costs; as you know, an application to the Secretary of State for costs can only be made if your client takes part in the Inquiry proceedings. However, if your client and the residents maintain their objections, the Heads of Terms will not be signed by the Council and the agreement will fall away together with the fee undertakings set out therein.

In the highly unlikely event that, following an appearance at the Inquiry, your client wins every argument and they submit a cost application, the Secretary of State will, as you also know, apply the

tests of reasonableness and proportionality. The claimed costs will also be subject to cost assessment. There is nothing unusual about this and this is common practice in court proceedings.

I have no doubt that that the Secretary of State will consider the fees incurred by your client to be excessive in relation to the matters in dispute and reach a similar, if not the same, conclusion as me i.e., that your client's costs are grossly excessive and disproportionate.

This means that, if your client decides to follow the path being recommended to them by KL, they will lose the additional value benefits set out in the Heads of Terms and will be subject to significant risk in respect of costs.

Your client will therefore only receive the agreed fees and the new rights if they sign the Heads of Terms and all objections including those made by the other leaseholders (who I am fully aware neither you nor KL represent) are withdrawn.

The position is therefore as follows. Your client can accept the proposed terms and the residents benefit from the significant increase in value of their properties from the grant of certain access rights together with a contribution towards their fees. Alternatively, your client can elect not to agree the proposed terms whereupon the residents will be left in the same position in respect of access rights as currently existing and will have to rely on a claim for recovery of the fees charged by you and KL, the outcome of which will be far from certain and will result in further costs to your client.

These comments are simply meant to point out the reality of your client's position and I fully respect whatever decision they make. However, if they decide not to proceed with the Heads of Terms as agreed it would be helpful if you would set out, for the benefit of the Council and me, exactly what grounds, other than the dispute over costs, your client is relying upon for continuing to object to the Order bearing in mind that such an objection, if successful, would be detrimental to the interests of both SMTL and the residents.

I am aware that Mr Wolfenden has requested a Teams Call to discuss these proposals prior to the EGM on Friday. Ged/ I am happy to facilitate this given sufficient prior notice.

Kind regards

Yours faithfully,



PETER ROBERTS FRICS CEnv

Partner

DWD

Peter.robbers@dwdllp.com

DD: 020 7489 4835

**APPENDIX 16: EMAIL FROM MR WEBSTER DATED 16 OCTOBER 2023
(APPENDIX TO DWD LETTER OF 18 OCTOBER 2023)**

Peter Roberts

From: peter.roberts@dwdllp.com
Subject: FW: SMTL -Heads of Terms [DWFLLP-ACTIVE.FID6907716]
Attachments: DRAFT Individual Agreement - V2(86989592_1).DOCX; 9 October 2023 Heads of Terms TO Changes - DWF Amends 16 October 2023(86992258_1).DOCX

From: John Webster
Sent: 16 October 2023 20:42
To: 'Nicholas Brown' <Nicholas.Brown@keystone-law.co.uk>
Subject: RE: SMTL -Heads of Terms [DWFLLP-ACTIVE.FID6907716]

Dear Nick

In our discussion this morning you raised the question of payment of SMTL's fees incurred to date and the likely timeframes for this.

Considering this further our proposed structure would be the following:

- 1.) Tom Olden's outstanding fees of £3,525.01 + VAT will be paid as per the undertaking from the Council dated 14 June 2023;
- 2.) Agreed form of Heads of Terms are signed by SMTL (please see attached version which reflects the detail in this timeframe and picks up on points raised this morning);
- 3.) The SMTL and leaseholder objections to CPO 2 are withdrawn (in a satisfactory form to the Council and agreed in advance) following which the Council will sign the Heads of Terms;
- 4.) On withdrawal of all the SMTL and leaseholder objections the sum of £14,781.45 + VAT will be paid to SMTL in respect of Keystone Law's fees for negotiating the SMTL HoTs (for the avoidance of doubt this will be paid when the final objection from those listed in the HoTs at 15(2) is withdrawn). This discharges the Council's undertaking of 14 June 2023;
- 5.) Osborne Clarke issues a draft SMTL agreement which accords with the signed Heads of Terms;
- 6.) An undertaking to contribute to reasonable legal costs up to £5,218.55 + VAT will be provided to Keystone Law on the issue of the draft SMTL agreement (this is the sum indicated in Tom Olden's email of 8 September 2023 to Ged Denning of DWD). This is for the purposes of SMTL settling and completing the draft SMTL agreement. This reflects the £20,000 + VAT cap set out in Ged Dennings' email of 10 October 2023 at 3.52pm (which is intended to be a contribution to SMTL professional fees incurred to date and also for completing the SMTL agreement). The SMTL agreement is then negotiated / settled between the parties;
- 7.) The amended individual agreements for leaseholders (see attached and amended following our discussion this morning) are signed by the relevant leaseholder and signed by the Council. They are held to order (undated) by the Council pending completion of the SMTL agreement. They will only be completed simultaneously with the SMTL agreement;
- 8.) Both the SMTL agreement and individual agreements are simultaneously completed. They will not be separately completed;
- 9.) On completion of the SMTL agreement, the agreed reasonable legal costs incurred in (6) above will be paid. These will not be paid at any earlier point and if the SMTL agreement does not complete, they will not be paid.

On the above neither Council or CPUK would be paying for SMTL and/or the leaseholder's costs of objecting to CPO 2. CDC/CPUK are only willing to provide for the fees as outlined at (1), (4) and (6) above.

I would be grateful if you can confirm the above is agreed, that the draft HoTs can be settled and we can move towards (2) & (3) pending the outcome of the EGM on Friday 20 October.

Kind regards, John

John Webster Partner
UK Planning and Compulsory Purchase
M +44 7849 311567

DWF Law LLP
20 Fenchurch Street London EC3M 3AG
T +44 333 320 2220 **F** +44 333 320 4440

From: John Webster
Sent: 16 October 2023 08:43
To: Nicholas Brown <Nicholas.Brown@keystonelaw.co.uk>
Subject: RE: SMTL -Heads of Terms

Morning Nick

10.30am is fine for me - my mobile telephone number is below.

Kind regards,

John Webster Partner
UK Planning and Compulsory Purchase
M +44 7849 311567

DWF Law LLP
20 Fenchurch Street London EC3M 3AG
T +44 333 320 2220 **F** +44 333 320 4440

From: Nicholas Brown <Nicholas.Brown@keystonelaw.co.uk>
Sent: 16 October 2023 07:59
To: John Webster <John.Webster@dwf.law>
Subject: Re: SMTL -Heads of Terms [DWFLLP-ACTIVE.FID6907716]

Good morning John,

Could I possibly give you a call at 10:30 this morning?

Best regards,

Nick.

Sent from my iPhone

**APPENDIX 17: REMAINING APPENDICES TO LETTER FROM DWD DATED 18
OCTOBER 2023**

Peter Roberts

From: peter.roberts@dwdllp.com
Subject: FW: Olden Property Fees - SMTL

From: Olden Tom <tom@oldenproperty.com>
Date: October 18, 2023 at 1:54:18 PM GMT+1
To: Ged Denning <ged.denning@dwdllp.com>
Cc: Ben Garbett <Ben.Garbett@keystonelaw.co.uk>, Nicholas Brown <Nicholas.Brown@keystonelaw.co.uk>
Subject: Olden Property Fees - SMTL

Dear Ged,

As we are now moving from Heads of Terms to contract stage, I thought I should update you on Olden Property fees and also my clients solicitors while they attempt to get the agreement finalised.

Please find Olden Property invoices up to 18 October 2023

Invoices 853 & 888 have been paid by the Council.

Total amount to date therefore £ 13,410.012 (incl VAT).

I expect my involvement will be to liaise with my clients solicitors to get the contract finalised – I'm not sure how much involvement I will have – estimate 10 hours - £2,250 & VAT.

Please confirm these fees are agreed as reasonable fees, reasonably incurred and that they will be paid by the Council.

Kind regards,

Tom Olden MRICS | Director
Olden Property
16 Mount Pleasant Road
Tunbridge Wells
TN1 1QU

M: [077 0880 7362](tel:07708807362)

E : tom@oldenproperty.com



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SUBJECT TO CONTRACT
HEADS OF TERMS – PROPOSED CONDITIONAL CONTRACT
TANGMERE STRATEGIC DEVELOPMENT LOCATION

1. Landowner	Saxon Meadow Tangmere Limited (SMTL), Cawley Place, 15 Cawley Road, Chichester, West Sussex, PO19 1UZ
2. Developer	Countryside Properties (UK) Ltd (CPUK)
3. Acquiring Authority (AA)	Chichester District Council (CDC)
4. Property	SMTL are the freehold owners of the land outlined red in Appendix 1 , consisting of Title numbers WSX172343 and WSX407547. Plot 8, 8A, 8B of CPO 1 / Plot 9, 9A, 9B of CPO 2 sits within Title WSX407547. Refer to CPO1 and CPO2 plan provided in Appendix 2 .
5. The Pitts Land	The land comprised within title number WSX345601
6. Agreement Summary	<p>It is understood that the Landowner may have the benefit of access rights and rights for the supply of gas water, electricity and other utilities and services and other rights as set out in the First Schedule to a conveyance dated 26 October 1984 (“the Conveyance”) over the ‘Access Land’ (forming part of CPO 1 Plot 6 & CPO 2 Plot 7) which is within the ownership of Deidre Jane Pitts, Michael William Pitts and Diana Mary Pitts and which forms part of the Pitts Land. <u>Access Land</u></p> <p>In respect of the ‘Access Land’ outlined yellow in Appendix 3:</p> <p>(a) In the event that CPO 1 or CPO 2 is exercised over the Pitt’s Land or part thereof (CPO 1 Plot 6 & CPO 2 Plot 7) by the Acquiring Authority, the freehold of the Access Land as shown will be transferred to SMTL as soon as reasonably practicable following such exercise, subject to Clause 6d) and Clause 9 and first complying with the Crichel Down rules;</p> <p>(b) In the event that CPO 1 or CPO 2 is not exercised over the Pitts Land and the ‘Hybrid Agreement’ proceeds, the freehold of the Access Land will be transferred to SMTL by CPUK as soon as reasonably practicable subject to Clause 6(d) and Clause 9.</p> <p>In any interim period following exercise of CPO 1 or CPO 2 by the Acquiring Authority pursuant to clause (a) above or following the implementation of the Hybrid Agreement pursuant to clause (b) above SMTL will be afforded rights of access to and egress from the Property together with rights in respect of the supply of services and utilities to and from the Property and rights equivalent to all existing rights set out in the Conveyance over under or through the Access Land.</p> <p>Any obligation required by any planning agreement (including S106 agreement) required to be delivered over the Access Land relating to the wider scheme (for example a cycle route the position of which has not yet been determined) will be delivered prior to transfer of the land to SMTL (including any easements required). During this period CPUK</p>

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	<p>will not interfere with SMTL's existing access over the Access Land or use of it.</p> <p>It is agreed that:</p> <ul style="list-style-type: none"> (a) the Access Land shall only be used for the delivery and provision of a cycle pathway: (b) the cycle pathway over the Access Land shall connect to the tarmac surface of the existing access road at the point marked by the red dot marker on plan reference [PP-04-M] annexed hereto and be delivered to a specification: <ul style="list-style-type: none"> i. approved under the Reserved Matters approval in respect of dimensions, materials, edging and drainage and ii. that has been provided to SMTL [4] weeks prior to submission of the Reserved Matters application being made The Developer will take account of any response from SMTL prior to submission to the extent that it is acceptable to the LPA. (c) the tarmac surface of the access road shall not otherwise be altered to provide the cycle pathway; unless required to be under the Reserved Matters approval. (d) the pond forming part of the Access Land will remain in existence at all times; (e) the Access Land shall at no time be used for access of plant or machinery of any kind, other than those required for the delivery of the cycle pathway (f) SMTL shall continue to maintain the Access Land until transfer of the same to SMTL in accordance with the provisions set out above. <p>Garden Land</p> <p>In respect of the 'Garden Land' outlined blue in Appendix 4: Any obligation required by any planning agreement (including S106 agreement) required to be delivered over the Garden Land relating to the wider scheme will be delivered prior to transfer of the land to SMTL (including any easements required).</p> <p>Subject to demonstrating that any right to drain into any existing surface water infrastructure will not overload the drainage system or lead to surface water flooding CPUK will have the right to drain into any existing surface water infrastructure (if and only if required to do so as part of the planning permission for the wider scheme and in accordance with the approved Surface Water Drainage Strategy associated with the planning permission) located within the Garden Land.</p>
<p>7. Land Forming Part of Title Number WSX407547</p>	<p>The Developer and the Acquiring Authority agree that the following provisions will apply:</p> <ol style="list-style-type: none"> 1. In the event that CPO 1 is exercised that CPO 1 Plot 8, 8A, and 8B will not be acquired by compulsory acquisition or otherwise; 2. The AA will seek a modification of CPO 2 to the intent that Plot 9, 9A and 9B will be removed from the scope of CPO 2; 3. If the Secretary of State does not modify CPO 2 to remove CPO 2 Plot 9, 9A and 9B, then CPO 2 Plot 9, 9A and 9B will not be acquired by compulsory acquisition.

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<p>8. CPO</p>	<p>Upon entering into the agreement:</p> <ul style="list-style-type: none"> • SMTL agrees not to object to any CPO or planning application thereafter, subject to the CPO or planning application not being in conflict with any of the terms of this agreement. • SMTL shall use reasonable endeavours to procure that all leaseholders within Saxon Meadow agree. not to object to any CPO or planning application thereafter, • SMTL will not make further objections to CPO1 or CPO 2 at any time. • SMTL shall use reasonable endeavours to procure that the leaseholders within Saxon Meadow will not make further objections to CPO1 or CPO 2 at any time.
<p>9. Permitted Development</p>	<p>Subject to the foregoing provisions, CPUK will reserve any rights required over the Access Land and Crossover Plot to deliver and maintain any obligation required under any planning agreement (including S106 agreement) relevant to the wider development scheme.</p>
<p>10. Title</p>	<p>It is understood that there is a title overlap (the 'Crossover Plot') with CPO1 Plot 6 and 7 & CPO2 Plot 7 and 8. Refer to CPO1 and CPO2 plans provided which shows the Crossover Plot as being CPO1 Plot 7 and CPO2 Plot 8.</p> <ul style="list-style-type: none"> • In the event that CPO 1 or CPO 2 is exercised over the Crossover Plot by the Acquiring Authority, the Crossover Plot will be transferred to SMTL within 12 months of such exercise subject to first complying with the Crichel Down rules. • In the event that CPO 1 or CPO 2 is not exercised over the Crossover Plot and the 'Hybrid Agreement' proceeds, the Crossover Plot will be transferred to SMTL by CPUK within 12 months of the Developer acquiring the land via the Hybrid Agreement . • In any interim period following exercise of CPO 1 or CPO 2 by the Acquiring Authority pursuant to the first bullet point above or following the implementation of the Hybrid Agreement pursuant to the second bullet point above, SMTL will be granted rights equivalent to all rights set out in the Conveyance over under or through the Crossover Plot.
<p>11. Professional Fees</p>	<ul style="list-style-type: none"> • <u>Tom Olden's outstanding fees of £3,525.01 + VAT will be paid as per the Council's undertaking of 14 June 2023.</u> • <u>On withdrawal of all the SMTL and leaseholder objections the sum of £14,781.45 + VAT will be paid to SMTL in respect of Keystone Law's invoiced legal fees. This payment discharges the Council's undertaking of 14 June 2023.</u> • <u>On issue of the draft SMTL agreement an undertaking shall be provided to SMTL up to a cap of £5,218.55 + VAT as a contribution towards SMTL's reasonable legal fees in negotiating, settling and completing the SMTL agreement. These fees shall</u>

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	<p><u>not be paid unless the SMTL agreement is completed and shall be paid on completion of the SMTL agreement.</u></p> <ul style="list-style-type: none"> <u>Costs relating to SMTL and/or the leaseholder's objections to CPO 2 are not recoverable. This includes those presently incurred and any incurred in the future including any attendance at the public local inquiry.</u> <p>An undertaking has been provided to meet SMTL's reasonably incurred professional fees. A cap in relation to Professional Fees to be incurred to complete the Agreement will be agreed between the Parties</p> <p>Such fees will not be paid until all objections have been formally withdrawn to the Council's satisfaction (see point 2 of section 15 "Conditionality".)</p>
12. Landowner's Agent	<p>Tom Olden MRICS Director Olden Property 16 Mount Pleasant Road Tunbridge Wells TN1 1QU</p> <p>Tel: 077 0880 7362 tom@oldenproperty.com</p>
13. Landowner's Solicitors	<p>Nicholas Brown Keystone Law 48 Chancery Lane London WC2A 1JF</p> <p>Tel: 020 3319 3700 nicholas.brown@keystonelaw.co.uk</p>
14. Developer's Solicitors	<p>Dave Kerr, Partner Osborne Clarke LLP One London Wall, London, EC2Y 5EB</p> <p>Tel: 020 7105 7402 dave.kerr@osborneclarke.com</p>
15. Conditionality	<p>The agreement is Subject to Contract and CPUK Board Approval; and will be conditional upon:</p> <ol style="list-style-type: none"> The Compulsory Purchase Order ("CPO2") being confirmed (unless waived by the CDC in their absolute discretion), and / or contracts having been exchanged on all other land interests within the Tangmere SDL. <u>Withdrawal of all CPO Objections made by SMTL and leaseholders at Saxon Meadow. For the avoidance of doubt, the parties to which the preceding provision applies is as follows: Unconditional withdrawal of all CPO Objections made by SMTL and leaseholders at Saxon Meadow. Such withdrawals will include an undertaking not to submit any objections in respect of the grant or exercise of compulsory purchase powers or grant and exercise of planning permission related to the scheme being promoted by</u>

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~~CPO 2. For the avoidance of doubt, the parties to which the preceding provision applies is as follows:~~

- Keystone Law (on behalf of Saxon Meadow Tangmere Ltd)
- Lindsay Davey
- Adele Craig
- Susan John
- Alison Gale
- Coleen Ayton and Brian Ayton
- John Wolfenden and Moira Wolfenden
- Elspeth Rendall and Jamie Hutchinson
- Matthew Rees
- Morag Mills
- Kathy Ternan
- Paula Riches

~~The approach and structure outlined in the email dated 16 October 2023 between John Webster of DWF and Nick Brown of Keystone Law is agreed between the parties as to how the SMTL agreement shall be completed simultaneously with the individual agreements for the leaseholders listed above.~~

3. Subject to such indemnities as may be reasonably required by the Landowners from CPUK in respect of costs and liabilities contained in any Section 106 Agreement, then if required, the Landowners to sign a S106 agreement and any other planning agreement as may be required by CDC in respect of the Property: (to which a costs undertaking shall be given for the Landowner's reasonable legal costs up to a capped figure for their review, approval and completion of such agreement as may be required by CDC).

Saxon Meadow Tangmere Ltd

Signature: _____

Date: _____

Countryside Properties (UK) Ltd

Signature: _____

Date: _____

Chichester District Council

Signature: _____

Date: _____

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DRAFT

DRAFT

CHICHESTER DISTRICT COUNCIL (TANGMERE) (No.2) COMPULSORY PURCHASE ORDER 2023

~~WITHDRAWAL OF OBJECTION~~ INDIVIDUAL AGREEMENT

DATED

2023

BETWEEN

- (1) [NAME] of [NUMBER] Saxon Meadow, Tangmere PO20 2GA; and:
- (2) Chichester District Council of East Pallant House, Chichester, West Sussex, PO19 1TY ("the Council").

AGREEMENT

- (1) I have submitted an objection to the Chichester District Council (Tangmere) (No.2) Compulsory Purchase Order 2023 ("CPO 2")
- (2) I hereby agree with the Council:
 - a. That I withdrew my objection on [DATE] 2023 and my objection is withdrawn in its entirety;
 - b. That I will not submit any further objections to CPO 2 from this date nor seek to make any representations at or to the public local inquiry for CPO2 unless they deviate from the Scheme as proposed at this date;
 - c. That I will not object to the planning application reference 20/02893/OUT (lodged with the Council as Local Planning Authority) or any related applications unless they deviate from the proposed development as submitted at this date; and
 - d. That I will not procure any person to object on my behalf in respect of (2) (a – c) above.;
 - ~~e. That I will within 2 working days of the date hereof confirm to the Inspector appointed to determine CPO 2 that my objection has been withdrawn on this date.~~

Signed as an Agreement on this date:

.....

[NAME]
[Address]

.....

Andrew Frost
Director for Planning and Environment

On behalf of Chichester District Council

APPENDIX 18: EMAIL FROM PR TO MR OLDEN DATED 5 OCTOBER 2023

Peter Roberts

Subject: FW: SMTL -Heads of Terms

From: Peter Roberts <peter.roberts@dwdllp.com>

Sent: Thursday, October 5, 2023 6:15 PM

To: Olden Tom <tom@oldenproperty.com>; Ged Denning <ged.denning@dwdllp.com>

Cc: Jon Callcutt <jon.callcutt@vistrygroup.co.uk>; Rory Abbey <Rory.Abbey@vistrygroup.co.uk>; John Wolfenden <john.wolfenden@icloud.com>; Terry Pickering <tp35744@gmail.com>; Matthew Rees <matthew.w.rees@gmail.com>

Subject: RE: SMTL -Heads of Terms

Tom

Ged is currently away hence I have replied in the meantime - I will discuss the various points with the Council and the developer in his absence but my comments are below.

I note that the withdrawal template refers to the withdrawals as being conditional. As we have discussed at length, my advice to the Council remains that they will only sign the agreement when SMTL have signed and all remaining objections have been withdrawn. A conditional withdrawal is not a withdrawal and the Inspector will still be forced to deal with them so that is of no assistance. The withdrawals must be unconditional.

You have repeatedly made it very clear that you are not advising the other leaseholders. I can confirm that I completely understand the point, but it remains the case that it is in SMTL's interests that these leaseholders withdraw. It is therefore entirely reasonable that you take the initiative and work with your client and the leaseholders to achieve this. Ged has offered to meet the individual leaseholders and the Council/developer will continue to engage but we all know that having SMTL taking the lead is more likely to result in everyone coming together for the common purpose. In this regard, I am very grateful for the letter from Mr Pickering which gives me encouragement that SMTL and I are on the same page.

I do not follow your penultimate paragraph – what position are you seeking to protect? - the orchard has already been taken out of the CPO, subject to the Inspector's agreement, and all the other matters referred to in the Heads are nothing to do with the CPO such that the objections achieve nothing other than requiring Inquiry time and resources. As far as the Inspector will be concerned, the additional matters are simply not relevant and, as I have already advised, the legal status of those objections is in question in any event. In addition, as I trust you are aware, this is an Inquiry not a Court hearing, the Inspector is not a lawyer and KL's advice to SMTL is of no relevance to the proceedings. As I am sure you are aware, if your client does decide to "protect their position" at the Inquiry, the Heads of Terms will fall away which I would have thought would be to your client's detriment rather than benefit, so I am not clear what your point is.

I note the amendments to **section 6 b ii** – As you and your client's solicitors must be aware, the Local Planning Authority is not lawfully able to fetter its ability to decide planning matters and it is ultimately up to the planning process to rule on the design matters etc. As such, the LPA has to make its decision regardless of SMTL's approval. This does not prevent there being consultation.

I take the point in respect of **AST occupiers** but would be grateful if you would liaise with SMTL and the leaseholders and advise me whether there is anyone known to be in occupation of any of the relevant properties that is not a leaseholder or immediate relative – I am thinking of AST, statutory assured periodic tenancies, Rent Act Tenancies and such like. The fact that this point has been raised at all indicates to me that there may be an occupant of which we are unaware who may have an enforceable legal interest, so it is important to all of us to have certainty on this.

Section 8 - I take the point in respect of the leaseholders not being a party to these terms. The way round this is therefore for each objector to confirm within their unconditional withdrawal of their objection that they will not submit any further objections against the CPO and undertake not to object to any planning applications. I will move this to section 15.

As I am sure you and the solicitor are fully aware, the CPO in front of the Inspector will only change to the extent that the Council decide that they do not need to acquire certain land which is the case with the orchard. The Council cannot add new rights or land without starting again with a new CPO which is why CPO 2 exists. The conditionality suggested by your client's solicitor is therefore superfluous.

Section 11 – I am aware of fees being claimed by Keystone Law in the sum of £33,073.95 plus your fees – there may be more that I am not aware of but, notwithstanding this, the fees are totally unreasonable.

Having reviewed the supporting timesheets it is clear that the vast majority of KL time clearly relates to drafting the objection rather than advising in respect of the Heads. In this regard, I am baffled as to why KL are involved at all at this stage. It would be entirely appropriate and far more cost effective to both the Council and your client for you as SMTL's advisor to have provided advice, submitted the objection and negotiated the Heads of Terms. Solicitors are only required once the Heads have been finalised.

There is nothing wrong with your client instructing whoever they wish but that does not mean that the costs are reasonable nor that the Council/developer should be expected to pay them. I therefore trust that you advised your clients that there is no obligation whatsoever on any acquiring authority to reimburse any fees incurred as part of objecting to CPOs and objectors do so solely at their own risk.

There is nothing so complex about any aspect of this case that the input of a solicitor to this extent would be required and my expectation would be that you would have provided all the advice required to get to this position. I also note that, in addition to the majority of the fees relating to objecting rather than negotiating, other matters appear to have been added to the invoices (i.e. "grants for green energy") that have nothing to do with the CPO. Furthermore, it is a key principle of all the relevant guidance/requirements that fees to be reimbursed should be reasonable in relation to the complexity of the matter.

The question of reasonable fees therefore has regard to the fact that this is not a complex matter – certainly neither the Council nor the developer has seen it necessary for solicitors to get involved in the negotiations and drafting. I therefore suggest that you have a conversation with your client on this being mindful of the Inquiry Rules and the NPG provisions. In the meantime, I do not agree KL's amendments and my drafting still stands.

Section 15 (3) – As your solicitors should be aware, the LPA will not be fettered by SMTL as to whether it is reasonable or not for the landowners to sign a s106 Agreement. I will take instructions on the cost point but there shouldn't be a cost to the landowners other than their own time in signing and dating the relevant documents – if they don't sign the developer will be unable to comply with the Heads so I can't see any issue here. If your clients want to instruct KL to advise them as and when any signatures are required, that is their prerogative but I do not consider that to fall within the definition of reasonable and proportionate costs.

I will take instructions before sending back further revised terms.

Thanks

Peter

Peter Roberts
FRICS CEnv
Partner
RICS Registered Valuer

RICS Registered Expert Witness

T: 020 7489 4835

M: 07917 194 972

E: peter.roberts@dwdllp.com

dwdllp.com



Chartered Surveyors & Town Planners

6 New Bridge Street, London, EC4V 6AB

DWD

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APPENDIX 19: KEYSTON LAW LETTER DATED 18 OCTOBER 2023

John Webster
DWF Law

By email john.webster@dwf.law

Your ref:
Our ref: BG/SAX9.1 & 9.2
Direct dial: 020 3319 3700
ben.garbett@keystonelaw.co.uk

18 October 2023

Dear Mr Webster,

Saxon Meadow CPO objections

Further to our telephone call yesterday I note that your client's position on costs is unchanged. My client insists, however, that all professional fees will need to be cleared as the price for completion of the agreement simultaneously with the withdrawal of the CPO objections. The amount of costs recovered should not be subject to a cap, nor is it appropriate to exclude the CPO objection fees from the overall reckoning.

That approach is entirely reasonable, and so too the scale of fees which have been incurred to date. The relevant context is that the terms proposed by your client go very much further than is necessary in resolving SMTL's objection, because it seeks to impose onerous conditions which would curtail SMTL's rights in respect of objecting to the planning application, save in respect of any fundamental changes. At your client's / the acquiring authority's insistence SMTL's steering group members have also made quite extraordinary efforts to orchestrate a settlement *en masse*, in respect of all the individual objections submitted by residents. In its role as freeholder and landlord, SMTL is effectively doing the bidding for your client, and the acquiring authority, in terms of what is normally expected of a CPO promoter.

Make no mistake, the extra benefits your client wishes to extract from the deal, as well as what appears to be an unrealistic and overly punitive attitude towards fee expenditure, are the root causes of escalating costs which threaten to scupper the heads of terms.

The EGM on Friday is set up to ratify the heads of terms and bring residents on side with This process but, to be clear, there are tensions which risk a total collapse of the deal if SMTL is expected to suffer a financial shortfall for its efforts - and if that should be the case SMTL would simply depart its adopted role of CPO 'co-ordinator and facilitator', leaving your client to sort out the resultant mess.

Your email of 16 October (sent to my colleague Nick Brown) sets out a sequence of events for withdrawal of the objections which is not agreed. Point 3 is not correct. Nick has made it very clear that under no circumstances can there be any withdrawal of any objection before a formal agreement is in place, and our standing advice to SMTL is not to do so. The heads of terms are not contractually binding, whilst a CPO withdrawal would be final. You appear to be suggesting

that all the objections are withdrawn before the council will sign the heads of terms. You are not even proposing that the heads of terms should be agreed and signed before the withdrawal takes place. This is completely nonsensical, and it is wholly unrealistic to expect SMTL that would accept this.

You also made the point to me during our telephone call that SMTL would derive an 'extra benefit' from concluding the deal, in respect of the title rights, but that argument is misplaced. My colleague Nick has reviewed title and has advised SMTL that it currently enjoys all necessary access rights, and other easements, albeit under the proposed deal it stands to receive a notional benefit in the form of transfer of ownership.

The quid pro quo for your client is very substantial:

Firstly, your client will need to explain to the CPO inquiry inspector not only how the detailed scheme impacts raised in SMTL's objection can be suitably avoided (and for what reasons it has accepted those adjustments are necessary, a matter upon which the Statement of Case is totally silent) but also why, as it has now been put, new CPO powers should be granted as being necessary to extend the life of the original scheme. To emphasise the point, the acquiring authority's case was certainly not explained this way when it came to producing its official (statutory) 'Statement of Reasons' to accompany the draft Order which is, once again, totally silent on the matter. That explanation was supplied, latterly, through the authority's statement of case (Table entry no.1 of Annexure 2).

Simultaneously with making these claims, your client has used the threat of activating CPO1 against SMTL to advance its position in terms of the current negotiations. If the threat is genuine then CPO2 is not required.

Most fundamentally, however, it is not a sustainable or defensible position for the acquiring authority and scheme promoter to re-run the compulsory purchase process for ulterior motives. The confirmation of legal powers requires an adequate human rights balance to be undertaken and your client has not sought to justify its decision to make the Order on the grounds of needing to extend the life of these powers. It has not even begun to demonstrate why the original CPO scheme could not have gone ahead despite the discovery of two extra small plots near the A47 roundabout, or even that compulsory powers are specifically required to acquire those parcels.

Secondly, removal of all the Saxon Meadow objections holds significant value both in terms of enormously reducing your own inquiry time and preparation, and the related costs of meeting objector costs which will not rack up further. In this regard, SMTL's inquiry preparations have already commenced, and those costs too will need to be met. SMTL is currently in the process of appointing a barrister for the purposes of producing its inquiry statement. This stage of the work is due to commence on Friday, 27 October. At present, however, we shall refrain from fully activating that step so that your client has adequate time to revisit its decision after considering the content of this letter.

We reserve the right to produce this letter to the inspector as part of SMTL's inquiry case if the objection is not withdrawn, by agreement, on the requested terms.

Yours sincerely,



Keystone Law

Keystone Law

cc. Saxon Meadow Tangmere Limited



APPENDIX 20: EMAIL FROM MR OLDEN DATED 24 OCTOBER 2023

Peter Roberts

From: peter.roberts@dwdllp.com
Subject: FW: SMTL Heads of Terms and Fees
Attachments: DRAFT Individual Agreement - V2(86989592_1).DOCX

From: Olden Tom <tom@oldenproperty.com>
Sent: Tuesday, October 24, 2023 7:53 AM
To: Peter Roberts <peter.roberts@dwdllp.com>
Cc: nicholas.brown@keystonelaw.co.uk; ben.garbett@keystonelaw.co.uk; John Wolfenden <john.wolfenden@icloud.com>; Terry Pickering <tp35744@gmail.com>; Matthew Rees <matthew.w.rees@gmail.com>; Yohanna Weber <Yohanna.Weber@djblaw.co.uk>; John Webster <John.Webster@dwf.law>; Ged Denning <ged.denning@dwdllp.com>; Jon Callcutt <jon.callcutt@vistrygroup.co.uk>
Subject: RE: SMTL Heads of Terms and Fees

Peter,

I have further instructions.

My client will sign the Heads of Terms circulated by yourself on 18th October, subject to an increase on the fees offered. Could you please come back with an improved offer on the fees incurred by SMTL in getting to this position ?

I can confirm that SMTL has convinced the 11 residents to sign the attached agreement which can be held in escrow as per your suggestion.

I look forward to hearing from you on the fee position and trust we can exchange signed Heads of Terms by the end of this week.

Kind regards,

Tom Olden MRICS | Director
Olden Property
16 Mount Pleasant Road
Tunbridge Wells
TN1 1QU

M: [077 0880 7362](tel:07708807362)
E : tom@oldenproperty.com

**OLDEN
PROPERTY**

Valuation, Leasehold &
Compensation Specialist

APPENDIX 21: EMAIL FROM MR WOLFENDEN DATED 24 OCTOBER 2023

Peter Roberts

From: John Wolfenden <john.wolfenden@icloud.com>
Sent: 24 October 2023 09:08
To: Adrian Moss; Mr A Frost; Nicholas Bennett; Jon Callcutt
Cc: Peter Roberts; Olden Tom; Terry Pickering; Nicholas Brown
Subject: Urgent action required to move Head of Terms to an agreement and signature .
Attachments: 20231021 SMT cover letter.pdf

Gentlemen

CDC once said Publicly in the document :

CHICHESTER DISTRICT COUNCIL (TANGMERE) (No.2) COMPULSORY PURCHASE ORDER 2023
STATEMENT OF CASE

Quote;

12.39 As a further resolution to grant of the planning application now relocates the Community Orchard to outside of Plot 9, the Council will formally request that the Order is modified to remove Plots 9, 9A and 9B. Doing so will overcome a significant element of the objection of Saxon Meadow Tangmere Limited and its residents to the present Order.

12.40 The Council has also offered to Saxon Meadow Tangmere Limited a further set of heads of terms to address the access, garden land (in respect of 28 Saxon Meadow) and drainage issues raised in its own and residents' objections. These Heads of Terms are presently being negotiated. The Council is seeking that the objections of Saxon Meadow Tangmere Limited and its residents would be formally withdrawn by its completion.

Saxon Meadow Tangmere Limited (SMTL) have now completed their negotiation apart from reasonable fee recovery and CAP and are in a position to sign the Heads of Terms draft agreement having complied with all its terms following an EGM on Friday 20th October when there was a majority in favour of the HoTs agreement.

See attached Letter SMTL



SMTL would now ask that this agreement be signed by Friday 27th October and move forward to a formal agreement by Friday 17th November so that all objections can be formally withdrawn.

Failure to sign the HoTs by This Friday 27 October will unavoidably result in further claims for legal fees to prepare Statement's of case on behalf of SMTL to submit to the Public Inquiry by Tuesday 22nd November.

It is down to CDC to act in good faith and sign their own negotiated agreement without incurring further objection costs by forcing SMTL to prepare for submissions for the impending Inquiry.

I look forward to your urgent response as to the intent of CDC and Countryside to sign their line on the HoTs agreement (already signed by Saxon Meadow) this week and move forward to a formal contract allowing for all objections to be withdrawn by Friday 17th November. This would avoid the need to attend and present at the Public Inquiry.

It is time for action, I await your responses.

Regards

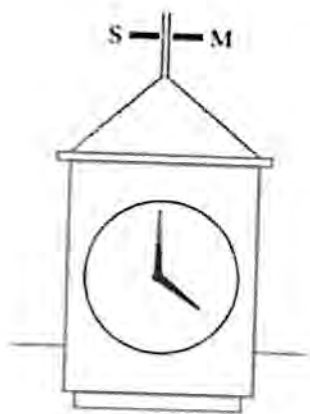
John Wolfenden

On behalf of the working group SMTL

07702211328

j.wolfenden@btopenworld.com

APPENDIX 22: LETTER FROM MR PICKERING DATED 24 OCTOBER 2023



Saxon Meadow Tangmere Ltd

Suite 1, 26 The Hornet Chichester, West Sussex, PO19 7BB

Telephone no. 01243 790169

Mobile 0771 346 7536

E-mail d_p_harper@btinternet.com

Directors: Mrs C Ayton, Mr T Pickering, Mrs P Tedman,

Company Secretary: Mrs Debbie Harper

21 October 2023

To whom it may concern

Update: Chichester District Council (Tangmere) (No 2) Compulsory Purchase Order 2023 (CPO2) and Heads of Terms (HoTs)

On 27 February 2023 the Directors of Saxon Meadow issued a letter to Chichester District Councils' officers and elected members which identified the key concerns about this matter, including the access to Saxon Meadow from Church Lane, conservations matters, protection of the meadow, and dealing with the pre-existing high-water levels and drainage requirements of Saxon Meadow.

Throughout the intervening period, Saxon Meadow has acted in good faith, seeking to resolve these issues, and the company and various residents have engaged constructively at all stages of the planning, development and related activities. As stated in the letter of 1 October 2023, based on the progress underway to agree a Heads of Terms setting out the terms of an agreement to resolve the company's objections to CPO2, the company called an Extraordinary General Meeting for shareholders, which took place on 20 October 2023.

During the EGM, shareholders asked when the company would receive reimbursement of the professional fees incurred reasonably in relation to this matter. I therefore reiterate our requirement, most recently stated in the letter dated 1 October 2023, that this must be resolved without any further discussion or delay, and we request written confirmation of the quantum, timing and mechanism for the reimbursement.

At the EGM, the shareholders passed a resolution to request the company's directors to agree the Heads of Terms (HOTs) between SMT Ltd, Chichester District Council (the acquiring authority) and Countryside Properties (UK) Ltd (the developer) and support the process to convert these HoTs into a legally binding agreement. In light of this, I have signed the HoTs and lodged a copy with our professional advisors.

We note that discussion is underway between the respective parties' advisors to ensure that the process by which the acquiring authority and the developer commit themselves a legally binding agreement stemming from the Heads of Terms does not compromise our position at this stage. We therefore encourage all parties to work constructively together with urgency to resolve this matter, so that it is agreed and confirmed before the impending Public Inquiry which will take place due to commence on 12 December 2023.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Terry Pickering'. The signature is fluid and cursive, with a large loop at the end.

Terry Pickering, Director

APPENDIX 23: LETTER FROM MR OLDEN DATED 10 NOVEMBER 2023

OLDEN PROPERTY

Valuation, Leasehold &
Compensation Specialist

10 November 2023

DWD
69 Carter lane
EC4V 5EQ

By email: peter.roberts@dwdllp.com

Dear Mr Roberts,

Re: SMTL - CPO 2

I am writing to you in order to correct a number of inaccuracies in correspondence you have sent to me since you took this case over from your colleague Ged Denning at the end of September this year. The inaccuracies and erroneous statements are numerous but in order to minimise time spent and consequently costs, I am going to refer to a number of specific inaccuracies only at this stage but reserve the right to respond to all inaccuracies in due course should the need arise.

You indicate in your letter to me dated 18 October 2023 that both sides are agreed on all matters except professional fees. This is not the case.

Heads of Terms

The last set of Heads of Terms I was able to recommend SMTL sign was the draft sent to John Webster at DWF Law acting for Countryside. I sent these Heads of Terms to John Webster in an email dated 13 October 2023. Any Heads of Terms sent by you to me since this date I have not been able to recommend SMTL sign and for the avoidance of doubt wish to make it clear that they are certainly not agreed.

In section 15.2 of the latest Heads of Terms sent by you there is an assertion that the approach and structure outlined in John Webster's email of 16 October to Nicholas Brown at Keystone Law is agreed. Keystone Law has not at any time indicated that this is the case. Indeed, in his email of 16 October 2023 timed at 20:42 to Nicholas Brown he ends stating "I would be grateful if you can confirm the above is agreed, that the draft heads of terms can be settled...". At no time has any confirmation of agreement of the contents of his letter of 16 October been given. It should also be noted that at 16 October, John Webster did not consider the Heads of Terms "to be settled". I believe my recollection of the sequence of events is right in saying that subsequent to John Webster's email you then sent an email with revised Heads of Terms

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which erroneously asserted (amongst other erroneous assertions) that "the structure set out in the attached email and Heads of Terms is acceptable to SMTL". That was a unilateral statement of what you apparently believed to be the position but was in fact incorrect.

Ben Garbett then had a telephone conversation with John Webster on 17 October during which John Webster was very insistent on pushing for confirmation that the Heads of Terms were agreed referring in particular to the structure which was set out in his email of 16 October. Ben advised him that the terms and provisions of the Heads of Terms were being dealt with by Nicholas Brown and there is no justifiable reason why John Webster would have come away from that call thinking that the Head Terms were agreed.

Unfortunately, the tone of the telephone conversation between Ben and John was largely adversarial and unproductive and sadly that seems to have been the approach throughout these negotiations and is largely why we now find ourselves where we are.

Conditionality

This refers to clause 15 In the draft Heads of Terms. This clause was almost agreed between the parties in the draft you sent to me on 28 September, and the amended version I returned to you on 5 October. However, the version of the Heads of Terms you sent back to me on the 6 October fundamentally changed the nature of the agreement by making the withdrawals which your clients require from the various individual objectors unconditional. As a result of further consideration, we are now intending to revisit clause 15 in its entirety. It simply does not now make sense from our client's point of view to have the terms and provisions of the Heads of Terms and subsequently the formal agreement, entirely dependent and conditional upon CPO2 being confirmed. Clearly certain elements of the agreement would only apply in the event of CPO2 being confirmed. Other elements of the agreement (for example payment of the fees incurred by my client) would apply regardless of whether CPO2 is confirmed or not. Clause 15.1 will therefore be deleted.

We have made the point on many occasions that your clients have imposed requirements on our client to procure the withdrawal of objections by those individuals which goes way beyond the standard approach in matters such as this where of course it would be for you and your clients to procure the individual's withdrawal. That said, my clients have in good faith progressed matters in that respect and that has of course had a consequent increase in time spent and costs incurred. My clients still wish to progress matters in good faith and trust that your clients wish to do so also. We are in the process of revising the draft Heads of Terms and we will send you through a revised document setting out the position which my clients would be prepared to accept.

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Removal of Objection

The Council and Developer has recently changed the Heads of Terms so that SMTL and eleven resident objectors remove their objections to CPO 2 prior to completion of the Heads of Terms. This was not expected in the initial Heads of Terms circulated by DWD on 13 June 2023 where it is clear the acquiring authority's expectation was the removal of objections on completion of the agreement. It is also not a reasonable position for the acquiring authority to adopt as Heads of Terms are not a legally binding agreement and withdrawal of the objections by our client (and indeed any of the individuals) prior to any formal agreement being in place would be far from sensible.

SMTL could only remove the objection on completion of a legally binding agreement. As a matter of pure drafting, this would be simple to achieve, and ensures that all parties obtain what is agreed.

Access

You are under the incorrect assumption that without agreed Heads of Terms and a signed contract, residents at SMTL will have to rely '*on their existing questionable rights and will forgo the certainty and potential value uplift.*' I have made this point clear to DWD on a number of occasions over the past four months. Keystone Law has advised following a review of title at Saxon Meadow that SMTL and its residents enjoy full access rights, both vehicular and for services to their properties. The Heads of Terms are simply tidying up previous conveyancing discrepancies (Plots 6 & 7) and the CPO or a finalised agreement provides a good opportunity to sort these discrepancies. The CPO is not however fundamental to securing appropriate access and services rights and easements as these are already fully set out in the conveyance to which we have referred on a number of occasions, the conveyance dated 26 October 1984.

Professional Fees

You have indicated in your recent correspondence that I have agreed to a capped amount of professional fees on this case. I have not. I would also make the point that this has never been agreed by Keystone Law either. I have agreed that it is reasonable that a cap should be agreed. This was included in the draft Heads of Terms from day one. You included a capped amount unilaterally which I have never agreed to. I have been trying to agree that cap with you over the past number of weeks. I have made it clear that I believe my client should be compensated for the costs incurred in getting to an agreed position as these costs are solely as a result of your client's CPO. This is a reasonable position to take. The costs to be recovered are not only

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the costs associated with the drafting of the Heads of Terms and the subsequent formal agreement (if we get to that stage) but must also include the costs associated with the objection submission itself. Those objections have been instrumental in getting us to the position that we are now in and, consequently, those costs must be covered as part of any agreement. This point was made by Nicholas Brown to John Webster in his telephone call with John Webster on 16 October at 10:30 AM. This is fundamental to my client and without this being agreed I think it unlikely that we will be able to enter into any formal agreement for withdrawal of the objections.

We also wish to clarify a point regarding the statutory compensation rights. Currently, the Heads of Terms do not address this in any detail given that the Heads by their nature are simply an agreement on points of principle with the detail to be negotiated as part of the process of putting the formal agreement in place. That said, you have of course agreed to delete the requirement to acquire the land from the meadow and to maintain the status quo in respect of the land and access rights. For the avoidance of doubt, it is not intended that my clients will curtail their statutory compensation rights and this will be reflected in the detail of the agreement should we get to the point where we are able to move beyond the Heads of Terms.

My email on fees dated 9 October 2023 was a claim for legal fees in dealing with the Heads of Terms as at that date, a claim following the legal undertaking on fees provided by Chichester District Council on 14 June 2023. It was not an attempt to agree a full and final settlement on legal fees at this date. This is clear from my email.

In support of our position and assertion on the recoverability of fees, I am attaching my client's opinion received from Counsel, Andrew Byass, which seems to be somewhat at odds with your understanding of the position in respect of costs recoverability. The attached opinion both summarises the provisions in the Planning Practice Guidance which make clear that successful objectors to compulsory purchase orders are entitled to be paid their reasonable costs, and summarises recent authority (*Harlow District Council v Powerrapid Limited* [2023] EWHC 586 (KB)) which discusses and confirms the costs position for CPO objectors. That authority makes clear that the general position is that a successful objector is entitled to their costs of, and incidental to, objecting to a CPO, and that those costs include pre-CPO inquiry costs.

SMTL are successful objectors given the confirmation in the acquiring authority's statement of case to remove the meadow from the scope of CPO2, to grant equivalent rights of access, services and easements as those currently enjoyed by SMTL by virtue of the conveyance of 26 October 1984, and other concessions made as part of the proposed Heads of Terms to satisfy the SMTL objections.

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Other Issues

You have asked for whom John Wolfenden speaks and under what authority. The Directors of SMTL appointed a working group comprising John Wolfenden, Elspeth Rendall and Matthew Rees to support them with this process.

SMTL does not accept the without prejudice offer set out in your email to me dated 26 October 2023.

Keystone Law will be sending across SMTL's final position on the Heads of Terms. Can I suggest that if these are not acceptable then perhaps we arrange a meeting at which to discuss the issues in the hope that we can reach agreement on the Heads and move on to the drafting of the formal agreement. It may be that a meeting will more readily achieve a resolution and agreement on the Heads rather than simply having a lengthy ongoing exchange of emails.

Yours sincerely,



Tom Olden MRICS

Encl. Counsel Opinion, Andrew Byass, Landmark Chambers

C.C. via email; nicholas.brown@keystonelaw.co.uk, ben.garbett@keystonelaw.co.uk,
john.wolfenden@icloud.com, tp35744@gmail.com, matthew.w.rees@gmail.com,

APPENDIX 24: OPINION OF MR BYASS

**IN THE MATTER OF AN OBJECTION TO THE CHICHESTER DISTRICT COUNCIL
(TANGMERE) (NO 2) COMPULSORY PURCHASE ORDER 2023**

OPINION

Introduction

1. I am instructed advise Saxon Meadow Tangmere Limited (“SMTL”) in respect of the prospects of recovering their reasonable costs, including legal fees, should they advance a successful objection to the Chichester District Council (Tangmere) (No 2) Compulsory Purchase Order 2023 (“CPO2”), which was made on 30 March 2023. SMTL is identified in CPO2 as the owner of four plots of land to be acquired, namely plots 8, 9, 9A and 9B. Plots 9, 9A and 9B relate to land described as “meadow and orchard to the west of residential premises known as 1 to 28 (inclusive) Saxon Meadow, Tangmere, PO20 2GA” (“the meadow”).

2. CPO2 is the second compulsory purchase order made by Chichester District Council (“the Acquiring Authority”, or “the AA”) in respect of SMTL’s land. The Statement of Reasons for making CPO2 explains at §1.6 that CPO2:

“...incorporates the same land interests as CPO 1, but seeks to acquire a small additional area of further land adjacent to the A27 roundabout junction in the north of the TSDL. This land was originally excluded from CPO 1 as it was understood from adopted highway plans, issued by the Highways Authority at that time, to be adopted highway maintained at public expense in the ownership of National Highways. Following the confirmation of CPO 1 it was indicated by National Highways that the records maintained by the Highways Authority were incorrect. This meant that two sections of the land (now Plots 19D and 19E in the Schedule to the Order) that had been previously been understood to be adopted highway were incorrectly recorded as such. Therefore the Order has been brought forward to acquire this land together with the other land interests falling within CPO 1 and other land necessary to ensure access to the adopted highway is achieved.”

3. The stated purpose of CPO2 is to facilitate strategic housing delivery on the Tangmere Strategic Development Location. That housing is proposed to be brought forward pursuant to an application for outline planning permission made by Countryside Properties (UK) Ltd (“Countryside”) for a residential-led mixed-use development comprising up to 1,300 homes, an expanded village centre, community facilities, education facilities, open space and green infrastructure.

SMTL's objection and subsequent negotiations

4. Previously, in respect of CPO1, SMTL was prepared to agree to the acquisition of half of the meadow. However, SMTL has objected to the acquisition of any of the meadow for reasons set out in my instructions, and on the basis of the objection submitted in respect of CPO2. That objection, which also relates to plot 8, identifies three objections:
 - (1) Lack of proper engagement / prematurity in making CPO2;
 - (2) Lack of compelling case in the public interest to acquire the meadow which provides valuable amenity to residents and visitors, is part of the Tangmere conservation area, and which is required to implement a green energy scheme; and
 - (3) Lack of compelling case to acquire plot 8 which is also a key part of the Tangmere conservation area.
5. The AA has agreed to remove the entirety of the meadow from CPO2. This is reflected by a change to Countryside's outline planning application, which is now subject to resolution to grant made at a meeting of the AA's planning committee on 16 August 2023. The purpose of that committee meeting was to agree variations to the red line of the application boundary for the application, including (consequential on SMTL's objection) the *"removal of 0.34ha of land at Saxon Meadows at the western side of the site from the application"*.
6. Further to the resolution to grant of 16 August 2023, the AA in its statement of case for CPO2, dated, indicated that it intended to formally request that CPO2 is modified to remove the meadow. It stated at §12.39 of the statement of case that *"Doing so will overcome a significant element of the objection of Saxon Meadow Tangmere Limited and its residents to the present Order."* At §12.40, the AA indicated that it was in further negotiations with SMTL regarding other of its objections, with the AA's aim being that the *"objections of [SMTL] and its residents will be formally withdrawn"*.
7. CPO2 was subject to other objections (from nearby residents of Saxon Meadow), who also objected to the acquisition of the meadow. The heads of terms for the withdrawal of SMTL's objections has, in this regard, and among other matters,

included an obligation on SMTL to use reasonable endeavours to procure that all leaseholders within Saxon Meadow agree not to object to any CPO or planning application thereafter, relating to the delivery of housing on the Tangmere Strategic Development Location.

8. The current heads of terms proposed by the AA and Countryside provide for the payment of certain specified professional fees (“heads of terms”). These include a payment which is said to discharge an undertaking from the AA made on 14 June 2023, which is conditional on the withdrawal of not just STML’s objections, but also all the leaseholder objections (i.e. the objections from the leaseholders of Saxon Meadow). The heads of terms otherwise provide that (underlining added) “*Costs relating to SMTL and/or the leaseholder's objections to CPO 2 are not recoverable. This includes those presently incurred and any incurred in the future including any attendance at the public local inquiry.*”

The payment of objector’s professional fees

9. The circumstances in which the AA will be ordered to pay an objector’s professional fees has been recently reviewed by the High Court in *Harlow District Council v Powerrapid Limited* [2023] EWHC 586 (KB). The Court summarised the legal basis and applicable policy applied by the Secretary of State to the payment of an objector’s professional fees at [16]-[23]. In so doing, the Court drew a distinction between the payment of costs in a planning appeal compared to in the compulsory purchase context.
10. The Court (Choudhury J and Costs Judge Rowley) held so far as material to this Opinion as follows (underlining in original):

“16. Section 250(5) of the Local Government Act 1952 (“the LGA”) provides:

“(5) [The Secretary of State] may make orders as to the costs of the parties at the inquiry and as to the parties by whom the costs are to be paid, and every such order may be made a rule of the High Court on the application of any party named in the order”

17. This provision (as then enacted) was considered in *R. (on the application of Flintshire CC) v National Assembly for Wales* [2006] EWHC 1858 (Admin), in which HHJ Wyn Williams (as he then was), sitting as a Judge of the High Court, said of s.250(5):

“11...As is clear from the section which I have just read, that is an enabling subsection. It gives no clue as to how the minister should set about the task of deciding whether or not to make such an order. To repeat, it simply empowers or

enables the minister to make orders for costs in proceedings to which the section relates.”

18. [The Court set out the provisions in respect of the award of costs in planning appeals.]

...

21. The costs regime in respect of CPO proceedings is not so limited. In a separate part of the PPG entitled, “*The award of costs and compulsory purchase and analogous orders*”, the PPG provides as follows at paragraphs 57 to 59, 62 and 63:

“How does the award of costs apply in the case of compulsory purchase and analogous orders?”

Compulsory purchase and analogous orders seek to take away a party’s rights or interest in land. Where objectors are defending their rights, or protecting their interests, which are the subject of a compulsory purchase or analogous order, they may have costs awarded in their favour if the order does not proceed or is not confirmed.

...

Costs will be awarded in favour of a successful remaining objector unless there are exceptional reasons for not making an award. The award will be made by the Secretary of State against the authority which made the order.

Normally, the following conditions must be met for an award to be made on the basis of a successful objection:

- (a) the claimant must have made a remaining objection and have either:
- attended (or been represented at) an inquiry (or, if applicable, a hearing at which the objection was heard); or
 - submitted a written representation which was considered as part of the written procedure; and
- (b) the objection must have been sustained by the confirming authority’s refusal to confirm the order or by its decision to exclude the whole or part of the claimant’s property from the order.

...

[Paragraph: 057]

How are objectors notified of the award of costs?

When notifying successful objectors of the decision on the order under the appropriate rules or regulations, the confirming authority, usually the Secretary of State, will tell them that they may be entitled to claim costs and invite them to submit an application for an award of costs on the basis of their successful objection. The details of the level of costs are then a matter for negotiation between parties.

[Paragraph: 058]

Can an award be made for unreasonable behaviour?

An award of costs cannot be made both on grounds of success and unreasonable behaviour in such cases; but an award to a successful objector may be reduced if they have acted unreasonably and caused unnecessary expense in the proceedings – as, for example, where their conduct leads to an adjournment which ought not to have been necessary

[Paragraph: 059]

...

What if the objection is partly successful?

Where a remaining objector is partly successful in opposing a compulsory purchase order, the confirming authority will normally make a partial award of costs. Such cases arise, for example, where the authority, in confirming an order, excludes part of the objector’s land.

[Paragraph: 062]

What if the compulsory purchase or analogous order is linked to another application?

Sometimes joint inquiries or hearings are held into 2 or more proposals, only one of which is a compulsory purchase (or analogous) order, for example an application for planning permission and an order for the compulsory acquisition of land included in the application. Where a remaining objector, who also makes representations about a related application, appears at such inquiries or hearings and is successful in objecting to the compulsory purchase order, the objector will be entitled to an award in respect of the compulsory purchase or analogous order only.

An objector is not, however, precluded from applying for the costs relating to the other matter on the grounds that the authority has acted unreasonably.

[Paragraph: 063]" (Emphasis added)

22. It is clear from these provisions in the PPG relating to CPO and analogous orders that "Costs will be awarded" in favour of a successful objector "unless there are exceptional reasons for not making the award". This creates a strong presumption, rebuttable only if there are exceptional reasons, that a successful objector will be awarded its costs, with no requirement, unlike the position with planning appeals and other planning applications, to establish unreasonable behaviour on the part of the other party. The rationale for that approach is obvious: a CPO involves the removal of property rights and the involuntary subjection of the landowner to a procedure for such removal. This contrasts with the position in respect of planning appeals where the landowner will be seeking to assert a right to deal with its property in a particular way without any risk (generally) of being deprived of ownership rights."

11. The Court did not also quote (since it was not in issue in that matter) the following passage from the end of paragraph 057 of the Planning Practice Guidance, which deals with the payment of costs in the event that an inquiry is cancelled (underlining added):

"In addition, a remaining objection will be successful and an award of costs may be made in the claimant's favour if an inquiry is cancelled because the acquiring authority have decided not to proceed with the order, or a claimant has not appeared at an inquiry having made an arrangement for their land to be excluded from the order. For more detail see section 5(4) of the Acquisition of Land Act 1981 as inserted by section 3 of the Growth and Infrastructure Act 2013."

12. The first issue in *Harlow* concerned whether or not the reference to the "costs of the inquiry" includes costs that are "incidental to" it. That issue arose in circumstances which do not directly apply here: based on the terms of the costs order made in that matter, the acquiring authority in that matter objected in part to the payment of costs incurred prior to the compulsory order being made, but after the claimant in that matter was on notice of the intention to make the order, and to legal costs incurred in relation an overage clause in a related land acquisition agreement.

13. The Court's conclusions on this issue are however directly applicable. Having reviewed the relevant authorities, the Court's conclusion was that an award of costs on the standard basis entitles a receiving party to its costs of and incidental to the proceedings. It held that this was consistent with the policy approach to costs in CPO proceedings (at [40]), and noted that, "*in the context of compulsory acquisition, the approach to the recovery of costs and expenses should, if anything, be more generous than in ordinary litigation*" (at [41]).
14. The guiding principles for determining whether costs are "*incidental to*" the proceedings is set out in *In re Gibson's Settlement Trusts* [1981] 1 Ch 179, namely that such costs were incurred in respect of matters that were "proving of use and service in the action, ... relevance to an issue, and ... attributability to the defendants' conduct": see *Harlow* at [30]. In application of these principles, the Court determined both that the claimant could recover professional fees for work done prior to the making of the compulsory purchase order, and work relating to legal advice given in respect of the overage clause.
15. It remains the case that even when costs are ordered, they must have been reasonable in amount. That is, even if costs are in principle payable, i.e. they have been reasonably incurred and meet the principles in *Gibson*, costs which cannot be reasonably justified are not required to be paid.

Discussion

16. Having regard both to the guidance in the Planning Practice Guidance and the above analysis of the recoverability of costs in respect of successful objections to compulsory purchase orders, the position of the AA and Countryside as set out in paragraph 11 of the heads of terms that costs relating to objections to CPO2 are not recoverable is unsustainable.
17. The position set out in the heads of terms is an in-principle opposition to the recovery of costs by a successful objector. SMTL should properly be regarded as a successful objector, given that it opposed the acquisition of the meadow, and given that the AA has confirmed in its statement of case that it proposes to remove the meadow entirely from the scope of CPO2. Upon the Secretary of State as confirming

authority determining (at the AA's request) to exclude the meadow from the order, SMTL will fully meet the condition of being a successful objector in part (b) of paragraph 057 of the Planning Practice Guidance of the AA.

18. I have seen correspondence from Peter Roberts at DWD LLP dated 19 October 2023 in which it is stated that the "*established right to claim reasonable fees hence do not technically refer to pre-Inquiry negotiations where there is no such right*". It does not seem to me that this statement can have been made having regard to paragraph 057 of the Planning Practice Guidance, nor the guidance given in *Harlow*. If fees are recoverable for the period even prior to the formal making of a compulsory purchase order (as they were in *Harlow*), then they are plainly recoverable at the pre-inquiry stage. Indeed, this was expressly confirmed by Patterson J in *R (Bedford Land Investments Ltd) v Secretary of State for Transport and anor* [2015] 6 Costs LR 937, at [47]; see, also, *Harlow* at [46].
19. This requires a fundamental re-evaluation by the AA and Countryside of its current stance which excludes entirely the recoverability of reasonable fees incurred in advancing a successful objection to CPO2.
20. The next question arising for negotiations is whether the fees claimed have been reasonably incurred. I am instructed that concern has been raised in respect of fees incurred by SMTL in seeking to negotiate the withdrawal of the objections by other leaseholders of Saxon Meadow. My view is that these are fees that are properly considered to be the costs of or incidental to the objection to CPO2. The AA and Countryside has expressly required such action on the part of SMTL as part of the agreement disposing of SMTL's objection to CPO2.
21. That is, and as set out above, the heads of terms expressly require SMTL to use reasonable endeavours to secure the withdrawal of these objections. Applying *Gibson (supra)*, the fees thereby incurred are of use and service to the AA and the Council, they are of relevance to SMTL's objection to the acquisition of its land, and are directly attributable to the AA's and Countryside's request that SMTL takes these steps.

22. Within the above parameters, it is for the parties to seek to agree SMTL's reasonable costs in order that an agreement can be reached prior to the commencement of the inquiry. I note that the proposed heads of terms state that the agreement is subject to contract and CPOK Board Approval, and conditional upon the withdrawal of all CPO objections made by SMTL and leaseholders at Saxon Meadow. There are two points here:
- (1) The conditionality of the withdrawal of leasehold objections confirms my above view that the fees incurred by SMTL in seeking to procure the withdrawal of those objections is properly within the scope of SMTL's costs of its objection to the CPO;
 - (2) If the conditionality set out supposes that SMTL will withdraw its objections to CPO2 prior to the agreement being signed, I strongly caution against such an approach. Once the objections are withdrawn, there is no guarantee for SMTL that the agreement will be entered. I cannot see why the agreement itself cannot contain appropriate conditionality, e.g. that the AA won't acquire the meadow / will maintain its request for a modification to CPO2, conditional upon the withdrawal of SMTL's objections.
23. If an agreement cannot be reached, then SMTL should ensure that it attends the inquiry in order that it is one of the "*parties to the inquiry*" in respect of which an order for costs can be made under s. 250(5) of the Local Government Act 1972. An order for costs so made can then be made subject to the costs regime of the High Court, and so resolved by way of specialist costs proceedings. Plainly, however, should it be necessary for SMTL to attend the inquiry, then its costs will necessarily increase, and the AA will also be responsible for those additional costs.
24. If for any reason CPO2 is withdrawn, SMTL should otherwise make a claim for costs in reliance upon paragraph 057 of the Planning Practice Guidance which, as set out above, provides that "*an award of costs may be made in the claimant's favour if an inquiry is cancelled because the acquiring authority have decided not to proceed with the order*".

Conclusions

25. For the reasons set out above, the reasonable costs of objecting to a compulsory purchase order are claimable by an objector. Those reasonable costs, in this matter, include in my view the costs incurred by SMTL in seeking to procure the withdrawal of other objections to CPO2, at the behest of the AA and Countryside. The appropriate amount of SMTL's reasonable costs is a matter for negotiation, or failing that can be resolved by detailed assessment in the High Court.

2 November 2023

**ANDREW BYASS
LANDMARK CHAMBERS
180 FLEET STREET
LONDON EC4A 2HG**

APPENDIX 25: MY EMAIL DATED 13 NOVEMBER 2023

Peter Roberts

From: Peter Roberts
Sent: 13 November 2023 20:08
To: 'Olden Tom'
Cc: nicholas.brown@keystonelaw.co.uk; ben.garbett@keystonelaw.co.uk; John Wolfenden; Terry Pickering; Matthew Rees; 'Debbie Harper'; Tricia Tedman; Colleen
Subject: RE: SMTL - CPO 2 - Olden Property letter to DWD & Counsel Opinion
Attachments: Fwd: Urgent action required to move Head of Terms to an agreement and signature ; SMTL Heads of Terms and Fees; RE: SMTL Heads of Terms and Fees

Dear Tom

I refer to your letter of 10 November 2023.

I note that your letter completely omits any reference to the following correspondence and events, almost as if they never occurred:

- Your own email of 24 October 2023 to the Council confirming that Heads of Terms issued by me dated 18 October 2023 will be signed by SMTL *subject to an increase on the fees offered* and that Heads of Terms can be exchanged at the end of that week (being the week ending 27 October 2023).
- Mr Pickering's (a SMTL Director) letter of 21 October 2023 to the Council, which confirms that the shareholders passed a resolution to request the company's directors agree the Heads of Terms and that he has *signed them* and lodged a copy with his professional advisors.
- Mr Wolfenden's email of 24 October 2023 saying that "***Saxon Meadow Tangmere Limited (SMTL) have now completed their negotiation apart from reasonable fee recovery and CAP and are in a position to sign the Heads of Terms draft agreement having complied with all its terms following an EGM on Friday 20th October when there was an majority in favour of the HoTs agreement.***" and "***SMTL have now completed their negotiation apart from reasonable fee recovery and CAP and CDC and Countryside should sign their line on the HoTs agreement (already signed by Saxon Meadow) this week and move forward to a formal contract allowing for all objections to be withdrawn by Friday 17 November.***"
- Any reference to the SMTL EGM on 20 October 2023 and the resolution passed by SMTL to enter into the Heads of Terms (which from your email of 24 October, must be referring to the 18 October 2023 Heads of Terms).

To remind you, your email of 24 October 2023 (copy attached, along with Mr Wolfenden's email and Mr Pickering's letter) stated the following:

Peter,

I have further instructions.

My client will sign the Heads of Terms circulated by yourself on 18th October, subject to an increase on the fees offered. Could you please come back with an improved offer on the fees incurred by SMTL in getting to this position ?

I can confirm that SMTL has convinced the 11 residents to sign the attached agreement which can be held in escrow as per your suggestion.

I look forward to hearing from you on the fee position and trust wer (sic) can exchange signed Heads of Terms be the end of this week.

Kind regards,

The Council would expect that a professional surveyor would have sought and relayed their client's instructions accurately, so we assume this is what your client told you. It appears to reconcile with Mr Wolfenden's email and Mr Pickering's letter that Heads of Terms were in such a satisfactory form **he signed them on behalf of SMTL**. We also expect you would have advised SMTL on the Heads of Terms dated 18 October 2023, which you have said that SMTL would sign and move to exchange in your email of 24 October 2023.

To be absolutely clear, the 18 October 2023 Heads of Terms which were accompanied and directly referred to John Webster's email explaining the withdrawal process and payment of fees dated 16 October 2023 **required the withdrawal of objections on signing of Heads of Terms with the legal agreement to follow**.

In your letter of 10 November 2023, you not now only appear to be going back on the confirmation in your email of 24 October 2023, but do not acknowledge that it was ever made. Your letter seeks to pick over events prior to 20 October 2023, the characterisation of which we do not accept, but your failure to acknowledge that your client has said they were prepared to exchange the Heads of Terms dated 18 October 2023 is highly irregular. Was your letter of 10 November 2023 an earlier draft which was not updated post the events of the EGM on 20 October 2023?

In your email of 24 October 2023, you asked for an improved offer on fees incurred by SMTL. I took instructions and the Council made a without prejudice offer on 26 October 2023. You did not respond to this, despite the willingness in Mr Wolfenden's email and Mr Pickering's letter to resolve matters.

Instead of your client or you replying to my 26 October 2023 email to resolve matters and moving to draft the legal documentation (as requested by Mr Pickering in his letter), it appears you decided instead to send over a letter some two weeks later which seems to be oblivious to the factual position between the parties since the EGM and your own subsequent statements made in email correspondence to me. You are also now seeking to renegotiate Heads of Terms despite them having been signed by Mr Pickering and you yourself saying they could be exchanged.

We are surprised that you have spent time drafting this letter, the chronology of which appears to stop shortly before the SMTL EGM on 20 October 2023 and pretend that nothing happened since that date. This is unfortunately evidence of your unreasonable behaviour; whilst the Council is still seeking to be reasonable and conclude matters with SMTL in making an offer as requested.

If you want to say you made an error in saying "18 October" in your email of 24 October 2023 and meant another date this is easily disprovable. You are clearly referring to the Heads of Terms of 18 October 2023 in your email of 24 October 2023, as the "Individual Agreement" attached to that email was only referred to in John Webster's email of 16 October 2023, which the 18 October Heads of Terms **directly refers to** together with our explanations that these would be held in escrow, is acknowledged by yourself.

The only other explanation is that there has been a failure by you or Keystone Law to adequately advise your client as to what is in the 18 October 2023 Heads of Terms, which the Council cannot be responsible for.

SMTL also appears, instead of seeking to respond on the Council's "without prejudice" offer (or engaging and seeking to progress matters as outlined by Mr Wolfenden); to have spent time since our "without prejudice" offer incurring yet more costs instructing Counsel for an opinion as to SMTL's costs position. The Council was not informed of your intention to incur this cost and we do not believe this was reasonable when SMTL are already being advised by Keystone Law within whose capability such advice should lie. In any event, SMTL's Counsel's advice contradicts your stance in respect of costs.

On this, we note you have not provided a copy of your Counsel's instructions or set out the information provided to him hence it is impossible for me to know whether he was provided with full details of the issues.

Notwithstanding this, I note that, even though Mr Byass's role is to put the best possible case forward for SMTL as an advocate, he does not state anywhere that SMTL are entitled to their full costs, and he does not comment at all on the amount of costs offered to SMTL. In fact, he is totally aligned with my stance that claimable costs must be

reasonable, are subject to negotiation and are open to detailed assessment. He even states, at paragraph 15 that *“It remains the case that even when costs are ordered, they **must** have be (sic) **reasonable in amount**. That is, **even if costs are in principle payable**, i.e., they have been reasonably incurred and meet the principles in Gibson, **costs which cannot be reasonably justified are not required to be paid**.”* Whilst I am grateful for his confirmation of the position, I am surprised that you have provided his advice to me as this is an emphatic endorsement of the Council’s position and demonstrates that the Council has acted entirely appropriately and fairly in the offers that have been made. The fact that you are still maintaining your position in light of this advice is further evidence of unreasonable behaviour.

The Council has considered what level of cost is reasonable for the work that has needed to be undertaken to secure the proposed terms and offers have been made are *“**reasonable in amount**”*. In this regard, Mr Byass is clear that the Council is entirely correct to take the stance that costs over and above this are not claimable regardless as to whether they have been reasonably incurred and will be rejected by the courts. As such, your argument that the Council should pay whatever SMTL demand is fatally undermined by your Counsel and does not stand scrutiny.

I should also point out that you have, in any case, declined to provide any confirmation of the currently claimed amounts despite being asked repeatedly, by me, to do so. The Council has no idea what SMTL has actually incurred and yet you are asking the Council to reimburse in full. This is unreasonable.

I trust that you and SMTL will now reconsider your position and seriously consider the Council’s offer of costs that they consider are *“**reasonable in amount**”*.

In the meantime, the Council has taken the opportunity of the recent lull in discussions to draft up a formal Deed which removes SMTL’s concerns in respect of a formal agreement being required. This has been provided by DJB (the Council’s solicitors) to Mr Brown.

It is therefore the case that costs are the only outstanding matter. In this regard, although the previous “without prejudice” offer on costs was rejected, I will be writing to you separately to repeat that offer and I trust that it will now be taken seriously by SMTL.

Kind regards,

Peter

Peter Roberts

FRICS CEnv

Director

RICS Registered Valuer

RICS Registered Expert Witness

T: 020 7489 4835

M: 07917 194 972

E: peter.roberts@dwdllp.com

dwdllp.com



Chartered Surveyors & Town Planners

69 Carter Lane, London, EC4V 5EQ

DWD

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From: Olden Tom <tom@oldenproperty.com>

Sent: Friday, November 10, 2023 12:26 PM

To: Peter Roberts <peter.roberts@dwdllp.com>

Cc: nicholas.brown@keystonelaw.co.uk; ben.garbett@keystonelaw.co.uk; John Wolfenden <john.wolfenden@icloud.com>; Terry Pickering <tp35744@gmail.com>; Matthew Rees <matthew.w.rees@gmail.com>

Subject: SMTL - CPO 2 - Olden Property letter to DWD & Counsel Opinion

Dear Peter,

Please find letter attached addressed to you.

Also attached is Counsel Opinion in relation to this case.

Kind regards,

Tom Olden MRICS | Director
Olden Property
16 Mount Pleasant Road
Tunbridge Wells
TN1 1QU

M: [077 0880 7362](tel:07708807362)

E : tom@oldenproperty.com

**OLDEN
PROPERTY**

Valuation, Leasehold &
Compensation Specialist

APPENDIX 26: FORMAL SMTL AGREEMENT

Agreement

relating to land near Church Lane, Tangmere, Chichester

- (1) Chichester District Council
- (2) Countryside Properties (UK) Limited
- (3) Saxon Meadow Tangmere Limited

Dated

2023

Osborne Clarke LLP

One London Wall
London
EC2Y 5EB
Telephone +44 20 7105 7000

AJA1096562O45730529.2EMO

This Agreement is made on

2023

Between

- (1) **Chichester District Council** of East Pallant House, Chichester PO19 1TY ("**CDC**");
- (2) **Countryside Properties (UK) Limited** (company number: 00614864) whose registered office is at Countryside House The Drive, Great Warley, Brentwood, Essex, CM13 3AT (the "**CPUK**"); and
- (3) **Saxon Meadow Tangmere Limited** (company number: 02102122) whose registered office is at Cawley Place, 15 Cawley Road, Chichester, West Sussex, PO19 1UZ (the "**SMTL**").

It is agreed as follows:

1. **Definitions and interpretation**

1.1 In this Agreement, unless the context otherwise requires, the following definitions shall apply:

"**1990 Act**" means the Town and Country Planning Act 1990.

"**Access Land**" means the land edged yellow on Plan 4.

"**Agreement**" means this agreement including any schedule or annexure and all documents supplemental or collateral to it;

"**Conveyance**" means the conveyance dated 26 October 1984.

"**CPO1 Order**" means the Chichester District Council (Tangmere) Compulsory Purchase Order 2020 confirmed on 11 November 2021.

"**CPO2 Order**" means the Chichester District Council (Tangmere) (No.2) Compulsory Purchase Order 2023 made by CDC on 30 March 2023.

"**Compensation Code**" means the collective term used to describe the legislation and case law governing the procedures for compensation following compulsory purchase.

"**Crossover Plot**" means plot 7 numbered as such on Plan 2 and plot 8 numbered as such on Plan 3.

"**Crichel Down Rules**" means the non-statutory arrangements relating to the disposal of surplus land acquired after or under the threat of compulsory acquisition as identified in the Department of Levelling Up, Housing & Communities "Guidance on Compulsory purchase process and The Crichel Down Rules" dated July 2019.

"**Development**" means the development of the Pitts Land and other adjoining land.

"**Garden Land**" means the land edged blue on Plan 5.

"**Objection**" means the undated objection submitted on behalf of SMTL by Keystone law against the Order.

"**Pitts Land**" means the land registered at the Land Registry under title number WSX345601.

"**Plan**" means the plans annexed to this Agreement at Annexure 1.

"**Planning Agreement**" means any agreement, obligation or undertaking entered into or to be entered into in conjunction with the grant of a planning permission pursuant to section 106 of the 1990 Act and/or section 299A of the 1990 Act and/or sections 111 and/or 120, of the

Local Government Act 1972 and/or section 33, Local Government (Miscellaneous Provisions) Act 1982 and/or section 16, Greater London (General Powers) Act 1974 and/or any similar statute (whether or not affecting other land) and any variation to any such agreement, obligation or undertaking.

"Planning Application" means the planning application lodged with CDC as local planning authority under reference 20/02893/OUT

"Plot 8, 8A and 8B of CPO1" means the plots numbered as such on Plan 2.

"Plot 9, 9A and 9B of CPO2" means the plots numbered as such on Plan 3.

"SMTL Land" means the land shown edged red on Plan 1 registered at the Land Registry under title numbers WSX172343 and WSX407547.

"VAT" means value added tax or any equivalent tax or duty which may be imposed in substitution therefor or in addition thereto at the rate applicable from time to time; and

"Working Day" means a day (other than a Saturday, Sunday or public holiday) on which banks are usually open for business in England and Wales.

"Works Agreement" means:

- (a) any agreement that is made or to be made under one or more of:
 - (i) sections 38 and/or 278 of the Highways Act 1980;
 - (ii) section 104 of the Water Industry Act 1991;
 - (iii) the Gas Act 1980;
 - (iv) the Water Act 1989; or
 - (v) any statutory provision with a similar purpose to any of the foregoing;
- (b) any agreement with a local water authority, the Environment Agency, an Internal Drainage Board or other competent authority relating to water supply and/or drainage of foul and surface water and effluent;
- (c) any other agreement made or to be made with a competent authority or body relating to services or relating to access; and
- (d) any variation to any such agreement.

1.2 In this Agreement unless the context otherwise requires:

- (a) references to **"SMTL"** include SMTL's personal representatives, successors in title or permitted assigns to the SMTL Land;
- (b) an obligation in this Agreement is deemed to include an obligation not to permit or suffer any infringement of that obligation;
- (c) save where the context otherwise requires all obligations given or undertaken by more than one person are given or undertaken jointly and severally;
- (d) the clause and paragraph headings are not to be taken into account in the interpretation of the provisions to which they refer;

- (e) unless the context otherwise requires references to clauses, annexures and schedules are references to the relevant clause, annexure or schedule to this Agreement;
- (f) words denoting the singular include the plural and vice versa, and words importing one gender include both genders;
- (g) references to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments and regulations made pursuant to it;
- (h) words importing persons include an individual, company, corporation, firm, partnership, unincorporated association or body of persons, and any state, or governmental or local agency of a state;
- (i) references in this Agreement to any specified provision of this Agreement are to or that provision as in force for the time being and as amended from time to time;
- (j) the words and phrases "**other**", "**including**" and "**in particular**" shall not limit the generality of the words preceding or succeeding them or be construed as limiting the succeeding words to the same class as the preceding words; and
- (k) where a party covenants to do something, he shall be deemed to fulfil that obligation if he procures that it is done.

2. Access Land

- 2.1 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are exercised over the Access Land by CDC, the Access Land will be transferred to SMTL as soon as reasonably practicable of such exercise subject to CDC first having complied with the Crichel Down rules and subject to clause 2.5.
- 2.2 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are not exercised over the Crossover Plot by CDC but the Access Land is acquired by CPUK, the Access Land will be transferred to SMTL as soon as reasonably practicable of CPUK acquiring the Access Land subject to clause 2.5.
- 2.3 The form of transfer in respect of any transfer of the Access Land pursuant to clauses 2.1 or 2.2 above shall be agreed between the parties (acting reasonably).
- 2.4 In the event of either the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order being exercised over the Access Land by CDC or the acquisition of the Access Land by CPUK, SMTL will be granted temporary rights until completion of the transfer pursuant to clauses 2.1 or 2.2 above equivalent to those set out in the First Schedule of the Conveyance over the Access Land for the benefit of the SMTL Land.
- 2.5 Where there are any requirements contained in a Planning Agreement to carry out works on the Access Land relating to the Development, SMTL accept that these will be carried out prior to the transfer of the Access Land provided that CPUK will not interfere with SMTL's existing access over the Access Land and provided further that:
 - (a) the Access Land shall only be used for the delivery and provision of a cycle pathway;
 - (b) the cycle pathway over the Access Land shall connect to the tarmac surface of the existing access road at the point marked by the red dot marker on Plan 6 and be delivered to a specification:
 - (i) approved under the reserved matters approval in respect of dimensions, materials, edging and drainage and

- (ii) that has been provided to SMTL [4] weeks prior to submission of the reserved matters application such that CPUK will take account any reasonable response from SMTL prior to submission to the extent that it is acceptable to the local planning authority;
 - (c) the tarmac surface of the access road shall not otherwise be altered to provide the cycle pathway unless required under the reserved matters approval;
 - (d) the pond forming part of the Access Land will remain in existence at all times; and
 - (e) the Access Land shall at no time be used for access of plant or machinery of any kind, other than those required for the delivery of the cycle pathway.
- 2.6 For the avoidance of doubt, SMTL shall continue to maintain the Access Land until transfer of the same takes place pursuant to clauses 2.1 or 2.2 above.

3. Garden Land

- 3.1 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are exercised over the Garden Land by CDC, the Garden Land will be transferred to SMTL within 12 months of such exercise subject to CDC first having complied with the Criche! Down rules.
- 3.2 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are not exercised over the Garden Land by CDC but the Garden Land is acquired by CPUK, the Garden Land will be transferred to SMTL within 12 months of CPUK acquiring the Garden Land.
- 3.3 The form of transfer in respect of any transfer of the Garden Land pursuant to clauses 3.1 or 3.2 above shall be agreed between the parties (acting reasonably).
- 3.4 In the event of either the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order being exercised over the Garden Land by CDC or the acquisition of the Garden Land by CPUK, SMTL will be granted temporary use of the Garden Land until completion of the transfer pursuant to clauses 3.1 or 3.2 above.
- 3.5 SMTL agree to grant a right in favour of CPUK to drain into any existing surface water infrastructure located within the Garden Land provided that:
- (a) CPUK demonstrate that in doing so will not overload the existing surface water infrastructure located within the Garden Land or lead to surface water flooding of the Garden Land; and
 - (b) it is required as part of the planning permission for the Development and is in accordance with the surface water drainage strategy associated with the planning permission for the Development.

4. Crossover Plot

- 4.1 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are exercised over the Crossover Plot by CDC, the Crossover Plot will be transferred to SMTL within 12 months of such exercise subject to CDC first having complied with the Criche! Down rules.
- 4.2 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are not exercised over the Crossover Plot by CDC but the Crossover Plot is acquired by CPUK, the Crossover Plot will be transferred to SMTL within 12 months of CPUK acquiring the Crossover Plot.

- 4.3 The form of transfer in respect of any transfer of the Crossover Plot pursuant to clauses 4.1 or 4.2 above shall be agreed between the parties (acting reasonably).
- 4.4 In the event of either the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order being exercised over the Crossover Plot by CDC or the acquisition of the Crossover Plot by CPUK, SMTL will be granted temporary rights until completion of the transfer pursuant to clauses 4.1 or 4.2 above equivalent to those set out in the First Schedule of the Conveyance over the Crossover Plot for the benefit of the SMTL Land.
- 5. Plot 8, 8A and 8B of CPO1**
- CPUK and CDC covenant that in the event the compulsory purchase powers contained in the CPO1 Order are exercised, Plot 8, 8A and 8B of CPO1 shall not be acquired by compulsory purchase or otherwise.
- 6. Plot 9, 9A and 9B of CPO2**
- 6.1 CDC shall request a modification of the CPO2 Order to remove Plot 9, 9A and 9B of CPO2 from the CPO2 Order.
- 6.2 In the event that CDC are unsuccessful with the request detailed at clause 6.1 above, CPUK and CDC covenant that in the event the compulsory purchase powers contained in the CPO2 Order are exercised, Plot 9, 9A and 9B of CPO2 shall not be acquired by compulsory purchase or otherwise.
- 7. Objection and Costs**
- 7.1 In consideration of the terms of this Agreement, SMTL withdrew its Objection on [date]
- 7.2 SMTL agrees and covenants that SMTL shall not make raise or submit (or cause to be made raise or submit) any objection, representation or challenge in respect of the CPO1 Order, the CPO2 Order, any further CPO and/or any planning application (including the Planning Application) submitted by CPUK and/or CDC unless it is in conflict with the terms of this Agreement.
- 7.3 SMTL agrees and covenants that SMTL shall use reasonable endeavours to procure that all leaseholders and/or occupiers of the SMTL Land shall not make raise or submit (or cause to be made raise or submit) any objection, representation or challenge in respect of the CPO1 Order, the CPO2 Order, any further CPO and/or any planning application (including the Planning Application) submitted by CPUK and/or CDC.
- 7.4 On the date of this Agreement CDC shall pay the agreed sum of £5,218.55 + VAT as a contribution towards SMTL's costs in negotiating and completing this Agreement in addition to that already paid by the CDC on withdrawal of the Objection.
- 8. Permitted Development**
- 8.1 SMTL agree that CPUK shall be granted all such rights over the Access Land and the Crossover Plot as are required to deliver and maintain any obligation required under any Planning Agreement or planning permission for the Development.
- 8.2 SMTL will at the request and cost (not exceeding what is reasonable) of CDC and/or CPUK enter into execute and return to CDC and/or CPUK any Planning Agreement or Works Agreement required by CDC and/or CPUK in connection with the Development within 10 Working Days of service of such Planning Agreement or Works Agreement upon SMTL in default of which (and as security for which) CDC and CPUK are hereby irrevocably appointed by SMTL as the attorney of SMTL to execute the said Planning Agreement or Works Agreement in the name of and on behalf of SMTL provided that CDC and/or CPUK shall indemnify SMTL in respect of any costs and/or liabilities contained within such Planning Agreement or Works Agreement.

9. **Title**

SMTL accepts the title deduced to it before the date of this Agreement and will not raise any requisition on it (other than on any matter registered at the Land Registry after the date and time of the official copy of the entries referred to in the Pitts Title).

10. **VAT**

10.1 All consideration under this Agreement shall be exclusive of VAT (if any). Where one party (the "**supplier**") makes or is deemed to make a supply to another party (the "**recipient**") for the purposes of VAT:

(a) the recipient shall pay VAT in addition to the consideration (together with any penalty or interest chargeable on the supplier to the extent attributable to any act or omission by the recipient); and

(b) the supplier shall issue to the recipient a VAT invoice.

10.2 If any VAT is found to have been overpaid the supplier shall repay such VAT and issue to the recipient a VAT credit note (where by law it is required to do so).

10.3 If VAT is demanded after the date of the supply, or if VAT is to be repaid, it shall be paid or repaid within 5 Working Days following the date of the demand. A demand shall be in writing and may be made at any time on or after the time of the supply but not later than the expiry of the time limit referred to in section 77(1)(a) VATA 1994 (Assessment: time limits and supplementary assessments).

11. **Termination**

11.1 CDC and/or CPUK may terminate this Agreement by notice in writing to SMTL at any time if:

(a) there is any breach of the obligations of SMTL under this Agreement which (if capable of remedy) is not remedied by SMTL to the reasonable satisfaction of CDC and CPUK within such reasonable period as CDC and CPUK stipulate; or

(b) SMTL (being a body corporate) becomes Insolvent or dies or has a receiver appointed under the Mental Health Act 1983.

11.2 Termination of this Agreement shall be without prejudice to any outstanding claims, rights or liabilities or either party against the other in respect of this Agreement.

12. **Notices**

12.1 Any notice given in connection with this Agreement:

(a) shall be in writing and signed by or on behalf of the party giving it; and

(b) may be left at, or sent by prepaid first class or registered or recorded post to the address in the United Kingdom or address for service in the United Kingdom of the relevant party as set out on page 1 of this Agreement or as otherwise notified in writing to the other party(ies) from time to time on at least 5 Working Days' notice or the relevant party's registered office in the United Kingdom or (if the relevant party does not have a registered office), at that party's last known place of business in the United Kingdom.

12.2 A notice is deemed to have been given on the second Working Day after posting, if posted.

12.3 If the deemed time of service is after 5pm, the notice is deemed given at 9am on the next Working Day.

12.4 Writing does not include and notices given in connection with this Agreement shall not be given by email or any other electronic means.

12.5 If SMTL consists of more than one person then a notice to one of them is notice to all.

12.6 This clause shall not apply to the service of any proceedings or to the service of any other documents in any legal action.

13. **Severability**

If a court or competent authority finds any provision of this Agreement to be illegal or unenforceable, that part shall be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected.

14. **Counterparts**

This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original of this Agreement and all counterparts shall together constitute one instrument.

15. **Agreements and declarations**

15.1 This Agreement shall continue in full force and effect after and notwithstanding completion of the transfers so far as any of the obligations of the parties remain to be observed and performed.

15.2 This Agreement sets out the entire agreement and understanding between the parties and supersedes all prior agreements, understandings or arrangements (whether oral or written) in respect of the subject matter of this Agreement.

15.3 Any obligation by either party in this Agreement to do something shall include an obligation to procure that it be done and any obligation of either party in this Agreement not to do or omit to do something includes an obligation not to permit or suffer that thing to be done or omitted.

15.4 It is agreed that SMTL shall not be entitled to be compensated under the Compensation Code in respect of any matter or claim under the CPO1 Order or CPO2 Order.

16. **Exclusion of third party rights**

Unless expressly provided in this Agreement, no express term of this Agreement or any term implied under it is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

17. **Governing law and jurisdiction**

17.1 This Agreement and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with it, its subject matter or formation shall be governed by English law.

17.2 The parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with this Agreement, its subject matter or formation.

This Agreement has been executed as a deed and delivered by the parties hereto on the date written at the head of this Agreement.

**Executed as a deed by affixing the common seal of
Chichester District Council
In the presence of:**

**Executed as a deed by
Countryside Properties (UK) Limited
acting by a director**

Signature of Director:

Director name:

in the presence of:

Signature of witness:

Witness name:

Witness address:

Witness occupation:

Executed as a deed by
Saxon Meadow Tangmere Limited
acting by a director

Signature of Director:

Director name:

in the presence of:

Signature of witness:

Witness name:

Witness address:

Witness occupation:

Annexure 1
Plans

APPENDIX 27: COUNCIL'S COVERING LETTER TO SMTL AGREEMENT

Saxon Meadow Tangmere Limited
Residents of Saxon Meadow
By email only

Our Ref: 10898.10/YPW

Your Ref: -

Date: 14 November 2023

Dear Sir/Madam

**Chichester District Council (Tangmere) (No 2) Compulsory Purchase Order 2023
Compulsory Purchase Public Inquiry**

We are the solicitors representing the Council on CPO2, and we write in order to set out the Council's position in respect of the forthcoming Public Inquiry, and the objections submitted to CPO 2 by both Saxon Meadow Tangmere Limited ("SMTL") and its residents.

The Council is fully aware of all communications between their appointed representatives, DWD and SMTL's surveyor, Tom Olden, and notes that good progress has been made to settle a set of Heads of Terms which cover the points raised in the SMTL and residents' objections.

Heads of Terms

These Heads of Terms cover the following issues:

1. The removal of the entirety of the Meadow from CPO 2.
2. The transfer of the Access Road to Saxon Meadow.
3. The transfer of the strip of land running along the northern boundary of the Saxon Meadow development (referred to as the 'Garden Land' next to 28 Saxon Meadow).
4. The transfer of the strip of land across the entrance into Saxon Meadow.
5. Addressing the drainage issues raised by SMTL.
6. Addressing the cyclepath connectivity issues raised by SMTL.
7. Payment of a further £3,525.01 + VAT to your agent, Tom Olden.
8. Payment of £14,781 + VAT to SMTL on the withdrawal of objections.
9. A capped contribution of £5,218.55 + VAT towards SMTL's legal fees in documenting the Heads of Terms in a legal agreement.

A copy of these Heads of Terms is **attached** for information. The Heads of Terms were also sent with an accompanying email dated 16 October 2023 which explains the proposed mechanism around payment of fees and withdrawal of objections, setting these out as a series of steps. This is also **attached**.

It is the Council's understanding that the first 6 items above have effectively been agreed by SMTL, which means that points of objection on these issues can be resolved.

LONDON

MANCHESTER

BIRMINGHAM

Main switchboard: 0344 880 8000 • Website: www.djblaw.co.uk • Fax: 0330 0432 125

All correspondence to be directed to: Business Services Centre, Exchange House, Taunton, Somerset, TA1 4EB

Outstanding Issues

It appears that matters have stalled on two issues, which prevent the withdrawal of both the SMTL and residents' objections.

As we understand it, these two issues are: (1) the amount requested towards the repayment of SMTL's incurred costs in respect of CPO 2; and (2) the method by which the objections of both SMTL and the residents will be withdrawn.

The Council is also concerned that despite the Heads of Terms being at an advanced stage, there appears to be confusion between the messages received by the Council from the representatives of SMTL, its professional advisors and residents themselves as to whether these Heads of Terms are agreed, or even if they have already been signed and ready for exchange which some correspondence states.

It is unclear what position SMTL and the residents currently hold given these conflicting messages and what they understand the way forward to be. The Council appreciates that these matters are complex and therefore this letter sets out the Council's position in respect of the signing of Heads of Terms with SMTL and associated withdrawal of both SMTL and residents objections.

It should be noted that the Council's approach to these issues is entirely standard and proper, consistent with the Government's compulsory purchase policy and procedures.

This is given looking forward to the forthcoming Public Inquiry proceedings so it is fully understood by all parties. The Council is also mindful of the need for mitigation of ongoing costs to both SMTL and residents.

(1) Recovery of costs

The Council has offered to cover a substantial amount of SMTL's incurred costs.

This offer is set out in the **attached** version of Heads of Terms which were issued on 18 October 2023. This sum amounts to a contribution to SMTL's legal costs of £14,781.45 + VAT, a further payment of £3,525.01 + VAT to Mr Olden and allows for a further £5,218.55 + VAT for settling and completion of a legal agreement to document the Heads of Terms.

In addition to these sums, the Council has also paid £6,660.02 (including VAT) to date in respect of Mr Olden's fees.

However, it is understood that SMTL is now seeking recovery of its full costs incurred, which have not been set out in any clear detail, but are thought in total to be in excess of £54,745.06 + VAT as of mid-October.

We also understand that SMTL continues to incur costs and is seeking to instruct Counsel for the Public Inquiry. It is therefore estimated that the total present cost (still without any confirmation of a precise figure sought or being given by SMTL) will be over £70,000 + VAT.

The Council is questioning the late request for full costs for two principal reasons:

- (1) The Heads of Terms were first issued in June 2023. During the course of the negotiations on the Heads of Terms throughout the summer, the Council made it absolutely clear through both DWD and its own legal department (in its undertaking) that the costs of SMTL's objection would not be paid by the Council. It was content to provide for the reasonable costs relating to the negotiation of Heads of Terms, for which it gave the undertaking for surveyor's costs. The Council also agreed to make interim payments of these invoices, which is an exception to the usual arrangement of paying all reasonable costs in a lump sum after completion of the agreement.

SMTL's lawyers did not provide a costs estimate, which was requested in advance as part of the undertaking provided by the Council.

The well-established principle that objection costs would not be covered by the Council was accepted by your agent, Tom Olden in correspondence with DWD. This principle was also accepted by your previous surveyor, Mr Andrew Thomas during CPO 1.

SMTL appear now to have changed their position late in the day, after the Heads of Terms have been substantially settled and are demanding that all SMTL fees are paid including any costs of objection.

The request for the recovery of full costs is a last-minute change of position by SMTL which was made on 18 October 2023 in a letter received from your lawyers. The full extent of sums requested (the majority of which appear to entirely relate to the costs of preparing SMTL's objection) have been incurred with no prior indication to the Council of what level of costs these were, despite the Council's request for fee estimates as part of the undertaking offered.

This is not reasonable behaviour by SMTL or its advisors. If there was an intention to recover all fees this should have been negotiated by SMTL much earlier in the Heads of Terms process.

- (2) The full amount being sought is considered to be excessive and unreasonable for the work undertaken. It is the Council's and its wider professional team's experience that the fees now being demanded are far in excess of the work which has been seen by the Council in drafting an objection and reviewing or commenting on the draft Heads of Terms. In the normal course of events for a case of this size and nature, legal fees would be a fraction of those being requested here.

This costs demand is also in significant contrast to SMTL's withdrawal of objection to the first CPO in 2021. SMTL and its residents sought a very similar adjustment to that CPO, for very little cost (it being requested by the Directors of SMTL and confirmed by your then surveyor). It did not require fees of this magnitude to do so.

The Council is concerned that SMTL has run up costs in objecting to CPO 2 on the mistaken belief that the Council would provide a blank cheque on an indemnity basis for recovery of all and any costs incurred by SMTL. The Council was clear in its proposed professional fee undertakings to what extent it would reimburse incurred fees. SMTL and the residents should also be aware that this is simply not how CPO procedures concerning recovery of reasonable costs works.

For the reasons above the Council is not proposing to cover SMTL's full costs, but is prepared to make the costs contribution as set out in the Heads of Terms above.

CONTINUED...

The Council also responded to the request delivered after the SMTL EGM to put forward an improved offer on costs. It did so on a without prejudice and time-restricted basis.

The Council would also make the point that this offer was made in response to an email from Mr Olden dated 24 October 2023, stating that the Heads of Terms dated 18 October 2023 would be signed by SMTL subject to an increase on the fees offered and that Heads of Terms could then be exchanged at the end of that week (being week ending 27 October 2023).

This offer was only responded to by SMTL on 10 November 2023, almost two weeks after the offer's expiry. No counter-offer has been made despite the Council acting in good faith to meet SMTL's time stipulations.

It now appears, from recent correspondence of 10 November 2023 that despite SMTL voting to pass a resolution to agree Heads of Terms (which were signed by Mr Pickering), Mr Olden is now seeking to renegotiate these.

It should also be noted that even though SMTL and/or residents may attend the public inquiry for the purposes of making a costs claim, such reasonable costs would fall to be assessed in separate proceedings in the Upper Tribunal of the Lands Chamber. These proceedings carry their own substantial costs.

(2) Withdrawal of Objections

It appears there is confusion regarding what SMTL and resident-objectors are required to do to withdraw their objections.

We are aware this has been communicated previously however we reiterate that the Council's approach is as follows:

- 1) In the event that SMTL agree to sign the Heads of Terms it must then withdraw its objection to CPO 2 on signing them. On withdrawal of the objection, the Heads of Terms will be signed by the Council and the contributions above as set out in the Heads of Terms will be paid by the Council. A costs undertaking for point 9 will be provided for SMTL's solicitors to review the legal agreement which will later be signed by SMTL;
- 2) On SMTL signing the Heads of Terms, the residents will also need to withdraw their objections by submitting letters of withdrawal to the Inspector. The residents will need to sign the Individual Agreements (example copy **attached**) and send these to the Council to be signed by the Council and 'held to Order' (that is holding them in escrow uncompleted until the SMTL legal agreement is signed and completed). The Individual Agreements which duplicate the requirements of part 8 of the SMTL Heads of Terms regarding not submitting further objections to CPO 2 after withdrawal or objecting to the planning application (as provisions dealing with the planning application and cycleway are within the Heads of Terms). This is so both the agreement which SMTL will enter into and the Individual Agreements are consistent (SMTL has agreed in the Heads of Terms to also accept that they will no longer object to the CPO or planning application following withdrawal of objection);

CONTINUED...

- 3) On approval and signing the SMTL legal agreement, both the SMTL legal agreement and Individual Agreements will be completed. The capped costs for SMTL's legal fees for agreeing the legal agreement will then be paid.

Benefits to SMTL and Residents

The above will avoid SMTL and its residents having to engage any further in the CPO process. They will also not have to incur any further expenditure working towards the CPO 2 public inquiry.

The residents and SMTL will also have the substantial benefit of having a mechanism which will resolve longstanding issues concerning the Access Road (through the transfer of the freehold) and Garden land. This is a significant improvement on SMTL's current position – ie that it does not have title to the Garden land, nor the freehold of the Access Road.

It should be noted that these issues that have been identified by SMTL were pre-existing and neither were brought about as a consequence of either CPO1 or CPO2.

Way forward

The Council has sought to act promptly and reasonably in this matter and to agree where possible with SMTL's requests and seek to accommodate them. During CPO 1, the Council delivered exactly what was asked of it by SMTL and the residents in SMTL's objection at that time. Once it became clear that a second CPO would be required to deliver the Tangmere Strategic Development Location, the Council's logical starting point was to accommodate what was agreed with SMTL in CPO1.

Contemporaneously with CPO 2 and following representations made by SMTL and residents, the Council (and its developer partner) have, as you are aware, agreed an amendment to the original planning application resolution to facilitate the relocation of the Community Orchard, removing any land take from the meadow itself.

Therefore SMTL and the residents should be confident that the Council will proceed to complete the legal agreements with SMTL and the residents post the withdrawal of the various objections. A legal agreement has already been supplied to SMTL's solicitors which reflect the 18 October 2023 Heads of Terms and Individual Agreements (with details added) will be circulated to residents who have objected (as we understand these have already been agreed).

As part of the proposed agreement, a considerable and valuable benefit is being offered to SMTL by the Council. The transfer of the freehold of the Access Road and Garden Land will address longstanding issues that SMTL and its residents have identified. The Council would point out that it is not obliged to transfer the freeholds of those areas. CPO compensation is based on the principle of equivalence and the Council would otherwise be obliged to either compensate in monetary terms or simply re-grant what limited rights SMTL presently have over that land. The transfer of the freehold will give a clear additional and valuable benefit to SMTL and residents for the future.

If it is not possible for SMTL to compromise on its present position of complete cost recovery (which includes what the Council considers are unreasonable costs for SMTL to demand), the Council will conclude that although the agreement reflecting the Heads of Terms could be delivered, the only reason for not settling them is because SMTL has incurred excessive and unreasonable legal fees and is unreasonably insisting on their payment.

CONTINUED...

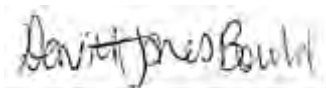
Further, despite repeated requests by the Council, SMTL has not confirmed what their precise costs incurred to date actually are. This is unreasonable behaviour.

In light of the above and in the circumstances that Heads of Terms are not signed and objections not withdrawn, the Council feels it necessary to set out to SMTL and residents of Saxon Meadows its proposed actions. In such a scenario, the Council will enter into an undertaking that it will grant rights only along the Access Road if the freehold is acquired under CPO powers, to the extent that this replicates any existing rights which SMTL asserts it has.

The Council remains prepared to meet with residents and SMTL to discuss the content of this letter and perhaps you would let me know if that would be helpful.

Given the considerable benefits identified above, we would otherwise hope that SMTL and the residents are able to move forward with the Council's proposals for withdrawal of their objections prior to the commencement of the Public Inquiry on 12 December 2023.

Yours faithfully,

A handwritten signature in black ink that reads "Davitt Jones Bould". The signature is written in a cursive style and is contained within a thin black rectangular border.

Davitt Jones Bould

**APPENDIX 28: EMAIL AND ATTACHMENTS AS SENT TO SAXON MEADOWS
RESIDENTS DATED 14 NOVEMBER 2023**

Peter Roberts

From: Yohanna Weber <Yohanna.Weber@djblaw.co.uk>
Sent: 14 November 2023 11:56
To: 'Matthew Rees'
Cc: Ged Denning; Peter Roberts
Subject: Tangmere CPO (No 2) - Individual Agreement - M Rees [DJB_DMS-DJB-DMS.FID219380]
Attachments: Rees withdrawal letter(87360895_2).PDF; Rees Individual Agreement.pdf

Dear resident

I refer to our letter of 14 November 2023 to Saxon Meadow Tangmere Limited and the resident objectors, which sets out the Council's way forward. This email contains your individual agreement and withdrawal letter as referred to therein.

Regards

Yohanna Weber | Partner
E yohanna.weber@djblaw.co.uk | T 020 3026 9276 | M 07898 422304
Davitt Jones Bould | www.djblaw.co.uk | 0344 880 8000

Address for post and document scanning: **Business Services Centre, Exchange House, The Crescent, Taunton, TA1 4EB**

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CHICHESTER DISTRICT COUNCIL (TANGMERE) (No.2) COMPULSORY PURCHASE ORDER 2023

INDIVIDUAL AGREEMENT

DATED 2023

BETWEEN

- (1) Matthew Rees of 4 Saxon Meadow, Tangmere PO20 2GA; and:
- (2) Chichester District Council of East Pallant House, Chichester, West Sussex, PO19 1TY ("the Council").

AGREEMENT

- (1) I have submitted an objection to the Chichester District Council (Tangmere) (No.2) Compulsory Purchase Order 2023 ("CPO 2")
- (2) I hereby agree with the Council:
 - a. That I withdrew my objection on 2023 and my objection is withdrawn in its entirety;
 - b. That I will not submit any further objections to CPO 2 from this date nor seek to make any representations at or to the public local inquiry for CPO2 unless they deviate from the Scheme as proposed at this date;
 - c. That I will not object to the planning application reference 20/02893/OUT (lodged with the Council as Local Planning Authority) or any related applications unless they deviate from the proposed development as submitted at this date; and
 - d. That I will not procure any person to object on my behalf in respect of (2) (a – c) above.

Signed as an Agreement on this date:

.....

Matthew Rees

4 Saxon Meadow, Tangmere PO20 2GA

.....

On behalf of Chichester District Council

Planning Casework Unit
Department for Levelling Up Housing & Communities
23 Stephenson Street
Birmingham
B2 4BH

By email to: PCU@levellingup.gov.uk

Matthew Rees
4 Saxon Meadow
Tangmere
PO20 2GA

Date

Dear Sirs

Chichester District Council (Tangmere) Compulsory Purchase Order (No 2) ("the Order")

I write to inform the Secretary of State that an agreement has now been reached with Chichester District Council and Countryside Properties (UK) Limited in respect of my objection to the Order.

I therefore withdraw my objection to the Order dated 26 April 2023.

Yours faithfully

Matthew Rees

APPENDIX 29: ASHURST LETTER DATED 17 NOVEMBER 2023



Ashurst LLP
London Fruit & Wool
Exchange
1 Duval Square
London E1 6PW

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Fax +44 (0)20 7638 1112
DX 639 London/City
www.ashurst.com

Our ref:
TLG/30015993.1000-105-638
Your ref:
10898.10/YPW
Direct line:
+44 20 7859 1114
Direct fax:
+44 (0)20 7192 5536
Email:
trevor.goode@ashurst.com

17 November 2023

Davitt Jones Bould
Level 24 The Shard
32 London Bridge Street
London SE1 9SG

For the attention of Yohanna Weber

Yohanna.Weber@djblaw.co.uk

Dear Sir/Madam

**Chichester District Council (Tangmere) (No 2) Compulsory Purchase
Order 2023 ("CPO 2")
Agreement in relation to Plot 19E
Subject to Contract and Final Client Approval
Our Clients: Bosham Limited and Shopwyke Limited**

We refer to our letter dated 24 October 2023 and to your subsequent email response of 25 October 2023 which stated:

'Thank you for your letter. As the Council's solicitors, we are engaging in the process to assist with resolution of the outstanding points so that the agreement can be finalised and completed. We provided our comments to Peter Roberts, who consolidated them into the overall response from the Council to Matt Bodley yesterday. We are continuing the group effort with DWD, yourselves and Matt Bodley to reach agreement on the heads of terms so we can finalise the agreement.'

With the greatest respect, your response is totally inadequate. There is no 'group effort' or meaningful engagement.

The Council, in its capacity as acquiring authority, is required to demonstrate that the acquisition of our clients' land is necessary and that such an acquisition is in the public interest.

We understand that your firm is appointed to provide legal advice and support to the Council in relation to CPO 2 which includes appropriate engagement with

statutory objectors with the aim of seeing whether objections can be addressed through some form of agreement or undertaking and withdrawn.

There is, in our view, a clear need for your firm to adopt a far more involved approach than simply deferring to Mr Roberts who clearly has a separate agenda, is seeking to dictate terms to our client which he should realise are both unreasonable and unacceptable and in clear conflict with the advice contained within the CPO Guidance.

We note that we have not received a substantive response from you to the points raised in our letter of 25 October 2023 or any comments on the draft agreement. We have however, received two further contradictory emails from Mr Roberts, the first dated 2 November 2023 (attaching draft Heads of Terms) and the second dated 15 November 2023 (attaching a draft agreement).

Whilst we appreciate that some effort is being made by Mr Roberts to be seen to be seeking to engage, this is, in our view, a futile exercise and requires all parties to step back and seek to have meaningful negotiations in the hope that a mutually acceptable agreement can be reached.

Engagement in this aggressive and one-sided manner is extremely unhelpful - there is a need for input from yourselves, or someone else representing the Council, who is tasked with seeking to enter into meaningful engagement with the aim of trying to resolve an objection – especially in this situation where our clients have set out some very clear and reasonable terms which would enable their objection to be withdrawn.

Our clients' objective

As stated on previous occasions, our clients' objective is to have certainty of the timing for the transfer of *all* of its land comprised within the Tangmere CPO.

The Council already has the statutory power to acquire all of our clients' land comprised within CPO 1 and our client has agreed to the voluntary transfer of the additional land comprised within CPO 2.

There is recognition of the significant difference of opinion concerning the quantum of compensation to be paid in respect of our clients' land comprised within CPO 1. That difference of opinion is a matter to be dealt with at a later stage, following a reference to the Upper Tribunal.

Our clients are willing to accept an initial advance payment and agree terms for the immediate transfer of their land and would be keen to have meaningful dialogue with the Council, with the aim of agreeing those terms. We have previously sent you a draft contract based on the vesting of our clients' land within CPO1 and simultaneous transfer of the residue within CPO2, this being the

agreement structure proposed by Mr Roberts between May and December 2022. This structure was acceptable to our clients as it addressed their concerns at that time regarding Capital Gains Tax. It is clear that the Council (or Mr Roberts) are no longer prepared to proceed on their previously proposed structure and in August 2023 Mr Roberts proposed proceeding by way of private treaty acquisition of the whole of our clients' land by agreement without implementation of the CPO powers but with a structure which contained no certainty or clarity as to the actual timing for acquisition

Our clients are now in a position to proceed on the basis of a transfer of the whole by agreement following assurances it has received from HMRC, subject to clarity about the actual timing for the transfer of the land which, from our clients' perspective, should be as soon as possible. This would be in keeping with the Council's stated desire to acquire both the CPO 1 land and the CPO 2 land within a few months of confirmation of the respective Orders.

In order to assist the process of reaching agreement with the Council in order to effect the transfer of our clients' land, we will summarise the proposed terms.

Proposed terms for the transfer of the land comprised in CPO 1 and CPO 2

1. Parties

- (1) Bosham Limited and Shopwyke Limited
- (2) Chichester District Council.

2. Nature of Transfer

Transfer of all interests in the land comprised in CPO 1 and CPO 2 with vacant possession.

3. Purchase Price

The purchase price in respect of the land comprised within CPO 1 is to be determined by the Upper Tribunal following a reference with provision for the parties to reach agreement. Our clients are willing to accept the Council's offer for the land comprised within CPO 2 at £10,000 plus VAT.

4. Advance Payment

The Council initially offered an advance payment of 90% of an estimated value of £2.3 million in respect of the acquisition of the CPO 1 land. It should be noted that valuation is in respect of circa 58 acres of land on a site allocated for residential development. This figure is clearly well below market value. However, for the

purpose of reaching agreement, that figure would be acceptable to our clients in the knowledge that the Upper Tribunal will arrive at a different valuation.

5. **Timescale for exchange and completion**

Our clients have received clearance from HMRC that a transfer of the CPO 1 land to the Council (not Countryside) would fall within section 246 of the Taxation of Chargeable Gains Act 1992. The advice from HMRC is that they would treat the date of disposal as the date upon which the amount of compensation is agreed or determined by a Tribunal. This advice paves the way for the immediate transfer of both the CPO 1 land and the additional land comprised within CPO 2, therefore avoiding the need for a general vesting declaration. We would propose that the agreement be exchanged as soon as possible – preferably by 30 November 2023 and for completion to take place within two months of exchange.

6. **Valuation Date**

For the purpose of assessing compensation, the agreed valuation date will be the date of exchange of the agreement.

7. **Reservation of right to refer to the Upper Tribunal**

The agreement will contain a provision for either our clients or the Council to make a reference to the Upper Tribunal pursuant to section 1(5) of the Lands Tribunal Act 1949 within six years from the date of completion of the transfer.

8. **Withdrawal of objection**

The objection will be withdrawn simultaneously with exchange of the agreement – preferably by 30 November 2023.

9. **Costs**

Our clients will be entitled to reimbursement of all reasonable costs incurred in connection with CPO 2, including costs of the objection corresponding with the Council, negotiating the terms of the agreement and effecting the transfer. The derisory figures offered by Mr Roberts are unacceptable.

Next Steps

As stated on previous occasions, our clients would like to reach agreement with the Council as soon as possible so that the objection can be withdrawn.

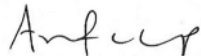
We are aware that the public inquiry into objections to CPO 2 is due to open on 12 December 2023. Our clients wish to avoid incurring the cost and expense of appearing at the public inquiry – particularly when an agreement is capable of being agreed by the end of this month.

Please find enclosed draft Heads of Terms setting out the details of the proposed agreement. We would welcome an early meeting with you and the Council's representatives to discuss these Heads of Terms. We have availability to meet next week. Once the Heads of Terms are finalised, we will proceed immediately with preparing the draft agreement.

Finally, we note that Mr Roberts has expressed a wish to be updated on the negotiations between our clients and National Highways concerning access rights over and ownership of Plot 19D of CPO.2. Mr Roberts claims in his email of 15 November to "have no information in this regard". This is despite the Council inaccurately describing the dispute in its Statement of Case. We are pleased to inform the Council that agreement has been reached between our clients and National Highways and that National Highways should now soon be ready to proceed with the transfer to the Council without risk of being in breach of any commitments given to our client. A signed consent Order permitting the transfer of the land has been submitted to the Court and it is anticipated that the Order will be sealed by the Court within the next 14 days.

This should hopefully mean that resolution of our clients' objection should pave the way to confirmation of CPO 2 without the need for a public inquiry -assuming that all other objections have now been resolved.

Yours faithfully



Ashurst LLP

Enc

APPENDIX 30: EMAIL FROM KEYSTONE LAW DATED 20 NOVEMBER 2023

Peter Roberts

From: peter.roberts@dwdllp.com
Subject: FW: Tangmere CPO(2) - SMTL Draft Agreement - Subject to Contract [DJB_DMS-DJB-DMS.FID219380]
Attachments: Agreement - SMTL Tangmere KL Amends 15.11.23.doc

From: Nicholas Brown <Nicholas.Brown@keystonelaw.co.uk>
Sent: Monday, November 20, 2023 11:38 AM
To: Yohanna Weber <Yohanna.Weber@djblaw.co.uk>
Subject: Tangmere CPO(2) - SMTL Draft Agreement [DJB_DMS-DJB-DMS.FID219380] - Subject to Contract

Dear Yohanna,

Thank you for sending through a draft agreement but before I deal with that, I do need to make it very clear that any suggestion that the Heads of Terms were agreed is strongly denied. In particular, the assertion that the terms of John Webster's email of 16 October were agreed by us is also strongly denied. That said, I do not think there is anything particularly useful in continuing to debate the status of the Heads (from a time and indeed a costs point of view) particularly now a draft agreement has been prepared and sent through and in respect of which, we can hopefully manage to move forward.

The draft agreement refers to a Plan 6 but that has not been provided as yet. Could you please send a copy of the proposed Plan 6 through to me?

There is reference to the title of the Pitts Land being deduced but that has not as yet been deduced and perhaps you could please do so.

I now return the draft agreement with our amendments shown as track changes.

I look forward to hearing further from you.

Best regards,

Nick

Nicholas Brown | Consultant Solicitor

t: +442033193700 | m: +447971097591

48 Chancery Lane, London WC2A 1JF, United Kingdom



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APPENDIX 31: KEYSTONE LAW TRACKED AMENDMENTS 20 NOVEMBER 2023

Agreement

relating to land near Church Lane, Tangmere, Chichester

- (1) Chichester District Council
- (2) Countryside Properties (UK) Limited
- (3) Saxon Meadow Tangmere Limited

Dated 2023

Osborne Clarke LLP

One London Wall
London
EC2Y 5EB
Telephone +44 20 7105 7000

AJA1096562O45730529.2EMO

This Agreement is made on

2023

Between

- (1) **Chichester District Council** of East Pallant House, Chichester PO19 1TY ("**CDC**");
- (2) **Countryside Properties (UK) Limited** (company number: 00614864) whose registered office is at Countryside House The Drive, Great Warley, Brentwood, Essex, CM13 3AT (the "**CPUK**"); and
- (3) **Saxon Meadow Tangmere Limited** (company number: 02102122) whose registered office is at Cawley Place, 15 Cawley Road, Chichester, West Sussex, PO19 1UZ (the "**SMTL**").

It is agreed as follows:

1. **Definitions and interpretation**

1.1 In this Agreement, unless the context otherwise requires, the following definitions shall apply:

"**1990 Act**" means the Town and Country Planning Act 1990.

"**Access Land**" means the land edged yellow on Plan 4.

"**Agreement**" means this agreement including any schedule or annexure and all documents supplemental or collateral to it;

"**Conveyance**" means the conveyance dated 26 October 1984.

"**CPO1 Order**" means the Chichester District Council (Tangmere) Compulsory Purchase Order 2020 confirmed on 11 November 2021.

"**CPO2 Order**" means the Chichester District Council (Tangmere) (No.2) Compulsory Purchase Order 2023 made by CDC on 30 March 2023.

"**Compensation Code**" means the collective term used to describe the legislation and case law governing the procedures for compensation following compulsory purchase.

"**Crossover Plot**" means plot 7 numbered as such on Plan 2 and plot 8 numbered as such on Plan 3.

"**Crichel Down Rules**" means the non-statutory arrangements relating to the disposal of surplus land acquired after or under the threat of compulsory acquisition as identified in the Department of Levelling Up, Housing & Communities "Guidance on Compulsory purchase process and The Crichel Down Rules" dated July 2019.

"**Development**" means the development of the Pitts Land and other adjoining land.

"**Garden Land**" means the land edged blue on Plan 5.

"**Objection**" means the undated objection submitted on behalf of SMTL by Keystone law against the Order.

"**Pitts Land**" means the land registered at the Land Registry under title number WSX34560 [as set out in the official copy entries dated \[\] 2023 at \[\]](#).

"**Plan**" means the plans annexed to this Agreement at Annexure 1.

"**Planning Agreement**" means any agreement, obligation or undertaking entered into or to be entered into in conjunction with the grant of a planning permission pursuant to section 106

of the 1990 Act and/or section 299A of the 1990 Act and/or sections 111 and/or 120, of the Local Government Act 1972 and/or section 33, Local Government (Miscellaneous Provisions) Act 1982 and/or section 16, Greater London (General Powers) Act 1974 and/or any similar statute (whether or not affecting other land) and any variation to any such agreement, obligation or undertaking.

"Planning Application" means the planning application lodged with CDC as local planning authority under reference 20/02893/OUT

"Plot 8, 8A and 8B of CPO1" means the plots numbered as such on Plan 2.

"Plot 9, 9A and 9B of CPO2" means the plots numbered as such on Plan 3.

"SMTL Land" means the land shown edged red on Plan 1 registered at the Land Registry under title numbers WSX172343 and WSX407547.

"VAT" means value added tax or any equivalent tax or duty which may be imposed in substitution therefor or in addition thereto at the rate applicable from time to time; and

"Working Day" means a day (other than a Saturday, Sunday or public holiday) on which banks are usually open for business in England and Wales.

"Works Agreement" means:

- (a) any agreement that is made or to be made under one or more of:
 - (i) sections 38 and/or 278 of the Highways Act 1980;
 - (ii) section 104 of the Water Industry Act 1991;
 - (iii) the Gas Act 1980;
 - (iv) the Water Act 1989; or
 - (v) any statutory provision with a similar purpose to any of the foregoing;
- (b) any agreement with a local water authority, the Environment Agency, an Internal Drainage Board or other competent authority relating to water supply and/or drainage of foul and surface water and effluent;
- (c) any other agreement made or to be made with a competent authority or body relating to services or relating to access; and
- (d) any variation to any such agreement.

1.2 In this Agreement unless the context otherwise requires:

- (a) references to **"SMTL"** include SMTL's personal representatives, successors in title or permitted assigns to the SMTL Land;
- ~~(b)~~ (b) references to "CPUK" include CPUK's personal representatives, successors in title, agents or permitted assigns to this agreement;
- ~~(b)~~(c) an obligation in this Agreement is deemed to include an obligation not to knowingly permit or suffer any infringement of that obligation;
- ~~(c)~~(d) save where the context otherwise requires all obligations given or undertaken by more than one person are given or undertaken jointly and severally;

~~(d)~~(e) the clause and paragraph headings are not to be taken into account in the interpretation of the provisions to which they refer;

~~(e)~~(f) unless the context otherwise requires references to clauses, annexures and schedules are references to the relevant clause, annexure or schedule to this Agreement;

~~(f)~~(g) words denoting the singular include the plural and vice versa, and words importing one gender include both genders;

~~(g)~~(h) references to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments and regulations made pursuant to it;

~~(h)~~(i) words importing persons include an individual, company, corporation, firm, partnership, unincorporated association or body of persons, and any state, or governmental or local agency of a state;

~~(i)~~(j) references in this Agreement to any specified provision of this Agreement are to ~~of~~ that provision as in force for the time being and as amended from time to time;

~~(j)~~(k) the words and phrases "other", "including" and "in particular" shall not limit the generality of the words preceding or succeeding them or be construed as limiting the succeeding words to the same class as the preceding words; and

~~(k)~~(l) where a party covenants to do something, he shall be deemed to fulfil that obligation if he procures that it is done.

2. Access Land

2.1 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are exercised over the Access Land by CDC, the Access Land will be transferred to SMTL as soon as reasonably practicable ~~following of~~ such exercise subject to CDC first having complied with the Crichel Down rules and subject to clause 2.5.

2.2 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are not exercised over the Crossover Plot by CDC but the Access Land is acquired by CPUK, the Access Land will be transferred to SMTL as soon as reasonably practicable ~~following of~~ CPUK acquiring the Access Land subject to clause 2.5.

2.3 The form of transfer in respect of any transfer of the Access Land pursuant to clauses 2.1 or 2.2 above shall be agreed between the parties (acting reasonably).

2.4 In the event of either the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order being exercised over the Access Land by CDC or the acquisition of the Access Land by CPUK, SMTL will be granted ~~rights of access to and egress from the SMTL Land or any part or parts thereof rights in respect of the supply of services and utilities to and from the SMTL Land and rights equivalent to all existing rights set out in the Conveyance over under or through the Access Land temporary rights until completion of the transfer pursuant to clauses 2.1 or 2.2 above equivalent to those set out in the First Schedule of the Conveyance over the Access Land for the benefit of the SMTL Land.~~

2.5 Where there are any requirements contained in a Planning Agreement to carry out works on the Access Land relating to the Development, SMTL accept that these will be carried out prior to the transfer of the Access Land provided that CPUK will not interfere with ~~and shall ensure that there is no interference with~~ SMTL's existing access over ~~or services under~~ the Access Land ~~or use of it generally~~ and provided further that:

(a) the Access Land shall only be used for the delivery and provision of a cycle pathway;

- (b) the cycle pathway over the Access Land shall connect to the tarmac surface of the existing access road at the point marked by the red dot marker on Plan 6 and be delivered to a specification:
 - (i) approved under the reserved matters approval in respect of dimensions, materials, edging and drainage and
 - (ii) that has been provided to SMTL [4] weeks prior to submission of the reserved matters application such that CPUK will take proper account of any reasonable response from SMTL prior to submission to the extent that it is acceptable to the local planning authority (acting reasonably);
- (c) the tarmac surface of the access road shall not otherwise be altered to provide the cycle pathway unless required under the reserved matters approval;
- (d) the pond forming part of the Access Land will remain in existence at all times; and
- (e) the Access Land shall at no time be used for access of plant or machinery of any kind, other than those required for the delivery of the cycle pathway.

2.6 For the avoidance of doubt, SMTL shall continue to maintain the Access Land until transfer of the same takes place pursuant to clauses 2.1 or 2.2 above.

3. Garden Land

3.1 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are exercised over the Garden Land by CDC, the Garden Land will be transferred to SMTL within 12 months of such exercise subject to CDC first having complied with the Crichel Down rules.

3.2 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are not exercised over the Garden Land by CDC but the Garden Land is acquired by CPUK, the Garden Land will be transferred to SMTL within 12 months of CPUK acquiring the Garden Land.

3.3 The form of transfer in respect of any transfer of the Garden Land pursuant to clauses 3.1 or 3.2 above shall be agreed between the parties (acting reasonably).

3.4 In the event of either the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order being exercised over the Garden Land by CDC or the acquisition of the Garden Land by CPUK, SMTL will be permitted to continue the granted temporary use of the Garden Land as they have done to date without objection by any person or party until completion of the transfer pursuant to clauses 3.1 or 3.2 above.

3.5 SMTL agree to grant a right in favour of CPUK to drain into any existing surface water infrastructure located within the Garden Land provided that:

- (a) CPUK demonstrate that ~~in~~ doing so will not overload the existing surface water infrastructure located within the Garden Land or lead to surface water flooding of the Garden Land; and
- (b) it is required as part of the planning permission for the Development and is in accordance with the surface water drainage strategy associated with the planning permission for the Development.

4. Crossover Plot

4.1 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are exercised over the Crossover Plot by CDC, the Crossover Plot will be

transferred to SMTL within 12 months of such exercise subject to CDC first having complied with the Crichel Down rules.

- 4.2 In the event that the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order are not exercised over the Crossover Plot by CDC but the Crossover Plot is acquired by CPOK, the Crossover Plot will be transferred to SMTL within 12 months of CPOK acquiring the Crossover Plot.
- 4.3 The form of transfer in respect of any transfer of the Crossover Plot pursuant to clauses 4.1 or 4.2 above shall be agreed between the parties (acting reasonably).
- 4.4 In the event of either the compulsory purchase powers contained within the CPO1 Order or the CPO2 Order being exercised over the Crossover Plot by CDC or the acquisition of the Crossover Plot by CPOK, SMTL will be permitted to continue the use of the Crossover Plot as they have done to date without objection by any person or party and/or granted temporary rights until completion of the transfer pursuant to clauses 4.1 or 4.2 above equivalent to those set out in the First Schedule of the Conveyance over the Crossover Plot for the benefit of the SMTL Land.

5. **Plot 8, 8A and 8B of CPO1**

CPOK and CDC covenant that in the event the compulsory purchase powers contained in the CPO1 Order are exercised, Plot 8, 8A and 8B of CPO1 shall not be acquired by compulsory purchase or otherwise.

6. **Plot 9, 9A and 9B of CPO2**

- 6.1 CDC shall request a modification of the CPO2 Order to remove Plot 9, 9A and 9B of CPO2 from the CPO2 Order.
- 6.2 In the event that CDC are unsuccessful with the request detailed at clause 6.1 above, CPOK and CDC covenant that in the event that the compulsory purchase powers contained in the CPO2 Order are exercised, Plot 9, 9A and 9B of CPO2 shall not be acquired by compulsory purchase or otherwise.

7. **Objection and Costs**

- 7.1 ~~In consideration of the terms of this Agreement is conditional on the withdrawal of the Objection by SMTL within [] days of the date of this agreement], SMTL withdrew its Objection on [date]~~
- 7.2 SMTL agrees and covenants that SMTL shall not make raise or submit (or cause to be made raised or submitted on its behalf) any objection, representation or challenge in respect of the CPO1 Order, the CPO2 Order, any further CPO and/or any planning application (including the Planning Application) submitted by CPOK and/or CDC or any party on their behalf pursuant to the same unless it is in conflict with the terms of this Agreement.
- 7.3 SMTL agrees and covenants that SMTL shall use reasonable endeavours to procure that all leaseholders and/or occupiers of the SMTL Land shall not make raise or submit (or cause to be made raised or submitted on their behalf) any objection, representation or challenge in respect of the CPO1 Order, the CPO2 Order, any further CPO and/or any planning application (including the Planning Application) submitted by CPOK and/or CDC or any party on their behalf pursuant to the same unless it is in conflict with the terms of this Agreement.
- 7.4 On the date of this Agreement CDC shall pay the agreed sum of £[] 15,218.55 + VAT as a contribution towards SMTL's costs in connection with the Objection and in negotiating and completing this Agreement ~~in addition to that already paid by the CDC on withdrawal of the Objection.~~ OR

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~~7.4 a reference will need to be inserted to the effect that there is no agreement on costs, clause 15.4 will need to be deleted and there would need to be an acknowledgement that costs will be resolved at a later date.~~

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8. Permitted Development

- 8.1 SMTL agree that CPUK shall be ~~granted entitled to reserve~~ all such rights over the Access Land and the Crossover Plot as are required to deliver and maintain any obligation required under any Planning Agreement or planning permission for the Development.
- 8.2 SMTL will at the request and cost (not exceeding what is reasonable) of CDC and/or CPUK ~~and in respect of which SMTL will have first received a Solicitors Undertaking in respect of such cost in a form acceptable to them (acting reasonably)~~ enter into execute and return to CDC and/or CPUK any Planning Agreement or Works Agreement required by CDC and/or CPUK in connection with the Development ~~within 10 Working Days as soon as practicable following of~~ service of such Planning Agreement or Works Agreement upon SMTL ~~in default of which (and as security for which) CDC and CPUK are hereby irrevocably appointed by SMTL as the attorney of SMTL to execute the said Planning Agreement or Works Agreement in the name of and on behalf of SMTL~~ provided that CDC and/or CPUK shall ~~first~~ indemnify SMTL in respect of any costs and/or liabilities contained within such Planning Agreement or Works Agreement ~~to the reasonable satisfaction of SMTL.~~

9. Title

SMTL accepts the title deduced to it before the date of this Agreement and will not raise any requisition on it (other than on any matter registered at the Land Registry after [] 2023 at [] being the date and time of the official copy of the entries ~~of referred to in~~ the Pitts Title.

10. VAT

- 10.1 ~~[With the exception of any payment required to be made pursuant to clause 7.4 which shall be dealt with as stated in that clause]~~ All consideration under this Agreement shall be exclusive of VAT (if any). Where one party (the "**supplier**") makes or is deemed to make a supply to another party (the "**recipient**") for the purposes of VAT:
- (a) the recipient shall pay VAT in addition to the consideration (together with any penalty or interest chargeable on the supplier to the extent attributable to any act or omission by the recipient); and
 - (b) the supplier shall issue to the recipient a VAT invoice.
- 10.2 If any VAT is found to have been overpaid the supplier shall repay such VAT and issue to the recipient a VAT credit note (where by law it is required to do so).
- 10.3 If VAT is demanded after the date of the supply, or if VAT is to be repaid, it shall be paid or repaid within 5 Working Days following the date of the demand. A demand shall be in writing and may be made at any time on or after the time of the supply but not later than the expiry of the time limit referred to in section 77(1)(a) VATA 1994 (Assessment: time limits and supplementary assessments).

11. Termination

- 11.1 ~~CDC and/or CPUK may terminate this Agreement by notice in writing to SMTL at any time if:~~
- (a) ~~there is any breach of the obligations of SMTL under this Agreement which (if capable of remedy) is not remedied by SMTL to the reasonable satisfaction of CDC and CPUK within such reasonable period as CDC and CPUK stipulate; or~~

~~(b) SMTL (being a body corporate) becomes insolvent or dies or has a receiver appointed under the Mental Health Act 1983.~~

~~11.2 Termination of this Agreement shall be without prejudice to any outstanding claims, rights or liabilities of either party against the other in respect of this Agreement.~~

~~12.11. Notices~~

~~12.411.1~~ Any notice given in connection with this Agreement:

- (a) shall be in writing and signed by or on behalf of the party giving it; and
- (b) may be left at, or sent by prepaid first class or registered or recorded post to the address in the United Kingdom or address for service in the United Kingdom of the relevant party as set out on page 1 of this Agreement or as otherwise notified in writing to the other party(ies) from time to time on at least 5 Working Days' notice or the relevant party's registered office in the United Kingdom or (if the relevant party does not have a registered office), at that party's last known place of business in the United Kingdom.

~~12.211.2~~ A notice is deemed to have been given on the second Working Day after posting, if posted.

~~12.311.3~~ If the deemed time of service is after 5pm, the notice is deemed given at 9am on the next Working Day.

~~12.411.4~~ Writing does not include [email](#) and notices given in connection with this Agreement shall not be given by email or any other electronic means.

~~12.5 If SMTL consists of more than one person then a notice to one of them is notice to all.~~

~~12.611.5~~ This clause shall not apply to the service of any proceedings or to the service of any other documents in any legal action.

~~13.12. Severability~~

If a court or competent authority finds any provision of this Agreement to be illegal or unenforceable, that part shall be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected.

~~14.13. Counterparts~~

This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original of this Agreement and all counterparts shall together constitute one instrument.

~~15.14. Agreements and declarations~~

~~15.414.1~~ This Agreement shall continue in full force and effect after and notwithstanding completion of the transfers so far as any of the obligations of the parties remain to be observed and performed.

~~15.214.2~~ This Agreement sets out the entire agreement and understanding between the parties and supersedes all prior agreements, understandings or arrangements (whether oral or written) in respect of the subject matter of this Agreement.

~~15.314.3~~ Any obligation by either party in this Agreement to do something shall include an obligation to procure that it be done and any obligation of either party in this Agreement not to

do or omit to do something includes an obligation not to knowingly permit or suffer that thing to be done or omitted.

~~15.4~~14.4 It is agreed that SMTL shall not be entitled to be compensated under the Compensation Code in respect of any matter or claim under the CPO1 Order or CPO2 Order. [Depending upon which option is taken for clause 7.4 this clause will need to be deleted]

~~16.15~~ **Exclusion of third party rights**

Unless expressly provided in this Agreement, no express term of this Agreement or any term implied under it is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

~~17.16~~ **Governing law and jurisdiction**

~~17.1~~16.1 This Agreement and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with it, its subject matter or formation shall be governed by English law.

~~17.2~~16.2 The parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with this Agreement, its subject matter or formation.

This Agreement has been executed as a deed and delivered by the parties hereto on the date written at the head of this Agreement.

**Executed as a deed by affixing the common seal of
Chichester District Council
In the presence of:**

**Executed as a deed by
Countryside Properties (UK) Limited
acting by a director**

Signature of Director:

Director name:

in the presence of:

Signature of witness:

Witness name:

Witness address:

Witness occupation:

**Executed as a deed by
Saxon Meadow Tangmere Limited**
acting by a director

Signature of Director:

Director name:

in the presence of:

Signature of witness:

Witness name:

Witness address:

Witness occupation:

Annexure 1

Plans