

BOSHAM LIMITED AND SHOPWYKE LIMITED

Chichester District Council (Tangmere)
(No. 2) Compulsory Purchase Order 2023

Appendix MB4 to Rebuttal Statement of Evidence of

Matthew Bodley

5 December 2023

Ref: APP/PCU/CPOP/L3815/3321240

Matthew Bodley

From: Sam Smith <sam.smith@dwdllp.com>
Sent: 25 August 2021 17:00
To: Matthew Bodley
Cc: Peter Roberts; Ged Denning; 'Jon Callcutt'; 'John Heaver'; 'Trevor.Goode@ashurst.com'; afrost@chichester.gov.uk; Yohanna Weber
Subject: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]
Attachments: 210824 R2 Compensation Offer Table.pdf; 210825.HoTs PR.pdf

Sent on behalf of Peter Roberts

Dear Matt

I will leave the matter of fees to you and Ged, but thank you for clarifying your position.

Whilst I have not been personally involved in the historic discussions, I am informed that Countryside and the Council do not recognise your description of the negotiations. However, it does not seem particularly helpful or productive to debate this point further at the present time. The bottom line is that the terms offered to your clients previously, following considerable endeavour on the part of Countryside, are consistent with those agreed with other landowners in the TSDL and, prior to your involvement, were understood to be acceptable to both your client and their agent (i.e. your predecessor).

As a general comment you and I both know that it is not uncommon for landowners to seek to benefit from impending Inquiry proceedings to engineer a settlement in excess of the compensation that would otherwise be payable in exchange for the withdrawal of their objection. However, your clients' expectations significantly exceed anything that the UTLC are likely to award. In addition, in any event, your approach is fundamentally flawed.

Before I provide further commentary in respect of a compensation code approach I would like to directly address two points you have raised:

- As I am sure you and your clients are already aware, the archaeological finds etc that I referred to in my previous email are detailed within the ES that has been in the public domain and therefore freely available to your clients and their advisors since November 2020. I am not aware of any outstanding requests in respect of other surveys or reports that are not similarly in the public domain.
- As you will also already know, the terms agreed with Bloor are in respect of the delivery of development rather than land acquisition and are set out within the Statement of Case. As such, the Option Agreement was not relevant to those discussions. Similarly the terms agreed with Bloor are not relevant to the assessment of compensation in respect of your clients' various interests.

I have previously confirmed that, whilst your approach is a radical departure from your predecessor's position, Countryside and the Council are of course prepared to agree terms on a 'straight' compensation basis, and I requested an unredacted copy of the Promotion and Option Agreement precisely for that purpose. In addition, I requested clarification from you on a number of points all of which are relevant to a compensation code approach.

Notwithstanding the lack of progress and/or response on these points, I have attached proposed template Heads of Terms and a schedule of values for each interest/plot which adopt a strict compensation code approach having regard to the actual circumstances of ownership and matters to which each title is subject.

With regard to Plot 16, key parts of the Promotion and Option Agreement which are directly relevant to the assessment of market value have been redacted by your clients and I have therefore formed my own view as to what those terms are likely to provide for. I have also taken into account that Bloor have had ample opportunity since entering into this agreement and prior to this CPO to pursue a planning permission, indeed were specifically required to do so, but, as far as I am aware, nothing has happened. Prospective purchasers of your clients' interests in the "no

scheme world” would therefore be entitled to take account of reality and draw their own conclusions as to the prospect of the option being triggered in preparing their bids.

As you will already be aware, neither the willing seller(s) nor the purchaser(s) of the freehold interest(s) in the “no scheme world” can implement development until expiry of the Agreement. They would therefore assess the likelihood of any option payment against the background of inaction by Bloor and consider the risk that Bloor could allow the Agreement to run its course. The hypothetical purchasers would then consider their options following the expiry of the Agreement including the potential or otherwise for securing planning permission and their dependency on other parties to implement such consent. In addition, the prospective purchasers would be fully aware of the pre-emption provisions in favour of Bloor.

In contrast, your valuation approach assumes as a matter of absolute certainty that there would be a single hypothetical purchaser who would purchase all of the various different interests held by the different corporate entities (i.e. Bosham Ltd, Shopwyke Ltd, CS East Ltd, etc) as a single acquisition at a price marginally in excess of whatever Bloor would pay if they chose to exercise their option, even though there is no certainty either that Bloor would trigger the option, or that, it would be possible to obtain a planning permission which would confer sufficient value to match or exceed the purchase price.

Putting to one side that in my view there is no basis to assume a single acquisition of all the different interests at the same time by the same party, I consider that no purchaser would follow your approach. However, as I pointed out in my previous email, if you have market evidence of purchasers acting in this way please do forward it to me for my consideration.

In reality, your approach has nothing to do with market value and it is apparent that you are actually trying to claim for what your various clients would theoretically and collectively receive in a hypothetical world where there is no sale, where they retained their interests and Bloor were compelled to exercise their option over the entirety of your clients’ land regardless as to whether they could secure an implementable planning consent together with the third party agreements that would be required to deliver other interests. Put simply you are claiming for a loss of potential uncertain future profit as if that profit was received today and was certain. As I am sure you are aware, that approach has several flaws and would be soundly rejected by the Lands Tribunal.

In contrast, I have assessed what willing purchasers in the market would pay to acquire your various clients’ interests by reference to the “Rule 2” definition of market value which assumes that your clients were willing sellers prepared to accept the highest bid in the market place regardless as to whether those bids matched your clients’ expectations in order to dispose of their interest having regard to all matters affecting that interest.

In assessing market value I have had regard to planning policy and the prospect of obtaining implementable consent. In this regard you will be aware that the adopted Local Plan Policy 18 allocates TSDL for 1,000 homes and associated uses. Adopted Policy 7 requires a comprehensive master planning process and outlines a number of requirements. The Tangmere Neighbourhood Plan was made in 2016 and includes a concept plan and a range of master planning principles, including a Village Main street and a North South link road, as well as other agreed local requirements. The emerging Local Plan has broadly similar requirements, although it proposes an increase to 1,300 homes.

Furthermore, the Council’s approach to master planning strategic development is well established in policy terms and is in place to secure the delivery of strategic sites as a whole – this importantly includes the full quantum of development and all of the necessary infrastructure to ensure the delivery of a robust and sustainable community. While the Council has accepted development in phases on other sites, this has only been in accordance with an agreed masterplan and where it has been demonstrated that those strategic aims have been achieved.

In this context, it is considered that the likelihood of an individual landowner being able to secure planning consent for an individual parcel within the TSDL on this basis is limited and the risk of not maximising the full potential of the site in strategic planning terms, and ensuring delivery of all of the relevant and required supporting infrastructure, would be unacceptably high.

On this basis it is my opinion that, in the “no scheme world”, the hypothetical purchasers of the various interests would form the opinion that Plot 16 was burdened by an Option Agreement, and that there was limited expectation of planning permission being granted other than on a comprehensive basis. Further, the history of discussions between the various landowners and other parties with interests in the required land would illustrate that ensuring all the component parts of that comprehensive development would be delivered in accordance with market and planning policy timescales would not be straightforward. In short, any purchaser would be pessimistic of securing a development return.

Until and unless you demonstrate otherwise I am struggling to understand why anyone would bid for the land owned by your various clients other than in accordance with their current use, albeit adding a limited premium for the hope of longer term development potential. Certainly, in my view, no lender would take the risk such that any purchaser

would have to rely on internal funding. Again, if you have evidence to contradict my conclusion on this point please do forward it to me.

Overall, therefore, it is my opinion that the UTLC would determine the market value of each of your clients' interests in each of the plots on the basis of their current use, albeit with a limited premium to reflect the longer term prospect of development in respect of plots 2, 4 and 16 as set out on the attached schedule. Taking this into account I have calculated Rule 2 compensation to your various clients totalling £2,329,550.

In the event that I am provided with an un-redacted copy of the Option Agreement and/or you provide additional justification and evidence to underpin your arguments I will consider whether there is any material impact upon my advice to Countryside and the Council.

In the meantime, on the assumption that your clients still prefer a 'straight' compensation code approach as opposed to the previously offered terms, I look forward to your confirmation that your clients are content to proceed on the basis of the attached Heads of Terms.

Kind regards

Peter

Sam Smith

PA



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From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>

Sent: 17 August 2021 15:35

To: Andrew Frost <afrost@chichester.gov.uk>

Cc: Yohanna Weber (Yohanna.Weber@djblaw.co.uk) <Yohanna.Weber@djblaw.co.uk>; Peter Roberts <peter.roberts@dwdllp.com>; Ged Denning <ged.denning@dwdllp.com>; 'Jon Callcutt' <Jon.Callcutt@cpplc.com>; **John Heaver**; 'Trevor.Goode@ashurst.com' <Trevor.Goode@ashurst.com>

Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWV-DJB-DMS.FID124927]

Dear Mr Frost

I refer to your email of this morning (below). I note from your comments that the Council has been in dialogue with Countryside about my recent chain of correspondence with Ged and Peter of DWD, including my most recent email of 12 August, and has concluded that the Council has nothing further to add. This would appear to be in accordance with what my clients have informed me of their experiences to date in trying to engage with the Council.

Whilst your email makes it clear that the Council does not have anything to add, it is not clear to me whether I can expect a response from Countryside and/or DWD. As representatives from both Countryside and DWD are copied into this email please could one of them confirm their position.

My email raised a number of questions that require answers, which I summarise below for ease of reference:

1. Is the Council and/or Countryside prepared to reach an agreement that reflects the "compensation code" and therefore provide comments on the agreement structure proposed in the Heads of Terms I issued on 30 July?
2. Please could somebody respond to my request for information in respect of surveys and archaeological finds, given that the matter was raised as a relevant consideration in Peter's email of 10 August.
3. Please could somebody confirm whether the Council and/or Countryside has reached an agreement with my clients' option holder, Bloor, and if so on what terms.

Given that the Council has nothing to say on these matters, will Countryside/DWD be responding to these points?

I look forward to hearing from someone.

Yours sincerely

Matthew Bodley MRICS

Matthew Bodley Consulting

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Party	Plot	Interest	Compensation
Herbert and Shelagh Heaver	15	Rights	£50
	17	Rights	£50
		Total	£100
Bosham Limited and Shopwyke Limited	2	Freehold subject to lease to Temple Bar Partnership LLP (2.23 acres)	£89,200
	3	Freehold subject to lease to Temple Bar Partnership LLP (0.06 acres strip)	£50
	4	Freehold subject to lease to Temple Bar Partnership LLP (0.59 acres)	£23,600
	16	Freehold subject to rights in favour of CS East Limited, CS South Limited, Temple Bar Partnership LLP and Denton and Co Trustees Limited and Option Agreement with Bloor (55.15 acres)	£2,206,000
		Total	£2,318,850
CS East Limited	16	Rights	£50
	17	Freehold subject to rights in favour of Herbert and Shelagh Heaver, Temple Bar Partnership LLP and Denton and Co Trustees Limited	£50
		Total	£100
CS South Limited	15	Freehold subject to rights in favour of Herbert and Shelagh Heaver	£10,000
	16	Rights	£50
		Total	£10,050
Temple Bar Partnership LLP	2	Leasehold	£50
	3	Leasehold	£50
	4	Leasehold	£50
	15	Rights	£50
	16	Rights	£50
	17	Rights	£50
		Total	£300
Denton and Co Trustees Limited	15	Rights	£50
	16	Rights	£50
	17	Rights	£50
		Total	£150
		GRAND TOTAL	£2,329,550

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

Matthew Bodley

From: Matthew Bodley
Sent: 01 September 2021 11:59
To: Sam Smith
Cc: Peter Roberts; Ged Denning; 'Jon Callcutt'; **John Heaver**; 'Trevor.Goode@ashurst.com'; afrost@chichester.gov.uk; Yohanna Weber; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com; Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Subject to Contract

Hi Peter and Ged

I spoke briefly with Ged on Friday afternoon and understand that he is back from leave and will therefore be taking the lead on this again, but have copied everyone in for continuity.

I note that the Council and Countryside are prepared to proceed on the basis of an agreement that reflects my client's entitlement to compensation and that you have drafted a fresh set of heads of terms. I had hoped that you would provide comments on the ones that I had issued rather than drafting a fresh set as I think that this would have been more straightforward. Notwithstanding this, I have reviewed your draft heads and provide comments as follows:

- Parties – the parties will only be Bosham Limited, Shopwyke Limited, CS East Limited and CS South Limited. The other parties you have referred to are being dealt with separately and separate Heads of Terms to deal with these are at an advanced stage.
- Property – any transfer by agreement will only be in respect of plots 15, 16 and 17. Tangmere Corner will be excluded. As previously advised, my client wishes to retain Tangmere Corner in order to develop this plot itself in accordance with the masterplan endorsed by the Council. This has previously been accepted by your client in open correspondence. Your client and the Council have clearly accepted that they don't need Tangmere Corner in order to achieve their objectives. As stated above, the rights and interests owned by other Heaver parties are being dealt with separately.
- Consideration – we are clearly miles apart on our opinion of value. My client is prepared to move significantly on its requirements as to the minimum land price as we are confident of our case at the Lands Chamber. However, we cannot drop to the sorts of levels you have proposed which appear to be limited to agricultural values with no recognition of any form of development potential or ransom, which is entirely unacceptable. It is also significantly below the Minimum Land Price proposed by your client in their previous offer, albeit that was on a different approach. Therefore, I am instructed to propose a revised minimum land payment of £12m which would be payable on transfer. My client's right to pursue their full compensation claim via the Lands Chamber will be reserved.
- Basic Loss Payments – my client is content with your proposal that we don't need to define the amount of the Basic Loss Payments within the agreement and can instead simply state that these will be calculated in accordance with statute, however, it needs to be noted that three separate BLPs will be payable in respect of the three separate interests of (1) Bosham and Shopwyke, (2) CS East and (3) CS South.
- Mechanism for Implementation – your Heads do not provide any form of mechanism for implementation. It is not clear from your heads when you are suggesting the land transfer will occur. You refer to the Valuation Date and the commencement of limitation period for a Lands Chamber reference being the date of the agreement. Are you suggesting that the transfer will happen on the date of the agreement? Presumably not as you are saying that the agreement will be conditional on confirmation of the CPO. I had put forward

a mechanism at point 17 of my draft heads which provided for the transfer to be triggered by a put and call option which could be exercised by either party on three months' notice following confirmation of the CPO. I propose that we adopt my proposed drafting on this point.

- Valuation Date – as mentioned above you have suggested that the valuation date and the date for commencement of the statutory limitation period should be the date of the agreement. This is not in line with the relevant law which requires that these dates should be the date of transfer.
- Council's role – whilst the Council is defined as a party in your heads it is not clear what role, if any, you are suggesting that they should play in the agreement. You refer to the transfer being to the Developer/Purchaser, which is Countryside. The transfer needs to be to the Council in order that my client can benefit from rollover relief on Capital Gains Tax in line with their statutory rights if the land was acquired by a body possessing CPO powers. This should not present any problems on your side as the DA provides for the transfer of land from the Council to Countryside and contains appropriate indemnity provisions for reimbursement of costs. My client also requires the Council, as opposed to Countryside, to be directly liable for the outstanding compensation claim it intends to pursue.
- Fees – my client requires payment of all fees incurred to date. I understand that details of these have been provided in the past but an up to date record can be provided. My client also requires reimbursement of fees going forward for settling the outstanding claim in accordance with their statutory entitlement.
- Deposit – my client requires payment of a deposit on exchange as proposed in my previous heads. This will be deductible from the consideration payable but not reimbursable in the event the agreement is not implemented.
- Longstop Date – my client requires a longstop date, as proposed in my previous heads. This is in order to prevent their interests from being fettered indefinitely in the event that the scheme does not proceed. This should not present a concern to your client as the Council has committed to taking possession of all land within six months of confirmation of the CPO.
- Conditionality – the agreement will be conditional only on the confirmation of the CPO. Any board approvals required by your client will need to be obtained before entering into the agreement.

I should be grateful if you would take instructions on the above and get back to me so that we can see if there is any realistic prospect of securing an agreement. Depending on what you come back with I suggest that I then draft a composite set of Heads of Terms based on the most recent ones from you and I and reflecting the latest comments. I have some other fairly minor comments on your draft heads but I can pick these up in drafting the consolidated heads if we are able to get to that point. The main comments are above.

I think that we should be able to agree a mutually acceptable set of Heads of Terms this week but I anticipate that it will then take a few weeks for the lawyers to complete an agreement. As I mentioned on the phone, if terms can be agreed then I consider that it would be appropriate to make a joint approach to the inspector to request an adjournment to allow the agreement to complete. I think it would be premature to make that approach now until we see if we can agree Heads of Terms but, as mentioned on our call on Friday, I suggest that you should raise this with your client.

I trust the content of this email is clear but should you wish to discuss please do not hesitate to contact me, either by email or on the mobile.

I look forward to hearing from you.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 06 September 2021 13:49
To: Matthew Bodley
Cc: Ged Denning; 'Jon Callcutt'; John Heaver; 'Trevor.Goode@ashurst.com'; afrost@chichester.gov.uk; Yohanna Weber; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com; Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Matt

Thank you for your email. I apologise for the delay in sending you this response but as I trust you have been made aware, Ged has been taken ill.

Before I take instructions I comment as follows:

- **Parties** – I had set out a R2 assessment/compensation code approach in respect of each of your clients' interests where terms have not yet been completed on the understanding that your clients now wished to proceed on a compensation code basis. I am grateful for your clarification.
- **Property** – Tangmere corner will be included within the CPO in order to ensure that development is delivered. The question as to who delivers development on that, or indeed any of the land, is an entirely separate point and does not affect the need for the land to be included in the Order.
- **Consideration** – You asked for opinions of R2 MV and these were set out in the offer terms together with a full explanation – this was not an opening offer but a genuine opinion. This is no different to your client making an advance payment request save that, in those circumstances, your clients would only receive 90% rather than the full amount. I fully respect that you/your clients disagree with the offer and feel confident of their position but I have already advised you as to what would be needed from you/your clients before I would be able to reconsider my recommendations. Put simply, our assessment of the R2 assessment does not increase merely because your clients have reduced their minimum land price expectation from £30M to £12M.
- **Basic Loss Payments** – noted.
- **Mechanism** – The land will be transferred on the date that the confirmation of the CPO is immune from JR assuming that your clients have complied with the conditions in the meantime. If your client does not comply with the conditions the Council will fall back on their CPO powers. For clarity I am suggesting that the valuation date would be the date that the land is transferred.
- **Council's role** – I fully understand your point and will confirm the position.
- **Fees** – Have already been debated previously. The previous HOTs proposed an arrangement in respect of professional fees applicable only to the commercial terms being offered at that time. Your clients will need to provide a detailed breakdown of fees and how they have been incurred in relation to these negotiations. Fees after land transfer will be assessed by reference to the compensation code.
- **Deposit** – I see no reason to recommend a deposit.
- **Longstop date** – This is not required as the land will be transferred as set out above.
- **Conditionality** – noted

It appears to me from your comments that the substantive issue between us is not the basis of R2 compensation but the amount to be paid in exchange for the withdrawal of your clients' objections which is an entirely different issue. As you know, compensation is not a matter for consideration by the Inquiry as to whether or not the CPO should be confirmed. I would therefore be grateful if you would confirm that your clients will agree to the R2 compensation offers as attached to my previous email before I expend too much time on dealing with the other terms, bearing in mind that if we can't agree this the other terms are superfluous.

As my emails and the Heads of Terms hopefully make clear your clients will still have the option of submitting a claim and pursuing their arguments to the UTLC if they remain of the view that they are entitled to further compensation and the acceptance of this offer would be considered to be without prejudice to their claim.

I have raised your point regarding an adjournment with the Acquiring Authority and am instructed that such an adjournment would be premature at this stage.

Kind regards

Peter

From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Sent: 01 September 2021 11:59
To: Sam Smith <sam.smith@dwdllp.com>
Cc: Peter Roberts <peter.roberts@dwdllp.com>; Ged Denning <ged.denning@dwdllp.com>; 'Jon Callcutt' <Jon.Callcutt@cpplc.com>; **John Heaver**; 'Trevor.Goode@ashurst.com' <Trevor.Goode@ashurst.com>; afrost@chichester.gov.uk; Yohanna Weber <Yohanna.Weber@djblaw.co.uk>; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com; Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Subject to Contract

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Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 20 September 2021 14:47
To: Matthew Bodley
Cc: Ged Denning; 'Jon Callcutt'; John Heaver [REDACTED] 'Trevor.Goode@ashurst.com'; afrost@chichester.gov.uk; Yohanna Weber; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com; Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Matt

I am writing in a bid to continue our negotiations regarding the potential for concluding a voluntary agreement.

In this regard I confirm, for the sake of good order, that my proposals as set out in my previous emails assume that your clients' interests will be acquired by the Council.

You will be aware from my evidence to the Inquiry that I consider that the 2012 Bloor Option is central to the assessment of value. I therefore repeat my request for a full unredacted copy by return.

I propose that we should meet up to progress our discussions and would be grateful if you could provide me with details of your availability.

Kind regards

Peter

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 06 September 2021 13:49
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Cc: Ged Denning <ged.denning@dwdllp.com>; 'Jon Callcutt' <Jon.Callcutt@cpplc.com>; John Heaver [REDACTED] 'Trevor.Goode@ashurst.com' <Trevor.Goode@ashurst.com>; afrost@chichester.gov.uk; Yohanna Weber <Yohanna.Weber@djblaw.co.uk>; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com; Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Matt

Thank you for your email. I apologise for the delay in sending you this response but as I trust you have been made aware, Ged has been taken ill.

Before I take instructions I comment as follows:

- **Parties** – I had set out a R2 assessment/compensation code approach in respect of each of your clients' interests where terms have not yet been completed on the understanding that your clients now wished to proceed on a compensation code basis. I am grateful for your clarification.
- **Property** – Tangmere corner will be included within the CPO in order to ensure that development is delivered. The question as to who delivers development on that, or indeed any of the land, is an entirely separate point and does not affect the need for the land to be included in the Order.

Matthew Bodley

From: Matthew Bodley
Sent: 22 September 2021 09:23
To: Peter Roberts
Cc: Ged Denning; 'Jon Callcutt'; John Heaver; 'Trevor.Goode@ashurst.com'; afro@chichester.gov.uk; Yohanna Weber; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com; Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Hi Peter

Thanks for your email which I have discussed with my client and have instructions to respond as follows.

My client does not wish to proceed with an agreement in accordance with the terms that you have offered. On this basis we will await the outcome of the CPO inquiry before deciding on how we wish to progress matters.

With regard the Bloor Option, as previously advised, it is not within my client's gift to provide an unredacted version of the Agreement without Bloor's consent (see clause 10.2 which is not redacted from the version previously issued to your client).

I have asked my client to seek Bloor's consent to release an unredacted version of the Agreement. I can't see why they would withhold consent now that they have reached an agreement with Countryside, albeit I don't know the details of the agreement between Bloor and Countryside. I have previously requested that you provide a copy of this agreement but you did not respond to my request. Accordingly, I repeat my request for a copy of the agreement which your client has entered into with Bloor. Similarly, please could you provide copies of the agreements reached with the Church Commissioners, Pitts and Seaward Homes, and confirm the timescale for sending this documentation to me.

Regards
Matt

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T: +44 (0)20 7399 0600
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 20 September 2021 14:47
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Cc: Ged Denning <ged.denning@dwdllp.com>; 'Jon Callcutt' <Jon.Callcutt@cpplc.com>; John Heaver; 'Trevor.Goode@ashurst.com' <Trevor.Goode@ashurst.com>; afro@chichester.gov.uk; Yohanna Weber <Yohanna.Weber@djlblaw.co.uk>; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com; Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Matt

I am writing in a bid to continue our negotiations regarding the potential for concluding a voluntary agreement.

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 18 November 2021 17:07
To: Matthew Bodley
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Dear Matthew

I trust you are well.

As you may be aware the Order has now been confirmed.

I will be leading in respect of the compensation negotiations going forward. I would therefore like to offer the opportunity of a "without prejudice" meeting to discuss broad principles. If this is of interest to you please send me details of your availability.

Kind regards

Peter

From: Peter Roberts
Sent: 01 October 2021 14:05
To: 'Matthew Bodley' <Matthew@matthewbodleyconsulting.com>
Cc: Ged Denning <ged.denning@dwdllp.com>; 'Jon Callcutt' <Jon.Callcutt@cpplc.com>; John Heaver
<[REDACTED]> 'Trevor.Goode@ashurst.com' <Trevor.Goode@ashurst.com>; afrost@chichester.gov.uk;
Yohanna Weber <Yohanna.Weber@djblaw.co.uk>; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com;
Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Dear Matthew

Thank you for your email.

I was not previously aware that you and I had significant differences in respect of our understanding and application of compensation code principles governing the assessment of compensation. My understanding was that your clients changed their minds and instructed you that they no longer wished to proceed on the basis of voluntary compensation code terms rather than there being disagreement between you and I as to the principles.

It would therefore be helpful if you would provide some context to your comments, clearly set out where you believe I am in error and, if you intend to pursue the point, explain the relevance of the "agreements" to the assessment of compensation. I will then consider your request further.

Do you intend to respond to my offer of a meeting?

Kind regards

Peter

From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Sent: 30 September 2021 19:50
To: Peter Roberts <peter.roberts@dwdllp.com>

Cc: Ged Denning <ged.denning@dwdllp.com>; 'Jon Callcutt' <Jon.Callcutt@cpplc.com>; John Heaver [REDACTED]; 'Trevor.Goode@ashurst.com' <Trevor.Goode@ashurst.com>; afrost@chichester.gov.uk; Yohanna Weber <Yohanna.Weber@djblaw.co.uk>; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com; Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Hi Peter

There are clearly significant differences between us as to the appropriate approach to assessing compensation. We will submit a compensation claim at the appropriate time which will set our case out in full. As previously advised we will await the CPO decision before progressing this.

I disagree with you as to the relevance of the agreements reached with other parties and repeat my request that your client provides these.

My client has sought Bloor's approval for the release of the Bloor Option.

Regards
Matt

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T: +44 (0)20 7399 0600
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 24 September 2021 13:19
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Cc: Ged Denning <ged.denning@dwdllp.com>; 'Jon Callcutt' <Jon.Callcutt@cpplc.com>; John Heaver [REDACTED]; 'Trevor.Goode@ashurst.com' <Trevor.Goode@ashurst.com>; afrost@chichester.gov.uk; Yohanna Weber <Yohanna.Weber@djblaw.co.uk>; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com; Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Dear Matt

Thank you for your email which is helpful in that I note that your clients now wish to await confirmation of the Order before engaging further. I therefore assume that I will have to wait for the receipt of a detailed compensation claim from your clients before further substantive progress can be made.

Dealing with the other points raised in your email I comment as follows.

I understood from Mr Wilkins that it was your clients rather than Bloor who required the redaction of the 2012 Bloor option. Regardless as to whether my understanding is correct, I look forward to receipt of a full unredacted copy on an open basis at the earliest opportunity.

I refer you to the second bullet point of my email dated 25 August 2021 in respect of the Bloor terms. The same comments apply to the other parties you have referred to.

Your client was offered terms, via Mr Wilkins, that followed the same principles as those offered and subsequently agreed with the other landowners, subject to relatively minor variations which were negotiated by Mr Wilkins presumably on the instructions of your clients. Mr Wilkins should be able to advise you as to his discussions with the

other landowners and their agents that led him to propose such terms. I suggest that you discuss this with him bearing in mind that you are instructed by the same clients.

As you will hopefully appreciate from your review of Mr Wilkin's terms, they, in simple terms, had regard to the planning application underpinning the CPO, valued the land on the assumption of serviced plots with the benefit of site-wide infrastructure, assumed full assembly of ownerships across the masterplan area and assumed vacant unencumbered title free from the 2012 Bloor Option. The terms also followed the same principles as those agreed with the other parties to ensure a consistent approach. In this regard, the terms agreed with Mr Wilkins were conditional upon your client not submitting any objections to the Order such that, with the exception of your clients, all objections had been withdrawn prior to the Inquiry.

In contrast, a compensation code assessment would disregard the planning application underpinning the CPO, value the land as it actually exists (i.e. as undeveloped agricultural land), take into account the fragmented ownership of both your clients' land and the other land within the masterplan area and take full account of the terms of the 2012 Bloor Option. The compensation code valuation would also disregard the negotiations and agreements reached with other parties in the shadow of the Order.

I am confident that the UTLC will agree with me that the agreements reached with the other parties in the "scheme" world are not remotely relevant to the valuation of your clients' interests in the "no scheme" world and I will not be recommending their release. You are, of course, free to approach the individual parties direct and/or their agents should Mr Wilkins be unable to assist you but, notwithstanding other points which can wait for another day as and when we discuss your clients' compensation claims, my approach will remain the same i.e. the terms thereof are to be disregarded, irrelevant and of no assistance.

I am happy to start narrowing down the issues in dispute and pick up on our discussions regarding compensation principles with you even if we are unable to reach a final settlement for the time being - you have my contact details already so I will leave that with you.

Kind regards

Peter

From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>

Sent: 22 September 2021 09:23

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

Cc: Ged Denning <ged.denning@dwdllp.com>; 'Jon Callcutt' <Jon.Callcutt@cpplc.com>; John Heaver
<[REDACTED]>; 'Trevor.Goode@ashurst.com' <Trevor.Goode@ashurst.com>; afrost@chichester.gov.uk;
Yohanna Weber <Yohanna.Weber@djblaw.co.uk>; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com;
Henry.Moss@ashurst.com

Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Hi Peter

Thanks for your email which I have discussed with my client and have instructions to respond as follows.

My client does not wish to proceed with an agreement in accordance with the terms that you have offered. On this basis we will await the outcome of the CPO inquiry before deciding on how we wish to progress matters.

With regard the Bloor Option, as previously advised, it is not within my client's gift to provide an unredacted version of the Agreement without Bloor's consent (see clause 10.2 which is not redacted from the version previously issued to your client).

I have asked my client to seek Bloor's consent to release an unredacted version of the Agreement. I can't see why they would withhold consent now that they have reached an agreement with Countryside, albeit I don't know the details of the agreement between Bloor and Countryside. I have previously requested that you provide a copy of

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Yohanna Weber <Yohanna.Weber@djblaw.co.uk>; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com;
Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Matt

I am writing in a bid to continue our negotiations regarding the potential for concluding a voluntary agreement.

In this regard I confirm, for the sake of good order, that my proposals as set out in my previous emails assume that your clients' interests will be acquired by the Council.

You will be aware from my evidence to the Inquiry that I consider that the 2012 Bloor Option is central to the assessment of value. I therefore repeat my request for a full unredacted copy by return.

I propose that we should meet up to progress our discussions and would be grateful if you could provide me with details of your availability.

Kind regards

Peter

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 06 September 2021 13:49
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Cc: Ged Denning <ged.denning@dwdllp.com>; 'Jon Callcutt' <Jon.Callcutt@cpplc.com>; John Heaver [REDACTED]
[REDACTED] 'Trevor.Goode@ashurst.com' <Trevor.Goode@ashurst.com>; afrost@chichester.gov.uk;
Yohanna Weber <Yohanna.Weber@djblaw.co.uk>; Brian.Cheung@ashurst.com; Charlie.Reid@ashurst.com;
Henry.Moss@ashurst.com
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Matt

Matthew Bodley

From: Matthew Bodley
Sent: 24 November 2021 17:35
To: Peter Roberts
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Hi Peter

Thanks for your email and apologies for the slow response. Yes I'd seen the decision letter.

I forwarded your email to my client but have not heard back from him yet. I expect to be catching up with him and the rest of our team shortly to discuss and agree way forward and will get back to you when I have instructions.

Please could you advise what the Council's timescale is for publicising and notifying of the confirmation of the Order and making the general vesting declaration.

I look forward to hearing from you.

Regards
Matt

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E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 18 November 2021 17:07
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Dear Matthew

I trust you are well.

As you may be aware the Order has now been confirmed.

I will be leading in respect of the compensation negotiations going forward. I would therefore like to offer the opportunity of a "without prejudice" meeting to discuss broad principles. If this is of interest to you please send me details of your availability.

Kind regards

Peter

From: Peter Roberts
Sent: 01 October 2021 14:05

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 25 November 2021 16:07
To: Matthew Bodley
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

Matthew

I understand that the Council are in the process of preparing the notices for imminent service and publication with the requisite timescales.

I am waiting for the Council's confirmation as to their timescales for service of the GVDs and will confirm ASAP. However, I would be grateful if you could let me know what your client's intentions are in respect of planting etc i.e., their intended program.

Thanks

Peter

From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Sent: 24 November 2021 17:35
To: Peter Roberts <peter.roberts@dwdllp.com>
Subject: RE: Chichester District Council (Tangmere) Compulsory Purchase Order 2020 [IWOV-DJB-DMS.FID124927]

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I forwarded your email to my client but have not heard back from him yet. I expect to be catching up with him and the rest of our team shortly to discuss and agree way forward and will get back to you when I have instructions.

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I look forward to hearing from you.

Regards
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E: matthew@matthewbodleyconsulting.com

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From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 18 November 2021 17:07

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 24 May 2022 17:54
To: Matthew Bodley
Subject: Tangmere - Heavers et al

Dear Matt

Further to our conversation on Thursday, the position is as follows.

The Council were informed prior and during the Inquiry that the entirety of the land between Plot 16 and the A27/A285 was adopted highway and this was communicated to the Inspector. It was therefore excluded from the Order on the basis that compulsory purchase powers would not be required and the Inspector confirmed the Order on this basis.

National Highways have, since the Order was confirmed, now informed the Council that the land between Plot 16 and the gate at the junction with the roundabout is not adopted after all. However, a small section of this land is registered with your client rather than National Highways so, on the basis that none of this land is adopted the Council need to acquire a small strip from your client and the remainder from National Highways.

Putting to one side how we have got to this position, the Council are fully supportive of a CPO 2 to acquire these strips from your client and National Highways and preparation is underway in this regard. We see no reason as to why CPO 2 would not be confirmed and we would argue that CPO 1 and CPO 2 relate to the same scheme for the purposes of assessing compensation. However, until agreement is reached in respect of these additional strips or CPO 2 is confirmed, no GVDs will be issued under CPO 1 such that the scheme is temporarily suspended.

The Council's proposal is therefore that your client agrees terms whereby they transfer the strip of land to the Council effective from the Vesting Date specified in the GDV that will be served in respect of Plot 16 at nominal consideration but compensation in respect of Plot 16 will be assessed on the assumption that Plot 16 included this strip of land. This will just leave National Highways within whom Ged/I am having separate discussions with the intention of minimising further delays. In this regard, the S106 provides for significant payments to National Highways hence it is not in their interest to delay matters.

The Council's solicitors are currently drafting up the relevant Deed and your client's reasonable legal fees will naturally be covered. However, I would be grateful if you could take instructions in respect of this approach.

On a separate but related point, Countryside will shortly be commencing archaeological surveys on the Pitts/Church land and would like to extend these to the Heaver land. I am awaiting proposed dates and timescales from Countryside but would your client be agreeable to this?

I would be very happy to discuss further.

Kind regards

Peter

Peter Roberts
FRICS CEnv
Partner



Chartered Surveyors & Town Planners

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Linked 

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Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 25 May 2022 13:19
To: Matthew Bodley
Subject: RE: Tangmere - Heavers et al

Hi – just as a follow up to the below, CPL would like to get on site to start the archaeology work from 23 September this year.

Thanks

Peter

From: Peter Roberts
Sent: 24 May 2022 17:54
To: matthew@matthewbodleyconsulting.com
Subject: Tangmere - Heavers et al

Dear Matt

Further to our conversation on Thursday, the position is as follows.

The Council were informed prior and during the Inquiry that the entirety of the land between Plot 16 and the A27/A285 was adopted highway and this was communicated to the Inspector. It was therefore excluded from the Order on the basis that compulsory purchase powers would not be required and the Inspector confirmed the Order on this basis.

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The Council's solicitors are currently drafting up the relevant Deed and your client's reasonable legal fees will naturally be covered. However, I would be grateful if you could take instructions in respect of this approach.

On a separate but related point, Countryside will shortly be commencing archaeological surveys on the Pitts/Church land and would like to extend these to the Heaver land. I am awaiting proposed dates and timescales from Countryside but would your client be agreeable to this?

I would be very happy to discuss further.

Matthew Bodley

From: Matthew Bodley
Sent: 27 May 2022 09:52
To: Peter Roberts
Subject: RE: Tangmere - Heavers et al

Hi Peter

Thanks for your email. I've been off for a few days this week but forwarded your emails on to my client and was able to catch up with him yesterday afternoon.

In order for us to consider your proposal please could you provide a drawing which identifies the land that you are referring to between plot 16 and the A27/A285, separately identifying the areas owned by National Highways and my client. Could you also mark on this drawing, or provide a separate drawing, showing your understanding of the extent of the public adoption.

We would also like to have an understanding of National Highways' position. Are you able to confirm whether they have agreed to a voluntary transfer and, if so, on what terms? Please could you also advise who is representing them in this matter.

Once we have heard back from you with the information requested we will review your proposal for the transfer of the additional land.

Although not entirely related, we are still awaiting final confirmation that the four side agreements granting replacement rights/easements relating to the medical centre have been agreed and can be engrossed and completed. We would ideally like to receive clarity on this in advance of entering into discussions in relation to the transfer of the additional parcel of land.

With regard the archaeological survey, my client was slightly surprised by the request as his recollection is that extensive surveys were undertaken about two years ago. He is also slightly aggrieved as he previously agreed to allow the survey on the understanding that he would be provided with a copy of the survey results, which he never was. This was prior to my involvement. Notwithstanding this, my client has no objection in principle to allowing access for survey, subject to agreeing the precise timing and extent of the investigation.

There is a problem with your proposed timing as it conflicts with farming activities. There is currently a rapeseed crop under cultivation which will be harvested in July and a wheat crop will be planted in mid-September. There is, therefore, a window of about five weeks from the end of July to the beginning of September during which the surveys could be undertaken. Is your client able to work within this window? If so, then our preference would be for the terms to be agreed in writing with an emphasis on minimising any disruption to farming activities and indemnifying loss. My client would also like to be provided with a copy of the survey results.

I look forward to receiving your responses to the matters raised above.

Regards
Matt

Matthew Bodley MRICS
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T: +44 (0)20 7399 0600
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

Matthew Bodley

From: Matthew Bodley
Sent: 27 May 2022 10:49
To: Peter Roberts
Subject: Tangemere - Plots 15 and 17 (Control Strips)

Hi Peter

There is another matter which I am instructed to raise with you, but thought it neater to do so by separate email as it is not directly related to the issues discussed in my earlier email. As you know there are two “control strips” which were owned by two companies controlled by my client – CS South Ltd and CS East Ltd. These were created at the time that the Bloor Option and Promotion Agreement was entered into. For housekeeping purposes my client decided to transfer the ownership of the two control strips back to Bosham Ltd and Shopwyke Ltd, the owners of plot 16.

The transfers took place on 14 February 2022, however, my client has not been able to register the transfers as a caution has been placed on the title of both strips by Capsticks on behalf of Countryside (UK) Properties Ltd and Aster 3 Ltd. We understand that Aster 3 Ltd is a registered provider and that the caution is intended to protect an agreement between the two parties relating to an affordable housing subsale.

My client would like to register the two transfers but is currently unable to do so due to the caution. I’m not entirely sure what needs to be done to enable the registration to proceed – i.e. whether the caution needs to be removed or whether the transfer can proceed whilst it remains in place provided all parties consent. This is a matter for the lawyers to deal with, but we would like your client to confirm that it will co-operate to enable the registration to occur and that they will liaise with Aster 3 to achieve this.

I look forward to hearing from you.

Regards
Matt

Matthew Bodley MRICS
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T: +44 (0)20 7399 0600
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

Matthew Bodley

From: Matthew Bodley
Sent: 08 June 2022 14:25
To: Peter Roberts
Subject: RE: Tangmere - Heavers et al

Hi Peter

I refer to my email below.

Please could you provide the information requested and respond to the points raised in order that we can properly consider your proposal.

I look forward to hearing from you.

Regards
Matt

Matthew Bodley MRICS
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We would also like to have an understanding of National Highways' position. Are you able to confirm whether they have agreed to a voluntary transfer and, if so, on what terms? Please could you also advise who is representing them in this matter.

Once we have heard back from you with the information requested we will review your proposal for the transfer of the additional land.

Although not entirely related, we are still awaiting final confirmation that the four side agreements granting replacement rights/easements relating to the medical centre have been agreed and can be engrossed and

Matthew Bodley

From: Matthew Bodley
Sent: 08 June 2022 14:28
To: Peter Roberts
Subject: RE: Tangemere - Plots 15 and 17 (Control Strips)

Dear Peter

I refer to my email below regarding the caution that your client has placed over my clients' land which is hampering their ability to deal with their land.

Have you had a chance to discuss this with your client yet? Are they agreeable to co-operating to enable my client to register their land? If not please could you explain why?

I look forward to hearing from you.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
5th Floor, 15 Hanover Square, London W1S 1HS
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M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Matthew Bodley
Sent: 27 May 2022 10:49
To: Peter Roberts <peter.roberts@dwdllp.com>
Subject: Tangemere - Plots 15 and 17 (Control Strips)

Hi Peter

There is another matter which I am instructed to raise with you, but thought it neater to do so by separate email as it is not directly related to the issues discussed in my earlier email. As you know there are two "control strips" which were owned by two companies controlled by my client – CS South Ltd and CS East Ltd. These were created at the time that the Bloor Option and Promotion Agreement was entered into. For housekeeping purposes my client decided to transfer the ownership of the two control strips back to Bosham Ltd and Shopwyke Ltd, the owners of plot 16.

The transfers took place on 14 February 2022, however, my client has not been able to register the transfers as a caution has been placed on the title of both strips by Capsticks on behalf of Countryside (UK) Properties Ltd and Aster 3 Ltd. We understand that Aster 3 Ltd is a registered provider and that the caution is intended to protect an agreement between the two parties relating to an affordable housing subsale.

My client would like to register the two transfers but is currently unable to do so due to the caution. I'm not entirely sure what needs to be done to enable the registration to proceed – i.e. whether the caution needs to be removed or whether the transfer can proceed whilst it remains in place provided all parties consent. This is a matter for the lawyers to deal with, but we would like your client to confirm that it will co-operate to enable the registration to occur and that they will liaise with Aster 3 to achieve this.

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 09 June 2022 17:25
To: Matthew Bodley
Subject: Tangmere Etc

Matt

I have your emails but have been involved in a compensation case that came to a head yesterday (it has only taken 6 years!) hence have been side-tracked and need to pick this up again.

Thanks

Peter

Peter Roberts
FRICS CEnv
Partner



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Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 15 June 2022 17:08
To: Matthew Bodley
Subject: RE: Tangemere - Plots 15 and 17 (Control Strips)

Matt

I have spoken to CPL – They don't have any control/connection over Aster 3 as they are not connected companies and, to that extent, they cannot compel them to do anything. This is not to say that CPL are unwilling to assist though.

We are not entirely clear at this end as to how what you are asking for can be achieved from a legal perspective that doesn't undermine the S106 Agreement – could you please ask your client's solicitors to set out the proposed way forward.

I am probably missing something but, whilst you say housekeeping reasons, what is the actual reason for this? I only ask from the perspective of understanding what the real issue is and whether there is an alternative way of solving the problem and am not trying to be tricky or clever!

Thanks

Peter

From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Sent: 08 June 2022 14:28
To: Peter Roberts <peter.roberts@dwdllp.com>
Subject: RE: Tangemere - Plots 15 and 17 (Control Strips)

Dear Peter

I refer to my email below regarding the caution that your client has placed over my clients' land which is hampering their ability to deal with their land.

Have you had a chance to discuss this with your client yet? Are they agreeable to co-operating to enable my client to register their land? If not please could you explain why?

I look forward to hearing from you.

Regards
Matt

Matthew Bodley MRICS
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E:

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Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 15 June 2022 18:06
To: Matthew Bodley
Subject: RE: Tangmere - Heavers et al
Attachments: Tangmere - Trial trenching plan.jpg

Matt

Ardent are drawing up a LR compliant plan for the land. The Council have also drawn up a proposed Deed for my suggested way forward. I anticipate that these will be ready imminently. I am just keen to make sure that I give you accurate information etc on this hence whilst I do have other plans, I would rather wait till I have the definitive version.

We are progressing discussions with National Highways direct - I will update you further when I am able.

Dave Kerr of Osborne Clark has only just come back from holiday hence I need an update from him, but my recollection was that the agreements regarding the various rights of way had fallen away in light of the Council providing a unilateral open undertaking to replace the rights – I am not entirely clear what the agreements would give your client that the undertaking does not already cover and would welcome your comments in this regard.

I am not entirely clear why your client considers that the Council/CPL have not provided copies of the survey results and this point was addressed at the Public Inquiry. As you/Trevor Goode will hopefully recall, I advised the Inspector and, by extension, your client that all these reports were included within the ES submitted in support of planning application 20/02893/OUT which has been available for viewing by your client and the public on the planning portal since November 2020 i.e., well before the Inquiry. I am not entirely convinced that the link will work but to save you searching the LPA planning portal you might like to try this -

<https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QJZZT4ERUA00>

The further survey work is required by the LPA in respect of the discharge of planning conditions and therefore will be in the public domain on the LPA planning portal and freely available to your client.

With regard to the timings for further surveys, CPL are now proposing 5-6 weeks from the 1 August – would this work? In addition, it would be helpful if you could advise as to your proposed harvest/crop timings for Tangmere Corner. I have attached a plan illustrating the extent of the works to be undertaken.

Do you have any idea when your client intends to provide me with an unredacted copy of the Option Agreement?

Thanks

Peter

From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Sent: 08 June 2022 14:25
To: Peter Roberts <peter.roberts@dwdllp.com>
Subject: RE: Tangmere - Heavers et al

Hi Peter

I refer to my email below.

Matthew Bodley

From: Matthew Bodley
Sent: 08 July 2022 18:14
To: Peter Roberts
Subject: RE: Tangmere - Heavers et al
Attachments: scan0238.pdf

Hi Peter

Without Prejudice

Thanks for your email which I have now discussed with my client. I respond to the various points under the sub-headings below.

Proposed Agreement to transfer the "Surplus" Strip

My client is agreeable in principle to the transfer of the surplus strip broadly in accordance with the terms outlined in the transfer agreement attached to your email. This will be subject to the addition of some form of words that states that my client's land (plot 16 as amended) has direct access to the public highway via the A27/A285 junction, suitable to create an access sufficient for the development of the TSDL.

In order to progress this we will require a costs undertaking for mine and Ashurst's costs for negotiating the agreement.

Survey Access

My client is agreeable in principle to providing access for survey, subject to the comments below and also subject to an undertaking on Ashurst's costs for agreeing a suitable licence for access. Please could you ask your client's solicitor to prepare a draft licence and plan, having regard to the comments below, and email them directly to Trevor Goode at Ashurst to progress.

I attach a copy of the plan you provided to which my client has made manuscript comments. The area hatched green is sown with Oil Seed Rape (OSR) which should, subject to the weather, be harvested by early August. The other two areas (hatched pink) are sown with beans which should be harvested by mid-September (this includes Tangmere Corner).

Subject to having harvested these crops, my client should be able to provide access to the OSR areas by the second week of August and the Beans areas by the third week of September, however, some flexibility will be required in the event of delays.

My client also need the land back by the 10 October to sow next year's crop. We appreciate this is quite tight for Countryside for the areas currently sown with Beans, but these areas appear to be subject to fewer surveys, so hopefully they can make this work.

Caution on Title of Control Strips

With regard the caution on my client's title which has been delaying registration, thanks for agreeing to assist if you can. My understanding is that the presence of the caution is delaying the registration of title. Therefore, we are just seeking co-operation from CPL and Aster to allow registration to occur because the agreement between CPL and Aster does not affect this land and should not have been registered as a caution against the title.

Bloor Option and Promotion Agreement

Finally, regarding the unredacted version of the Bloor Agreement, I am instructed that my client is prepared to provide a copy in exchange for copies of the agreements which your client completed with the Church, Pitts and Seaward.

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 13 July 2022 14:37
To: trevor.goode@ashurst.com; Matthew Bodley
Cc: Dave Kerr; John Webster
Subject: FW: Tangmere - Licence for Heaver [RC-ACTIVE.FID798306]
Attachments: 7. Heaver Official Copy (Title Plan) - WSX217492.pdf; 10. CS SOUTH LTD Official Copy (Title Plan) - WSX355209.pdf; 9. CS East Official Copy (Title Plan) - WSX355210.pdf; 13. Heaver Official Copy (Title Plan) - WSX276484.pdf; 14. Heaver Official Copy (Title Plan) - WSX225302.pdf; Heaver licence - Plan.pdf; Tangmere - Licence 130722.docx

Matt

Please see attached – I would be grateful if you/Trevor would now progress.

In a nutshell we need-

- 1) Completion of the land transfer previously sent to you
- 2) Completion of the attached licence

Kind regards

Peter

Peter Roberts
FRICS CEnv
Partner



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Linked in

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Matthew Bodley

From: Matthew Bodley
Sent: 26 July 2022 11:33
To: Peter Roberts; trevor.goode@ashurst.com
Subject: RE: Tangmere - Without Prejudice

Peter

Please could you send me the contact details of the person you are dealing with at National Highways.

Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Matthew Bodley

From: Matthew Bodley
Sent: 26 July 2022 12:40
To: Peter Roberts; trevor.goode@ashurst.com
Subject: RE: Tangmere - Without Prejudice

Peter

There appears to have been a change of position from NH in terms of on the one hand what is stated in their current published documents (and apparently they said prior to the public inquiry) and on the other hand what you are now telling me they are telling you now. We don't understand this and we would like to speak to them directly to find out more rather than going via you as an intermediary. We can make our own enquiries directly to NH but it will probably take some time to track down the right person which is a waste of time and money which we would prefer to avoid. That time and money could be saved if you would simply provide the contact details requested.

It seems that you are not prepared to do that, which is disappointing and frankly makes no sense to us. You appear to be being deliberately obstructive for no apparent reason.

Please seek your client's instructions on the matter and confirm whether or not you are prepared to provide the contact information. Once we have your response we will know where we stand and take it from there.

Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 26 July 2022 12:17
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>; trevor.goode@ashurst.com
Subject: RE: Tangmere - Without Prejudice

Matt

I will take instructions but I am not clear as to how that would assist matters – perhaps you could elaborate.

If you have any documents or evidence supporting your claim that your client has the right to construct an access suitable for servicing development then now would be a good time to provide it for everyone's sake.

Thanks

Peter

From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Sent: 26 July 2022 11:33
To: Peter Roberts <peter.roberts@dwdllp.com>; trevor.goode@ashurst.com
Subject: RE: Tangmere - Without Prejudice

Peter

Matthew Bodley

From: Matthew Bodley
Sent: 04 August 2022 09:39
To: Peter Roberts; 'Trevor.Goode@ashurst.com'
Cc: Dave Kerr
Subject: RE: Heaver Licences
Attachments: Tangmere - Licence 290722 (002) - MB amends.docx

Subject to Contract

Hi Peter

I've discussed the updated draft licence document with my client and attach a track change amended version.

As you know I'm on leave this week but my client was keen that I dealt with this now as he is on leave from next Wednesday (10th) and wants this resolved before he goes as he will be unable to deal with it whilst he is away. This means that whilst I've discussed this with my client I have not yet discussed with my client's solicitor as I don't want to intrude further into my holiday. Therefore, the revised draft is subject to any further comments from Ashurst.

As you will see I have included a licence fee of £20,000. From the plan you sent me there appear to be 106 trenches proposed on the land. I have applied the National Highways published licence fee rate (excluding disturbance) of £200 per trench / pit / borehole. This equates to £21,200 which I have rounded down to £20,000.

I should be grateful if you could take instructions and get back to me quickly in order that we can resolve before my client goes away.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 02 August 2022 13:38
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>; 'Trevor.Goode@ashurst.com' <trevor.goode@ashurst.com>
Cc: Dave Kerr <Dave.Kerr@osborneclarke.com>
Subject: Heaver Licences

Matt/Trevor - Please see attached regarding the licence.

Dave – I assume that you have sent the Medical Centre documents direct to Trevor. If not, I would be grateful if you would do so.

Many thanks

Peter

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 05 August 2022 12:36
To: Matthew Bodley; 'Trevor.Goode@ashurst.com'
Cc: Dave Kerr
Subject: RE: Heaver Licences

Matt

Subject to Contract

I don't have client's instructions as we are trying to get a meeting together to discuss with CPL.

You have amended the occupation dates to run to 10 October. CPL can get the trenching done but not the mitigation works so they will need a second licence unless we have agree terms for the transfer of land in the meantime. If you want to specify that the trenching is done by 10 October then fine but there doesn't seem much point having to then agree a second licence for the mitigation within the extended period.

As discussed, it is double counting to be paying a trenching fee and then crop loss on top – the whole point of the trenching fees paid by SU etc is to cover all heads of compensation. As such anything CPL pay now would be deducted from any future crop loss payments by the Council.

We also need to make sure that there isn't any duplication between compensation losses paid under the license and "shadow losses" when the main compensation claim comes in.

As I say – I don't have any instructions but I am mindful of timescales hence the above comments.

Thanks

Peter

From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Sent: 04 August 2022 09:39
To: Peter Roberts <peter.roberts@dwdllp.com>; 'Trevor.Goode@ashurst.com' <trevor.goode@ashurst.com>
Cc: Dave Kerr <Dave.Kerr@osborneclarke.com>
Subject: RE: Heaver Licences

Subject to Contract

Hi Peter

I've discussed the updated draft licence document with my client and attach a track change amended version.

As you know I'm on leave this week but my client was keen that I dealt with this now as he is on leave from next Wednesday (10th) and wants this resolved before he goes as he will be unable to deal with it whilst he is away. This means that whilst I've discussed this with my client I have not yet discussed with my client's solicitor as I don't want to intrude further into my holiday. Therefore, the revised draft is subject to any further comments from Ashurst.

As you will see I have included a licence fee of £20,000. From the plan you sent me there appear to be 106 trenches proposed on the land. I have applied the National Highways published licence fee rate (excluding disturbance) of £200 per trench / pit / borehole. This equates to £21,200 which I have rounded down to £20,000.

Matthew Bodley

From: Matthew Bodley
Sent: 08 August 2022 17:18
To: Peter Roberts; 'Trevor.Goode@ashurst.com'
Cc: Dave Kerr
Subject: RE: Heaver Licences

Subject to Contract

Hi Peter

I've just come off a Teams meeting with my client to discuss your latest email regarding the licence for survey access.

My clients need the land back by 10 October at the latest. My clients intend to grow wheat in both fields and they need the land back in its mitigated state by 10 October in order to achieve this. If they don't have it back by then they will lose next year's crop which will equate to a loss of circa £80,000 based on an average yield of 4.5 tonnes per acre across the combined site area of circa 58 acres at £300 per tonne.

Therefore, we are only prepared to enter into an agreement based on a handback date of later than 10 October if your client is prepared to agree to a compensation payment of £80,000 for crop loss. If your client is prepared to agree this then they can have a licence for the whole year as proposed in your original drafting.

With regard to the proposed licence fee of £20,000 I do not agree that this amounts to double counting with any crop loss. It is well established compensation law that a claimant is entitled to a sum to reflect the value of the land plus an amount for disturbance. The licence fee is akin to the rent for occupation of the land. This principle is clearly followed in the National Highways published licence rates within the "Your property and land surveys" document. Page 6 of the document states that these rates do not include disturbance payments such as crop loss.

Therefore, in summary, my client is prepared to proceed on one of the following two bases:

- In accordance with the draft I sent you on 4 August; or
- A licence for a whole year provided your client agrees to a crop loss payment of £80,000 in addition to the £20,000 licence fee.

Please let me know how your client would like to proceed.

If you would like to discuss please feel free to call me on the mobile.

Regards
Matt

Matthew Bodley MRICS
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E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 05 August 2022 12:36
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>; 'Trevor.Goode@ashurst.com' <trevor.goode@ashurst.com>

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 08 August 2022 18:12
To: Matthew Bodley
Cc: trevor.goode@ashurst.com; Dave Kerr
Subject: Re: Heaver Licences

Matt

For clarity - is your 80k the gross value of the crop i.e sale price or the profit after deduction of cost?

Thanks

Peter

Peter Roberts

FRICS CEnv

Partner



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On 8 Aug 2022, at 17:17, Matthew Bodley <Matthew@matthewbodleyconsulting.com> wrote:

Subject to Contract

Hi Peter

I've just come off a Teams meeting with my client to discuss your latest email regarding the licence for survey access.

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Therefore, we are only prepared to enter into an agreement based on a handback date of later than 10 October if your client is prepared to agree to a compensation payment of £80,000 for crop

Matthew Bodley

From: Matthew Bodley
Sent: 09 August 2022 09:44
To: Peter Roberts
Cc: trevor.goode@ashurst.com; Dave Kerr
Subject: RE: Heaver Licences

Peter

I requested clarification from my client – his response is as below.

“The £80,000 is the estimated sale price of the crop.

There are production costs, but we have incurred the vast majority of these already i.e. we have already bought the seed, fertiliser, machinery, etc and employed the labour. There will be some savings (i.e. fuel), but these are likely to be very small.

More importantly, we may not be entitled to receive our BPS (Basic Payment Scheme) grants if we don't actually grow crops. This will be worth more than the likely savings.

I can look in more detail at what savings might be available, but as part of this I will also want to look at the potential loss of grants. If the advice is that the grants may be lost, then I suspect that with this included the figure to claim will be more than £80,000 after deducting the savings.

I can't do this until I am back from holiday and neither can my farm manager as he is focussed on harvest. Tricky time of year I am afraid!”

Matt

Matthew Bodley MRICS
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M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 08 August 2022 18:12
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Cc: trevor.goode@ashurst.com; Dave Kerr <Dave.Kerr@osborneclarke.com>
Subject: Re: Heaver Licences

Matt

For clarity - is your 80k the gross value of the crop i.e sale price or the profit after deduction of cost?

Thanks

Peter

Peter Roberts
FRICS CEnv
Partner

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 10 August 2022 10:39
To: Matthew Bodley
Cc: trevor.goode@ashurst.com; Dave Kerr
Subject: RE: Heaver Licences
Attachments: 2022-05-25 Letter to M Leach.pdf

Matt

I have spoken with CPL. In an ideal world they would have liked to agree terms for the licence with your client to get on site this year but I see little prospect of that now. I am therefore assuming that there isn't much point in continuing those discussions for the time being.

This leaves two issues – namely the Medical Centre agreements and the acquisition of the strip. I understand that the Medical Centre agreements are being progressed between Dave and Trevor and should be completed imminently. This just leaves the strip.

The Council's preference is that your client enters into a voluntary agreement whereby Plot 16 is agreed to include the strip and compensation would be assessed on the basis that they are in the same ownership. Your client would then be free to make whatever arguments they wish.

Your client has rejected this approach unless the Council agrees up front that your client has full ability to construct a connection to the A27 that is capable of adoption, but no evidence has been produced to support this position. In contrast, I have provided full evidence of the actual position to you which is as follows:

- The highway in question is not adopted (you have the proof of that)
- Your client does have general access rights but does not have any right to construct anything on the land in question (you have the proof that also)

If your client is able to produce evidence that contradicts either of these points then we can take that into account with the Tribunal being the ultimate arbiter. However, as I am sure you will be aware, in the meantime, the Council does not have the ability to agree to your client's proposals even if they wanted to. As such, this is not a negotiating position but a statement of reality.

The alternative is that the Council secure CPO 2. Your client will be the only statutory objector and our position will be that any objection your client makes is solely about money which is not a relevant consideration and that the terms we have offered are entirely reasonable and compliant (i.e., a repeat of last time). This is not meant as a threat but there is no point pretending otherwise. This of course will delay matters which is not helpful to anyone, but I see no alternative to break through this impasse unless you have any alternative suggestions.

I have attached a letter from the Council to CPL confirming their intention to commence CPO proceedings if required and their agreement to amending the Development Agreement to reflect the current position.

I would be grateful if you would revisit the previous terms offered to your client – they do not harm them in any way nor interfere with their ability to argue their position in respect of access and their full entitlement to compensation is upheld.

I look forward to hearing from you.

Peter

Martin Leach
Managing Director
Countryside Properties
The Drive
Brentwood
Essex CM13 3AT

If calling please ask for:

Our ref: AF/ZAH

Date: 25 May 2022

Dear Martin,

Tangmere Strategic Development Location (“TSDL”)

I write to you on behalf of Chichester District Council (“the Council”) to confirm that as Acquiring Authority, the Council fully supports the Compulsory Acquisition of further land to facilitate access from the A27 Roundabout Junction adjacent to the redline of the Chichester District Council (Tangmere) Compulsory Purchase Order 2020 (“CPO 1”). This further land is shown edged red on the attached plan (“the Access Land”).

The Council acknowledges that contrary to the position given by West Sussex County Council’s records prior to the Inquiry, it has been confirmed that the track leading from the A27 Roundabout to Plot 16 of CPO 1 is not adopted highways land. It is agreed by the Council that this necessitates the use of further compulsory purchase powers to acquire the Access Land in the event that a voluntary agreement cannot be reached expeditiously with relevant landowners. It is understood that the majority of the Access Land is in the ownership of National Highways with a small section falling within the alleged ownership of Shopwyke Limited and Bosham Limited. In this regard, the Council confirms that it is willing to promote a supplementary Compulsory Purchase Order (“CPO 2”).

Further, it is also agreed by the Council that the programmed vesting of the land under CPO 1 in September 2022; as anticipated by the Development Agreement dated 5 February 2019 (as varied by the Supplemental Agreements dated 3 April 2020 and 6 September 2021) (“the Varied Development Agreement”) will not occur until CPO 2 has been confirmed in respect of the Access Land, in the circumstances that CPO 2 has been required to be pursued.

As such, the Council agrees that the Phasing Strategy and Programme as set out in the Varied Development Agreement will also require amendment accordingly to reflect that the vesting of land under CPO 1 will only occur simultaneously with the vesting of land under CPO 2.

Yours faithfully,

A handwritten signature in black ink that reads 'Andrew Frost'.

Andrew Frost
Director of Planning & Environment

Matthew Bodley

From: Matthew Bodley
Sent: 10 August 2022 17:25
To: Peter Roberts
Cc: Trevor.Goode@ashurst.com; Dave Kerr
Subject: Re: Heaver Licences
Attachments: image001.png; image002.png; 2022-05-25 Letter to M Leach.pdf

Hi Peter

Thanks for your email. I'll have to take instructions. This will take a little while as my client has just gone on leave.

Just for the sake of complete clarity are you saying that your client will not be proceeding with its request for access to undertake surveys at this time?

Matt

On 10 Aug 2022, at 10:39, Peter Roberts <peter.roberts@dwdllp.com> wrote:

Matt

I have spoken with CPL. In an ideal world they would have liked to agree terms for the licence with your client to get on site this year but I see little prospect of that now. I am therefore assuming that there isn't much point in continuing those discussions for the time being.

This leaves two issues – namely the Medical Centre agreements and the acquisition of the strip. I understand that the Medical Centre agreements are being progressed between Dave and Trevor and should be completed imminently. This just leaves the strip.

The Council's preference is that your client enters into a voluntary agreement whereby Plot 16 is agreed to include the strip and compensation would be assessed on the basis that they are in the same ownership. Your client would then be free to make whatever arguments they wish.

Your client has rejected this approach unless the Council agrees up front that your client has full ability to construct a connection to the A27 that is capable of adoption, but no evidence has been produced to support this position. In contrast, I have provided full evidence of the actual position to you which is as follows:

1. The highway in question is not adopted (you have the proof of that)
2. Your client does have general access rights but does not have any right to construct anything on the land in question (you have the proof that also)

If your client is able to produce evidence that contradicts either of these points then we can take that into account with the Tribunal being the ultimate arbiter. However, as I am sure you will be aware, in the meantime, the Council does not have the ability to agree to your client's proposals even if they wanted to. As such, this is not a negotiating position but a statement of reality.

The alternative is that the Council secure CPO 2. Your client will be the only statutory objector and our position will be that any objection your client makes is solely about money which is not a relevant consideration and that the terms we have offered are entirely reasonable and compliant (i.e., a repeat of last time). This is not meant as a threat but there is no point pretending otherwise.

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 10 August 2022 17:33
To: Matthew Bodley
Cc: Trevor.Goode@ashurst.com; Dave Kerr
Subject: RE: Heaver Licences

Matt – No access will now be taken until a GVD has been served. The timing of the GVD will depend upon whether your client is prepared to enter into an agreement on the proposed terms before we have a confirmed CPO 2. My hope is that you and your client will see the merits of an early agreement that assumes that Plot 16 and the strip are merged together under the existing CPO and keep your powder dry on the access points for discussion at a later date but I will leave that with you.

Thanks

Peter

From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Sent: 10 August 2022 17:25
To: Peter Roberts <peter.roberts@dwdllp.com>
Cc: Trevor.Goode@ashurst.com; Dave Kerr <Dave.Kerr@osborneclarke.com>
Subject: Re: Heaver Licences

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Your client has rejected this approach unless the Council agrees up front that your client has full ability to construct a connection to the A27 that is capable of adoption, but no evidence has been

Matthew Bodley

From: Matthew Bodley
Sent: 10 August 2022 19:01
To: Peter Roberts
Cc: Trevor.Goode@ashurst.com; Dave Kerr
Subject: Re: Heaver Licences

Thanks for confirming.
Matt

On 10 Aug 2022, at 17:33, Peter Roberts <peter.roberts@dwdllp.com> wrote:

Matt – No access will now be taken until a GVD has been served. The timing of the GVD will depend upon whether your client is prepared to enter into an agreement on the proposed terms before we have a confirmed CPO 2. My hope is that you and your client will see the merits of an early agreement that assumes that Plot 16 and the strip are merged together under the existing CPO and keep your powder dry on the access points for discussion at a later date but I will leave that with you.

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From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Sent: 10 August 2022 17:25
To: Peter Roberts <peter.roberts@dwdllp.com>
Cc: Trevor.Goode@ashurst.com; Dave Kerr <Dave.Kerr@osborneclarke.com>
Subject: Re: Heaver Licences

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Matt

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Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 08 September 2022 14:27
To: Matthew Bodley
Subject: Tangmere

Matt

I hope you had a good holiday – I can't remember when your client was due back from holiday but thought it would be helpful to have a catch up next week if you are free at any point.

Thanks

Peter

Peter Roberts
FRICS CEnv
Partner



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Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 16 December 2022 17:40
To: Matthew Bodley
Subject: Tangmere - your client - Heavers et al
Attachments: 221612 - PR Let to M Bodley.pdf; 22-06-18_121202_Peter Roberts_RE Tangmere - Heavers et al.msg; Required Unadopted Land (Heaver).pdf; Unadopted National Highways Land for acquisition.pdf; Highway Junction.pdf; Adopted Highway (pink = NH and hatched = County).pdf

Matt

I trust you are well and looking forward to the Christmas break.

The Council would like to take matters forward with your client preferably by voluntary agreement – I have therefore attached a letter setting out the position and setting out 2 voluntary proposals.

I look forward to hearing from you.

Kind regards

Peter

Peter Roberts
FRICS CEnv
Partner



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16 December 2022
Our Ref: 13252

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E: info@dwdllp.com
W: dwdllp.com

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 stylized flourish.

Peter Roberts

FRICS CEnv

Partner

DWD

peter.roberts@dwdllp.com

020 7489 4835

Matthew Bodley

From: Matthew Bodley
Sent: 22 December 2022 15:14
To: Peter Roberts
Subject: RE: Tangmere - your client - Heavers et al

Dear Peter

I refer to your email and letter of 16 December, which I have discussed with my client and Ashurst. We have talked through the various options and my client is considering how he would like to proceed. To this end, it would be helpful if you could provide some further information.

As you know, my client's position is that he could and would have been able to secure planning permission for an independent development of his land in the absence of the CPO, and that he would be able to achieve a suitable access from the A27 to facilitate this in the no scheme world. My client does not want to put the Council and Countryside to the trouble of going through a second CPO process for the sake of it, and would prefer to avoid the further delay that this would entail. On that basis options 1 and 2 are of interest to him. However, he needs to protect his position. To this end, if he agrees to a voluntary transfer of the land, this should not in any way be considered to be a change in his position that he has the ability to bring forward an independent development of his land in the no scheme world. My client intends to make his case on this point at the Upper Tribunal in the event that the CPO is implemented. Therefore, any agreement for a voluntary transfer would be without prejudice to my client's position. This would need to be addressed in the agreement.

Also, as previously stated on a number of occasions, it would be helpful for us to understand the position being adopted by National Highways (NH) in order for my client to decide upon his preferred way forward. As you know the land upon which the current alignment of the A27 sits was acquired from my client's father in the shadow of a CPO in the late 1990s, and I think it is entirely reasonable for my client to understand NH's position in respect of this land. I have repeatedly asked you to tell me what position NH are adopting in this matter and to provide me with the contact details of the relevant person you have been dealing with there, but you have repeatedly refused to provide me with this information, which I consider to be inappropriate behaviour by an acquiring authority exercising CPO powers. Had you provided me with this information when I requested it, we would have been able to resolve this matter by now.

I note from your letter that Carter Jonas have been advising NH. Please could you tell me who it is at Carter Jonas that has been dealing with the matter.

The other matter which is relevant to my client's decision making process is the likely timing of the acquisition of his interests in the main CPO as, amongst other considerations, these plots are currently farmed. Therefore, he may want the acquisition to be timed in such a way as to mitigate adverse impacts on crops in the ground. If my client agrees to a voluntary transfer, when would the land in the main CPO be vested?

Therefore, in summary, in order to assist my client in deciding whether or not he agrees to one of the voluntary transfer options, please could you provide the following:

- Confirmation, on behalf of the Council and Countryside, that if my client agrees to a voluntary transfer of his interest the agreement will contain confirmation that the transfer is without prejudice to his position regarding his ability to develop his land independently in the no scheme world.
- Contact details for the appropriate person at NH and/or Carter Jonas.
- Confirmation of the likely vesting date for the main CPO in the event my client agrees to a voluntary transfer.

Once you have provided the above, my client will take further advice and we will respond more fully to your letter in the New Year.

Finally, I would like to correct a comment in your letter regarding plot 18. You state that my client has never owned plot 18. In fact, Plot 18 formed part of the land which was acquired from my client's father under the 1998 Deed of Exchange. As such, in the absence of that transfer, Plot 18 would have continued to be part of my client's property. It sits within the area, coincidentally, defined as plot 18 on plan D of the Deed of Exchange which forms part of the Property which was transferred under the Deed.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 16 December 2022 17:40
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Subject: Tangmere - your client - Heavers et al

Matt

I trust you are well and looking forward to the Christmas break.

The Council would like to take matters forward with your client preferably by voluntary agreement – I have therefore attached a letter setting out the position and setting out 2 voluntary proposals.

I look forward to hearing from you.

Kind regards

Peter

Peter Roberts
FRICS CEnv
Partner



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Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 05 January 2023 16:22
To: Matthew Bodley
Subject: RE: Tangmere - your client - Heavers et al

Dear Matt

Thank you for your email of 22 December 2022. I trust that you had a good break.

I have addressed each of your points below, but the position can be summarised as follows:

- The acquisition of a freehold interest does not extinguish any Third-Party rights over the land included in that interest
- Your client uses the existing access for farming purposes – it is not suitable to provide an adopted highway access to residential development
- Your client has not provided any evidence of any existing rights to permit the construction and use of a public highway on National Highways' land
- The National Highways' land is not adopted as evidenced by the plans provided by me as supplied by National Highways
- The Council (and ultimately the Upper Tribunal) can only rely on the evidence made available to it
- There is no evidence that your client ever had an interest in Plot 18
- I have yet to receive a copy of the Option Agreement

I provide further explanation below:

Access

As stated explicitly in my previous correspondence, I have no intention of trying to undermine your client's ability to present evidence and arguments at the UTLC regarding the provision of access and construction rights. I have been entirely consistent in this regard.

For the avoidance of doubt, the acquisition of the freehold interest by the Council does not extinguish existing rights over that freehold interest. The Council is purchasing the freehold interest subject to the existing rights. Extinguishment would only happen in the event that the acquisition was pursuant to a CPO.

National Highways/Adoption

I would refer you to all our exchanges of emails in respect of this matter. I have, on more than one occasion, set out in full the National Highways' position and have included the adoption plans provided to me by both NH and the County. These are their plans (i.e., not prepared by me) and therefore are definitive as to their position.

I have been requesting that you/your client provide evidence of the alleged rights of access/rights to construct a highway since before the Inquiry but have received nothing. I have therefore been unable to present any evidence to challenge NH's position that the land is a) owned by them and b) not currently adopted by either County or NH. I have kept you full informed of this.

You previously asked for copies of the heads of terms entered into with the other landowners - I pointed out that they were confidential, and their release would require the consent of each party. My negotiations with National Highways fall into the same category and are confidential between them and my client. I totally reject your assertions and consider that both my behaviour and the Council's approach is entirely in accordance with relevant standards. I would also refer you to paragraph 1.9 of the RICS Rules of Conduct. I have provided you with all the information that is available in the public domain which you are at full liberty to verify independently.

In any event, I am aware that you have contacted Mary Oakaby and Narisa Burfoot who have confirmed their position to you so this point appears moot.

Vesting Date

I will need to discuss this with my client – does your client have any particular preferences?

Plot 18

My understanding, which you have confirmed, is that Plot 18 was owned by your client’s father, and it was he who transferred it to NH. You will be aware that the mere fact of ownership by a living parent does not grant ownership or control to the sibling(s). It is therefore factually correct that your client has never had the unfettered ability to dispose or grant rights over Plot 18. It is also the case that neither your client nor their father will have any interest in Plot 18 as at the valuation date. I therefore disagree that the land would have “*continued to be part of my client’s property*” as it was never part of his property to start with.

I would point out that, if you are seeking to mount an argument that we should disregard the 1998 transfer, you will also have to disregard the scheme that was constructed pursuant to the Order that authorised that transfer and the subsequent grant of rights.

Other Matters

I am still waiting for an unredacted copy of the Option Agreement (requested well before the Inquiry) which I had understood that your client had finally agreed to provide.

I hope that the above comments are of assistance, but I am very happy to discuss further.

Kind regards

Peter

Peter Roberts
FRICS CEnv
Partner



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Matthew Bodley

From: Matthew Bodley
Sent: 20 January 2023 12:15
To: Peter Roberts
Subject: RE: Tangmere - your client - Heavers et al

Hi Peter

I met with my client yesterday to further discuss the three options. He now needs to meet and discuss with the other stakeholders before making a decision, which is scheduled to happen next Wednesday.

He has asked me to come back to you with a couple of queries as follows:

- Timing of vesting – in my email of 22 December I asked about the timing of acquisition in the event that we went with one of the two voluntary transfer options. In your response you asked if we had any particular preferences. My client's preference would be to get on with things sooner rather than later and move toward a vesting date in the next six months (i.e. GVD to be executed in the next three months with vesting three months later). My client has a crop in the ground that they would like to harvest in August, but would rather get on with the vesting. Ideally, we would like to progress to vesting as quickly as we can with some sort of licence/tenancy at will to enable my client to continue to farm the land and get the crops out the ground by end of August, thereby mitigating their loss.
- Tangmere Corner – my client still has aspirations to retain Tangmere Corner and develop it itself (in accordance with the site wide masterplan). Is this something that the Council and Countryside would agree as part of my client's agreement to a voluntary transfer?

Please could you get back to me on these points by close of business on Tuesday 24 January so that they can be considered at the stakeholder meeting on Wednesday.

I look forward to hearing from you.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 05 January 2023 16:22
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Subject: RE: Tangmere - your client - Heavers et al

Dear Matt

Thank you for your email of 22 December 2022. I trust that you had a good break.

I have addressed each of your points below, but the position can be summarised as follows:

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 20 January 2023 12:34
To: Matthew Bodley
Subject: RE: Tangmere - your client - Heavers et al

Hi Matt

Point 1 – thanks – that is helpful.

Point 2 – I have asked the question, but I suspect that I probably won't have an answer by Tuesday due to the need to track down the decision makers – I will try though.

Thanks

Peter

From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Sent: 20 January 2023 12:15
To: Peter Roberts <peter.roberts@dwdllp.com>
Subject: RE: Tangmere - your client - Heavers et al

Hi Peter

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Matthew Bodley MRICS
Matthew Bodley Consulting

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 23 January 2023 14:24
To: Matthew Bodley
Subject: RE: Tangmere - your client - Heavers et al

Matt

As suspected, I won't have an answer to point 2 by Tuesday as not everyone is around at my end. What I would say is Colin Wilkins (your predecessor) agreed Heads of Terms with CLP for Tangmere Corner on the basis you outline but your client pulled out when you were appointed. It would be helpful to understand whether your client is seeking to resurrect those terms or is suggesting something else.

Thanks

Peter

From: Peter Roberts
Sent: 20 January 2023 12:35
To: 'Matthew Bodley' <Matthew@matthewbodleyconsulting.com>
Subject: RE: Tangmere - your client - Heavers et al

Hi Matt

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Matthew Bodley

From: Matthew Bodley
Sent: 23 January 2023 16:57
To: Peter Roberts
Subject: RE: Tangmere - your client - Heavers et al

Hi Peter

Noted that you won't have an answer to point 2 by tomorrow. Please let me know as soon as you can.

The previous Heads of Terms that you refer to related to all of my client's land holdings, not just Tangmere Corner. I assume when refer to resurrecting those terms you are just referring to the parts of them that related to Tangmere Corner. My client does not want to resurrect the whole of those terms but we can see that if we were to retain Tangmere Corner there would need to be a mechanism in place for my client to bring it forward in accordance with the masterplan. At this stage, I think if you could confirm whether or not your client would agree to the principle we can then work up the mechanism.

With regard to point 1, regarding timing, whilst you have acknowledged my client's position you haven't commented on whether or not your client agrees to it. When will you be able to respond to me on that?

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
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E: matthew@matthewbodleyconsulting.com

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Similarly, I have only been able to discuss the broad principle of allowing your client to take the harvest – in my view this would make sense but I don't have the full picture and don't have instructions as yet.

I would suggest that you assume a) CLP would agree to the previous terms but relating only to TC and b) that, regardless as to the date of any GVD, the Council/CLP would allow your client to take the August harvest. However, this comment is purely to try and help your discussions with your client and should not be taken as confirmation or otherwise as to the Council's or CLP's position and I may be mistaken.

Thanks

Peter

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Matthew Bodley Consulting
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

Matthew Bodley

From: Matthew Bodley
Sent: 23 January 2023 17:38
To: Peter Roberts
Subject: RE: Tangmere - your client - Heavers et al

Peter

Thanks, that's all understood.

Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
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Sent: 23 January 2023 16:57
To: Peter Roberts <peter.roberts@dwdllp.com>
Subject: RE: Tangmere - your client - Heavers et al

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Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 31 January 2023 15:27
To: Matthew Bodley
Subject: RE: Tangmere - your client - Heavers et al

Hi – just wondering whether you had anything to report following your client meeting last week?

Thanks
Peter

From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Sent: Monday, January 23, 2023 5:38 PM
To: Peter Roberts <peter.roberts@dwdllp.com>
Subject: RE: Tangmere - your client - Heavers et al

Peter

Thanks, that's all understood.

Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 23 January 2023 17:35
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
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Thanks

Peter

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 08 February 2023 16:16
To: Brian.Cheung@ashurst.com
Cc: liam.heeley@gateleyhamer.com; lynne.swinney@gateleyhamer.com;
'Trevor.Goode@ashurst.com'; alex.sharp@gateleyhamer.com; Yohanna Weber;
Matthew Bodley
Subject: Tangmere Chichester

Dear Brian

I understand that you have been in touch with Gateley regarding Mr Heaver and associated clients. I act on behalf of the Council and would be grateful if you could direct your queries to me rather than Gateley. I have limited availability today and tomorrow so it might be helpful if you could drop me an email with your queries in the first instance and I will endeavour to come back to you as soon as I am able.

I am not aware of my client agreeing to extend the deadline and note that no explanation as to why an extension is required has been provided – perhaps you could clarify?

I would like to take this opportunity to be clear that, contrary to what I understand your client(s) may have previously been told by Gateley, the original CPO has not expired and is still extant. CPO 2 is the same as CPO 1 except for slight amendments to the red-line plan.

As you know, your client(s) has, via Mr Bodley and his predecessor, been offered terms for a voluntary acquisition on a number of occasions, but it seems that Mr Bodley remains without instructions in this regard. I would be grateful for an update as to your client(s)' intentions.

Kind regards

Peter

Peter Roberts
FRICS CEnv
Partner



Chartered Surveyors & Town Planners
6 New Bridge Street
London
EC4V 6AB

D: 020 7489 4835
M: 07917194972
T: 020 7489 0213
peter.roberts@dwdllp.com
www.dwdllp.com
Linked in

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Matthew Bodley

From: Brian.Cheung@ashurst.com
Sent: 08 February 2023 17:45
To: peter.roberts@dwdllp.com
Cc: liam.heeley@gateleyhamer.com; lynne.swinney@gateleyhamer.com;
alex.sharp@gateleyhamer.com; Yohanna.Weber@djblaw.co.uk; Matthew Bodley;
Trevor.Goode@ashurst.com
Subject: RE: Tangmere Chichester [ASH-EUS.FID4047256]

Dear Peter

Thank you for your email.

We approached Gateley Hamer as its letters expressly state that it acts on behalf of the Council in respect of the land referencing and that any queries concerning the letters should be directed to Lynne Swinney.

An extension was agreed with Gateley Hamer as the title information is complex and thorough investigations are being undertaken to ensure that our clients comply with their duty to provide accurate responses to the Council, which will also assist the Council. As is clear from its letters, Gateley Hamer acts as the Council's agent in relation to the land referencing and it has agreed the extension in that capacity. On that basis, we will be working towards the deadline of 17 February.

In relation to the issue of voluntary acquisition, I understand that you had a conversation with Matthew Bodley earlier this week and I do not have any further update. I also understand that he had raised two queries with you which are outstanding.

Kind regards

Brian

Brian Cheung

Senior Associate

brian.cheung@ashurst.com

Ashurst

D: +44 20 7859 2732 | M: +44 7795 467 107

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

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

Sent: 08 February 2023 16:16

To: Cheung, Brian 12732 <Brian.Cheung@ashurst.com>

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 08 February 2023 18:02
To: Brian.Cheung@ashurst.com
Cc: liam.heeley@gateleyhamer.com; lynne.swinney@gateleyhamer.com;
alex.sharp@gateleyhamer.com; Yohanna.Weber@djblaw.co.uk; Matthew Bodley;
Trevor.Goode@ashurst.com
Subject: RE: Tangmere Chichester [ASH-EUS.FID4047256]

Dear Brian

Thank you for your clarification albeit I am surprised that you do not already have this information bearing in mind the history of this matter and the limited changes in the red-line boundary comparative to the current CPO hence am unclear as to what further investigations are required that warrant an extension of time. I trust that you will now be providing an unredacted copy of the Overage Agreement as part of your response.

Notwithstanding the above points, please direct your further queries to me going forward.

I am not aware of any outstanding queries from Matt Bodley. I am awaiting a response to the various offers made to him/your client.

Thanks

Peter

From: Brian.Cheung@ashurst.com <Brian.Cheung@ashurst.com>
Sent: Wednesday, February 8, 2023 5:45 PM
To: Peter Roberts <peter.roberts@dwdllp.com>
Cc: liam.heeley@gateleyhamer.com; lynne.swinney@gateleyhamer.com; alex.sharp@gateleyhamer.com;
Yohanna.Weber@djblaw.co.uk; matthew@matthewbodleyconsulting.com; Trevor.Goode@ashurst.com
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Subject: RE: Tangmere Chichester [ASH-EUS.FID4047256]

Peter

Thank you for accepting our explanation. Fresh title searches are being undertaken to ensure that the responses are up-to-date and accurate.

In relation to the option agreement, it is unclear why the land referencing exercise would require disclosure of commercially sensitive information. In any event, an unredacted copy will not be disclosed and you are aware of our client's position on this point.

The responses will of course be sent to Gateley Hamer and any further communication will be directed to the appropriate body/person.

I will leave Matthew to continue his engagement with you regarding the issue of voluntary acquisition.

Kind regards

Brian

Brian Cheung

Senior Associate

brian.cheung@ashurst.com

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Trevor.Goode@ashurst.com
Subject: RE: Tangmere Chichester [ASH-EUS.FID4047256]

Brian

I was not previously aware that you are refusing to release an unredacted copy of the Option Agreement so thank you for confirming your client(s)' position. If your client intends to pursue a compensation claim they will have to release this at some point so I don't entirely understand your position but I will leave that with you.

It's also entirely up to you how you want to proceed in dealing with the queries you wished to raise with Gateley but, if you want to save time whilst your queries are being passed back to me to deal with, it might be quicker to respect my request to contact me direct and "cut out the middle man".

I trust that you have a good evening.

Thanks

Peter

From: Brian.Cheung@ashurst.com <Brian.Cheung@ashurst.com>
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To: Peter Roberts <peter.roberts@dwdllp.com>
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I will leave Matthew to continue his engagement with you regarding the issue of voluntary acquisition.

Kind regards

Brian

Brian Cheung

Senior Associate

brian.cheung@ashurst.com

Ashurst

Matthew Bodley

From: Matthew Bodley
Sent: 23 February 2023 08:21
To: Peter Roberts
Subject: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Dear Peter

Subject to contract

I refer to our discussions regarding the small area of my client's land which adjoins plot 16 (the "Additional Land") which the Council is seeking to acquire. Your letter of 16 December 2022 put forward three options for dealing with the Additional Land. Since your letter, you and I have exchanged emails to try and clarify a couple of points regarding the likely timing of acquisition and the position regarding Tangmere Corner. My client has now given me instructions to respond to you as follows.

My client would like to proceed with Option 2, namely an agreement to transfer the Additional Land to the Council on the vesting date for plot 16. The Council would exercise a GVD in respect of plot 16 and the contract would provide for the Additional Land to transfer to the Council on the vesting date. The agreement would provide a right to compensation on the assumption that the Additional Land forms part of Plot 16. The amount of the compensation would be assessed and determined by the Upper Tribunal if not agreed. In addition to this amount, the Council will pay an additional premium of £10,000 on the date of exchange. The Council will pay my client's legal fees for dealing with the agreement, which will also be payable on exchange.

My client's acceptance of Option 2 is subject to the following conditions to be expressly provided for in the agreement:

- It is without prejudice to my client's position that it could have obtained planning permission for the development of Plot 16 in the no scheme world and it reserves the right to pursue a compensation claim in respect of Plot 16 and the Additional Land on this basis.
- All of my client's land, including Tangmere Corner, to be included in the vesting, which will occur by end of June 2023.
- Arrangements to be put in place to enable my client to take this summer's harvest (to have completed by end of August 2023).
- An advance payment of compensation to be paid on the vesting date, the amount of which is to be not less than 90% of £2,330,000 (this being your estimate of compensation as attached to your email to me of 25 August 2021). This has been rounded slightly as your estimate did not include plot 1 which is also owned by my client.
- Payment of Basic Loss Payments in respect of each interest, to be paid on the vesting date.
- A contribution toward the reasonable professional fees that my client has incurred to date payable on exchange of contracts – we will provide details of the fees incurred to date in due course.

I should be grateful if you would take client's instructions and revert.

I look forward to hearing from you.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
M: +44(0)7814 545287

Matthew Bodley

From: Matthew Bodley
Sent: 14 March 2023 10:08
To: Peter Roberts
Subject: RE: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Dear Peter

I refer to my email below.

Have you discussed this with your client? When can I expect to receive a response?

I look forward to hearing from you.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

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My client would like to proceed with Option 2, namely an agreement to transfer the Additional Land to the Council on the vesting date for plot 16. The Council would exercise a GVD in respect of plot 16 and the contract would provide for the Additional Land to transfer to the Council on the vesting date. The agreement would provide a right to compensation on the assumption that the Additional Land forms part of Plot 16. The amount of the compensation would be assessed and determined by the Upper Tribunal if not agreed. In addition to this amount, the Council will pay an additional premium of £10,000 on the date of exchange. The Council will pay my client's legal fees for dealing with the agreement, which will also be payable on exchange.

My client's acceptance of Option 2 is subject to the following conditions to be expressly provided for in the agreement:

- It is without prejudice to my client's position that it could have obtained planning permission for the development of Plot 16 in the no scheme world and it reserves the right to pursue a compensation claim in respect of Plot 16 and the Additional Land on this basis.

Matthew Bodley

From: Matthew Bodley
Sent: 18 April 2023 15:20
To: Peter Roberts
Subject: RE: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Dear Peter

I refer to your without prejudice email of 14 March. This email is being sent on an open basis and, therefore, it is not appropriate for me to comment on the content of your without prejudice email. It is not clear to me why your email of 14 March was marked without prejudice on the basis that it was in response to my open email of 23 February (below), which was in turn responding to your open letter 16 December 2022.

Your letter of 16 December explained that it was necessary for the Council to acquire additional land from my client as it had transpired that the previously confirmed CPO did not include all of the land required to deliver the Scheme for which the CPO had been made. As a result, it is necessary for the Council to acquire two additional parcels of land, one of which is owned by my client (the “**Additional Land**”) and the other being owned by National Highways. Your letter went on to set out three potential options for dealing with the acquisition of the Additional Land. Options 1 and 2 were on the basis of a private treaty agreement for the acquisition of the Additional Land. Option 3 required the Council to make a second CPO.

Your letter expressly stated that you reserved the right to bring the letter to the attention of the Inspector as part of any future Inquiry proceedings in respect of the second CPO. I assume this was on the basis that you want to present a case to demonstrate that the Council has sought to acquire the land by agreement ahead of the making of a CPO, in accordance with the DLUHC Guidance.

My email of 23 February was also on an open basis and, for the avoidance of doubt, I similarly reserve the right to bring it, and this email, to the attention of the Inspector. My email of 23 February stated that my client was prepared to proceed with a disposal of the Additional Land by agreement in accordance with your Option 2. In summary, this option provided for an agreement whereby the Council would execute a GVD in respect of Plot 16 (of the confirmed CPO1) and that the Additional Land would transfer to the Council on the vesting date and the compensation payable for Plot 16 would be assessed as if the Additional Land formed part of Plot 16. In addition, a premium of £10,000 would be paid.

My client’s acceptance of Option 2 was subject to contract and also included six conditions to be expressly provided for in the agreement, all of which I consider to be entirely reasonable. These are repeated below for ease of reference.

- The agreement is without prejudice to my client’s position that it could have obtained planning permission for the development of Plot 16 in the no scheme world and it reserves the right to pursue a compensation claim in respect of Plot 16 and the Additional Land on this basis.
- All of my client’s land, including Tangmere Corner, is to be included in the vesting, which is to occur by end of June 2023.
- Arrangements to be put in place to enable my client to take this summer’s harvest (to have completed by end of August 2023).
- An advance payment of compensation to be paid on the vesting date, the amount of which is to be not less than 90% of £2,330,000 (this being your estimate of compensation as attached to your email to me of 25 August 2021). This has been rounded slightly as your estimate did not include plot 1 which is also owned by my client.
- Payment of Basic Loss Payments in respect of each interest, to be paid on the vesting date.
- A contribution toward the reasonable professional fees that my client has incurred to date payable on exchange of contracts – we will provide details of the fees incurred to date in due course.

You appear to have taken exception to bullets 4 and 6 which relate to financial elements of the proposed agreement. You have also not provided any guidance on your clients' intentions as to timing of acquisition. I comment on each of these below:

Advance Payment

My client will require an advance payment to be made on transfer of its land interests, which is entirely reasonable. If the Council exercises its CPO powers (which it has not yet done) section 52 of the Land Compensation Act 1973 would require an advance payment to be made within two months from the date of the request (or from the date of the provision of information reasonably requested) based on 90% of the acquiring authority's estimate of compensation. As required by the DLUHC Guidance, any private treaty agreement should reflect the statutory provisions, which includes an advance payment. In an attempt to reach an agreement I proposed that the advance payment be based on your estimate of the compensation, as set out in your open email of 25 August 2021, as opposed to mine. To be clear, my estimate of compensation is significantly in excess of yours. The proposal to accept your figure for the purposes of the advance payment is purely to enable an agreement to be reached as we assumed you would agree to your own compensation estimate it without further negotiation. My client will be pursuing its claim for the full value of its land and associated compensation, in due course.

Your aforementioned email of 25 August 2021 had a schedule attached called "*Compensation Offer Table*". Within the email you described the Table as being "*a schedule of values for each interest/plot which adopts a strict compensation code approach having regard to the actual circumstances of ownership and matters to which each title is subject*". The email went on to describe the table as being your assessment of "*what willing purchasers in the market would pay to acquire your various clients' interests by reference to the "Rule 2" definition of market value*".

You stated that it was your "*opinion that, in the "no scheme world", the hypothetical purchasers of the various interests would form the opinion that Plot 16 was burdened by an Option Agreement, and that there was limited expectation of planning permission being granted*" and that "*Until and unless you demonstrate otherwise I am struggling to understand why anyone would bid for the land owned by your various clients other than in accordance with their current use*".

You concluded by stating "*Overall, therefore, it is my opinion that the UTLC would determine the market value of each of your clients' interests in each of the plots on the basis of their current use, albeit with a limited premium to reflect the longer term prospect of development in respect of plots 2, 4 and 16 as set out on the attached schedule. Taking this into account I have calculated Rule 2 compensation to your various clients totalling £2,329,550*". Whilst I do not agree with your statements, I had taken them to mean that you consider that the market value of the land should disregard the Bloor Option and any redevelopment potential and should instead be based on the existing use value of the land, subject to a small premium for long term hope value, and that this was therefore your opinion of the Rule 2 compensation. If I have misunderstood then I struggle to see what the purpose of your email of 25 August 2021 was.

I had therefore, understood the "*Compensation Offer Table*" to be your estimate of compensation forming the basis of the offer which I had understood you to be making at the time. It was for this reason that I proposed that the advance payment be based on 90% of £2,330,000, which represents a rounding up of £450 (i.e. the acquiring authority's estimate of compensation). As stated in my earlier email, your compensation table did not include Plot 1 which is recorded in the CPO Schedule as being in unknown ownership. However, as previously advised, it is owned by my client. The plot is 271m² which, based on the rate per acre you have applied, would take your compensation estimate to in excess of £2,330,000.

I am aware that you have, in the past, requested an unredacted copy of the Bloor Option Agreement (**BOA**), however, your email of 25 August 2021 makes clear that you have considered the BOA and concluded that it had no impact on value in arriving at your assessment of market value on a Rule 2 basis. I comment further on the BOA below.

Professional Fees

We have requested that you make a "*contribution*" towards my client's fees, to be paid on exchange of contracts. We have not required you to pay them in full. If you agree to proceed on the basis proposed, I will send you full details of the fees incurred to date and you can then make an assessment of the level of contribution the

Council should pay. However, until we receive an agreement in principle we are not prepared to spend time pulling together the information. My client will be seeking recovery of its fees in full as part of the compensation claim, but is not able to pursue this until the powers are exercised. To date my client has not received a penny from the Council or Countryside and, therefore, requires the advance payment to include a contribution towards its fees as part of any agreement for the transfer of the Additional Land, which I believe to be fair and reasonable.

Bloor Option Agreement (BOA)

My client has, in the past, offered to provide an unredacted copy of the BOA in exchange for copies of the agreements which your clients have entered into with the Church Commissioners and the Pitts family. You have refused to provide these, apparently on the grounds of commercial confidentiality. It is not clear to me why you consider that agreements entered into by a public body (or its partner) with landowners under the threat of CPO should be subject to confidentiality, whereas an agreement willingly entered into by my client with another private entity should not. The agreements that the Council/Countryside has entered into with neighbouring landowners within the CPO are clearly relevant considerations in the assessment of the market value of my client's land and will, therefore, be a matter for disclosure proceedings in due course, if necessary.

Notwithstanding your refusal to provide copies of the agreements requested, my client may be willing to provide an unredacted copy of the BOA subject to the Council providing some assurances on timing i.e. there is a desire for certainty as to the likely timescale for acquisition of my client's interests, and the relevance of BOA now given that it expires in 2024.

Timescales

My client has been living with the uncertainty caused by the threat of CPO for many years and does not want this to continue any longer than it has to. For this reason I was instructed to send you my email of 23 February 2023 confirming my client's acceptance of your proposal referred to as Option 2 in your letter of 16 December 2022, with a request that the vesting take place by end of June this year.

We do not know what your clients' intentions are as to timing. I have previously asked but you did not answer. Nearly two months have passed since my email of 23 February confirming that my client is prepared to proceed with a transfer of the Additional Land in accordance with your proposed Option 2, subject to, amongst other things, vesting by the end of June 2023. This is clearly no longer achievable, however, there is a window of opportunity to reach an agreement for a vesting of the land to occur by the end of August. This date is important to my client as the current crop will be harvested in August and the next crop will be sown in September for harvest in July / August 2024.

In the interests of trying to reach an agreement my client has stated that it is, in principle, agreeable to releasing an unredacted copy of the BOA if your clients will confirm that the timing of the acquisition under Option 2 will meet my client's requirements regarding harvesting and will take place prior to the BOA expiring in 2024. We are aware that the Council has recently made a second CPO (CPO2) which we find surprising given my client's willingness to proceed on the basis of Option 2 (which you proposed) and your earlier statements that you had reached agreement with the only other third party, National Highways. The making of CPO2 makes us think that your clients are now working to a much more prolonged timetable.

I should be grateful if you would confirm whether or not the Council (and Countryside) is prepared to agree to proceed on the basis of Option 2, subject to the conditions set out above, and confirm the timing for such an acquisition. As you will appreciate, Option 2 also has the advantage of providing the Council (and Countryside) with the certainty that it can acquire my client's land interests by agreement and therefore avoid the need for those interests to be included in the second CPO which was made by the Council on 30 March 2023 at a time when it was clear to the Council that my client was willing to sell its land interests, on reasonable terms, and that compulsory acquisition was / is unnecessary.

I look forward to hearing from you.

Regards
Matt

Matthew Bodley

From: Matthew Bodley
Sent: 25 April 2023 14:24
To: Peter Roberts
Subject: RE: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Dear Peter

I refer to my email below, to which I have not received a response.

Please could you provide a substantive response as soon as possible. As you are aware, the deadline for objecting to CPO2 is 5 May and my client would like to understand the Council's position before deciding how to proceed.

I look forward to hearing from you.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Matthew Bodley
Sent: Tuesday, April 18, 2023 3:20 PM
To: Peter Roberts <peter.roberts@dwdllp.com>
Subject: RE: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Dear Peter

I refer to your without prejudice email of 14 March. This email is being sent on an open basis and, therefore, it is not appropriate for me to comment on the content of your without prejudice email. It is not clear to me why your email of 14 March was marked without prejudice on the basis that it was in response to my open email of 23 February (below), which was in turn responding to your open letter 16 December 2022.

Your letter of 16 December explained that it was necessary for the Council to acquire additional land from my client as it had transpired that the previously confirmed CPO did not include all of the land required to deliver the Scheme for which the CPO had been made. As a result, it is necessary for the Council to acquire two additional parcels of land, one of which is owned by my client (the "Additional Land") and the other being owned by National Highways. Your letter went on to set out three potential options for dealing with the acquisition of the Additional Land. Options 1 and 2 were on the basis of a private treaty agreement for the acquisition of the Additional Land. Option 3 required the Council to make a second CPO.

Your letter expressly stated that you reserved the right to bring the letter to the attention of the Inspector as part of any future Inquiry proceedings in respect of the second CPO. I assume this was on the basis that you want to present a case to demonstrate that the Council has sought to acquire the land by agreement ahead of the making of a CPO, in accordance with the DLUHC Guidance.

My email of 23 February was also on an open basis and, for the avoidance of doubt, I similarly reserve the right to bring it, and this email, to the attention of the Inspector. My email of 23 February stated that my client was

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 25 April 2023 14:52
To: Matthew Bodley
Subject: RE: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Dear Matthew

I would hope that you are aware of the presumption applied by the Courts that all communications relating to negotiations between the parties to a dispute are considered to be “without prejudice” regardless as to whether or not they are marked accordingly. There is nothing within my email dated 25 August 2021 to indicate that it should be excluded from that principle and, as far as I am concerned, it was and remains “without prejudice”. It therefore follows that you cannot put your email of 18 April 2023 in front of either the Inquiry or the UTLC as it contains information that was provided to you during the course of negotiations that remains “without prejudice”. Similarly, your email dated 23 February 2023 also refers to “without prejudice” information, namely the details of the previous financial offer.

If it assists you, I am happy to confirm that my letter of 16 December 2022 is to be treated as “without prejudice”.

I address your other points below:

Advance Payment

Your client would have a statutory right to request an advance payment and the Council has no intention of trying to subvert that. The issue is the amount of the advance payment and the statutory basis of its computation.

As you are aware, the claimant is expected to provide all information that is relevant to the valuation exercise in order to enable the acquiring authority to make an advance payment. In this regard your client was issued with statutory requests for information (see attached response which, despite your client’s solicitor requesting an extension of time, lacks substance and completely ignores the point) together with numerous other requests but has so far refused to provide the following:

- a) Unredacted copy of the Option Agreement
- b) Copies of all leases granted in respect of the land
- c) Legal documents relating to the access from the A27 (I have sourced these from NH)

I am unclear as to why you expect the Council to carry out an accurate valuation in accordance with the statutory requirements of an advance payment without these. In this regard, the delay in the Council being able to form a view as to the quantum of advance payment due is entirely of your client’s own making.

For clarity, the assessment of the “advance payment” will be carried out by Batchelor Monkhouse. However, whilst I have received generic advice, they are unable to complete their valuation due to the missing information.

You refer to the Heads of Terms dated 25 August 2021. However, you are overlooking the fact that these assumed that your client had unfettered rights to construct an access to the A27. It is now clear that this assumption was incorrect.

This was also a commercial offer whereby there would be no need to continue to incur the costs of securing the Order or utilising statutory powers. As such, a view was taken as to the potential lease and option terms until such time that they would, inevitably, be provided and the cost savings that would result from an early agreement. Unfortunately, your client decided to maintain their objection and take part in the proceedings as the sole objector rather than accepting the terms put to them.

I am fully aware of your client's view on the planning prospects and value. However, a statutory advance payment is, as you know, 90% of the authority's opinion of value **NOT** the claimant's and your client has no ability to dictate the amount of payment. In simple terms, the Council's opinion as at today is that your client's land does not benefit from hope value and, even if such hope value could be proved, they would be ransomed by the land to the south and the access to the A27. In addition, from what I know in respect of the Option Agreement, any purchaser would have been gambling on that Option Agreement being triggered and calculated their bid accordingly. I have no doubt that you disagree and you will be able to set out your client's position in due course together with full supporting title information and evidence but, at present, it is the Council's opinion that is valid.

In short, the Council are very happy to make an advance payment but only on a strict statutory basis where they have been provided with full disclosure and are free to base the assessment on their own opinion of value.

Bloor Option

As you know, it is a legal requirement for the landowner to provide copies of all documents necessary to the valuation of land that are in their possession. Your client has decided to ignore this. Whilst your client's solicitor claims that it is commercially sensitive, they have ignored the apparent fact that the land would be sold with the burden/benefit (depending on your point of view) of that option agreement.

The agreements you refer to are between the developer and the relevant landowner. As you know, the Council have CA powers over that land if the private agreements fail for any reason but will not exercise CA powers except in respect of default or other as yet unknown interests coming to light. None of the parties to those agreements have consented to provide your client with a copy of their agreement(s). This is therefore not something I can assist you even if I considered it relevant (for the avoidance of doubt I don't).

Your client was provided with terms that follow the same principles as those agreed with the other landowners – as I have advised previously, I would have thought that you would benefit from discussing this with your client's previous advisor who could provide full details without needing consent from other parties.

In any event, these agreements have all been reached in the shadow of the CPO(s) and are therefore irrelevant.

Timescales

I can't provide an indication as to timing and you probably know better than me as this all depends upon your client. The Council and their appointed developer clearly cannot proceed until either a) your client agrees terms or b) CPO 2 is confirmed.

Fees

No-one would provide an open cheque book for fees.

The Council are only required to pay reasonable fees incurred in the preparation and negotiation of your client's compensation claim. As no acquisition notices have been served yet, no entitlement to reimbursement of fees has arisen.

The Council would be prepared to voluntarily agree some reimbursement of fees in connection with the negotiation of terms to avoid a CPO and the associated legal costs – in this regard, it seems to me that we could potentially (subject to instructions) go back to 16 December 2022 in respect of your fees and, once we have an idea as to what the agreement will comprise, I can ask OC to advise as to what would comprise reasonable fees for entering into a legal agreement. It would be helpful if you could advise as to your terms of engagement with your client and provide a time schedule from 16 December 2022 to provide me with some context.

Summary

The Council has every intention of proceeding with Option 2 but your client has added conditions that you must know cannot be agreed to. If your client intends to proceed with a voluntary agreement following the principle of Option 2 the following points need to be addressed:

- Full disclosure of the Option Agreement, leases and any other title information relevant to the valuation exercise
- Agreement that the advance payment will be based on the Council's current opinion of value (having been provided with the items above)

The bottom line is that the Council wishes to avoid CPO 2 but cannot risk CPO 1 being timed out so will press on. It seems to me that, if your client is not prepared to provide full disclosure and insists upon conditioning Option 2, that only Option 1 remains as an alternative. Failing that, the Council will advise the Inspector that there have been extensive discussions and offers made all of which have been rejected and made subject to unacceptable conditions.

Kind regards

Peter

Peter Roberts

FRICS CEnv

Partner

RICS Registered Valuer

RICS Registered Expert Witness

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From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>

Sent: Tuesday, April 25, 2023 2:24 PM

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

Subject: RE: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Dear Peter

I refer to my email below, to which I have not received a response.

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 25 April 2023 15:04
To: Matthew Bodley
Subject: RE: Bosham Ltd and Shopwyke Ltd, Land at Tangmere
Attachments: Ashurst - Bosham_ Shopwyke_ Temple_ CS South_ Shores_ CS East, Denton 17.2.23.PDF

PS – see attached response from Ashurts to land questionnaire as provided on 17 Feb

Peter Roberts

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From: Peter Roberts
Sent: Tuesday, April 25, 2023 2:53 PM
To: 'Matthew Bodley' <Matthew@matthewbodleyconsulting.com>
Subject: RE: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Dear Matthew

I would hope that you are aware of the presumption applied by the Courts that all communications relating to negotiations between the parties to a dispute are considered to be “without prejudice” regardless as to whether or not they are marked accordingly. There is nothing within my email dated 25 August 2021 to indicate that it should be excluded from that principle and, as far as I am concerned, it was and remains “without prejudice”. It therefore follows that you cannot put your email of 18 April 2023 in front of either the Inquiry or the UTLC as it contains information that was provided to you during the course of negotiations that remains “without prejudice”. Similarly,

Matthew Bodley

From: Matthew Bodley
Sent: 04 May 2023 22:08
To: Peter Roberts
Subject: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Dear Peter

I refer to your email of 25 April 2023.

My clients overall objective is to effect the voluntary transfer of its land in a timely manner and remove the uncertainty which currently exists concerning if, and when, Council will exercise the powers to acquire the land included within the existing CPO. My client is also willing to agree to the voluntary transfer of the land which is referred to as the 'Additional Land'.

My client's position is quite simple:

1. It accepts that a CPO has been made and confirmed and that the Council has until November 2024 to vest/acquire the land.
2. My client has its own views about the value of its land which differ quite significantly from your views.
3. My client is willing to proceed with the voluntary transfer of its land on the basis of agreeing a transfer now and leaving the question of compensation to be determined by the Upper Tribunal, if compensation cannot be agreed.
4. My client is willing to accept an advanced payment in line with the provisions of section 52 of the Land Compensation Act 1973 which would be equivalent to 90% of the amount of compensation payable for the acquisition of all of its interests in the land included in the CPO and the Additional Land. You have previously provided me with your view of the value of my client's land – please see your email of 25 August 2021.
5. In order to enable the Council to be in a position to undertake a current valuation and assessment of compensation, my client is willing to provide the information which you have requested namely:
 - a. An unredacted copy of the Bloor Option Agreement
 - b. Copies of all leases granted in respect of the land
 - c. Legal documents relating to the access from the A27
6. In response to the information referenced in point 5 above, the unredacted copy of the Bloor Option Agreement will be sent to you under separate cover, there are no leases in place in respect of the land and you are already in possession of the legal documents relating to the access from the A27.
7. On the assumption that you have, or will soon have, all of the information requested, my client trusts that you and the Council's valuers, Batcheller Monkhouse, will have sufficient information in order to enable the parties to enter into an agreement for the voluntary transfer of my client's land and avoid the need for the use of compulsory purchase powers and, on this basis, the promotion of another CPO in respect of my client's land is clearly unnecessary.

Detailed response to email of 25 April 2023

I will, for the record, respond to the points raised in your email.

I'm perplexed by your interpretation of what you consider to constitute "open" and "without prejudice" correspondence.

Your email of 25 August 2021 was not marked without prejudice and did not form part of a without prejudice chain of correspondence. I am particularly unclear as to why you consider it to be without prejudice on the basis that the email was submitted by the Council to the inquiry into the first CPO as inquiry document "*ID/12 Open correspondence (MB, DWD and CPUK)*". The document is still available on the inquiry web page and I attach a link for your ease of reference - <https://www.chichester.gov.uk/tangmerestrategicdevelopment>. The email is clearly open.

Your letter of 16 December 2022 is also clearly open correspondence and it explicitly stated that you reserved the right to bring the letter to the attention of the Inspector as part of any future Inquiry proceedings in respect of the second CPO.

I can only assume that you now wish to distance yourself from statements made in the open email of 25 August 2021 and the open letter of 16 December 2022 by trying to retrospectively make them without prejudice. These were both clearly open and I will refer to them as such.

I am treating your email to me of 25 April 2023 as open correspondence on the basis that it is not marked without prejudice and does not form part of a chain of without prejudice correspondence. For the avoidance of doubt, your email of 25 April 2023 and this response are open correspondence and I reserve the right to submit them to the inquiry.

Summary of Open Correspondence Regarding the "Additional Land"

Rather than comment in detail on the content of your email of 25 April, I shall simply repeat the terms upon which my client is prepared to dispose of its interests by agreement. These terms have already been set out in previous emails but are repeated and expanded upon for clarity.

The majority of my client's land is included within CPO1 which has already been confirmed and is capable of implementation. My client had expected CPO1 to have been implemented by now based on various commitments made by the Council that it would vest the land within six months of confirmation of CPO1, but this has not yet occurred. Notwithstanding this, it is anticipated that the land within CPO1 will be acquired at some point.

I set out below a summary of the correspondence between us regarding the potential sale of my client's land that was omitted from CPO1, i.e. plot 19E of CPO2 (referred to in previous correspondence as the "Additional Land"). All of the correspondence referred to below was exchanged on an open basis and will, if necessary, be referred to at CPO inquiry.

Your open letter of 16 December 2022 sets out three options for the acquisition of the Additional Land. Options 1 and 2 were both similar and sought to link the acquisition of the Additional Land with the vesting of my client's interest in its adjoining land within the confirmed CPO (Plot 16 of CPO1). Option 1 was based on a voluntary transfer of the Additional Land to be immediately followed by a vesting of Plot 16, whereas Option 2 was on the basis the Council would vest Plot 16 and the Additional Land would transfer simultaneously on the vesting date for Plot 16. Accordingly, both Options 1 and 2 were slight variations on a private treaty agreement, whereas Option 3 related to the Council promoting a second CPO (which it has now done).

I responded to you on 22 December 2022 stating that my client had no desire to put the Council or Countryside to the trouble of making a second CPO and was, therefore, minded to go with one of the two options for a voluntary transfer but was keen to protect its position. Accordingly, my email requested confirmation of a number of points in order to assist my client's decision making process. One of these was confirmation of the likely timescales for the vesting of the land.

You responded on 5 January 2023 confirming your position on the points I had raised. On the matter of the timing of the vesting you said that you would need to discuss with your client and asked if my client had any particular preference. I responded on 20 January 2023 stating that my client's preference would be to progress with the vesting / transfer sooner rather than later and would like the transfer to occur within the next six months – i.e. GVD

to be executed within three months and the vesting and transfer to occur three months thereafter. I also explained that my client had a crop in the ground and that, ideally, my client would like to progress with the vesting as quickly as we can but with some sort of licence / tenancy at will to enable my client to continue to farm the land and harvest his crops during August, in order to mitigate loss. I also raised a query about the potential for my client to retain its Tangmere Corner plot in order that he could develop it himself in accordance with the masterplan. In my email I explained that my client had arranged a stakeholder meeting on 25 January at which it was intended to make a decision on which of the three options within your 16 December 2022 letter that my client intended to pursue. I requested that you provide a response to my queries by 24 January in order that my client could consider at its meeting the following day.

You responded the same day stating that my response regarding my client's preference as to timing and the proposed licence back arrangement was helpful but not confirming whether or not your client agreed to it. You also stated that you had asked your client the question regarding Tangmere Corner. I had, therefore, expected that I would hear from you again with confirmation of your client's position regarding the timing of vesting and the query regarding Tangmere Corner. You sent a further email on 23 January 2023 stating that you would not have a response regarding Tangmere Corner in advance of the stakeholder meeting, but did not say anything about the timing of vesting. I responded on the same date to your comment regarding Tangmere Corner. I also sought clarification of your client's position regarding timing of vesting. This was on the basis that, whilst your earlier email had noted my client's request regarding the timing of vesting you had not confirmed whether or not your client agreed to it. I asked when you would be in a position to respond on the point. You responded on the same day stating that you thought my proposal regarding the timing of the vesting and my proposal for enabling my client to take the harvest made sense, but that you did not have instructions.

In short, you simply failed to answer the question.

You then emailed me on 31 January 2023 asking whether I had anything to report following my client's meeting the previous week, but you did not comment on the Council's position regarding the timing of the vesting / transfer of my client's land nor my proposed licence back arrangement for the purposes of farming the land until August 2023.

On 23 February 2023 I emailed you to confirm that my client would like to proceed with a disposal of the Additional Land by agreement in accordance with the Option 2 offer within your letter of 16 December 2022. I stated that my client's acceptance of Option 2 was subject to six conditions, all of which were entirely reasonable. The six conditions and the reasons we requested them are set out below:

1. My client's acceptance of the offer was without prejudice to my client's position that it could have obtained planning permission for Plot 16 in the no scheme world and that it reserved its right to pursue a compensation claim on this basis. This was considered uncontentious, particularly given that you had already confirmed in your email of 5 January 2023 that you had no intention of seeking to undermine my client's ability to present evidence and arguments at the Upper Tribunal regarding the provision of access and construction rights.
2. All of my client's land, including Tangmere Corner, to be included in the vesting, which was to occur by end of June 2023. At the time of my email that would have been comfortably achievable as there were over four months until the end of June. This seemed to be entirely consistent with the Council's objectives as to timing on the basis that the Council had publicly committed to vesting all of the land within CPO1 within six months of confirmation. I note that the Council has made a similar commitment in the Statement of Reasons for CPO2.
3. Arrangements to be put in place to enable my client to continue to occupy the land under licence to enable them to take this summer's harvest (to have completed by the end of August 2023). We considered this to be fairly uncontentious, particularly given that your email of 23 January 2023 had said that you thought this proposal made sense.
4. An advance payment of compensation to be made on the vesting date, the amount of which is to be not less than 90% of £2,330,000. The request for an advance payment was to reflect my client's statutory entitlement. The figure of £2,330,000 was chosen as we thought it would be uncontentious on the basis

that it was your stated estimate of the market value of the land on a rule 2 basis as set out in your open email of 25 August 2021. We consider the compensation entitlement to be significantly in excess of this and will make our case for this in our full compensation claim and at the Upper Tribunal. However, for the purposes of reaching an agreement to enable the land to transfer, we thought it would be uncontentious to propose that your figure is adopted and we've been surprised that you now seem to be trying to distance yourself from what you previously said in open correspondence.

5. Payment of Basic Loss Payments. Again we felt this to be uncontentious on the basis that it reflects my client's statutory entitlement.
6. A contribution toward the reasonable professional fees that my client has incurred to date, to be payable on exchange of contracts. Again, this is entirely reasonable and uncontentious. We have not, as you have suggested, requested that the Council commit to providing a blank cheque. We have merely requested a contribution based on your assessment, and we have said that we will provide you with details of my client's fees subject to your acceptance of the principle.

I remain of the view that my client's proposed conditions for accepting Option 2 are entirely reasonable.

I didn't receive a response to the above email so I sent you a chaser on 14 March 2023 asking if you had yet discussed my email with your client and asking when I could expect to receive a response. You responded on the same day, but your email was marked "without prejudice". I don't know why you decided to respond on a without prejudice basis as your email did not seem to be a genuine attempt to settle the dispute. However, it is not appropriate for me to refer to the detail of your without prejudice email within this open correspondence, other than to say that your client has not accepted the proposal within my email of 23 February 2023, which was in fact an acceptance of the offer in your letter of 16 December 2022 subject to some fairly uncontentious conditions.

I sent a further email on 18 April 2023 making clear that the email was being sent on an open basis, clarifying the terms upon which my client was prepared to dispose of the Additional Land by agreement. This was effectively a repetition of the content of my email of 23 February 2023 but providing a more detailed explanation of the Advance Payment and the request for a contribution toward Professional Fees. My email also noted that my client's preference as to the timing of acquisition was no longer achievable due to the Council's inactivity in responding to my proposal and suggesting a revised timetable for the land to be vested / transferred by the end of August 2023.

My email also referred to the Bloor Option Agreement and stated that my client would be prepared to provide an unredacted copy of it subject to receiving some assurances from the Council on the likely timescales for acquisition as the option agreement expires in 2024 and my client wanted to know if disclosing it was relevant if the Council / Countryside's timetable is beyond 2024. It is noted that the Council has still not responded to the questions first raised in my email of 22 December 2022 regarding the timing of a private treaty agreement.

You responded to me by email dated 25 April 2023 but, needless to say, your email did not indicate any willingness to try and agree an acquisition of my client's land by agreement in accordance with the proposal in my email which was in itself based on the Option 2 offer in your letter of 16 December 2022.

I set out below further information which may assist the Council in considering my client's proposal.

Bloor Option Agreement and other title queries

My client has previously provided you with a redacted version of the Bloor Option Agreement. My client has now obtained agreement from Bloor to release an unredacted version of the Bloor Option Agreement and a copy will be sent to you under separate cover.

There are no leases or tenancies granted over any part of my client's land. The land is farmed "in hand" by my client.

Shore's Meadow, which comprises Plot 16 in CPO1, and Plots 17 and 19E in CPO2, has an unrestricted right of access from the A27 at all times with and without vehicles. This is on the basis that prior to the implementation of the A27 improvement scheme, my client's land abutted and therefore had direct access to the old A27 trunk road meaning

that the land benefitted from an unrestricted right of access at all times with and without vehicles. The land required for the A27 improvement scheme was acquired in the shadow of a CPO. The associated Side Roads Order replaced the severed right of access on a like for like basis. Accordingly, my client's existing right of access across the small parcel of non-highway land currently owned by NH is similarly unrestricted.

Advance Payment

As stated above, we had thought this matter to be fairly uncontentious on the basis that we had proposed it be based on your openly stated estimate of compensation as set out in your email of 25 August 2021. However, given that you now seem to be trying to distance yourself from this, please advise what you consider to be the appropriate level of compensation upon which an advance payment should be based.

To be clear my client's position is that Shore's Meadow has an unrestricted right of access from the A27 suitable for the purposes of a comprehensive development of that part of the TSDL within my client's ownership. It also has the benefit of a second access to the A27 at the eastern corner of the site and a right of access into Tangmere Village via Malcolm Road. It does not have a direct access to Tangmere Road to the south, but it does not need one in order to bring forward a development of my client's land. The development of my client's land would not prejudice the delivery of the other parts of the TSDL.

Reasonable Professional Fees

You seem to be of the view that my client's request for a contribution toward its reasonable professional fees is in some way unreasonable and that my client does not have any right to these. You have suggested that my client is requesting that the Council commits itself to a blank cheque. I don't know where you got this from. I have merely requested a contribution toward my client's reasonable fees. I have not sought to determine what the level of that should be. My client will be seeking full recovery of fees as part of the compensation claim in due course, but for the purposes of the advance payment we have requested that the Council make a contribution and have not sought to determine what that should be.

I have previously said that if your client agrees to the principle of an agreement on the terms proposed, I will provide details of the fees that my client has incurred, but there seems little point in me taking the time to do this until I have received some agreement in principle from the Council. I would add that your suggestion that the Council may be prepared to consider fees incurred since 16 December 2022 is simply insulting, unhelpful and contrary to the spirit of the Compensation Code as it should be obvious to you that my client has been incurring fees in connection with attempts to negotiate with the Council / Countryside for several years and is entitled to reimbursement of fees reasonably incurred.

I should be grateful if you would confirm whether your client is prepared to agree to an acquisition of the land included within CPO 1 and the Additional Land in accordance with the terms set out above with a suggested timescale for drafting and entering into an agreement.

I look forward to hearing from you.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
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E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 05 May 2023 15:03
To: Matthew Bodley
Subject: RE: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Dear Matt

Thank you for your email dated 4 May 2023.

Dealing with the “without prejudice” point first - I had overlooked ID/12 hence you have my apologies for that oversight. This takes nothing away from my other comments regarding “without prejudice”. So that you are clear as to my intentions this email is “without prejudice”.

I don't think it would be constructive for me to respond to the misrepresentations in your email. However, it is important to remind ourselves as to how we have reached this position.

- The other landowners within TDSL have been trying to agree terms with your client(s) for at least a decade now
- The Council has been trying to reach agreement with your client(s) for many years
- The Council have made a series of offers but all have been rejected
- Your client(s) have made repeated reference to their valuation being in excess of my valuation but have:
 - Consistently refused to provide full evidence of ownership and access matters
 - Never stated, either orally or in writing, what their valuation is
 - Not provided any breakdown of their valuation
 - Not provided any supporting evidence of value
- The Council have not treated your client(s) any differently from everyone else with an interest in the TDSL
- You client(s) are the sole reason that CPO 2 is required
- The Council are prepared to agree terms in accordance with the Compensation Code but will not allow themselves to be ransomed by your client(s).

I am glad that you state that your client(s) now intend to reach agreement and avoid the need for CPO 2. The sticking points are the quantum of advance payment and reimbursement of fees.

With regard to the advance payment the position is as follows:

I have explained ad-infinitum the background behind the previous figure. As you are fully aware, it was made on the basis of the information and circumstances in existence at that time, but we are now in 2023 and further information has come to light that directly impacts on the valuation. You will recall that I reserved the right to amend my valuation and that is precisely the position I am now in having had the chance to explore the position further. It is not uncommon for acquiring authorities to express opinions of value and even make advance payments only to find out that their assumptions were wrong such that they either have to increase their estimates or, alternatively, claw back overpayments.

I am happy to agree that an advance payment can be made (assuming that all the requisite information is provided to me in accordance with the statutory provisions) but there is nothing in the provisions requiring an acquiring authority to agree the amount of an advance payment before making it. The legislation is also clear that an acquiring authority is entitled to be provided with all information that it considers is necessary to calculate the advance payment.

I see that I have now received an email with the Option Agreement attached which I will review. However, I am totally unclear as to the rights of occupation and you have now referred to additional access options. I address these below.

Your client(s)' solicitor has advised in writing that Shore's Meadow Farming Partnership occupy the land but the freehold interest is vested in different entities. Are you saying that SMFP do not have any interest in the land and therefore do not have a compensatory interest nor any ability to retain occupation if the freehold was sold and the new owner wanted vacant possession? The market value of the land is directly impacted by the ability of the freeholder to receive income and/or take vacant possession hence, before any advance payment can be made, you will need to set out the position in detail. This is not unreasonable and any purchaser whether hypothetical or otherwise would want to know exactly what they were purchasing.

On this point, I assume from what you have said that as SMFL do not have a compensatory interest it is agreed that they do not have an entitlement to crop loss?

With regard to access, you will be aware that I made many requests for a copy of the legal documents upon which you were relying in claiming a right of access to the A27 roundabout, but your client(s) have never provided this. I have therefore been forced to source a copy of the relevant Order from National Highways. In light of this document, I now accept that your client(s) have rights of access to the A27 roundabout. I could have reached this conclusion a lot more quickly had your client(s) provided this to me from the outset.

However, my understanding of the position, which you have not challenged, is that the track is not constructed to adoptable standards and a purchaser of your client(s)' land would have to bring it up to adoptable standards if they wanted to implement development. Nothing has been provided to me by either your client(s) or National Highways to demonstrate that a purchaser of your client(s)' land has rights to construct this new access.

Your email refers to additional accesses to the east and to Malcolm Road. Neither you nor your client(s)' solicitors have mentioned these before. I would therefore be grateful if you would provide chapter and verse together with copies of the relevant documents.

I have already said that I am prepared to recommend that the Council pay reasonable fees for entering into either Option 1 or Option 2. I suggested going back to 16 December 2022 as this was the date that the Council offered Options 1 and 2. If you have another date you would like to propose then please do so. However, just to manage expectations, I will not be recommending that the Council reimburse your client(s)' fees incurred in objecting to CPO 1 and 2 nor the submission of evidence and attendance at the Inquiry. If you consider that, as you suggest, your client(s) are entitled to these fees then please direct me to the appropriate provisions/authorities and provide copies of your timesheets.

It is crystal clear to me that there are a number of matters that we are simply not going to resolve at this stage and are best dealt with as part of the compensation case when your client(s) will have had the opportunity to lay out their position in full. I therefore believe that this agreement needs to be as simple as possible and would be prepared to take instructions on the following terms:

- £10,000 paid on completion of the agreement
- Agreement that the compensation entitlement in respect of Plot 16 (under CPO 1) assumes the inclusion of the additional land abutting the NH land
- Payment of the Council's estimate of advance payment within three months of the date of the agreement or the Council being satisfied that they have been provided with full disclosure of the various Heaver entities interest in the land, whichever is the latest. The standard of disclosure will be as set out in the legislation.
- Service of GVDs in respect of all Heaver interests (albeit presumably excluding SMFP as they have no interest) at the earliest practical date after the completion of the agreement having regard to statutory timetables.
- Reimbursement of reasonable legal fees for the drafting and completion of the agreement (to be agreed by the solicitors)

- Reimbursement of reasonable surveying fees for the negotiation of this agreement (on production of timesheets etc) – My feeling is that £3,500 + VAT is reasonable based on what has been agreed with the agents for other parties.

You can argue all the other issues including the potential for development and historic fees etc once the agreement has been completed as part of the compensation claim process.

As far as timescales are concerned the position is that your client(s) are the only landowner with whom terms have not been agreed. The timing of the GDV will be determined by how long it takes to complete agreed terms and the statutory time for the service of notices thereafter. If your client(s) maintain their current position it is likely that the Council will have to rely upon CPO 2 which may not be confirmed until August 2024. However, if your client(s) accepted these terms they could, with a fair wind and cooperation, be receiving an advance payment in circa three months' time and be able to submit their compensation claim(s) thereafter.

Kind regards

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

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From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>

Sent: Thursday, May 4, 2023 10:08 PM

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

Subject: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Dear Peter

I refer to your email of 25 April 2023.

Matthew Bodley

From: Matthew Bodley
Sent: 05 May 2023 15:18
To: Peter Roberts
Subject: RE: Bosham Ltd and Shopwyke Ltd, Land at Tangmere
Attachments: Objection on behalf of Herbert George Heaver, Temple Bar Partnership LLP and Denton & Co Trustees Limited [ASH-EUS.FID301664265]; Objection on behalf of Alice Rebecca Chishick of The Medical Centre, Malcolm Road, Tangmere, Chichester, PO20 2HS [ASH-EUS.FID301664265]; Objection on behalf of Bosham Limited (Company Number 11145803) and Shopwyke Limited (Company Number 11145921) both of 22 Chancery Lane, London, England, WC2A 1LS [ASH-EUS.FID301664265]

Dear Peter

As requested I attach for your information copies of the objections which have been submitted by Ashurt on behalf of my clients.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
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From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: Thursday, May 4, 2023 4:14 PM
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Subject: RE: Bosham Ltd and Shopwyke Ltd, Land at Tangmere

Matt

I would be grateful if, on the assumption that your client has objected to CPO 2, you could be kind enough to send me a copy.

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

Matthew Bodley

From: Brian.Cheung@ashurst.com
Sent: 18 July 2023 18:49
To: **John Heaver**; Matthew Bodley
Cc: Trevor.Goode@ashurst.com; David.Razzell@ashurst.com
Subject: FW: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256]
Attachments: Letter to DJB re CPO 2 Plot 19E(408788962.3).pdf; Sale Agreement - Tangmere.docx

FYI

From: Cheung, Brian 12732
Sent: 18 July 2023 18:48
To: 'Yohanna.Weber@djblaw.co.uk' <Yohanna.Weber@djblaw.co.uk>
Cc: 'Nicholas Bennett' <nbennett@chichester.gov.uk>; Goode, Trevor 11114 <Trevor.Goode@ashurst.com>
Subject: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256]

Dear Sir/Madam

Please see the attached letter and enclosure.

Yours faithfully

Brian Cheung

Senior Associate

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18 July 2023

By email

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**

We understand that you are instructed by Chichester District Council (the "**Council**") in respect of CPO 2.

We act for Bosham Limited and Shopwyke Limited, who are the freehold owners of the land referred to in CPO 2 as plot 19E (the "**Property**"), as well as CS South Limited. Our clients also own interests in other land included in CPO 2 and in the Chichester District Council (Tangmere) Compulsory Purchase Order 2020 ("**CPO 1**"), including in particular the land referred to in CPO 1 as plots 15, 16 and 17 (the "**CPO Land**").

We submitted an objection to CPO 2 on behalf of Bosham and Shopwyke on 5 May 2023 (the "**Objection**") and have now received notice from the Department for Levelling Up, Housing & Communities that the Objection has been registered as a remaining objection. The Planning Inspectorate has also notified us that a public local inquiry will be held in respect of CPO 2 and that the Council is required to serve a statement of case within six weeks of 13 July 2023.

As stated in the Objection, our clients have always been willing to sell the Property voluntarily and in fact accepted the Council's terms in principle in February 2023, including the financial consideration proposed by the Council, subject to contract and a number of additional terms summarised in the Objection. On this basis,

there was (and remains) no need for the Property to be included in CPO 2. For the record, we also note that our clients have always been willing to sell the CPO Land on reasonable commercial terms notwithstanding their view that the CPO Land can be developed independently without prejudicing development of the rest of the Tangmere Strategic Development Location and that therefore CPO 1 was unnecessary. However, we acknowledge that CPO 1 has been confirmed and that the Council intends to exercise its powers under CPO 1 to acquire the CPO Land.

We acknowledge that there is a significant difference in opinion between our respective clients regarding the quantum of compensation payable for the acquisition of the CPO Land. Our clients are willing to accept the Council's latest estimate of compensation, relayed to our clients' surveyor on 25 August 2021, for the purposes of an advance payment and to defer the determination of the quantum of compensation to the Upper Tribunal in the knowledge that the actual quantum assessed by the Upper Tribunal will be considerably higher.

To this end, we enclose a draft agreement providing for the sale of the Property. It also includes terms relating to the CPO Land including, as per your client's offer, agreement that compensation for the acquisition of the CPO Land will be assessed on the assumption that the Property forms part of the CPO Land. It also secures payment of an advance payment and a basic loss payment calculated in accordance with your client's latest estimate of compensation.

Separately, we presume that the Council will vest our clients' interests in Tangmere Corner, i.e. the plots numbered 1-5 (inclusive) in CPO 2, at the same time as the vesting of the CPO Land, but would be grateful for your confirmation.

We look forward to receiving your comments and hope that an agreement can be concluded swiftly to enable the withdrawal of CPO 2 or modification to remove the Property and other land owned by our clients.

Yours faithfully



Ashurst LLP

Enc

Copy to: Nicholas Bennett, Divisional Manager, Democratic Services, Chichester District Council

Agreement

Bosham Limited

and

Shopwyke Limited

and

CS South Limited

and

Chichester District Council

for the sale and purchase of land at Copse and
Church Farms, Tangmere

2023

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THIS AGREEMENT is made on

2023

BETWEEN:

- (1) **BOSHAM LIMITED** (Company registration number 11145803) and **SHOPWYKE LIMITED** (Company registration number 11145921) which have their registered offices at 22 Chancery Lane, London WC2A 1LS;
- (2) **CS SOUTH LIMITED** (Company registration number 08333692) which has its registered offices at 22 Chancery Lane, London WC2A 1LS; and
- (3) **CHICHESTER DISTRICT COUNCIL** of 1 East Pallant, Chichester PO19 1TY.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 In this agreement the following words and expressions have the following meanings:

- (a) **"1973 Act"** means the Land Compensation Act 1973;
- (b) **"1981 Act"** means the Compulsory Purchase (Vesting Declarations) Act 1981;
- (c) **"Advance Payment"** means the sum of ONE MILLION NINE HUNDRED AND NINETY-FOUR THOUSAND FIVE HUNDRED AND THIRTY-FIVE POUNDS (£1,994,535) being an advance payment under section 52 of the 1973 Act on account of compensation payable by the Council for the compulsory acquisition of the CPO Land;
- (d) **"Basic Loss Payment"** means the sum of SEVENTY-FIVE THOUSAND POUNDS (£75,000) being a payment under section 33A of the 1973 Act in respect of the compulsory acquisition of the CPO Land pursuant to the GVD;
- (e) **"Clearing Bank"** means a bank admitting by the Bank of England as a 'direct participant' in the CHAPS system;
- (f) **"Compensation Code"** means the provisions of the Land Compensation Act 1961, the Compulsory Purchase Act 1965 and 1973 Act, as in force at the date of this agreement, together with any other statutory provisions in force at the date of this agreement and body of case law relevant to the assessment of compensation as assessed and applied by the Tribunal in compulsory purchase matters;
- (g) **"Council"** means the third party to this agreement and this definition shall be deemed not to include the successors in title of or those deriving title under the Council;
- (h) **"Council's Solicitors"** means Davitt Jones Bould of Level 24 The Shard, 32 London Bridge Street, London SE1 9SG (ref (to be quoted upon service of any notice): [●]);
- (i) **"CPO 1"** means the Chichester District Council (Tangmere) Compulsory Purchase Order 2020 as confirmed on 11 November 2021;
- (j) **"CPO 2"** means the Chichester District Council (Tangmere) (No 2) Compulsory Purchase Order 2023 as made on 30 March 2023;
- (k) **"CPO Compensation"** means the compensation payable by the Council for the compulsory acquisition of the CPO Land in accordance with the Compensation Code;

- (l) **"CPO Land"** means the land referred to and numbered 15, 16 and 17 in the schedule to CPO 1 and the order map accompanying CPO 1 as shown indicatively on the plan attached at Annexure 2;
- (m) **"CS South"** means the second party to this agreement and this definition shall be deemed to include the successors in title of and those deriving title under CS South;
- (n) **"Direct Credit"** means direct transfer from the Council's Solicitors' client account maintained at a Clearing Bank resulting in receipt of cleared funds;
- (o) **"GVD"** means a general vesting declaration executed under section 4 of the 1981 Act in respect of the CPO Land;
- (p) **"Property"** means the part of the freehold land known as part of land at Copse and Church Farms, Tangmere registered at HM Land Registry under title number WSX217492 as shown red on the plan attached to the Transfer at Annexure 1, being the land referred to and numbered 19E in the schedule to CPO 2 and the order map accompanying CPO 2;
- (q) **"Public Requirements"** means all local land charges and other matters whensoever registered or registrable (whether registered or not) by any local authority or other body acting on statutory authority and every charge notice direction order restriction agreement resolution proposal condition and other matter affecting the Property made (whether before or after the date of this agreement) by a body acting on statutory authority;
- (r) **"Purchase Price"** means the sum of TEN THOUSAND POUNDS (£10,000);
- (s) **"Seller"** means the first party to this agreement and this definition shall be deemed to include the successors in title of and those deriving title under the Seller;
- (t) **"Seller's Costs"** means the sum of [●] exclusive of Value Added Tax being a contribution to the reasonable fees costs and expenses incurred by the Seller (including legal and surveyor's fees) in connection with:
 - (i) negotiations for the sale of the Property and of this agreement; and
 - (ii) making representations in relation to CPO 2;
- (u) **"Seller's Solicitors"** means Ashurst LLP of London Fruit & Wool Exchange, 1 Duval Square, London E1 6PW (ref (to be quoted on service of any notice): JXM/DJR/1000-037-808);
- (v) **"Seller's Solicitors' Client Account"** means the account in the Seller's Solicitors' name;
- (w) **"Standard Commercial Property Conditions"** means Part 1 of the Standard Commercial Property Conditions (Third Edition) and **"SCPC"** means Standard Commercial Property Condition;
- (x) **"Tribunal"** means the Upper Tribunal (Lands Chamber);
- (y) **"Vesting Date"** means the first day after the end of the period specified in the GVD in accordance with section 4(1) of the 1981 Act, being the date from which the CPO Land is vested in the Council under the GVD; and
- (z) **"Working Day"** means any day from Monday to Friday (inclusive) save for Christmas Day, Good Friday or statutory bank holidays or any day from and including 24 December to 31 December.

- 1.2 Obligations entered into by any party which comprises more than one person shall be deemed to be joint and several.
- 1.3 Words importing persons shall include firms companies and corporations and vice versa.
- 1.4 The headings to the clauses of this agreement are for reference purposes only and shall not affect its interpretation.
- 1.5 References in this agreement to clauses are unless otherwise stated references to clauses of this agreement.

2. **NOTICE OF VESTING OF THE CPO LAND**

The Council shall give to the Seller and CS South not less than three months' notice of the Vesting Date.

3. **ADVANCE PAYMENT**

- 3.1 The Seller and CS South hereby request the Advance Payment as owners of the freehold interests in the CPO Land registered at HM Land Registry under title numbers WSX217492 WSX355209 and WSX355210.
- 3.2 The Council acknowledges the Seller and CS South's request under clause 3.1 and agrees that the request meets the requirements of section 52(2) of the 1973 Act, having received sufficient information to enable it to estimate the amount of compensation in respect of which the Advance Payment is to be made.
- 3.3 The Council shall pay to the Seller the Advance Payment on or before the Vesting Date by Direct Credit to the Seller's Solicitors' Client Account.
- 3.4 Nothing in this agreement affects the Seller's and CS South's right to apply for further advance payments under section 52 of the 1973 Act.

4. **BASIC LOSS PAYMENT**

- 4.1 The Seller and CS South hereby claim the Basic Loss Payment as owners of the freehold interests in the CPO Land registered at HM Land Registry under title numbers WSX217492 WSX355209 and WSX355210.
- 4.2 The Council acknowledges the Seller and CS South's claim under clause 4.1 and agrees that the claim meets the requirements of section 33E of the 1973 Act.
- 4.3 The Council shall pay to the Seller the Basic Loss Payment on the Vesting Date by Direct Credit to the Seller's Solicitors' Client Account.

5. **COMPENSATION**

- 5.1 The parties agree that the CPO Compensation shall be assessed on the assumption that the Property formed part of the CPO Land on the valuation date.
- 5.2 The parties agree that the Purchase Price shall be disregarded for the purposes of assessing the CPO Compensation.
- 5.3 The parties shall negotiate in good faith to agree the amount of the CPO Compensation.
- 5.4 The parties acknowledge that, if they are unable to agree the amount of the CPO Compensation, either party has the right to refer the matter to the Tribunal under section 1 of the Land Compensation Act 1961.

5.5 The Council acknowledges that:

- (a) nothing in this agreement affects the Seller and CS South's right to argue that the Seller and CS South would have been able to obtain planning permission for development of the CPO Land assuming the application of the "no-scheme principle" in section 6A of the Land Compensation Act 1961;
- (b) the Seller and CS South reserve the right to bring a claim for the CPO Compensation before the Tribunal on this basis;
- (c) the Seller is entitled to include loss of crop and associated losses and expenses including loss of profit in its claim for the CPO Compensation; and
- (d) the Council's payment of the Seller's Costs does not affect the Seller's and CS South's right to claim additional and/or other professional fees, costs and expenses as part of a claim for the CPO Compensation.

6. **SALE AND PURCHASE**

6.1 The Seller shall sell and the Council shall purchase the Property in consideration of the payment to the Seller by the Council of the Purchase Price.

6.2 Subject to the terms of this agreement the Seller shall sell with full title guarantee.

6.3 The Council shall pay the Purchase Price and the Seller's Costs to the Seller on a non-refundable basis on the date of this agreement by Direct Credit to the Seller's Solicitors' Client Account.

6.4 If this agreement terminates pursuant to clause 9, the Seller:

- (a) shall be entitled to retain the Purchase Price and the Seller's Costs and any other sum paid to the Seller by or on behalf of the Council pursuant to this agreement; and
- (b) shall not be required to repay the Purchase Price and/or the Seller's Costs and/or any other such sum to the Council.

7. **COMPLETION**

7.1 Completion of the sale and purchase of the Property shall take place on the Vesting Date.

7.2 The Seller shall not be bound to complete the sale and purchase until it has received payment of all sums payable by the Council pursuant to the terms of this agreement at the time and in the manner specified by this agreement.

8. **OBJECTION TO CPO 2**

8.1 The Seller agrees to withdraw the objection to CPO 2 it submitted on 5 May 2023 as soon as reasonably practicable after completion of the sale and purchase of the Property.

8.2 The Council agrees to pay to the Seller on completion of the sale and purchase of the Property all reasonable fees costs and expenses incurred by the Seller (including legal and surveyor's fees) in connection with maintaining its objection to CPO 2 from (but excluding) the date of this agreement to (and including) the date of completion of the sale and purchase of the Property.

9. **TERMINATION**

If completion of the sale and purchase of the Property has not occurred on or before [●] 2023, this agreement will terminate with immediate effect from (and including) [●] 2023, without affecting any liability for antecedent breaches.

10. **VACANT POSSESSION**

Vacant possession of the Property shall be given on completion of the sale and purchase.

11. **TITLE**

Title to the Property is registered at HM Land Registry with the class of title and under the title number referred to in the definition of Property and title having been deduced to the Council or the Council's Solicitors prior to the date of this agreement the Council shall be deemed to purchase with full knowledge of the title in all respects and shall not raise any requisitions or objections in relation to the title.

12. **MATTERS AFFECTING THE PROPERTY**

12.1 The Property is sold subject to and (where appropriate) with the benefit of:

- (a) the matters contained or referred to in the registers of the title numbers referred to in the definition of Property;
- (b) the Promotion and Option Agreement dated 21 December 2012 made between Herbert George Heaver and Shelagh Heaver (2) Bloor Homes Limited and (3) Bloor Holdings Limited;
- (c) Public Requirements;
- (d) unregistered interests falling within schedule 3 to the Land Registration Act 2002;
- (e) such other unregistered interests as may affect the Property to the extent that and for so long as they are preserved by schedule 12 to the Land Registration Act 2002;
- (f) PPP leases as defined in section 90 of the Land Registration Act 2002;
- (g) incumbrances discoverable by inspection of the Property before the date of this agreement;
- (h) incumbrances which the Seller does not and could not reasonably know about;
- (i) matters other than monetary charges or incumbrances disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before entering into this agreement.

12.2 The Council shall be deemed to have notice of the matters referred to in clause 12.1 and shall not be entitled to raise any requisition or objection in respect of them.

12.3 The Council is to bear the cost of complying with any outstanding Public Requirement and is to indemnify the Seller against any liability resulting from a Public Requirement.

13. **PRELIMINARY ANSWERS**

Save in the case of any fraudulent misrepresentation the Council agrees that it shall have no remedy against the Seller and that the Seller shall have no liability to the Council in respect of any statement made in the negotiations leading to this agreement other than

statements contained in written replies given by the Seller's solicitors to written enquiries made by the Council's Solicitors.

14. **RISK AND INSURANCE**

With effect from and including the date of this agreement the Property is at the Council's risk and the Seller is under no obligation to the Council to insure the Property.

15. **VALUE ADDED TAX**

15.1 Save as the context requires or as otherwise stated all references to payments made in this agreement are references to such payments exclusive of Value Added Tax chargeable in respect of the supply of goods or services for which the payment is or is deemed to be consideration and where such payments fall to be made under this agreement the amount of such Value Added Tax shall be paid in addition thereto.

15.2 Without prejudice to and save as mentioned earlier in this clause where any supply is made or deemed to be made pursuant to this agreement the recipient of the supply shall pay to the supplier the amount of any Value Added Tax chargeable in respect thereof.

15.3 Where any payment is required to be made pursuant to this agreement to reimburse the payee for any expenditure incurred by the payee such payment shall include an amount equal to any Value Added Tax comprised in that expenditure which is not recoverable by the payee (or the representative member of its VAT group) as input tax under section 25 of the Value Added Tax Act 1994.

16. **CONFIDENTIALITY**

None of the parties (including their respective agents employees or representatives) shall without the prior written consent of the others disclose or permit or suffer to be disclosed the contents of this agreement except and to the extent that such disclosure:

- (a) may be required by law or the Tribunal or court or other authority of competent jurisdiction or the London Stock Exchange plc or the Financial Conduct Authority; or
- (b) is a "protected disclosure" as defined by section 43A of the Employment Rights Act 1996.

17. **NO ASSIGNMENT OR SUB-SALE**

The Council is not entitled to transfer the benefit of this agreement and the Seller may not be required to transfer the Property in parts or to any person other than the Council.

18. **THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

19. **JOINT AND SEVERAL LIABILITY**

Where the Council is more than one person the Seller may release or compromise the liability of any of them under this agreement or grant time or other indulgence without affecting the liability of any of the others.

20. **SURVIVAL OF THIS AGREEMENT**

Notwithstanding completion of the sale and purchase all the provisions of this agreement shall continue in full force and effect to the extent that any of them remain to be implemented.

21. **TRANSFER**

21.1 The transfer of the Property shall be in the form annexed at Annexure 1.

21.2 The transfer is to have effect as if the disposition is expressly made subject to all matters referred to in clause 12.

21.3 The transfer of the Property shall be prepared by the Seller and executed by the Council in original and counterparty and delivered to the Seller's solicitors no later than five Working Days before the Vesting Date.

22. **INTEREST**

Interest at 4% above the Bank of England base rate shall be payable on any sum which is paid later than the date on which it falls due under the terms of this agreement.

23. **PROVISION OF TITLE INFORMATION ON COMPLETION OF REGISTRATION**

The Council shall immediately following registration of the transfer of the Property to the Council provide the Seller with a certified copy of the title information document issued by HM Land Registry or official copies of the register of title to the Property.

24. **GOVERNING LAW AND JURISDICTION**

24.1 This agreement and any dispute controversy proceedings or claim of whatever nature arising out of or in any way relating to this agreement or its formation (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

24.2 Each of the parties to this agreement irrevocably agrees that the courts of England shall have exclusive jurisdiction to hear and decide any suit action or proceedings and/or to settle any disputes which may arise out of or in any way relate to this agreement or its formation (including any non-contractual disputes or claims) and for these purposes each party irrevocably submits to the exclusive jurisdiction of the courts of England.

25. **STANDARD COMMERCIAL PROPERTY CONDITIONS**

25.1 The Standard Commercial Property Conditions are incorporated in this agreement and where there is a conflict between them and any other provision of this agreement that other provision prevails.

25.2 In the construction of the Standard Commercial Property Conditions "contract rate" means a yearly rate equivalent to four percentage points above the base lending rate of National Westminster Bank Plc for the time being in force calculated on a daily basis.

25.3 In the Standard Commercial Property Conditions references to "buyer" are to be treated as references to the Council.

25.4 SCPC 1.1.1(c) 1.1.1(l) 1.3.2 1.3.3(b) 1.3.5(c) 1.3.7(e) 4.1 7.1 7.2 7.3 7.4.2 7.6.1 7.6.2 7.6.3 7.6.6 8.2.4(b) 8.2.5 9.2.1 and 9.7 do not apply.

25.5 SCPC 1.1.3(b) is amended to read "in the case of the seller, even though a mortgage or charge remains secured on the property, (except one to which the property is sold subject),

if the seller would have been able to discharge it (to the extent that it encumbers the property) on the date on which the notice is served had the sale been completed on that date".

- 25.6 SPCP 9.1.2 shall be deleted and the following shall apply instead "If the money due on completion is received in the Seller's Solicitors' Client Account after 1.30 p.m. on a Working Day (or at any time on a day which is not a Working Day) then for the purposes of SCPC 9.3 and SCPC 10.3 completion shall be treated as taking place on the next Working Day as a result of the Council's default."
- 25.7 In SCPC 9.1.3(b) "1.30 p.m." is substituted for "2.00 p.m."
- 25.8 In SCPC 9.3.4(b) the words "(or 1/366th where the sum to be apportioned relates to a year that includes 29 February)" are added at the end.
- 25.9 In SCPC 10.1 "injured party" is substituted for "buyer" and in 10.1(b)(ii) "transfer or accept" is substituted for "accept".
- 25.10 In SCPC 10.1(a) the words "or any of the contents included in the contract are deleted"

AS WITNESS the hands of the parties or their duly authorised representatives the day and year first above written.

Signed by **BOSHAM LIMITED:**)
)

Signed by **SHOPWYKE LIMITED:**)
)

Signed by **CHICHESTER DISTRICT
COUNCIL:**)
)

Draft

ANNEXURE 1

TRANSFER

Draft

ANNEXURE 1
PLAN SHOWING CPO LAND

Draft

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 09 August 2023 15:43
To: Matthew Bodley
Subject: FW: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]
Attachments: image002.png; image003.png; image001.png; 090828 - Letter out to Ashurst LLP re Plot 19E.pdf

Dear Matt

I trust you are well.

We have yet to meet in person to discuss this matter and it still seems to me that a “without prejudice” face to face meeting still remains the best way of making some progress in this matter.

I can offer you Wednesday or Thursday next week or the week after at my offices.

I look forward to hearing from you.

Kind regards

Peter

Peter Roberts

FRICS CEnv

Partner

RICS Registered Valuer

RICS Registered Expert Witness

T: 020 7489 4835

M: [07917 194 972](tel:07917194972)

E: peter.roberts@dwdllp.com

dwdllp.com

Chartered Surveyors & Town Planners

6 New Bridge Street, London, EC4V 6AB

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 09 August 2023 15:44
To: Matthew Bodley
Subject: Fwd: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]
Attachments: image001.png; 090828 - Letter out to Ashurst LLP re Plot 19E.pdf

FYI

Begin forwarded message:

From: Yohanna Weber <Yohanna.Weber@djblaw.co.uk>
Date: 9 August 2023 at 14:33:10 BST
To: Brian.Cheung@ashurst.com
Cc: nbennett@chichester.gov.uk, Trevor.Goode@ashurst.com, Peter Roberts <peter.roberts@dwdllp.com>, Ged Denning <ged.denning@dwdllp.com>
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Dear Brian

Please find attached letter in response to yours of 18 July 2023.

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

Our Ref: 10898.10/YPW

Your Ref: TLG\30009001.1000-037-808

Date: 9 August 2023

Dear Sirs

**Chichester District Council (Tangmere) (No 2) Compulsory Purchase Order 2023 ("CPO 2")
Agreement in relation to Plot 19E**

We refer to your letter dated 18 July 2023 in respect of the above matter and are instructed to respond as follows.

We note that you state that your clients have accepted the Council's terms as issued on 25 August 2021. Notwithstanding the point that your clients' acceptance was conditional it is important to point out that these Heads of Terms related to an acquisition by the appointed developer and there was no intention for the Council to be involved in that transaction. It is therefore incorrect to refer to them as the Council's terms. Further, the Heads of Terms were issued prior to the CPO Public Inquiry on the basis that your clients would withdraw their objection and no compulsory acquisition powers would be required or exercised. Your clients refused this offer and maintained their objection to the CPO.

Mr Roberts from DWD provided evidence at the Public Inquiry that the Heads of Terms offered to your clients by the developers were significantly more favourable to your clients than the compensation that would be due under the Compensation Code. Bearing in mind that you and their agent, Mr Bodley attended the Inquiry, your clients will therefore be aware of the Council's position.

The Council and their appointed developer have made several attempts to agree a private transfer. These offers have ranged from commercial development agreements, which were materially on the same terms as those accepted by all the other major landowners, to options for a commercial payment and voluntary reference to the Upper Tribunal Lands Chamber without the need for the service of a General Vesting Declaration (GVD) as referred to above. In this context, the Council and their appointed developer would welcome the opportunity to agree terms on a full and final basis for the transfer of your clients' land directly to the developer, thereby avoiding any need to exercise statutory powers, but have received no indication from your clients or their agent as to what they consider the market value of their interest to be.

On the basis that your clients' terms still require the exercise of compulsory purchase powers, it follows that the Council can only act in full accordance with the Compensation Code having regard to its statutory function as a public body. As your client has not presented any evidence to challenge the

LONDON MANCHESTER BIRMINGHAM

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

Local Planning Authority's opinion that planning consent for independent development would be refused on appeal, the Council can only have regard to the advice provided by its planning officers. As you know, that advice is that planning permission would not be granted for any development other than for the scheme that underlies the CPO. It follows that the Rule 2 assessment is to have regard to your clients' land for its existing use and there are no grounds for "hope value".

We note that clause 3.2 of your draft Agreement states that the Council has received sufficient information to enable it to estimate the amount of compensation. This is incorrect. As you are aware, from correspondence between Mr Roberts and Mr Bodley, the Council is still unclear as to what interest Shores Meadow Farming Partnership and John Heaver Farming Partnership have in your clients' land. Mr Bodley has advised that the land is farmed "in-hand" but has not answered the fundamental issue as to what this means in terms of their rights to occupy and farm the land in the event that the freehold interests were acquired by the Council.

In this context, you have stated that the agreement is to be between the Council and Bosham Limited, Shopwyke Limited and CS South Limited who the Council understand to be the freehold owners of land within the CPO. However, the Council need to ensure that any rights of occupation are terminated and therefore will need certainty that rights benefitting Shores Meadow Farming Partnership and John Heaver Farming Partnership are addressed.

The Council also need to establish the extent to which any entitlement to crop loss and other losses arising from being disposed from the ability to occupy the land may arise and who would have the benefit thereof. In this regard, the land does not appear to be occupied by your clients but clause 5.5 (c) of your draft Agreement requires the Council to compensate your clients in respect of crop and associated losses. Clearly, such losses would only arise to the actual occupiers who, at present, are not party to the Agreement.

The valuation of your clients' land for agricultural purposes and the apportionment of value between the owners and the occupiers is dependent upon the ability of a hypothetical prospective purchaser of the freehold interests to obtain vacant possession. Until the Council is provided with full details in this regard, it is unable to make an offer in respect of an advance payment.

We note that your clients require a Basic Loss Payment. The Council is fully prepared to make a Basic Loss Payment in accordance with the statutory provisions but is unable to calculate this until it has been able to carry out a valuation of the freehold interests which, in turn, is dependent upon receiving the information set out above. The Council would also be willing to make an Occupier's Loss Payment once it has been able to establish who has entitlement to such payment.

Your clients Mr Heaver, Bosham Limited and Shopwyke Limited are claiming through High Court proceedings a declaration which relates to ownership of and rights over Plots 19B and 19D of CPO 2.

Your draft Agreement excludes plots 19B and 19D despite the fact that these are required to implement the proposed Scheme. These Plots are relevant to compensation and access, and the Council does not propose to deal with this element of the CPO 2 land in a piecemeal fashion.

CONTINUED...

If your clients' claim was to succeed, what are your clients' proposals regarding these Plots, as regardless to who has lawful ownership of or rights over these plots, the Scheme requires full land assembly?

The Council would be prepared to pay the reasonable legal costs of completing an Agreement and, based on the email exchanges between Mr Roberts and Mr Bodley in respect of this matter, would be prepared to pay £5,000 + VAT in respect of surveyors fees. All fees in respect of the exercise of the Agreement thereafter would be assessed in accordance with the Compensation Code. The Council is unaware of any requirement to make a contribution towards your clients' fees incurred in respect of objecting to the CPO.

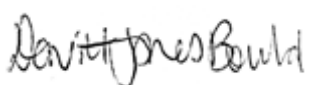
We note that your clients intend to withdraw their objection to the CPO following completion of the sale and purchase of the Property which, in turn, is intended to take place on the Vesting Date. The Council require the withdrawal of the objection on the date that the Agreement is completed.

The Council is unable to commit at this stage to the vesting of Tangmere Corner at the same time that the Property is vested as there remains uncertainty as to when any Agreement may be completed relative to the phasing of the development. However, the Council is willing to discuss the point further once the fundamental points referred to above are agreed.

In summary, the Council are committed to agreeing terms that remove the requirement for the exercise of compulsory purchase powers and will be in a position to make a further proposal once your clients have provided full disclosure in respect of Shores Meadow Farming Limited and John Heaver Farming Partnership as set out above.

As such the Council is not in a position to provide comments on the agreement at this time and it is appropriate that detailed discussions are continued by DWD and Matt Bodley to attempt to reach agreement on the outstanding matters above. To that end I have copied DWD on this letter.

Yours faithfully



DAVITT JONES BOULD

Matthew Bodley

From: Matthew Bodley
Sent: 15 August 2023 21:44
To: Peter Roberts
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Hi Peter

Yes I'm very well thank you and hope you are too.

I'm happy to meet with you on a without prejudice basis. I think that a meeting would be helpful - positive engagement is long overdue.

I've just returned from holiday and am catching up with things and have a number of tentative holds in my diary that I need to resolve. I will get back in touch with some suggested dates once I've sorted my diary out.

The draft Agreement attached to Ashurst's letter of 18 July 2023 sets out the terms upon which my clients are prepared to enable their land to be acquired – this is all of the land covered by CPO 1 and CPO 2. I assume that the purpose of any meeting would be to discuss any queries concerning the draft Agreement.

I've seen DJB's recent response to Ashurst's letter, which I found surprising given that the Ashurst draft Agreement is based on the proposal you put forward in your letter of 16 December 2022 and is subject to an advance payment based on your estimate of market value under the compensation code as set out in your email of 25 August 2021.

I hope to be in touch with dates for a meeting soon.

Regards

Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
1ST Floor, 26 Market Place, London W1W 8AN
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: Wednesday, August 9, 2023 3:43 PM
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Subject: FW: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Dear Matt

I trust you are well.

We have yet to meet in person to discuss this matter and it still seems to me that a "without prejudice" face to face meeting still remains the best way of making some progress in this matter.

I can offer you Wednesday or Thursday next week or the week after at my offices.

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 16 August 2023 17:01
To: Matthew Bodley
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]
Attachments: 230816 CPUK Heads of Terms.pdf

Dear Matt

Thanks for your email – I'm pleased to note that you have your client's instructions to engage.

I note your comments in respect of the DBJ letter which suggest that it would be helpful for me to further clarify matters.

As you know, your clients' previous agent progressed terms for a Hybrid Agreement with the developer on materially the same terms as agreed by the other landowners to a final form of Heads of Terms. I understand that your clients rejected this as they consider that they have a ransom position over the remaining landowners in the "no scheme" world. I assume that this remains the case.

The developer offered your clients £2.3M (including the Temple Bar and Denton interests) on the basis that there would be **no exercise** of compulsory purchase powers. This reflected the fact that agreement had been reached with all other landowners and parties including Bloor and they wished to avoid any further delay and expense in exercising compulsory purchase powers. Your clients rejected this offer and attended the Inquiry during which you and their solicitors heard my evidence and explanation of the terms.

The Council offered to purchase your clients' interests that lie outside of CPO 1 for the sum of £10,000 (matching the terms agreed with National Highways) so that CPO 1 could then be instigated without any need for CPO 2. Your clients added conditions to that offer that rendered it unworkable.

It appears from the Ashurst letter that your clients now wish to revisit the original offer made by Countryside but with two fundamental differences. The first difference is that they wish the Council to enter into the agreement rather than the developer and the second is that the Council will be required to exercise CA powers. DBJ has set out the Council's response in that regard.

With respect to the value of your clients' land I note that you keep referring to my email dated 25 August 2021. However, you are ignoring the context of that offer and my statements at the subsequent Inquiry which clarified the position. Your clients could have challenged my explanation at the Inquiry but chose not to do so.

In any event, the developer has since taken independent planning advice. This advice confirms that planning permission for development in isolation of your clients' land would be refused on appeal and there would therefore be no prospect of any development coming forward without the exercise of compulsory purchase powers to assemble the required interests. On this basis, had your client accepted rather than rejected the previous terms, there would now be grounds for CPUK to recoup the overpayment. In short, the previous terms are completely irrelevant.

Your clients have been invited to set out their opinion of value together with the assumptions and evidence underpinning that valuation but have remained silent. I presume therefore that you will be able to enlighten me on these points at our forthcoming meeting.

In the meantime, I have set out below three alternative options:

Agreement with the Developer

I am advised that the Developer is still willing to pay £2.3M but on the basis that no compulsory purchase powers are exercised, disputes are dealt with by way of private reference to the UTLC without any service of acquisition

notices, the terms are confidential to any reference and in the event that your client makes a reference to the UTLC and, as I anticipate, the Tribunal determines a lower figure, your clients will reimburse the developer the difference. Obviously, if I am incorrect and the UTLC take a different view, the developer will pay the balance.

The developer is willing to make this proposal as your clients are the last remaining interests required to deliver the scheme and they wish to avoid further cost or delay. In effect, the developer can either pay your clients this money to secure a commercial agreement in the scheme world or fund the Council in obtaining and exercising compulsory purchase powers and incurring the costs of further delay. If your client forces a second Inquiry this offer will no longer make commercial sense hence, if this is a route your clients wish to take, the developer will need completion well before the Council starts gearing up for the Inquiry.

I have attached Heads of Terms that capture the full details of the developer's terms.

Agreement with the Council

The Council can only make offers that are in strict accordance with the Compensation Code. In this regard, the assessment of compensation will take into account, inter alia, the "no scheme" principle whereby all activity undertaken by the Council and the developer in respect of the proposed scheme are to be disregarded, the terms of the Bloor agreement will apply, the lack of any prospect of the landowners working together to deliver a comprehensive scheme will be evidenced and the lack of planning consent (or prospect thereof) will be taken into account.

My advice to the Council is that the market value of your clients' land, notwithstanding the lack of full disclosure by your client as set out in the DBJ letter, is probably in the region of £12,000 per acre. I would therefore be prepared to take instructions for a full and final purchase on this basis plus the usual loss payments to the extent that they are appropriate and evidenced.

GVD

If your clients are unable to accept voluntary terms, the Council will have no option but to seek and exercise full CA rights as a matter of last resort. If they are forced down this route, they will proceed in strict accordance with the Compensation Code and your client will only receive an advance payment once they have provided full disclosure.

The purpose of our "without prejudice" meeting, therefore, is for you to enlighten me as to your clients' opinions of value and to clarify any issues in order to assist your clients to decide which of the three options they wish to pursue.

I look forward to confirmation of your availability.

Kind regards

Peter

Peter Roberts

FRICS CEnv

Partner

RICS Registered Valuer

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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	£2,300,000 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>

Matthew Bodley

From: Matthew Bodley
Sent: 25 August 2023 11:47
To: Peter Roberts
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Hi Peter

I just left you a voicemail. I will respond to your emails below in due course, but the purpose of my call was to try and agree a date for our proposed meeting. I understand that you are on leave next week and I'm off the following week so we are looking at the week commencing 11 September. I have availability on the Wednesday and Thursday (13th or 14th) for an in person meeting. My preference would be for a meeting at around 10.30am on either day, but could do later if required.

Please let me know if either of those dates suit.

I look forward to hearing from you.

Regards

Matt

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From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: Monday, August 21, 2023 11:04 AM
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Dear Matt

I refer to my emails dated 9 August and 16 August and continue to await details of your availability for our meeting.

You have already been provided with Heads of Terms for a voluntary purchase by CPUK. I had intended to walk you through the approach for a purchase by the Council but as we still don't have a date in the diary, and I am on holiday next week I have attached "without prejudice" terms which I trust are self-explanatory.

Your clients therefore now have new offers from both CPUK and the Council which provide for up-front payments together with the full protection of the Compensation Code through voluntary references to the UTLC.

On the basis that your clients have confirmed that their only objection to the TDSL is the lack of an agreement in respect of financial terms I look forward to confirmation as to which of these alternative approaches your clients wish to agree and that they will now withdraw their objections.

As I said in my previous email, the CPUK terms are on the understanding that they will not have to incur any further costs in securing CPO 2 hence their ability to continue to offer such terms is dependent upon early completion.

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 25 August 2023 20:32
To: Matthew Bodley
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Matt

I had today off to do some building work at home and then off to Northumberland tomorrow.

I have sent you an invite – it says Teams Meeting for some reason but I was proposing to meet up at my offices unless you had another suggestion – I have assigned 1.5 hours but don't have anything else on that morning so totally flexible.

I hope you have a good holiday and see you in when you get back.

Thanks

Peter

Peter Roberts

FRICS CEnv

Partner

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DWD

Matthew Bodley

From: Matthew Bodley
Sent: 13 September 2023 22:34
To: Peter Roberts
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Hi Peter

Apologies for the lateness of the hour in sending this email, but I thought it would be helpful for me to drop you a line in advance of our meeting tomorrow to respond to the points raised in your email of 16 August, below. You also sent me a subsequent email of 25 August but as that refers to some “without prejudice” content I won’t refer to the content of that email directly as I wish to maintain an open dialogue that can be referred to at Inquiry if necessary and, accordingly, this email is sent as open correspondence.

In addition to your emails I’ve also, of course, seen DJB’s letter to Ashurst of 9 August.

My comments on the main points are as follows:

- Hybrid Option – you continue to refer to the Hybrid Option proposal as put forward by Countryside. I thought we had previously made it clear that my client has no interest in proceeding with this, but as you have raised it again I feel I should clarify that this remains the case. The Hybrid Option is, as it sounds, just an option and it is only exercisable by Countryside and would not provide my client with any certainty. Furthermore, my client will be better off under the “compensation code” which is its statutory entitlement.
- Compensation Assessment as set out in your email of 25 August 2021 – as you say, I do keep referring to this email and its attachments as I consider it important and I shall clarify the reasons for this. It is not because my client now wishes to accept the offer put forward in that email, but rather because it is clear that the email sets out what your opinion of the rule 2 market value of my client’s property, in accordance with the compensation code, was at the date of your email. My email to you of 18 April 2023 set out in detail why it is clear that the figure of circa £2.3m set out in your email and the attached “Compensation Offer Table” represented your view of the rule 2 value. You are now seeking to distance yourself from this. Your most recent response below says that I have failed to consider the context in which the offer was made and the explanations that you gave in evidence at the inquiry, which my client could have challenged but chose not to. We had no reason to challenge what you said at the inquiry as it is quite clear that you said the circa £2.3m figure was *your* assessment of rule 2 value. DJB’s letter expresses the view that you gave evidence at the inquiry to express the view that the offer in the 25 August 2021 email was more favourable than my client’s compensation entitlement. This is not the case. As you say I observed the inquiry so I know what you actually said, which was that it was your view that the Hybrid Option was more favourable than the compensation entitlement. The offer which included the circa £2.3m figure was described as the “code offer” which reflected the “compensation code” position. My recollection of events is confirmed by Alex Booth’s comments at paragraphs 38-41 of his closing submission.
- Option 2 of your letter of 16 December 2022 – my client has expressed its agreement to proceed with a disposal of its interest which falls outside of CPO1 broadly in accordance with Option 2 of your 16 December 2022 letter – i.e. for the sum of £10,000 with the transfer occurring at the same time as the CP01 land and with the compensation being assessed on the basis that the additional land formed part of the CPO1 land. I do not accept that we have sought to add conditions which make it unworkable. The only conditions we have sought to add are an advanced payment based on 90% of the Acquiring Authority’s estimate, Basic Loss Payments and fees, all of which are my client’s statutory entitlement. I would like you to explain why you consider the conditions which we have proposed are unworkable.
- Identify of Party undertaking the acquisition – you are right that we require the acquisition to be by the Council as opposed to Countryside. Furthermore, we wish the acquisition to be structured in the way that

has been set out in the draft contract which was issued by Ashurst to DJB on 18 July 2023 (which was based on your Option 2), namely that the land in CPO 1 is vested by the Council. Given that the Council has promoted one CPO and is now promoting another which will give it (not Countryside) the power to compulsorily acquire land, we do not understand why the Council seems reluctant to proceed with the acquisition but is instead seeking to direct the acquisition to be undertaken directly by Countryside. I assume that the Council has a full indemnity from Countryside in any event. From my client's perspective it is necessary for the acquisition to proceed by compulsion from a Capital Gains Tax perspective. I can explain this to you in more detail at our meeting but the tax advice received by my client means that there is no option other than to proceed by way of GVD – my client has no objection to this and wants the Council to get on with vesting without further delay. In this regard, it has already been made very clear to you and the Council that my client is willing to agree the notional consideration of £10,000 for the land included within CPO2 and deal with the assessment of the actual compensation in the same way as the land to be acquired under CPO1.

- Planning Advice - I note your comments that the developer has now taken independent planning advice and was quite surprised to read that it has only just done this. I would have thought that it would have done so earlier. As we have previously informed you, my client has also taken its own independent planning advice. It initially did this in 2021 and a summary of that advice was set out in my proof to the first inquiry. This advice reaches very different conclusions to the developer's advice and this will clearly have a significant impact on the assessment of market value. It seems clear to me that we are not going to be able to agree the quantum of compensation that my client is entitled under the compensation code, unless there is a significant change of position by one side or other. Our position is not going to change and yours shows no signs of changing, therefore, it seems likely that the compensation will have to be determined by the Upper Tribunal. However, this does not prevent us from being able to reach an agreement which avoids the need for CPO2 and the associated inquiry. We can reach an agreement which allows for the transfer of the CPO2 land in tandem with the vesting of the CPO1 land, and the matter of compensation to be subsequently determined. This is what was proposed in your Option 2 proposal and the draft contract drafted by Ashurst.
- Occupation by Farmer – the DJB letter suggests that we have not provided sufficient information for you to make an assessment of the compensation. The land is “farmed in hand” which means that my client has direct responsibility for farming of the land, which it manages through the appointment of a contractor, which is a normal arrangement. There are no third party interests over the land which need to be determined and it is entirely within my client's control to deliver vacant possession. I think the most straightforward way of dealing with this is for the Agreement to include a requirement that my client would deliver vacant possession. This means that it will terminate the contract with its contractor and deliver the land with the benefit of vacant possession, if required. Depending on the timing of the acquisition, my client would require compensation for crop loss, as is its statutory entitlement. My understanding is that the Council / Countryside would be willing in principle to allow my client to continue to farm the land to take the current crop but this is really a secondary point to the main objective of effecting an immediate transfer of all of my client's land as included within CPO1 and CPO2.

Finally, my client is keen to avoid CPO2 and would really like to just get on with things. We would like to proceed on the basis of the previously circulated draft contract and this is what I would like to discuss at tomorrow's meeting.

Regards

Matt

Matthew Bodley MRICS

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Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 28 September 2023 18:04
To: Matthew Bodley
Subject: Heaver and CDC

Matt

As you know, we have the pre-inquiry meeting on 17 October 2023. I anticipate that SMTL and the residents will be reporting to the Inquiry that they intend to withdraw their objections which leaves your client as the only remaining objector.

I have no idea whether your client intends to attend or even take part in the Inquiry, but we have to assume a worst-case scenario and I am about to start drafting my evidence. As such, from a purely informative point of view, the offer from the developer will rapidly become less financially attractive to them the longer your client's objection is maintained.

I would therefore be grateful if you could provide an indication as to whether either of the terms provided to your client are likely to be accepted and, if not, whether you will be withdrawing the objection in any event so that we can speed up the process. In this regard, I am currently of the view that we will still need CPO 2 to deal with National Highways but an uncontested CPO would help everyone concerned so we can move to discussing valuation and planning matters.

It would also be helpful if, as previously mentioned, you could come back to me with some dates for a meeting between the planning experts with ourselves in attendance.

Many thanks

Peter

Peter Roberts

FRICS CEnv
Partner
RICS Registered Valuer
RICS Registered Expert Witness

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Matthew Bodley

From: Matthew Bodley
Sent: 29 September 2023 17:38
To: Peter Roberts
Subject: RE: Heaver and CDC

Hi Peter

As previously advised my client's priority is to try and reach an agreement which would enable it to withdraw its objection to CPO2 and not participate in the inquiry. Therefore, that is where the focus of our attention currently lies. We believe that the draft Agreement issued by Ashurst to DJB on 18 July achieves that.

I've just sent you a separate Without Prejudice email putting forward a proposed amendment to the draft Agreement which we believe should address the concerns you raised at our Without Prejudice meeting of 14 September. The email I have just sent is necessarily Without Prejudice as it makes reference to things you told me in our Without Prejudice meeting so it would be inappropriate for me to send the email on an open basis.

In response to your email below, the terms you have previously offered (the open offer on behalf of Countryside and the Without Prejudice offer on behalf of the Council) are not acceptable to my client as we consider them both to be less favourable than the statutory position to which my client would be entitled if its interests were compulsorily acquired. I thought I had been very clear that my client would like to reach an agreement with the Council as opposed to Countryside and advised you of the reasons for this. As an acquiring authority which has already promoted one CPO and is now promoting a second one, we find it surprising that the Council seems so reluctant to be a party to a land transaction with my client.

My client has no interest in arranging a meeting between planning consultants. We both know the positions of our client's respective planners and I don't see the point in the planners having a meeting to discuss this. As I have previously stated it is clear that there are significant differences between the parties as to the planning prospects of the land in the no scheme world which has significant valuation implications. Accordingly, we would like to focus attention on reaching an agreement which will enable the transfer of the land and preserve my client's rights to pursue its compensation claim and refer it to the Upper Tribunal for determination. This will enable us to withdraw the objection to CPO2 and play no further part in the upcoming CPO inquiry. Given the impending date of the inquiry we would like the Agreement to be concluded as a matter of urgency. We believe that the proposed amendments to the Ashurst draft contract, as set out in my Without Prejudice email from earlier this afternoon, enables this.

Regards
Matt

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From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: Thursday, September 28, 2023 6:04 PM
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Subject: Heaver and CDC

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 29 September 2023 19:18
To: Matthew Bodley
Subject: RE: Heaver and CDC

Dear Matt

I will respond to your W/P email separately but do need to address your points below first.

You and your client have been provided with chapter and verse as to why the Ashurst draft agreement is not acceptable to the Council so there little to be gained by going over old ground.

I have provided you with Heads of Terms for an agreement with the Council or an agreement with the developer. As you know, compulsory purchase powers are only supposed to exercised as a matter of last resort hence the whole point of those proposed agreements, unlike the Ashurst terms, is that they negate any requirement to rely on compulsory purchase powers. In this context I am bemused as to why your client sustained a challenge to CPO 1 and is now objecting to CPO 2 and yet is proposing terms that necessitate the exercise of CA powers.

I am also at a loss to understand how my proposed terms are less favourable when they preserve your client's right to have the matter determined by the Upper Tribunal so your client has full recourse to proceedings if they are unhappy with the compensation offered. Perhaps I am missing something?

It is misguided for you to interpret the Council's unwillingness to accept the numbers you propose as meaning that they are reluctant to be a party to a land transaction with your client. The correct position is that the Council want to agree terms that avoid any exercise of CA powers and you have been provided with Heads of Terms that will achieve this.

I note your client's refusal to a meeting between planning consultants which is less than helpful.

In this regard, I take issue with the statement that *"we both know the position of our client's respective planners"*. All I know is that your client considers that they could secure planning permission for residential development of their land. No details as to what form this planning permission might take or how your client would argue their case on appeal following the inevitable refusal has been provided.

In this regard, the only information I have had from you as to your client's position in respect of the interpretation and application of planning policy is that set out in paragraphs 3.19 to 3.23 of your proof of evidence to the last Inquiry. These five paragraphs don't tell me anything and, unless I am mistaken, you are not a planning expert.

I can only assume that Quod are not particularly confident of their advice (which I can fully understand) or it has been misrepresented and this is why your client doesn't want to instruct Quod to engage particularly bearing in mind the amount of money at stake.

For the avoidance of doubt, the Council's invitation to engage on planning matters remains open and, as I am sure you must be aware, the Tribunal would want there to be discussions on these points prior to any hearing so a refusal to engage at this point is merely delaying the inevitable. At some stage we have to establish who is correct on these points – the LPA or your client or find some middle ground.

It seems to me that we all want CPO 2 to be confirmed hence I am unclear as to the purpose of your client maintaining their objection – It would be helpful if you could explain to me, other than the obvious point that your client wants more money, what is the point and thrust of the objection?

Kind regards

Peter

Peter Roberts

FRICS CEnv

Partner

RICS Registered Valuer

RICS Registered Expert Witness

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From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>

Sent: Friday, September 29, 2023 5:38 PM

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

Subject: RE: Heaver and CDC

Hi Peter

As previously advised my client's priority is to try and reach an agreement which would enable it to withdraw its objection to CPO2 and not participate in the inquiry. Therefore, that is where the focus of our attention currently lies. We believe that the draft Agreement issued by Ashurst to DJB on 18 July achieves that.

I've just sent you a separate Without Prejudice email putting forward a proposed amendment to the draft Agreement which we believe should address the concerns you raised at our Without Prejudice meeting of 14 September. The email I have just sent is necessarily Without Prejudice as it makes reference to things you told me in our Without Prejudice meeting so it would be inappropriate for me to send the email on an open basis.

In response to your email below, the terms you have previously offered (the open offer on behalf of Countryside and the Without Prejudice offer on behalf of the Council) are not acceptable to my client as we consider them both to be less favourable than the statutory position to which my client would be entitled if its interests were compulsorily acquired. I thought I had been very clear that my client would like to reach an agreement with the Council as opposed to Countryside and advised you of the reasons for this. As an acquiring authority which has already promoted one CPO and is now promoting a second one, we find it surprising that the Council seems so reluctant to be a party to a land transaction with my client.

My client has no interest in arranging a meeting between planning consultants. We both know the positions of our client's respective planners and I don't see the point in the planners having a meeting to discuss this. As I have previously stated it is clear that there are significant differences between the parties as to the planning prospects of the land in the no scheme world which has significant valuation implications. Accordingly, we would like to focus attention on reaching an agreement which will enable the transfer of the land and preserve my client's rights to

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 06 October 2023 09:42
To: Matthew Bodley
Subject: RE: Heaver and CDC

Dear Matt – further to our email exchanges last Friday I wondered if you could a) provide details of you and your client’s planning advisor’s availability for a meeting and b) confirm which of the alternative Heads of Terms as provided to you by me your client would like to pursue. As you know these Heads avoid any necessity to exercise CA powers in respect of your client’s interests and provide full access to the Upper Tribunal to determine matters in accordance with the Compensation Code. As you also know, matters of valuation and compensation are for the Tribunal not the Inspector hence I do not see the point of wasting Inquiry time on these points.

If your client is not minded to engage and/or progress terms on the basis proposed by the Council, it would be helpful to understand your client’s position at the Inquiry – as I have already stated, the defeat of the CPO is clearly in neither parties’ interests so, as I have asked previously, what exactly are you asking the Inspector to do? - There is no point asking the Inspector for something that might have been agreed by the Council beforehand given the opportunity. In this regard, your argument that the offers made fall well below your client’s compensation entitlement is illogical given that your client is being given full access to the appropriate body who can determine compensation matters in their entirety. There must therefore be some other, as yet unidentified, concession that you are seeking to secure by maintaining the objection – what is it?

I would also be grateful for an update in respect of the proceedings between your client and National Highways.

Thanks

Peter

From: Peter Roberts
Sent: Friday, September 29, 2023 7:17 PM
To: 'Matthew Bodley' <Matthew@matthewbodleyconsulting.com>
Subject: RE: Heaver and CDC

Dear Matt

I will respond to your W/P email separately but do need to address your points below first.

You and your client have been provided with chapter and verse as to why the Ashurst draft agreement is not acceptable to the Council so there little to be gained by going over old ground.

I have provided you with Heads of Terms for an agreement with the Council or an agreement with the developer. As you know, compulsory purchase powers are only supposed to exercised as a matter of last resort hence the whole point of those proposed agreements, unlike the Ashurst terms, is that they negate any requirement to rely on compulsory purchase powers. In this context I am bemused as to why your client sustained a challenge to CPO 1 and is now objecting to CPO 2 and yet is proposing terms that necessitate the exercise of CA powers.

I am also at a loss to understand how my proposed terms are less favourable when they preserve your client’s right to have the matter determined by the Upper Tribunal so your client has full recourse to proceedings if they are unhappy with the compensation offered. Perhaps I am missing something?

Matthew Bodley

From: Trevor.Goode@ashurst.com
Sent: 13 October 2023 20:17
To: **John Heaver**; Matthew Bodley
Cc: Brian.Cheung@ashurst.com; David.Razzell@ashurst.com
Subject: FW: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]
Attachments: Sale Agreement - Tangmere.docx; Letter to DJB re CPO 2 Plot 19E dated 13 October 2023(410752143.2).pdf

fyi

Trevor Goode

Partner, Co-Head of Planning and Environment

Ashurst LLP, London Fruit & Wool Exchange, 1 Duval Square, London, E1 6PW
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From: Goode, Trevor 11114
Sent: 13 October 2023 20:13
To: 'Yohanna Weber' <Yohanna.Weber@djblaw.co.uk>
Cc: nbennett@chichester.gov.uk; Cheung, Brian 12732 <Brian.Cheung@ashurst.com>
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Dear Yohanna

Please see attached.

Happy to discuss in the hope that we can agree the terms of the agreement and enable the objection to be withdrawn.

Regards

Trevor

Trevor Goode

Partner, Co-Head of Planning and Environment

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13 October 2023

By email transmission and post

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 and CS South Limited**

We refer to your letter dated 9 August 2023 in response to our letter dated 18 July 2023. We refer also to the Council's Statement of Case which was sent to us under cover of a letter dated 24 August 2023.

Our clients objected to CPO 2 primarily on the basis that the Council in its capacity as Acquiring Authority has failed and is continuing to fail in its duties to demonstrate:

- That the acquisition of *all* of our clients' land as provided for within CPO 2 is necessary; and
- That there have been meaningful and genuine attempts to negotiate the voluntary acquisition of our clients' land.

Enclosed with our letter of 18 July 2023 was a draft agreement which contained a clear, reasonable and pragmatic process to enable all of our clients' land to be acquired now, and for the disputed issue of compensation to be determined at a later stage by the Upper Tribunal, if necessary.

The draft agreement has been structured in accordance with the Option 2 proposal in Mr Roberts' letter to Mr Bodley of 16 December 2022.

For the record, our clients have no objection to transferring their land comprised within CPO 1 and CPO 2 to the Council.

The land comprised within CPO 1 will need to be transferred by way of a GVD. This is to ensure that the transfer falls within the type of transaction envisaged by Section 246 of the Taxation of Chargeable Gains Act 1992 and would enable the correct amount of capital gains tax be paid at the point at which compensation is either determined or agreed.

It appears from paragraph 6.28 of the Council's Statement of Case that in March 2022 the Council was preparing to serve GVDs to acquire our clients' land. The draft agreement enclosed with this letter facilitates this process.

The additional land comprised within CPO 2 (Plot 19E) could be transferred now by way of an agreement (in advance of confirmation of the CPO). It is not essential for this land to be acquired by way of a GVD because the CGT liability is not as significant as it will be in respect of our clients' land comprised within CPO 1.

Please find enclosed a slightly revised draft agreement which has been amended to address concerns raised by Mr Roberts relating to confidentiality of information to be presented to the Upper Tribunal and an acknowledgement that our clients accept the statutory arrangements for advance payments made under Section 52 of the Land Compensation Act 1973.

We look forward to hearing from you once you have had an opportunity to consider the draft agreement and would ideally like to finalise and exchange the agreement by 30 November 2023, thereby enabling our clients' objection to CPO 2 to be withdrawn.

Yours faithfully



Ashurst LLP

Enc

Agreement

Bosham Limited

and

Shopwyke Limited

and

CS South Limited

and

Chichester District Council

for the sale and purchase of land at Copse and
Church Farms, Tangmere

2023

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THIS AGREEMENT is made on

2023

BETWEEN:

- (1) **BOSHAM LIMITED** (Company registration number 11145803) and **SHOPWYKE LIMITED** (Company registration number 11145921) which have their registered offices at 22 Chancery Lane, London WC2A 1LS;
- (2) **CS SOUTH LIMITED** (Company registration number 08333692) which has its registered offices at 22 Chancery Lane, London WC2A 1LS; and
- (3) **CHICHESTER DISTRICT COUNCIL** of 1 East Pallant, Chichester PO19 1TY.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 In this agreement the following words and expressions have the following meanings:

- (a) **"1973 Act"** means the Land Compensation Act 1973;
- (b) **"1981 Act"** means the Compulsory Purchase (Vesting Declarations) Act 1981;
- (c) **"Advance Payment"** means the sum of TWO MILLION AND SEVENTY THOUSAND POUNDS (£2,070,000) being an advance payment under section 52 of the 1973 Act on account of compensation payable by the Council for the compulsory acquisition of the CPO Land;
- (d) **"Basic Loss Payment"** means the sum of SEVENTY-FIVE THOUSAND POUNDS (£75,000) being a payment under section 33A of the 1973 Act in respect of the compulsory acquisition of the CPO Land pursuant to the GVD;
- (e) **"Clearing Bank"** means a bank admitting by the Bank of England as a 'direct participant' in the CHAPS system;
- (f) **"Compensation Code"** means the provisions of the Land Compensation Act 1961, the Compulsory Purchase Act 1965 and 1973 Act, as in force at the date of this agreement, together with any other statutory provisions in force at the date of this agreement and body of case law relevant to the assessment of compensation as assessed and applied by the Tribunal in compulsory purchase matters;
- (g) **"Council"** means the third party to this agreement and this definition shall be deemed not to include the successors in title of or those deriving title under the Council;
- (h) **"Council's Solicitors"** means Davitt Jones Bould of Level 24 The Shard, 32 London Bridge Street, London SE1 9SG (ref (to be quoted upon service of any notice): [●]);
- (i) **"CPO 1"** means the Chichester District Council (Tangmere) Compulsory Purchase Order 2020 as confirmed on 11 November 2021;
- (j) **"CPO 2"** means the Chichester District Council (Tangmere) (No 2) Compulsory Purchase Order 2023 as made on 30 March 2023;
- (k) **"CPO Compensation"** means the compensation payable by the Council for the compulsory acquisition of the CPO Land in accordance with the Compensation Code;

- (l) **"CPO Land"** means the land referred to and numbered 15, 16 and 17 in the schedule to CPO 1 and the order map accompanying CPO 1 as shown indicatively on the plan attached at Annexure 2;
- (m) **"CS South"** means the second party to this agreement and this definition shall be deemed to include the successors in title of and those deriving title under CS South;
- (n) **"Direct Credit"** means direct transfer from the Council's Solicitors' client account maintained at a Clearing Bank resulting in receipt of cleared funds;
- (o) **"GVD"** means a general vesting declaration executed under section 4 of the 1981 Act in respect of the CPO Land;
- (p) **"Property"** means the part of the freehold land known as part of land at Copse and Church Farms, Tangmere registered at HM Land Registry under title number WSX217492 as shown red on the plan attached to the Transfer at Annexure 1, being the land referred to and numbered 19E in the schedule to CPO 2 and the order map accompanying CPO 2;
- (q) **"Public Requirements"** means all local land charges and other matters whensoever registered or registrable (whether registered or not) by any local authority or other body acting on statutory authority and every charge notice direction order restriction agreement resolution proposal condition and other matter affecting the Property made (whether before or after the date of this agreement) by a body acting on statutory authority;
- (r) **"Purchase Price"** means the sum of TEN THOUSAND POUNDS (£10,000);
- (s) **"Seller"** means the first party to this agreement and this definition shall be deemed to include the successors in title of and those deriving title under the Seller;
- (t) **"Seller's Costs"** means the sum of [●] exclusive of Value Added Tax being a contribution to the reasonable fees costs and expenses incurred by the Seller (including legal and surveyor's fees) in connection with:
 - (i) negotiations for the sale of the Property and of this agreement; and
 - (ii) making representations in relation to CPO 2;
- (u) **"Seller's Solicitors"** means Ashurst LLP of London Fruit & Wool Exchange, 1 Duval Square, London E1 6PW (ref (to be quoted on service of any notice): JXM/DJR/1000-037-808);
- (v) **"Seller's Solicitors' Client Account"** means the account in the Seller's Solicitors' name;
- (w) **"Standard Commercial Property Conditions"** means Part 1 of the Standard Commercial Property Conditions (Third Edition) and **"SCPC"** means Standard Commercial Property Condition;
- (x) **"Tribunal"** means the Upper Tribunal (Lands Chamber);
- (y) **"Vesting Date"** means the first day after the end of the period specified in the GVD in accordance with section 4(1) of the 1981 Act, being the date from which the CPO Land is vested in the Council under the GVD; and
- (z) **"Working Day"** means any day from Monday to Friday (inclusive) save for Christmas Day, Good Friday or statutory bank holidays or any day from and including 24 December to 31 December.

- 1.2 Obligations entered into by any party which comprises more than one person shall be deemed to be joint and several.
- 1.3 Words importing persons shall include firms companies and corporations and vice versa.
- 1.4 The headings to the clauses of this agreement are for reference purposes only and shall not affect its interpretation.
- 1.5 References in this agreement to clauses are unless otherwise stated references to clauses of this agreement.

2. **NOTICE OF VESTING OF THE CPO LAND**

The Council shall give to the Seller and CS South not less than three months' notice of the Vesting Date.

3. **ADVANCE PAYMENT**

- 3.1 The Seller and CS South hereby request the Advance Payment as owners of the freehold interests in the CPO Land registered at HM Land Registry under title numbers WSX217492 WSX355209 and WSX355210.
- 3.2 The Council acknowledges the Seller and CS South's request under clause 3.1 and agrees that the request meets the requirements of section 52(2) of the 1973 Act, having received sufficient information to enable it to estimate the amount of compensation in respect of which the Advance Payment is to be made.
- 3.3 The Council shall pay to the Seller the Advance Payment on or before the Vesting Date by Direct Credit to the Seller's Solicitors' Client Account.
- 3.4 Nothing in this agreement affects the Seller's and CS South's right to apply for further advance payments under section 52 of the 1973 Act.
- 3.5 The Seller and CS South acknowledge that section 52AZA(1) of the 1973 Act requires, where the Advance Payment or the aggregate of the Advance Payment and any other payments under section 52 of the 1973 Act made on the basis of the Council's estimate of the CPO Compensation exceeds the CPO Compensation as finally determined or agreed, the excess is to be repaid to the Council.

4. **BASIC LOSS PAYMENT**

- 4.1 The Seller and CS South hereby claim the Basic Loss Payment as owners of the freehold interests in the CPO Land registered at HM Land Registry under title numbers WSX217492 WSX355209 and WSX355210.
- 4.2 The Council acknowledges the Seller and CS South's claim under clause 4.1 and agrees that the claim meets the requirements of section 33E of the 1973 Act.
- 4.3 The Council shall pay to the Seller the Basic Loss Payment on the Vesting Date by Direct Credit to the Seller's Solicitors' Client Account.

5. **COMPENSATION**

- 5.1 The parties agree that the CPO Compensation shall be assessed on the assumption that the Property formed part of the CPO Land on the valuation date.
- 5.2 The parties agree that the Purchase Price shall be disregarded for the purposes of assessing the CPO Compensation.

- 5.3 The parties shall negotiate in good faith to agree the amount of the CPO Compensation.
- 5.4 The parties acknowledge that, if they are unable to agree the amount of the CPO Compensation, either party has the right to refer the matter to the Tribunal under section 1 of the Land Compensation Act 1961.
- 5.5 The Council acknowledges that:
- (a) nothing in this agreement affects the Seller and CS South's right to argue that the Seller and CS South would have been able to obtain planning permission for development of the CPO Land assuming the application of the "no-scheme principle" in section 6A of the Land Compensation Act 1961;
 - (b) the Seller and CS South reserve the right to bring a claim for the CPO Compensation before the Tribunal on this basis;
 - (c) the Seller is entitled to include loss of crop and associated losses and expenses including loss of profit in its claim for the CPO Compensation; and
 - (d) the Council's payment of the Seller's Costs does not affect the Seller's and CS South's right to claim additional and/or other professional fees, costs and expenses as part of a claim for the CPO Compensation.
- 5.6 The parties agree:
- (a) that the amounts of the Advance Payment and the Basic Loss Payment do not prejudice any party's ability to argue (including in any proceedings to determine the amount of the CPO Compensation) that the amount of the CPO Compensation should be more or less than the Council's current estimate; and
 - (b) unless expressly ordered by the Tribunal or other court, not to disclose to the Tribunal (nor any higher court if there is an appeal in respect of any decision of the Tribunal) nor rely upon in any proceedings to determine the amount of the CPO Compensation the amounts of the Advance Payment and the Basic Loss Payment.

6. **SALE AND PURCHASE**

- 6.1 The Seller shall sell and the Council shall purchase the Property in consideration of the payment to the Seller by the Council of the Purchase Price.
- 6.2 Subject to the terms of this agreement the Seller shall sell with full title guarantee.
- 6.3 The Council shall pay the Purchase Price and the Seller's Costs to the Seller on a non-refundable basis on the date of this agreement by Direct Credit to the Seller's Solicitors' Client Account.
- 6.4 If this agreement terminates pursuant to clause 9, the Seller:
- (a) shall be entitled to retain the Purchase Price and the Seller's Costs and any other sum paid to the Seller by or on behalf of the Council pursuant to this agreement; and
 - (b) shall not be required to repay the Purchase Price and/or the Seller's Costs and/or any other such sum to the Council.

7. **COMPLETION**

- 7.1 Completion of the sale and purchase of the Property shall take place on the Vesting Date.

7.2 The Seller shall not be bound to complete the sale and purchase until it has received payment of all sums payable by the Council pursuant to the terms of this agreement at the time and in the manner specified by this agreement.

8. **OBJECTION TO CPO 2**

8.1 The Seller agrees to withdraw the objection to CPO 2 it submitted on 5 May 2023 as soon as reasonably practicable after completion of the sale and purchase of the Property.

8.2 The Council agrees to pay to the Seller on completion of the sale and purchase of the Property all reasonable fees costs and expenses incurred by the Seller (including legal and surveyor's fees) in connection with maintaining its objection to CPO 2 from (but excluding) the date of this agreement to (and including) the date of completion of the sale and purchase of the Property.

9. **TERMINATION**

If completion of the sale and purchase of the Property has not occurred on or before [●] 2023, this agreement will terminate with immediate effect from (and including) [●] 2023, without affecting any liability for antecedent breaches.

10. **VACANT POSSESSION**

Vacant possession of the Property shall be given on completion of the sale and purchase.

11. **TITLE**

Title to the Property is registered at HM Land Registry with the class of title and under the title number referred to in the definition of Property and title having been deduced to the Council or the Council's Solicitors prior to the date of this agreement the Council shall be deemed to purchase with full knowledge of the title in all respects and shall not raise any requisitions or objections in relation to the title.

12. **MATTERS AFFECTING THE PROPERTY**

12.1 The Property is sold subject to and (where appropriate) with the benefit of:

- (a) the matters contained or referred to in the registers of the title numbers referred to in the definition of Property;
- (b) the Promotion and Option Agreement dated 21 December 2012 made between Herbert George Heaver and Shelagh Heaver (2) Bloor Homes Limited and (3) Bloor Holdings Limited;
- (c) Public Requirements;
- (d) unregistered interests falling within schedule 3 to the Land Registration Act 2002;
- (e) such other unregistered interests as may affect the Property to the extent that and for so long as they are preserved by schedule 12 to the Land Registration Act 2002;
- (f) PPP leases as defined in section 90 of the Land Registration Act 2002;
- (g) incumbrances discoverable by inspection of the Property before the date of this agreement;
- (h) incumbrances which the Seller does not and could not reasonably know about;

- (i) matters other than monetary charges or incumbrances disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before entering into this agreement.

12.2 The Council shall be deemed to have notice of the matters referred to in clause 12.1 and shall not be entitled to raise any requisition or objection in respect of them.

12.3 The Council is to bear the cost of complying with any outstanding Public Requirement and is to indemnify the Seller against any liability resulting from a Public Requirement.

13. **PRELIMINARY ANSWERS**

Save in the case of any fraudulent misrepresentation the Council agrees that it shall have no remedy against the Seller and that the Seller shall have no liability to the Council in respect of any statement made in the negotiations leading to this agreement other than statements contained in written replies given by the Seller's solicitors to written enquiries made by the Council's Solicitors.

14. **RISK AND INSURANCE**

With effect from and including the date of this agreement the Property is at the Council's risk and the Seller is under no obligation to the Council to insure the Property.

15. **VALUE ADDED TAX**

15.1 Save as the context requires or as otherwise stated all references to payments made in this agreement are references to such payments exclusive of Value Added Tax chargeable in respect of the supply of goods or services for which the payment is or is deemed to be consideration and where such payments fall to be made under this agreement the amount of such Value Added Tax shall be paid in addition thereto.

15.2 Without prejudice to and save as mentioned earlier in this clause where any supply is made or deemed to be made pursuant to this agreement the recipient of the supply shall pay to the supplier the amount of any Value Added Tax chargeable in respect thereof.

15.3 Where any payment is required to be made pursuant to this agreement to reimburse the payee for any expenditure incurred by the payee such payment shall include an amount equal to any Value Added Tax comprised in that expenditure which is not recoverable by the payee (or the representative member of its VAT group) as input tax under section 25 of the Value Added Tax Act 1994.

16. **CONFIDENTIALITY**

None of the parties (including their respective agents employees or representatives) shall without the prior written consent of the others disclose or permit or suffer to be disclosed the contents of this agreement except and to the extent that such disclosure:

- (a) may be required by law or the Tribunal or court or other authority of competent jurisdiction or the London Stock Exchange plc or the Financial Conduct Authority; or
- (b) is a "protected disclosure" as defined by section 43A of the Employment Rights Act 1996.

17. **NO ASSIGNMENT OR SUB-SALE**

The Council is not entitled to transfer the benefit of this agreement and the Seller may not be required to transfer the Property in parts or to any person other than the Council.

18. **THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

19. **JOINT AND SEVERAL LIABILITY**

Where the Council is more than one person the Seller may release or compromise the liability of any of them under this agreement or grant time or other indulgence without affecting the liability of any of the others.

20. **SURVIVAL OF THIS AGREEMENT**

Notwithstanding completion of the sale and purchase all the provisions of this agreement shall continue in full force and effect to the extent that any of them remain to be implemented.

21. **TRANSFER**

21.1 The transfer of the Property shall be in the form annexed at Annexure 1.

21.2 The transfer is to have effect as if the disposition is expressly made subject to all matters referred to in clause 12.

21.3 The transfer of the Property shall be prepared by the Seller and executed by the Council in original and counterparty and delivered to the Seller's solicitors no later than five Working Days before the Vesting Date.

22. **INTEREST**

Interest at 4% above the Bank of England base rate shall be payable on any sum which is paid later than the date on which it falls due under the terms of this agreement.

23. **PROVISION OF TITLE INFORMATION ON COMPLETION OF REGISTRATION**

The Council shall immediately following registration of the transfer of the Property to the Council provide the Seller with a certified copy of the title information document issued by HM Land Registry or official copies of the register of title to the Property.

24. **GOVERNING LAW AND JURISDICTION**

24.1 This agreement and any dispute controversy proceedings or claim of whatever nature arising out of or in any way relating to this agreement or its formation (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

24.2 Each of the parties to this agreement irrevocably agrees that the courts of England shall have exclusive jurisdiction to hear and decide any suit action or proceedings and/or to settle any disputes which may arise out of or in any way relate to this agreement or its formation (including any non-contractual disputes or claims) and for these purposes each party irrevocably submits to the exclusive jurisdiction of the courts of England.

25. **STANDARD COMMERCIAL PROPERTY CONDITIONS**

25.1 The Standard Commercial Property Conditions are incorporated in this agreement and where there is a conflict between them and any other provision of this agreement that other provision prevails.

- 25.2 In the construction of the Standard Commercial Property Conditions "contract rate" means a yearly rate equivalent to four percentage points above the base lending rate of National Westminster Bank Plc for the time being in force calculated on a daily basis.
- 25.3 In the Standard Commercial Property Conditions references to "buyer" are to be treated as references to the Council.
- 25.4 SCPC 1.1.1(c) 1.1.1(l) 1.3.2 1.3.3(b) 1.3.5(c) 1.3.7(e) 4.1 7.1 7.2 7.3 7.4.2 7.6.1 7.6.2 7.6.3 7.6.6 8.2.4(b) 8.2.5 9.2.1 and 9.7 do not apply.
- 25.5 SCPC 1.1.3(b) is amended to read "in the case of the seller, even though a mortgage or charge remains secured on the property, (except one to which the property is sold subject), if the seller would have been able to discharge it (to the extent that it encumbers the property) on the date on which the notice is served had the sale been completed on that date".
- 25.6 SCPC 9.1.2 shall be deleted and the following shall apply instead "If the money due on completion is received in the Seller's Solicitors' Client Account after 1.30 p.m. on a Working Day (or at any time on a day which is not a Working Day) then for the purposes of SCPC 9.3 and SCPC 10.3 completion shall be treated as taking place on the next Working Day as a result of the Council's default."
- 25.7 In SCPC 9.1.3(b) "1.30 p.m." is substituted for "2.00 p.m."
- 25.8 In SCPC 9.3.4(b) the words "(or 1/366th where the sum to be apportioned relates to a year that includes 29 February)" are added at the end.
- 25.9 In SCPC 10.1 "injured party" is substituted for "buyer" and in 10.1(b)(ii) "transfer or accept" is substituted for "accept".
- 25.10 In SCPC 10.1(a) the words "or any of the contents included in the contract are deleted"

AS WITNESS the hands of the parties or their duly authorised representatives the day and year first above written.

Signed by **BOSHAM LIMITED:**)
)

Signed by **SHOPWYKE LIMITED:**)
)

Signed by **CHICHESTER DISTRICT COUNCIL:**)
)

Draft

ANNEXURE 1

TRANSFER

Draft

ANNEXURE 1
PLAN SHOWING CPO LAND

Draft

Matthew Bodley

From: Trevor.Goode@ashurst.com
Sent: 16 October 2023 14:32
To: John Heaver Matthew Bodley
Cc: Brian.Cheung@ashurst.com; David.Razzell@ashurst.com
Subject: FW: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [DJB_DMS-DJB-DMS.FID218381] [ASH-EUS.FID4047256]
Attachments: Letter to DJB re CPO 2 Plot 19E dated 13 October 2023(410752143.2).pdf; Sale Agreement - Tangmere.docx

fyi

From: Yohanna Weber <Yohanna.Weber@djblaw.co.uk>
Sent: 16 October 2023 14:13
To: Goode, Trevor 11114 <Trevor.Goode@ashurst.com>
Cc: nbennett@chichester.gov.uk; Cheung, Brian 12732 <Brian.Cheung@ashurst.com>; 'Peter Roberts' <peter.roberts@dwdllp.com>
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Caution: External email.

Trevor

Thank you for your letter and amended draft below. The Council is considering the draft with Peter Roberts at DWD, who as you know has been negotiating terms with Matt Bodley directly. Peter will revert with our response as soon as possible.

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: **Exchange House, The Crescent, Taunton TA1 4EB**

From: Trevor.Goode@ashurst.com <Trevor.Goode@ashurst.com>
Sent: Friday, October 13, 2023 8:14 PM
To: Yohanna Weber <Yohanna.Weber@djblaw.co.uk>
Cc: nbennett@chichester.gov.uk; Brian.Cheung@ashurst.com
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Dear Yohanna

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 16 October 2023 16:05
To: Matthew Bodley
Cc: Nicholas Bennett; Yohanna Weber; Brian.Cheung@ashurst.com; Trevor.Goode@ashurst.com
Subject: RE: Heaver and CDC
Attachments: Letter to DJB re CPO 2 Plot 19E dated 13 October 2023(410752143.2).pdf; Sale Agreement - Tangmere - PR amends tracked.docx

Dear Matt

Further to my previous emails:

- When will you revert to me with proposed dates and times for a meeting with you and Quod?
- What are you asking the Inspector to do by maintaining the objection?
- When will you respond to the Heads of Terms prepared by the Council and the developer?
- What is your reason for ignoring the terms offered to your client?
- What is your client's position in respect of the injunction against the Council purchasing land from National Highways?

In the meantime, your client's solicitor has written to DJB with a draft Agreement. This seems totally pointless bearing in mind that you and I have yet to agree the principles hence it has fallen to me to respond to you in this regard. It also despite the fact that I have been very clear with you that the Council are required and wish to agree terms that avoid any exercise of CA powers. However, Ashurst are insisting that the transfer to the Council must be by way of a GVD and overlook the fact that, due to your client's injunction of the sale of land from National Highways to the Council, CPO 2 is still required. It is in everyone's interest that CPO 2 is confirmed.

Ashurst also refer to my terms dated 16 December 2022 but fail to mention that they were issued prior to your client's injunction when the Council was trying to avoid any need for CPO 1. The reason those terms are not on the table anymore is because they don't work in light of that injunction and to pretend otherwise is flogging a dead horse. In any event, the fact that Ashurst's draft is based on my terms contradicts their assertion, in the same letter, that there haven't been meaningful and genuine attempts. Your client is seeking to hold the Council to historic terms and financial offers on the one hand whilst arguing that there has been no meaningful engagement!

Notwithstanding all this, I have gone through the Sale Agreement and made some initial comments and amendments. However, the elephant in the room that you have not addressed is how you intend to address the National Highway's land and avoid CPO 2 being required.

For the sake of complete clarity, the developer was prepared to fund a premium over and above market value if it resulted in the Council not having to secure CPO 2 and avoid issuing GVDs. As your client is insisting that the Council must serve GVDs and CPO 2 is the only way to overcome your client's injunction on the sale of the National Highways land I will now, in light of this latest response from Ashurst, be taking further instructions. Frankly, there is no point in the developer funding a premium if they still have to find the Council the costs of serving GVDs and attending the Inquiry proceedings on top because your client wont withdraw their objection and their injunction in respect of the NH land remains in place..

As ever, I am more than happy to discuss these various points with you as and when you are ready to do so and have client's instructions.

Kind regards

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

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DWD

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From: Peter Roberts

Sent: Friday, October 6, 2023 9:43 AM

To: 'Matthew Bodley' <Matthew@matthewbodleyconsulting.com>

Subject: RE: Heaver and CDC

Dear Matt – further to our email exchanges last Friday I wondered if you could a) provide details of you and your client’s planning advisor’s availability for a meeting and b) confirm which of the alternative Heads of Terms as provided to you by me your client would like to pursue. As you know these Heads avoid any necessity to exercise CA powers in respect of your client’s interests and provide full access to the Upper Tribunal to determine matters in accordance with the Compensation Code. As you also know, matters of valuation and compensation are for the Tribunal not the Inspector hence I do not see the point of wasting Inquiry time on these points.

If your client is not minded to engage and/or progress terms on the basis proposed by the Council, it would be helpful to understand your client’s position at the Inquiry – as I have already stated, the defeat of the CPO is clearly in neither parties’ interests so, as I have asked previously, what exactly are you asking the Inspector to do? - There is no point asking the Inspector for something that might have been agreed by the Council beforehand given the opportunity. In this regard, your argument that the offers made fall well below your client’s compensation entitlement is illogical given that your client is being given full access to the appropriate body who can determine compensation matters in their entirety. There must therefore be some other, as yet unidentified, concession that you are seeking to secure by maintaining the objection – what is it?

I would also be grateful for an update in respect of the proceedings between your client and National Highways.

Thanks

Peter

SUBJECT TO CONTRACT AND FINAL CLIENT APPROVAL

ashurst

PR amends 16 October
2023

Draft: 13 October 2023

Agreement

Bosham Limited

and

Shopwyke Limited

and

CS South Limited

and

Chichester District Council

for the sale and purchase of land at Copse and
Church Farms, Tangmere

EUS\407357430.09

SUBJECT TO CONTRACT AND FINAL CLIENT APPROVAL

2023

Draft

EUS\407357430.09

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THIS AGREEMENT is made on

2023

BETWEEN:

- (1) **BOSHAM LIMITED** (Company registration number 11145803) and **SHOPWYKE LIMITED** (Company registration number 11145921) which have their registered offices at 22 Chancery Lane, London WC2A 1LS;
- (2) **CS SOUTH LIMITED** (Company registration number 08333692) which has its registered offices at 22 Chancery Lane, London WC2A 1LS; and
- (3) **CHICHESTER DISTRICT COUNCIL** of 1 East Pallant, Chichester PO19 1TY.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 In this agreement the following words and expressions have the following meanings:

- (a) **"1973 Act"** means the Land Compensation Act 1973;
- (b) **"1981 Act"** means the Compulsory Purchase (Vesting Declarations) Act 1981;
- (c) **"Advance Payment"** means the sum of ~~TWO MILLION AND SEVENTY THOUSAND POUNDS (£2,070,000)~~ [] together with 90% of the Basic Loss payment being an advance payment in respect of the CPO Land under section 52 of the 1973 Act on account of compensation payable by the Council for the compulsory acquisition of the CPO Land;
- (d) **"Basic Loss Payment"** means the sum of SEVENTY-FIVE THOUSAND POUNDS (£75,000) being a payment under section 33A of the 1973 Act in respect of the compulsory acquisition of the CPO Land pursuant to the GVD;
- (e) **"Clearing Bank"** means a bank admitting by the Bank of England as a 'direct participant' in the CHAPS system;
- (f) **"Compensation Code"** means the provisions of the Land Compensation Act 1961, the Compulsory Purchase Act 1965 and 1973 Act, as in force at the date of this agreement, together with any other statutory provisions in force at the date of this agreement and body of case law relevant to the assessment of compensation as assessed and applied by the Tribunal in compulsory purchase matters;
- (g) **"Council"** means the third party to this agreement ~~and this definition shall be deemed not to include the successors in title of or those deriving title under the Council;~~
- (h) **"Council's Solicitors"** means Davitt Jones Bould of Level 24 The Shard, 32 London Bridge Street, London SE1 9SG (ref (to be quoted upon service of any notice): [●]);
- (i) **"CPO 1"** means the Chichester District Council (Tangmere) Compulsory Purchase Order 2020 as confirmed on 11 November 2021;
- (j) **"CPO 2"** means the Chichester District Council (Tangmere) (No 2) Compulsory Purchase Order 2023 as made on 30 March 2023;
- (k) **"CPO Compensation"** means the compensation payable by the Council for the compulsory acquisition of the CPO Land in accordance with the Compensation Code;

Commented [PR1]: Whilst Ashurst issued this in open correspondence, the figure that the Council is prepared to agree is the subject of without prejudice correspondence

Commented [PR2]: There is no reason to separate out the Basic Loss element - it is part of the Advance Payment

Commented [PR3]: The Council reserves the right to transfer the benefit of this agreement to the appointed developer

- (l) **"CPO Land"** means the land referred to and numbered 15, 16 and 17 in the schedule to CPO 1 and the order map accompanying CPO 1 as shown indicatively on the plan attached at Annexure 2;
- (m) **"CS South"** means the second party to this agreement and this definition shall be deemed to include the successors in title of and those deriving title under CS South;
- (n) **"Direct Credit"** means direct transfer from the Council's Solicitors' client account maintained at a Clearing Bank resulting in receipt of cleared funds;
- (o) **"GVD"** means a general vesting declaration executed under section 4 of the 1981 Act in respect of the CPO Land;
- ~~(p)~~ **"Plot 17"** means the land referred to and numbered 17 in the schedule to CPO 1 and the order map accompanying CPO 1 as shown indicatively on the plan attached at Annexure 2
- ~~(p)~~~~(q)~~ **"Property"** means the part of the freehold land known as part of land at Copse and Church Farms, Tangmere registered at HM Land Registry under title number WSX217492 as shown red on the plan attached to the Transfer at Annexure 1, being the land referred to and numbered 19E in the schedule to CPO 2 and the order map accompanying CPO 2;
- ~~(q)~~~~(r)~~ **"Public Requirements"** means all local land charges and other matters whensoever registered or registrable (whether registered or not) by any local authority or other body acting on statutory authority and every charge notice direction order restriction agreement resolution proposal condition and other matter affecting the Property made (whether before or after the date of this agreement) by a body acting on statutory authority;
- ~~(r)~~~~(s)~~ **"Purchase Price"** means the sum of TEN THOUSAND POUNDS (£10,000);
- ~~(s)~~~~(t)~~ **"Seller"** means the first party to this agreement and this definition shall be deemed to include the successors in title of and those deriving title under the Seller;
- ~~(t)~~ **"Seller's Costs"** means ~~reasonable and proportionate fees capped at the sum of [7,500] exclusive of Value Added Tax being a contribution to the reasonable for surveyors fees and [] in respect of legal fees costs and expenses incurred by the Seller (including legal and surveyor's fees) in connection with:~~
 negotiations for the sale of the Property and of this agreement; and
~~(i) making representations in relation to CPO 2;~~
- (u) **"Seller's Solicitors"** means Ashurst LLP of London Fruit & Wool Exchange, 1 Duval Square, London E1 6PW (ref (to be quoted on service of any notice): JXM/DJR/1000-037-808);
- (v) **"Seller's Solicitors' Client Account"** means the account in the Seller's Solicitors' name;
- (w) **"Standard Commercial Property Conditions"** means Part 1 of the Standard Commercial Property Conditions (Third Edition) and **"SCPC"** means Standard Commercial Property Condition;
- (x) **"Tribunal"** means the Upper Tribunal (Lands Chamber);

Commented [PR4]: Is this everything being claimed by Heaver?

Commented [PR5]: No obligation on the Council to pay the fees of objections and evidence

- (y) **"Vesting Date"** means the first day after the end of the period specified in the GVD in accordance with section 4(1) of the 1981 Act, being the date from which the CPO Land is vested in the Council under the GVD; and
- (z) **"Working Day"** means any day from Monday to Friday (inclusive) save for Christmas Day, Good Friday or statutory bank holidays or any day from and including 24 December to 31 December.

- 1.2 Obligations entered into by any party which comprises more than one person shall be deemed to be joint and several.
- 1.3 Words importing persons shall include firms companies and corporations and vice versa.
- 1.4 The headings to the clauses of this agreement are for reference purposes only and shall not affect its interpretation.
- 1.5 References in this agreement to clauses are unless otherwise stated references to clauses of this agreement.

~~2.~~ **NOTICE OF VESTING OF THE CPO LAND**

~~The Council shall give to the Seller and CS South not less than three months' notice of the Vesting Date.~~

Commented [PR6]: Why duplicate statutory matters?

~~3.2.~~ **ADVANCE PAYMENT**

~~3.12.1~~ The Seller and CS South hereby request the Advance Payment as owners of the freehold interests in the CPO Land registered at HM Land Registry under title numbers WSX217492 WSX355209 and WSX355210.

~~3.2~~ The Council acknowledges the Seller and CS South's request under clause 3.1 and agrees that the request meets the requirements of section 52(2) of the 1973 Act, having received sufficient information to enable it to estimate the amount of compensation in respect of which the Advance Payment is to be made.

Commented [PR7]: I do not accept that the Council has been provided with full information as required by the 1973 Act.

~~3.32.2~~ The Council shall pay to the Seller the Advance Payment on ~~or before~~ the Vesting Date by Direct Credit to the Seller's Solicitors' Client Account.

~~3.42.3~~ Nothing in this agreement affects the Seller's and CS South's right to apply for further advance payments under section 52 of the 1973 Act.

~~3.52.4~~ The Seller and CS South acknowledge that section 52AZA(1) of the 1973 Act requires, where the Advance Payment or the aggregate of the Advance Payment and any other payments under section 52 of the 1973 Act ~~made on the basis of the Council's estimate of the CPO Compensation~~ exceeds the CPO Compensation as finally determined or agreed, the excess is to be repaid to the Council.

Commented [PR8]: The payment is an arbitrary figure. The Council's opinion of value is significantly lower and this amount is only being offered as it is funded by the developer

~~4.~~ **BASIC LOSS PAYMENT**

~~4.1~~ The Seller and CS South hereby claim the Basic Loss Payment as owners of the freehold ~~interests~~ in the CPO Land registered at HM Land Registry under title numbers WSX217492 WSX355209 and WSX355210.

Commented [PR9]: Not needed as now included in the Advance Payment provisions

~~4.2~~ The Council acknowledges the Seller and CS South's claim under clause 4.1 and agrees that the claim meets the requirements of section 33E of the 1973 Act.

~~4.3~~ The Council shall pay to the Seller the Basic Loss Payment on the Vesting Date by Direct Credit to the Seller's Solicitors' Client Account.

5.3. COMPENSATION

5.13.1 The parties agree that the CPO Compensation shall be assessed on the assumption that the Property formed part of ~~Plot 17 the CPO Land~~ on the valuation date.

5.23.2 The parties agree that the Purchase Price shall be disregarded for the purposes of assessing the CPO Compensation.

5.33.3 The parties shall negotiate in good faith to agree the amount of the CPO Compensation.

5.43.4 The parties acknowledge that, if they are unable to agree the amount of the CPO Compensation, either party has the right to refer the matter to the Tribunal under section 1 of the Land Compensation Act 1961.

5.53.5 The Council acknowledges ~~that nothing in this agreement prejudices the first and second parties' basis of claim.~~

~~(a) nothing in this agreement affects the Seller and CS South's right to argue that the Seller and CS South would have been able to obtain planning permission for development of the CPO Land assuming the application of the "no-scheme principle" in section 6A of the Land Compensation Act 1961;~~

~~(b) the Seller and CS South reserve the right to bring a claim for the CPO Compensation before the Tribunal on this basis;~~

~~(c) the Seller is entitled to include loss of crop and associated losses and expenses including loss of profit in its claim for the CPO Compensation; and~~

~~(d) the Council's payment of the Seller's Costs does not affect the Seller's and CS South's right to claim additional and/or other professional fees, costs and expenses as part of a claim for the CPO Compensation.~~

5.63.6 The parties agree:

(a) that the amounts of the Advance Payment and the Basic Loss Payment do not prejudice any party's ability to argue (including in any proceedings to determine the amount of the CPO Compensation) that the amount of the CPO Compensation should be more or less than the Council's current estimate; and

(b) unless expressly ordered by the Tribunal or other court, not to disclose to the Tribunal (nor any higher court if there is an appeal in respect of any decision of the Tribunal) nor rely upon in any proceedings to determine the amount of the CPO Compensation the amounts of the Advance Payment and the Basic Loss Payment.

6.4. SALE AND PURCHASE

6.14.1 The Seller shall sell and the Council shall purchase the Property in consideration of the payment to the Seller by the Council of the Purchase Price.

6.24.2 Subject to the terms of this agreement the Seller shall sell with full title guarantee.

6.34.3 The Council shall pay the Purchase Price and the Seller's Costs to the Seller on a non-refundable basis on the date of this agreement by Direct Credit to the Seller's Solicitors' Client Account.

~~6.4 If this agreement terminates pursuant to clause 9, the Seller:~~

Commented [PR10]: There is no requirement to value the various plots as if they were to be sold as one lot. It is logical to accept that it forms part of Plot 17 but it does not follow that it valued together with the other plots. CS South only have an interest on one of the plots in any event so that land does not benefit

Commented [PR11]: It is up to Heaver to make their claim and the burden of proof is on them. The Council will not pre-agree anything prior to receipt of a reasoned and supported claim.

Commented [PR12]: This is factually incorrect. Neither the first or second party occupy or farm the land.

Commented [PR13]: It is up to Heaver to present their claim

Commented [PR14]: See comments on Section 9 - not agreed and not on offer

~~(a) shall be entitled to retain the Purchase Price and the Seller's Costs and any other sum paid to the Seller by or on behalf of the Council pursuant to this agreement; and~~

~~(b) shall not be required to repay the Purchase Price and/or the Seller's Costs and/or any other such sum to the Council.~~

7.5. COMPLETION

~~7.15.1~~ Completion of the sale and purchase of the Property shall take place on the Vesting Date.

~~7.2 The Seller shall not be bound to complete the sale and purchase until it has received payment of all sums payable by the Council pursuant to the terms of this agreement at the time and in the manner specified by this agreement.~~

Commented [PR15]: Not acceptable

8.6. OBJECTION TO CPO 2

~~8.16.1 The Seller agrees to withdraw the objection to CPO 2 it submitted submitted by the Seller on 5 May 2023 shall be withdrawn on or previous to completion, as soon as reasonably practicable after completion of the sale and purchase of the Property. B~~

Commented [PR16]: If there is no withdrawal of the objection there is no agreement. As a result of Heaver injuncting the purchase of the National Highways land it is inevitable that CPO 2 will be required in any event so this is not acceptable

~~8.2 The Council agrees to pay to the Seller on completion of the sale and purchase of the Property all reasonable fees costs and expenses incurred by the Seller (including legal and surveyor's fees) in connection with maintaining its objection to CPO 2 from (but excluding) the date of this agreement to (and including) the date of completion of the sale and purchase of the Property.~~

Commented [PR17]: The Council will not pay for Heaver to maintain their objection

9. TERMINATION

~~If completion of the sale and purchase of the Property has not occurred on or before [●] 2023, this agreement will terminate with immediate effect from (and including) [●] 2023, without affecting any liability for antecedent breaches.~~

Commented [PR18]: The Council cannot be fettered in their dealings with the Property. Also, if CPO 2 is not confirmed, the Council will not serve any GVD's until it has certainty in respect of the injunction proceedings and National Highways have transferred the freehold title in Plots 19B, 19C and 19D. Without these plots there is no scheme.

10.7. VACANT POSSESSION

~~Vacant possession of the Property shall be given on completion of the sale and purchase.~~

Commented [PR19]: Where does this agreement give assurance that there are no existing occupation rights?

11.8. TITLE

~~Title to the Property is registered at HM Land Registry with the class of title and under the title number referred to in the definition of Property and title having been deduced to the Council or the Council's Solicitors prior to the date of this agreement the Council shall be deemed to purchase with full knowledge of the title in all respects and shall not raise any requisitions or objections in relation to the title.~~

12.9. MATTERS AFFECTING THE PROPERTY

~~12.19.1~~ The Property is sold subject to and (where appropriate) with the benefit of:

- (a) the matters contained or referred to in the registers of the title numbers referred to in the definition of Property;
- (b) the Promotion and Option Agreement dated 21 December 2012 made between Herbert George Heaver and Shelagh Heaver (2) Bloor Homes Limited and (3) Bloor Holdings Limited;
- (c) Public Requirements;
- (d) unregistered interests falling within schedule 3 to the Land Registration Act 2002;

- (e) such other unregistered interests as may affect the Property to the extent that and for so long as they are preserved by schedule 12 to the Land Registration Act 2002;
- (f) PPP leases as defined in section 90 of the Land Registration Act 2002;
- (g) incumbrances discoverable by inspection of the Property before the date of this agreement;
- (h) incumbrances which the Seller does not and could not reasonably know about;
- (i) matters other than monetary charges or incumbrances disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before entering into this agreement.

~~(j)~~ All rights of access benefitting the land to the A27.

~~12.29.2~~ The Council shall be deemed to have notice of the matters referred to in clause ~~9.112.1~~ and shall not be entitled to raise any requisition or objection in respect of them.

~~12.39.3~~ The Council is to bear the cost of complying with any outstanding Public Requirement and is to indemnify the Seller against any liability resulting from a Public Requirement.

~~13.10.~~ PRELIMINARY ANSWERS

Save in the case of any fraudulent misrepresentation the Council agrees that it shall have no remedy against the Seller and that the Seller shall have no liability to the Council in respect of any statement made in the negotiations leading to this agreement other than statements contained in written replies given by the Seller's solicitors to written enquiries made by the Council's Solicitors.

~~14.11.~~ RISK AND INSURANCE

With effect from and including the date of this agreement the Property is at the Council's risk and the Seller is under no obligation to the Council to insure the Property.

~~15.12.~~ VALUE ADDED TAX

~~15.1~~ Save as the context requires or as otherwise stated all references to payments made in this agreement are references to such payments exclusive of Value Added Tax chargeable in respect of the supply of goods or services for which the payment is or is deemed to be consideration and where such payments fall to be made under this agreement the amount of such Value Added Tax shall be paid in addition thereto.

~~15.2~~ Without prejudice to and save as mentioned earlier in this clause where any supply is made or deemed to be made pursuant to this agreement the recipient of the supply shall pay to the supplier the amount of any Value Added Tax chargeable in respect thereof.

~~15.3~~ Where any payment is required to be made pursuant to this agreement to reimburse the payee for any expenditure incurred by the payee such payment shall include an amount equal to any Value Added Tax comprised in that expenditure which is not recoverable by the payee (or the representative member of its VAT group) as input tax under section 25 of the Value Added Tax Act 1994.

Commented [PR20]: Heaver is seeking the grant of rights from National Highways. If successful, these rights need to be included in this agreement

Commented [PR21]: What matters are being envisaged here?

Commented [PR22]: Heaver has not provided any evidence as to their VAT status. It is up to them to provide such evidence but until they do the most the Council can do is undertake to pay VAT in accordance with the provisions of the Compensation Code on production of sufficient evidence from HMRC as to their VAT status.

16.13. CONFIDENTIALITY

None of the parties (including their respective agents employees or representatives) shall without the prior written consent of the others disclose or permit or suffer to be disclosed the contents of this agreement except and to the extent that such disclosure:

- (a) may be required by law or the Tribunal or court or other authority of competent jurisdiction or the London Stock Exchange plc or the Financial Conduct Authority; or
- (b) is a "protected disclosure" as defined by section 43A of the Employment Rights Act 1996.

Commented [PR23]: A matter for legal advice

17. NO ASSIGNMENT OR SUB-SALE

~~The Council is not entitled to transfer the benefit of this agreement and the Seller may not be required to transfer the Property in parts or to any person other than the Council.~~

Commented [PR24]: The Council must not be fettered

18.14. THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

19.15. JOINT AND SEVERAL LIABILITY

Where the Council is more than one person the Seller may release or compromise the liability of any of them under this agreement or grant time or other indulgence without affecting the liability of any of the others.

20.16. SURVIVAL OF THIS AGREEMENT

Notwithstanding completion of the sale and purchase all the provisions of this agreement shall continue in full force and effect to the extent that any of them remain to be implemented.

21.17. TRANSFER

21.17.1 The transfer of the Property shall be in the form annexed at Annexure 1.

21.17.2 The transfer is to have effect as if the disposition is expressly made subject to all matters referred to in clause **9.12**.

21.17.3 The transfer of the Property shall be prepared by the Seller and executed by the Council in original and counterparty and delivered to the Seller's solicitors no later than five Working Days before the Vesting Date.

22.18. INTEREST

~~Interest at 4% above the Bank of England base rate shall be payable on any sum which is paid later than the date on which it falls due under the terms of this agreement.~~

Commented [PR25]: No - statutory compensation only if at all

23.19. PROVISION OF TITLE INFORMATION ON COMPLETION OF REGISTRATION

The Council shall immediately following registration of the transfer of the Property to the Council provide the Seller with a certified copy of the title information document issued by HM Land Registry or official copies of the register of title to the Property.

24.20. GOVERNING LAW AND JURISDICTION

24.120.1 This agreement and any dispute controversy proceedings or claim of whatever nature arising out of or in any way relating to this agreement or its formation (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

24.220.2 Each of the parties to this agreement irrevocably agrees that the courts of England shall have exclusive jurisdiction to hear and decide any suit action or proceedings and/or to settle any disputes which may arise out of or in any way relate to this agreement or its formation (including any non-contractual disputes or claims) and for these purposes each party irrevocably submits to the exclusive jurisdiction of the courts of England.

25.21. STANDARD COMMERCIAL PROPERTY CONDITIONS

25.121.1 The Standard Commercial Property Conditions are incorporated in this agreement and where there is a conflict between them and any other provision of this agreement that other provision prevails.

25.221.2 In the construction of the Standard Commercial Property Conditions "contract rate" means a yearly rate equivalent to four percentage points above the base lending rate of National Westminster Bank Plc for the time being in force calculated on a daily basis.

25.321.3 In the Standard Commercial Property Conditions references to "buyer" are to be treated as references to the Council.

25.421.4 SCPC 1.1.1(c) 1.1.1(l) 1.3.2 1.3.3(b) 1.3.5(c) 1.3.7(e) 4.1 7.1 7.2 7.3 7.4.2 7.6.1 7.6.2 7.6.3 7.6.6 8.2.4(b) 8.2.5 9.2.1 and 9.7 do not apply.

25.521.5 SCPC 1.1.3(b) is amended to read "in the case of the seller, even though a mortgage or charge remains secured on the property, (except one to which the property is sold subject), if the seller would have been able to discharge it (to the extent that it encumbers the property) on the date on which the notice is served had the sale been completed on that date".

25.621.6 SCPC 9.1.2 shall be deleted and the following shall apply instead "If the money due on completion is received in the Seller's Solicitors' Client Account after 1.30 p.m. on a Working Day (or at any time on a day which is not a Working Day) then for the purposes of SCPC 9.3 and SCPC 10.3 completion shall be treated as taking place on the next Working Day as a result of the Council's default."

25.721.7 In SCPC 9.1.3(b) "1.30 p.m." is substituted for "2.00 p.m."

25.821.8 In SCPC 9.3.4(b) the words "(or 1/366th where the sum to be apportioned relates to a year that includes 29 February)" are added at the end.

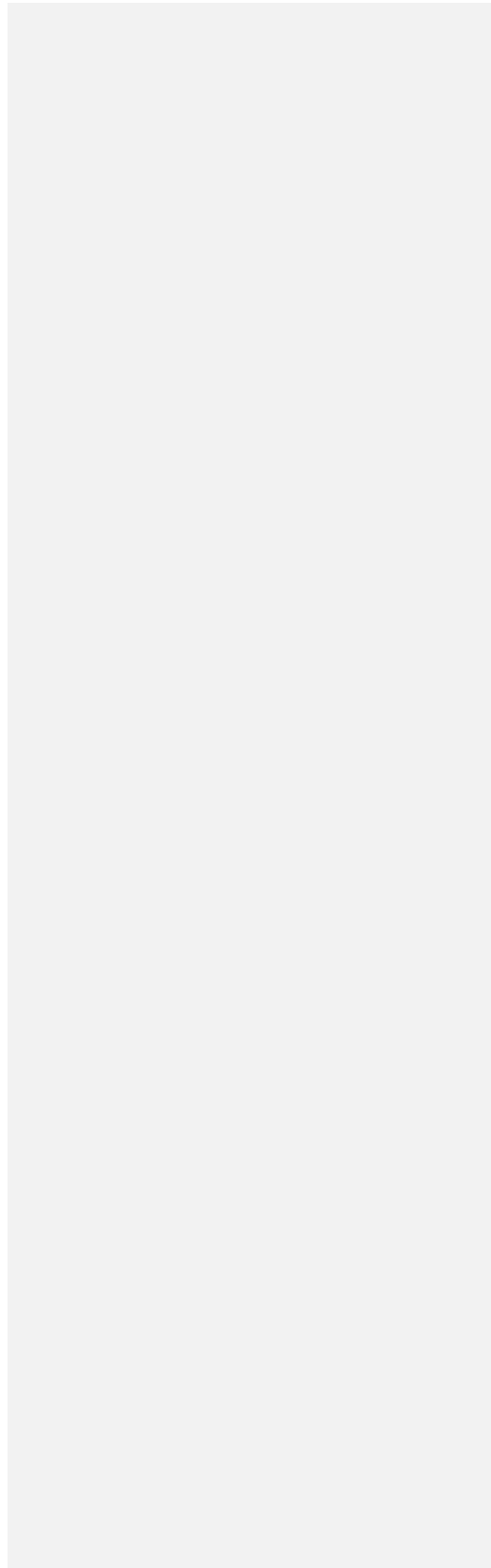
25.921.9 In SCPC 10.1 "injured party" is substituted for "buyer" and in 10.1(b)(ii) "transfer or accept" is substituted for "accept".

25.1021.10 In SCPC 10.1(a) the words "or any of the contents included in the contract are deleted"

AS WITNESS the hands of the parties or their duly authorised representatives the day and year first above written.

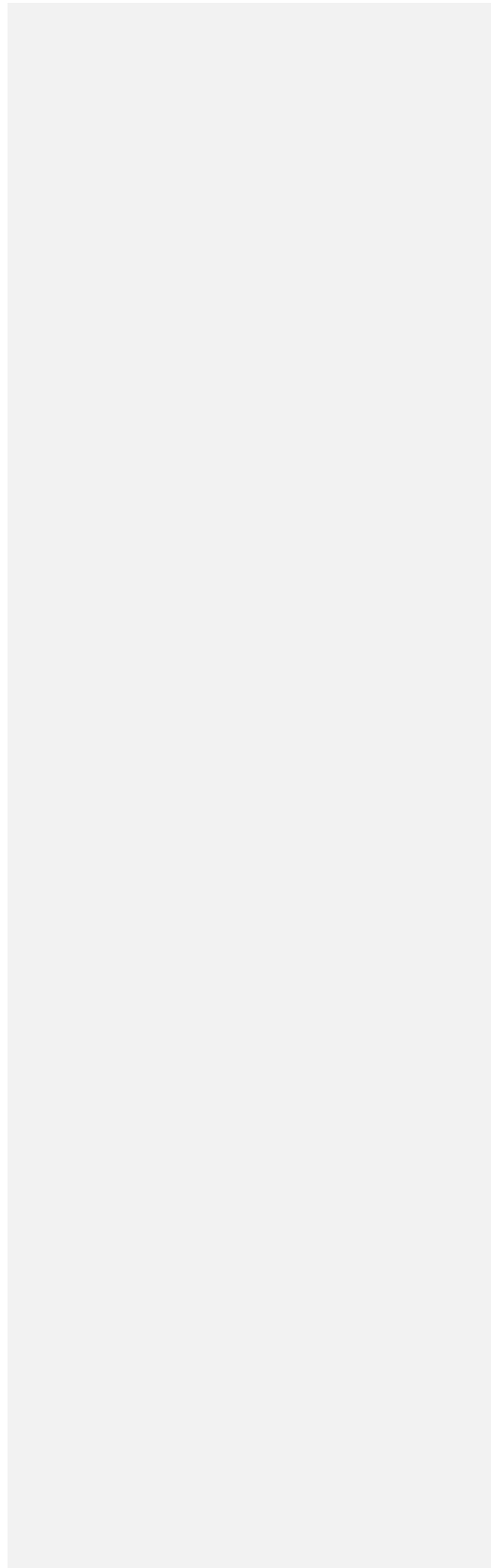
ANNEXURE 1
TRANSFER

Draft



ANNEXURE 1
PLAN SHOWING CPO LAND

Draft



Matthew Bodley

From: Matthew Bodley
Sent: 24 October 2023 09:34
To: Peter Roberts
Cc: Nicholas Bennett; Yohanna Weber; Brian.Cheung@ashurst.com; Trevor.Goode@ashurst.com
Subject: RE: Heaver and CDC

Dear Peter

I refer to your email of 16 October and respond to the five bullet points as follows:

- As I've told you previously, we see no merit in arranging a meeting with Quod at this stage and will not be doing so. Our current focus is to try and reach an agreement which will enable the vesting of the land in CPO1 and the transfer of the additional land which was excluded from CPO1 but included in CPO2 whilst preserving my client's right to pursue its compensation claim in full at a later date. We want to achieve this quickly in order that we can withdraw the objection to CPO2. Planning input is not required for that exercise.
- You already know the terms of our objection as I emailed you a copy of it when it was submitted, but in brief we will be asking the Inspector not to confirm CPO2 against my client's property interests as it is unnecessary on the basis that the majority of the land within CPO2 is already subject to a confirmed CPO which is capable of implementation and that my client is willing to sell the land which falls outside of CPO1 to the Council by agreement for £10,000 (the figure proposed by you!) in accordance with the terms which we are currently trying to progress with you.
- I have already responded to the Heads of Terms prepared by the Council and the Developer and advised you why they are not acceptable to my client. My client is prepared to proceed by way of an agreement based on the draft agreement previously provided to you and DJB, and which you have commented on. Ashurst will be responding to your comments today.
- It is incorrect to say that we have ignored the terms you have more recently proposed – we have already responded. I have previously explained to you that my client does not wish to proceed on the basis of a direct transfer to Countryside but is willing to proceed with a transfer to the Council. My client requires the land within CPO1 to be acquired by way of vesting pursuant to the confirmed CPO1 in order to mitigate the risk of having to pay immediately a large "dry tax" charge. Under section 246 of the Taxation of Chargeable Gains Act 1992, where an interest in land is acquired, otherwise than under a contract by an authority possessing compulsory purchase powers, the time at which the disposal and acquisition is made (for CGT purposes) is the time at which the compensation for acquisition is agreed or otherwise determined. Conversely, my client's tax lawyers have advised that, if my client transfers the CPO1 land to the Council by contract, the time of disposal will be the date of the contract. This will result in an immediate liability to pay CGT on any initial consideration and the market value of the right to obtain further compensation, even though the final amount of the compensation has not been agreed or determined. This tax bill will be significantly disproportionate to the initial consideration given our view that the market value of the right to obtain further compensation is substantial.

My client also wishes to have the benefit of being able to rely on its statutory rights to pursue its compensation claim in full and considers this to be preferable to a contractual position. We had assumed that the Council would be agreeable to proceeding on the basis of implementing its powers under CPO1 and don't understand why it seems unwilling to do so. Why seek CPO powers if you are unwilling to use them?

Also, you have proposed different levels of advance payment depending on whether the acquisition is by Countryside or the Council. As you know, we consider that the level of advance payment you have

proposed in the agreement with the Council is derisory. It is less than a third of the figure you openly stated as being your estimate of my client's rule 2 entitlement to compensation in your open email of 25 August 2021 which was submitted as evidence to the CPO1 inquiry, and which you gave evidence at the inquiry as being your "code compliant" estimate of rule 2 compensation. This was also referred to in Alex Booth's closing submission. My client considers its entitlement to compensation to be much greater than your previously stated estimate but has proposed proceeding with an advance payment based on your previous estimate in order to try and reach a swift conclusion and to avoid the need for CPO2. I've explained all of this to you before. It is unreasonable for you/the Council to resile from the Council's publicly stated position and to rewrite history by claiming that your publicly stated estimate of compensation was in fact a commercial offer.

You say that it is pointless for Ashurst to have prepared and issued a draft agreement when you and I have not agreed principles. The reality is that Ashurst have drafted an agreement based on terms offered by you and providing for an advance payment based on your publicly stated estimate of compensation. My client has been attempting to agree principles offered by you, only for you to move the goalposts piecemeal and repeatedly – amongst other things, you have used the Bloor option, the farming interests and now the injunction as excuses not to reach agreement with my client. I have provided you with an unredacted copy of the Bloor option in early May. I have also explained to you that there are no third-party farming interests which need to be determined. In any event, the Council will be acquiring the land by way of a GVD so it is not clear why any assurances regarding VP are needed. To the extent that my client is entitled to compensation for crop loss, this will be included in the claim. You have been provided with sufficient information to progress both the GVD of the CPO1 land and the sale/purchase of the Property and we look forward to receiving confirmation from DJB that the terms of the agreement are agreed so that we can press on with finalisation, execution and completion which will enable my client's objection to be withdrawn.

- I have previously explained to you that I am not in a position to discuss the legal proceedings between my client and National Highways as it is a private legal matter, although I understand that you are being kept well informed on the matter by National Highways in any event.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
1ST Floor, 26 Market Place, London W1W 8AN
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: Monday, October 16, 2023 4:05 PM
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Cc: Nicholas Bennett <nbennett@chichester.gov.uk>; Yohanna Weber <Yohanna.Weber@djblaw.co.uk>; Brian.Cheung@ashurst.com; Trevor.Goode@ashurst.com
Subject: RE: Heaver and CDC

Dear Matt

Further to my previous emails:

- When will you revert to me with proposed dates and times for a meeting with you and Quod?
- What are you asking the Inspector to do by maintaining the objection?

Matthew Bodley

From: Trevor.Goode@ashurst.com
Sent: 24 October 2023 13:35
To: Yohanna.Weber@djblaw.co.uk
Cc: nbennett@chichester.gov.uk; Brian.Cheung@ashurst.com; peter.roberts@dwdllp.com; Matthew Bodley
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [DJB_DMS-DJB-DMS.FID218381] [ASH-EUS.FID4047256]
Attachments: Letter to DJB re CPO 2 Plot 19E dated 24 October 2023.pdf; WS10 _Comparison_Sale Agreement - Tangmere - PR amends tracked - Sale Agreement - Tangmere.pdf; Sale Agreement - Tangmere.docx; RE: Heaver and CDC

Dear Yohanna

Please see attached.

Happy to discuss.

Regards

Trevor

Trevor Goode

Partner, Co-Head of Planning and Environment

Ashurst LLP, London Fruit & Wool Exchange, 1 Duval Square, London, E1 6PW
D: +44 20 7859 1114 | M: +44 7771 663 845

Assistant/Secretary: Rosie Millett D: +44 20 7859 2967
www.ashurst.com

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Visit our [Future Forces](#) webpage for insights on the six megatrends shaping business over the next decade.

From: Goode, Trevor 11114
Sent: 16 October 2023 16:59
To: Yohanna Weber <Yohanna.Weber@djblaw.co.uk>
Cc: nbennett@chichester.gov.uk; Cheung, Brian 12732 <Brian.Cheung@ashurst.com>
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [DJB_DMS-DJB-DMS.FID218381] [ASH-EUS.FID4047256]

Thank you Yohanna

Regards

Trevor

Trevor Goode

Partner, Co-Head of Planning and Environment

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trevor.goode@ashurst.com

24 October 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 your email dated 16 October 2023 in response to our letter dated 13 October 2023. Your email indicated that the Council is considering the draft agreement with Mr Roberts at DWD who has been negotiating terms with Mr Bodley directly. Your email went on to inform us that Mr Roberts would respond as soon as possible.

Mr Roberts responded to Mr Bodley on 16 October 2023. His response, together with Mr Bodley's reply to Mr Roberts of today's date, is enclosed.

Mr Roberts has provided some helpful comments on the draft agreement. These have been considered and addressed in the revised draft agreement which is also enclosed.

We have care and conduct of the negotiation of the draft agreement. It would be helpful to have an understanding as to who has overall care and conduct of the negotiation of the agreement on behalf of the Council – this is a legal document and we are assuming that you, as the Council's solicitors, will engage in the process and hopefully assist with resolution of the outstanding points so that the agreement can be finalised and completed. This will then enable our clients' objection to CPO 2 to be withdrawn.

From our review of the comments made by Mr Roberts and the suggested amendments to the agreement, we make the following observations:

1. **Advance Payment:** The advance payment figure we had inserted was based on the Council's estimate of compensation on a strict Compensation Code approach, as set out in Peter Roberts's email dated 25 August 2021. That email was submitted as evidence to the CPO 1 inquiry and was relied upon in the Council's closing submissions. We disagree with the figure but used it in order to avoid further debate, close down the matter and enable our clients to proceed with a reference to the Upper Tribunal.

To avoid further delay, we suggest seeking to negotiate and agree the other terms of the agreement before returning to the amount of the payment. The discussion about the amount of the advance payment could be undertaken between Mr Bodley and Mr Roberts in parallel with negotiating the agreement.

As you will see from Mr Bodley's email of today's date, he has reminded Mr Roberts of the origins of the figure for the advance payment inserted into the agreement and made it clear that Mr Roberts has sufficient information to agree the initial advance payment – this figure is substantially below the amount which will be claimed in our clients' reference to the Upper Tribunal.

Can we request that you liaise with Mr Roberts and take instructions from the Council with a view to enabling us to reach agreement on the initial amount of the advance payment so that we can finalise and complete the agreement?

2. **Seller's Costs:** It is not unreasonable nor unusual for the Council to contribute to a statutory objector's costs of objecting to CPO 2. Our clients would normally be entitled to recover such costs if their objection is successful. Our clients would lose the entitlement to seek an award of costs if they withdraw their objection.

Our clients' objection is simple – it is not necessary to include the CPO 1 Order Land within CPO 2. The Council already has the powers to acquire the CPO 1 Order Land and should utilise these powers. Our clients have made it clear on previous occasions that they are willing to voluntarily sell the access land included within CPO 2 for an agreed price of £10,000, subject to the reservation of the right for the land to be included in the overall valuation of our clients' land which will be the subject of the reference to the Upper Tribunal.

3. **Notice of vesting (clause 2):** It is not clear why this requirement is contentious given that the Council is required under statute to serve notice in any event and our preference is to retain it so that there is no doubt between the parties about what is required.
4. **Valuation assumption in clause 4.1:** The interests comprising the CPO Land, although identified as multiple plots in CPO 1, are contiguous and are within the same ownership, save that the transfer of the CS South interest to Bosham and Shopwyke is pending registration (we understand that the delay in registration is due to a caution on the title entered by Countryside's registered provider). Given this, our clients require all of the CPO Land and the Property to be valued as one property.
5. **Acknowledgements regarding basis of claim (clause 4.5):** Our clients agree that it is up to them to present their claim but require a confirmation from the Council that the agreement does not prejudice this. These are just statements of fact.
6. **Completion (clause 6.2):** It is not unreasonable for completion to occur only when all required payments have been made to the Seller. This does not include the full amount of the CPO Compensation which would remain to be agreed between the parties or determined by the Upper Tribunal. It is not clear why this would be contentious.
7. **Termination (clause 8):** It is usual for property sale agreements to have a long-stop date. Our clients cannot allow the Property to be burdened indefinitely by the Council's right to acquire. In any event, we understand from the statement of reasons for CPO 1 and CPO 2 that the Council intends to proceed swiftly. Both statements state that the Council will take possession of all of the Order Land within six months of confirmation – this agreement provides the Council with additional certainty about the timing for acquiring both the CPO Land and the Property.
8. **VAT (clause 14):** These are standard boilerplate clauses and it is not clear why these are contentious. VAT details will follow.

As you will be aware from the Minutes of the pre-inquiry meeting, evidence is expected to be submitted by 21 November 2023. We would ideally wish to be in a position to withdraw the objection by 7 November 2023 and avoid any need to consider submitting further evidence in support of the objection.

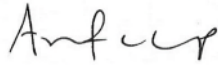
If it would assist, we would be agreeable to arranging a meeting to discuss and hopefully resolve any outstanding points.

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

24 October 2023

We look forward to hearing from you.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ashurst', written in a cursive style.

Ashurst LLP

Encs



~~PR amends 16 October~~
~~2023~~

Agreement

Bosham Limited

and

Shopwyke Limited

and

CS South Limited

and

Chichester District Council

for the sale and purchase of land at Copse and
Church Farms, Tangmere

SUBJECT TO CONTRACT AND FINAL CLIENT APPROVAL

2023

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THIS AGREEMENT is made on

2023

BETWEEN:

- (1) **BOSHAM LIMITED** (Company registration number 11145803) and **SHOPWYKE LIMITED** (Company registration number 11145921) which have their registered offices at 22 Chancery Lane, London WC2A 1LS;
- (2) **CS SOUTH LIMITED** (Company registration number 08333692) which has its registered offices at 22 Chancery Lane, London WC2A 1LS; and
- (3) **CHICHESTER DISTRICT COUNCIL** of 1 East Pallant, Chichester PO19 1TY.

[PR1]: Whilst Ashurst issued this in open correspondence, the figure that the Council is prepared to agree is the subject of without prejudice correspondence

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 In this agreement the following words and expressions have the following meanings:

- (a) **"1973 Act"** means the Land Compensation Act 1973;
- (b) **"1981 Act"** means the Compulsory Purchase (Vesting Declarations) Act 1981;
- (c) **"Advance Payment"** means the sum of [0] together with 90% per cent of the Basic Loss ~~payment~~ Payment being an advance payment in respect of the CPO ~~Land~~ under section 52 of the 1973 Act on account of compensation payable by the Council for the compulsory acquisition of the CPO Land;
- (d) **"Basic Loss Payment"** means the sum of SEVENTY-FIVE THOUSAND POUNDS (£75,000) being a payment under section 33A of the 1973 Act in respect of the compulsory acquisition of the CPO Land pursuant to the GVD;
- (e) **"Clearing Bank"** means a bank admitting by the Bank of England as a 'direct participant' in the CHAPS system;
- (f) **"Compensation Code"** means the provisions of the Land Compensation Act 1961, the Compulsory Purchase Act 1965 and 1973 Act, as in force at the date of this agreement, together with any other statutory provisions in force at the date of this agreement and body of case law relevant to the assessment of compensation as assessed and applied by the Tribunal in compulsory purchase matters;
- (g) **"Council"** means the third party to this agreement [];
- (h) **"Council's Solicitors"** means Davitt Jones Bould of Level 24 The Shard, 32 London Bridge Street, London SE1 9SG (ref (to be quoted upon service of any notice): [●]);
- (i) **"CPO 1"** means the Chichester District Council (Tangmere) Compulsory Purchase Order 2020 as confirmed on 11 November 2021;
- (j) **"CPO 2"** means the Chichester District Council (Tangmere) (No 2) Compulsory Purchase Order 2023 as made on 30 March 2023;
- (k) **"CPO Compensation"** means the compensation payable by the Council for the compulsory acquisition of the CPO Land in accordance with the Compensation Code;

[PR2]: There is no reason to separate out the Basic Loss element - it is part of the Advance Payment

[PR3]: The Council reserves the right to transfer the benefit of this agreement to the appointed developer

- (l) **"CPO Land"** means the land referred to and numbered 15, 16 and 17 in the schedule to CPO 1 and the order map accompanying CPO 1 as shown indicatively on the plan attached at Annexure 2;
- (m) **"CS South"** means the second party to this agreement and this definition shall be deemed to include the successors in title of and those deriving title under CS South;
- (n) **"Direct Credit"** means direct transfer from the Council's Solicitors' client account maintained at a Clearing Bank resulting in receipt of cleared funds;
- (o) **"GVD"** means a general vesting declaration executed under section 4 of the 1981 Act in respect of the CPO Land;

~~(p) **"Plot 17"** means the land referred to and numbered 17 in the schedule to CPO 1 and the order map accompanying CPO 1 as shown indicatively on the plan attached at Annexure 2-~~

~~(p)~~ **"Property"** means the part of the freehold land known as part of land at Copse and Church Farms, Tangmere registered at HM Land Registry under title number WSX217492 as shown red on the plan attached to the Transfer at Annexure 1, being the land referred to and numbered ~~19E~~ in the schedule to CPO 2 and the order map accompanying CPO 2;

[PR4]: Is this everything being claimed by Heaver?

~~(q)~~ **"Public Requirements"** means all local land charges and other matters whensoever registered or registrable (whether registered or not) by any local authority or other body acting on statutory authority and every charge notice direction order restriction agreement resolution proposal condition and other matter affecting the Property made (whether before or after the date of this agreement) by a body acting on statutory authority;

~~(r)~~ **"Purchase Price"** means the sum of TEN THOUSAND POUNDS (£10,000);

~~(s)~~ **"Seller"** means the first party to this agreement and this definition shall be deemed to include the successors in title of and those deriving title under the Seller;

~~(t)~~ **"Seller's Costs"** means ~~reasonable and proportionate fees capped at [7,500]~~ the sum of [●] exclusive of Value Added Tax ~~for surveyors being a contribution to the reasonable~~ fees costs and ~~[—]~~ in respect of expenses incurred by the Seller (including legal and surveyor's fees) in connection with :

(i) negotiations for the sale of the Property and of this agreement; and

(ii) making representations in relation to CPO 2;

~~(u)~~ **"Seller's Solicitors"** means Ashurst LLP of London Fruit & Wool Exchange, 1 Duval Square, London E1 6PW (ref (to be quoted on service of any notice): JXM/DJR/1000-037-808);

(v) **"Seller's Solicitors' Client Account"** means the account in the Seller's Solicitors' name;

(w) **"Standard Commercial Property Conditions"** means Part 1 of the Standard Commercial Property Conditions (Third Edition) and **"SCPC"** means Standard Commercial Property Condition;

(x) **"Tribunal"** means the Upper Tribunal (Lands Chamber);

[PR5]: No obligation on the Council to pay the fees of objections and evidence

- (y) **"Vesting Date"** means the first day after the end of the period specified in the GVD in accordance with section 4(1) of the 1981 Act, being the date from which the CPO Land is vested in the Council under the GVD; and
- (z) **"Working Day"** means any day from Monday to Friday (inclusive) save for Christmas Day, Good Friday or statutory bank holidays or any day from and including 24 December to 31 December.

1.2 Obligations entered into by any party which comprises more than one person shall be deemed to be joint and several.

1.3 Words importing persons shall include firms companies and corporations and vice versa.

1.4 The headings to the clauses of this agreement are for reference purposes only and shall not affect its interpretation.

1.5 References in this agreement to clauses are unless otherwise stated references to clauses of this agreement.

2. NOTICE OF VESTING OF THE CPO LAND

The Council shall give to the Seller and CS South not less than three months' notice of the Vesting Date.

3. ~~2.~~ ADVANCE PAYMENT

~~3.1~~ ~~2.1~~ The Seller and CS South hereby request the Advance Payment as owners of the freehold interests in the CPO Land registered at HM Land Registry under title numbers WSX217492 WSX355209 and WSX355210.

~~3.2~~ ~~2.2~~ The Council shall pay to the Seller the Advance Payment on the Vesting Date by Direct Credit to the Seller's Solicitors' Client Account.

~~3.3~~ ~~2.3~~ Nothing in this agreement affects the Seller's and CS South's right to apply for further advance payments under section 52 of the 1973 Act.

~~3.4~~ ~~2.4~~ The Seller and CS South acknowledge that section 52AZA(1) of the 1973 Act requires, where the Advance Payment or the aggregate of the Advance Payment and any other payments under section 52 of the 1973 Act ~~exceeds~~ the CPO Compensation as finally determined or agreed, the excess is to be repaid to the Council.

4. ~~3.~~ COMPENSATION

~~4.1~~ ~~3.1~~ The parties agree that the CPO Compensation shall be assessed on the assumption that the Property formed part of ~~Plot 17~~ on the CPO Land on the valuation ~~(date)~~.

~~4.2~~ ~~3.2~~ The parties agree that the Purchase Price shall be disregarded for the purposes of assessing the CPO Compensation.

~~4.3~~ ~~3.3~~ The parties shall negotiate in good faith to agree the amount of the CPO Compensation.

~~4.4~~ ~~3.4~~ The parties acknowledge that, if they are unable to agree the amount of the CPO Compensation, either party has the right to refer the matter to the Tribunal under section 1 of the Land Compensation Act 1961.

~~4.5~~ ~~3.5~~ The Council acknowledges ~~(that)~~ .

[PR6]: Why duplicate statutory matters?

[PR7]: I do not accept that the Council has been provided with full information as required by the 1973 Act.

[PR8]: The payment is an arbitrary figure. The Council's opinion of value is significantly lower and this amount is only being offered as it is funded by the developer

[PR9]: Not needed as now included in the Advance Payment provisions

[PR10]: There is no requirement to value the various plots as if they were to be sold as one lot. It is logical to accept that it forms part of Plot 17 but it does not follow that it valued together with the other plots. CS South only have an interest on one of the plots in any event so that land does not benefit

[PR11]: It is up to Heaven to make their claim and the burden of proof is on them. The Council will not pre-agree anything prior to receipt of a reasoned and supported claim.

(a) ~~nothing in this agreement prejudices~~affects the ~~first~~Seller and ~~second parties' basis of claim.~~ CS South's right to argue that the Seller and CS South would have been able to obtain planning permission for development of the CPO Land assuming the application of the "no-scheme principle" in section 6A of the Land Compensation Act 1961;

(b) the Seller and CS South reserve the right to bring a claim for the CPO Compensation before the Tribunal on this basis; and

(c) the Council's payment of the Seller's Costs does not affect the Seller's and CS South's right to claim additional and/or other professional fees, costs and expenses as part of a claim for the CPO Compensation.

[PR12]: This is factually incorrect. Neither the first or second party occupy or farm the land.

[PR13]: It is up to Heaver to present their claim

4.6 ~~3.6~~ The parties agree:

(a) that the amounts of the Advance Payment and the Basic Loss Payment do not prejudice any party's ability to argue (including in any proceedings to determine the amount of the CPO Compensation) that the amount of the CPO Compensation should be more or less than the Council's current estimate; and

(b) unless expressly ordered by the Tribunal or other court, not to disclose to the Tribunal (nor any higher court if there is an appeal in respect of any decision of the Tribunal) nor rely upon in any proceedings to determine the amount of the CPO Compensation the amounts of the Advance Payment and the Basic Loss Payment.

5. ~~4.~~ **SALE AND PURCHASE**

5.1 ~~4.1~~ The Seller shall sell and the Council shall purchase the Property in consideration of the payment to the Seller by the Council of the Purchase Price.

5.2 ~~4.2~~ Subject to the terms of this agreement the Seller shall sell with full title guarantee.

5.3 ~~4.3~~ The Council shall pay the Purchase Price and the Seller's Costs to the Seller on a non-refundable basis on the date of this agreement by Direct Credit to the Seller's Solicitors' Client Account.

[PR14]: See comments on Section 9 - not agreed and not on offer

6. ~~5.~~ **COMPLETION**

6.1 ~~5.1~~ Completion of the sale and purchase of the Property shall take place on the Vesting Date.

6.2 The Seller shall not be bound to complete the sale and purchase until it has received payment of all sums payable by the Council pursuant to the terms of this agreement at the time and in the manner specified by this agreement.

[PR15]: Not acceptable

[PR16]: If there is no withdrawal of the objection there is no agreement. As a result of Heaver injuncting the purchase of the National Highways land it is inevitable that CPO 2 will be required in any event so this is not acceptable

7. ~~6.~~ **OBJECTION TO CPO 2**

6.1 The Seller agrees to withdraw the objection to CPO 2 it submitted ~~submitted by the Seller~~ on 5 May 2023 ~~shall be withdrawn on or previous to~~ on completion of the sale and purchase of the Property.

8. **TERMINATION**

If completion of the sale and purchase of the Property has not occurred on or before [29 February 2024], this agreement will terminate with immediate effect from (and including) [1 March 2024], without affecting any liability for antecedent breaches.

~~[PR17]: The Council will not pay for Heaver to maintain their objection~~

~~[PR18]: The Council cannot be fettered in their dealings with the Property. Also, if CPO-2 is not confirmed, the Council will not serve any GVD's until it has certainty in respect of the injunction proceedings and National Highways have transferred the freehold title in Plots 19B, 19C and 19D. Without these plots there is no scheme.~~

~~[PR19]: Where does this agreement give assurance that there are no existing occupation rights?~~

~~[PR20]: Heaver is seeking the grant of rights from National Highways. If successful, these rights need to be included in this agreement~~

~~[PR21]: What matters are being envisaged here?~~

~~7.00~~ **VACANT POSSESSION**

Vacant possession of the Property shall be given on completion of the sale and purchase.

~~8.~~ **TITLE**

Title to the Property is registered at HM Land Registry with the class of title and under the title number referred to in the definition of Property and title having been deduced to the Council or the Council's Solicitors prior to the date of this agreement the Council shall be deemed to purchase with full knowledge of the title in all respects and shall not raise any requisitions or objections in relation to the title.

~~9.~~ **MATTERS AFFECTING THE PROPERTY**

~~9.1~~ The Property is sold subject to and (where appropriate) with the benefit of:

- (a) the matters contained or referred to in the registers of the title numbers referred to in the definition of Property;
- (b) the Promotion and Option Agreement dated 21 December 2012 made between Herbert George Heaver and Shelagh Heaver (2) Bloor Homes Limited and (3) Bloor Holdings Limited;
- (c) Public Requirements;
- (d) unregistered interests falling within schedule 3 to the Land Registration Act 2002;
- (e) such other unregistered interests as may affect the Property to the extent that and for so long as they are preserved by schedule 12 to the Land Registration Act 2002;
- (f) PPP leases as defined in section 90 of the Land Registration Act 2002;
- (g) incumbrances discoverable by inspection of the Property before the date of this agreement;
- (h) incumbrances which the Seller does not and could not reasonably know about;
- (i) matters other than monetary charges or incumbrances disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before entering into this agreement; ~~;~~ and
- (j) ~~All~~ rights of access benefitting the ~~land to the~~ ~~(A27)~~ Property.

~~9.2~~ The Council shall be deemed to have notice of the matters referred to in clause ~~12.1~~ 11.1 and shall not be entitled to raise any requisition or objection in respect of them.

~~9.3~~ The Council is to bear the cost of complying with any outstanding Public Requirement and is to indemnify the Seller against any liability resulting from a Public Requirement.

~~10.~~ **PRELIMINARY ANSWERS**

Save in the case of any fraudulent misrepresentation the Council agrees that it shall have no remedy against the Seller and that the Seller shall have no liability to the Council in respect of any statement made in the negotiations leading to this agreement other than statements contained in written replies given by the Seller's solicitors to written enquiries made by the Council's Solicitors.

~~[PR22]:
Heaver has not provided any evidence as to their VAT status. It is up to them to provide such evidence but until they do the most the Council can do is undertake to pay VAT in accordance with the provisions of the Compensation Code on production of sufficient evidence from HMRC as to their VAT status.~~

13. ~~11.~~ **RISK AND INSURANCE**

With effect from and including the date of this agreement the Property is at the Council's risk and the Seller is under no obligation to the Council to insure the Property.

14. ~~12.~~ **VALUE ADDED TAX**

14.1 Save as the context requires or as otherwise stated all references to payments made in this agreement are references to such payments exclusive of Value Added Tax chargeable in respect of the supply of goods or services for which the payment is or is deemed to be consideration and where such payments fall to be made under this agreement the amount of such Value Added Tax shall be paid in addition thereto.

14.2 Without prejudice to and save as mentioned earlier in this clause where any supply is made or deemed to be made pursuant to this agreement the recipient of the supply shall pay to the supplier the amount of any Value Added Tax chargeable in respect thereof.

14.3 Where any payment is required to be made pursuant to this agreement to reimburse the payee for any expenditure incurred by the payee such payment shall include an amount equal to any Value Added Tax comprised in that expenditure which is not recoverable by the payee (or the representative member of its VAT group) as input tax under section 25 of the Value Added Tax Act 1994.

[PR23]: A matter for legal advice

15. ~~13.~~ **CONFIDENTIALITY**

None of the parties (including their respective agents employees or representatives) shall without the prior written consent of the others disclose or permit or suffer to be disclosed the contents of this agreement except and to the extent that such disclosure:

- (a) may be required by law or the Tribunal or court or other authority of competent jurisdiction or the London Stock Exchange plc or the Financial Conduct Authority; or
- (b) is a "protected disclosure" as defined by section 43A of the Employment Rights Act 1996.

16. **NO SUB-SALE**

The Seller shall not be required to transfer the Property in parts.

[PR24]: The Council must not be fettered

17. ~~14.~~ **THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

18. ~~15.~~ **JOINT AND SEVERAL LIABILITY**

Where the Council is more than one person the Seller may release or compromise the liability of any of them under this agreement or grant time or other indulgence without affecting the liability of any of the others.

19. ~~16.~~ **SURVIVAL OF THIS AGREEMENT**

Notwithstanding completion of the sale and purchase all the provisions of this agreement shall continue in full force and effect to the extent that any of them remain to be implemented.

20. ~~17.~~ **TRANSFER**

20.1 ~~17.1~~ The transfer of the Property shall be in the form annexed at Annexure 1.

20.2 ~~17.2~~ The transfer is to have effect as if the disposition is expressly made subject to all matters referred to in clause ~~12~~11.

20.3 ~~17.3~~ The transfer of the Property shall be prepared by the Seller and executed by the Council in original and counterparty and delivered to the Seller's solicitors no later than five Working Days before the Vesting Date.

[PR25]: No
-statutory
-compensatio
n-only if at
all

21. ~~18.~~ **INTEREST**

Interest at 4 percentage points above the Bank of England base rate shall be payable on any sum which is paid later than the date on which it falls due under the terms of this agreement save for the Advance Payment in relation to which the parties acknowledge that section 52A of the 1973 Act applies.

22. ~~19.~~ **PROVISION OF TITLE INFORMATION ON COMPLETION OF REGISTRATION**

The Council shall immediately following registration of the transfer of the Property to the Council provide the Seller with a certified copy of the title information document issued by HM Land Registry or official copies of the register of title to the Property.

23. ~~20.~~ **GOVERNING LAW AND JURISDICTION**

23.1 ~~20.1~~ This agreement and any dispute controversy proceedings or claim of whatever nature arising out of or in any way relating to this agreement or its formation (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

23.2 ~~20.2~~ Each of the parties to this agreement irrevocably agrees that the courts of England shall have exclusive jurisdiction to hear and decide any suit action or proceedings and/or to settle any disputes which may arise out of or in any way relate to this agreement or its formation (including any non-contractual disputes or claims) and for these purposes each party irrevocably submits to the exclusive jurisdiction of the courts of England.

24. ~~21.~~ **STANDARD COMMERCIAL PROPERTY CONDITIONS**

24.1 ~~21.1~~ The Standard Commercial Property Conditions are incorporated in this agreement and where there is a conflict between them and any other provision of this agreement that other provision prevails.

24.2 ~~21.2~~ In the construction of the Standard Commercial Property Conditions "contract rate" means a yearly rate equivalent to four percentage points above the base lending rate of National Westminster Bank Plc for the time being in force calculated on a daily basis.

24.3 ~~21.3~~ In the Standard Commercial Property Conditions references to "buyer" are to be treated as references to the Council.

24.4 ~~21.4~~ SCPC 1.1.1(c) 1.1.1(l) 1.3.2 1.3.3(b) 1.3.5(c) 1.3.7(e) 4.1 7.1 7.2 7.3 7.4.2 7.6.1 7.6.2 7.6.3 7.6.6 8.2.4(b) 8.2.5 9.2.1 and 9.7 do not apply.

24.5 ~~21.5~~ SCPC 1.1.3(b) is amended to read "in the case of the seller, even though a mortgage or charge remains secured on the property, (except one to which the property is sold subject), if the seller would have been able to discharge it (to the extent that it encumbers the property) on the date on which the notice is served had the sale been completed on that date".

[24.6](#) ~~21.6~~ SPCP 9.1.2 shall be deleted and the following shall apply instead "If the money due on completion is received in the Seller's Solicitors' Client Account after 1.30 p.m. on a Working Day (or at any time on a day which is not a Working Day) then for the purposes of SCPC 9.3 and SCPC 10.3 completion shall be treated as taking place on the next Working Day as a result of the Council's default."

[24.7](#) ~~21.7~~ In SCPC 9.1.3(b) "1.30 p.m." is substituted for "2.00 p.m."

[24.8](#) ~~21.8~~ In SCPC 9.3.4(b) the words "(or 1/366th where the sum to be apportioned relates to a year that includes 29 February)" are added at the end.

[24.9](#) ~~21.9~~ In SCPC 10.1 "injured party" is substituted for "buyer" and in 10.1(b)(ii) "transfer or accept" is substituted for "accept".

[24.10](#) ~~21.10~~ In SCPC 10.1(a) the words "or any of the contents included in the contract are deleted"

AS WITNESS the hands of the parties or their duly authorised representatives the day and year first above written.

Signed by **BOSHAM LIMITED:**)
)

Signed by **SHOPWYKE LIMITED:**)
)

Signed by **CHICHESTER DISTRICT COUNCIL:**)
)

ANNEXURE 1

TRANSFER

ANNEXURE 1
PLAN SHOWING CPO LAND

Document comparison by Workshare 10.0 on 23 October 2023 17:18:01

Input:	
Document 1 ID	file:///C:/Users/bcheun/AppData/Local/Microsoft/Windows/NetCache/Content.Outlook/J2LINH9H/Sale Agreement - Tangmere - PR amends tracked.docx
Description	Sale Agreement - Tangmere - PR amends tracked
Document 2 ID	file:///C:/Users/bcheun/Downloads/Sale Agreement - Tangmere.docx
Description	Sale Agreement - Tangmere
Rendering set	Ashurst

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	142
Deletions	139
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	281

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 24 October 2023 18:06
To: Matthew Bodley
Cc: Nicholas Bennett; Yohanna Weber; Brian.Cheung@ashurst.com;
Trevor.Goode@ashurst.com
Subject: RE: Heaver and CDC

Apologies again- further plot number corrections!

From: Peter Roberts
Sent: Tuesday, October 24, 2023 5:33 PM
To: 'Matthew Bodley' <Matthew@matthewbodleyconsulting.com>
Cc: Nicholas Bennett <nbennett@chichester.gov.uk>; Yohanna Weber <Yohanna.Weber@djblaw.co.uk>;
Brian.Cheung@ashurst.com; Trevor.Goode@ashurst.com
Subject: RE: Heaver and CDC

Dear Matt

I thank you and Trevor for your emails of today. To answer Trevor's point in respect of conduct the position remains as advised previously, i.e., that you and I need to agree the principles first before solicitors get involved and start racking up costs.

In this regard, you say that Ashurst have adopted my terms, but I don't recall proposing that the Council would enter into an agreement that keeps your client's objection live for another three months (i.e., well after the Inquiry closes) and then terminates on 1 March 2024. We have also still not agreed the Advance Payment and are going round in never ending circles in that regard. In any event, it is clear that there are fundamental and deeply held differences between us that will not be resolved prior to the Inquiry such I think that we have exhausted trying to agree terms on this basis. I am therefore making one last attempt to break through the impasse by revisiting one of my previous proposals (albeit updated) that leaves everything to the Upper Tribunal to sort out as set out below.

The Terms, subject to contract and client instructions, are:

- Purchaser = the Council
- Land = Plot ~~18E~~ 19E
- Consideration = £10,000 exclusive of VAT payable upon completion of Agreement
- The payment of VAT will be dependent upon whether the land is elected for VAT
- The transfer will be disregarded in accordance with the "no scheme" world assumption
- Legal fees for completing the transfer Agreement following signing of the Heads of Terms to be £7,500 exclusive of VAT
- Surveying Fees for reviewing and signing the Heads of Terms capped at £5,000 + VAT (subject to timesheets etc)
- Withdrawal of the objection on signing Heads of Terms
- Transfer conditional upon
 - National Highways transferring Plots ~~18~~ 19B, C and D or
 - Confirmation of CPO 2,whichever occurs first
- In the event that no GVD or NTT is served in respect of any part of the Heaver Family land by expiry of CPO 1 the land will be transferred back to the Heaver family at nil cost but without prejudice to the Council's ability to serve a GVD or NTT pursuant to CPO 2

These terms allow your client to make whatever arguments they want at the Upper Tribunal. I therefore see no reason, bearing in mind your previous comments, why your client would not consent to these terms.

I look forward to your client's agreement to these principles whereupon I will draft up some Heads of Terms for signature.

Kind regards

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

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DWD

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From: Matthew Bodley <Matthew@matthewbodleyconsulting.com>

Sent: Tuesday, October 24, 2023 9:34 AM

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

Cc: Nicholas Bennett <nbennett@chichester.gov.uk>; Yohanna Weber <Yohanna.Weber@djblaw.co.uk>; Brian.Cheung@ashurst.com; Trevor.Goode@ashurst.com

Subject: RE: Heaver and CDC

Dear Peter

I refer to your email of 16 October and respond to the five bullet points as follows:

- As I've told you previously, we see no merit in arranging a meeting with Quod at this stage and will not be doing so. Our current focus is to try and reach an agreement which will enable the vesting of the land in CPO1 and the transfer of the additional land which was excluded from CPO1 but included in CPO2 whilst preserving my client's right to pursue its compensation claim in full at a later date. We want to achieve this quickly in order that we can withdraw the objection to CPO2. Planning input is not required for that exercise.
- You already know the terms of our objection as I emailed you a copy of it when it was submitted, but in brief we will be asking the Inspector not to confirm CPO2 against my client's property interests as it is unnecessary on the basis that the majority of the land within CPO2 is already subject to a confirmed CPO which is capable of implementation and that my client is willing to sell the land which falls outside of CPO1 to the Council by agreement for £10,000 (the figure proposed by you!) in accordance with the terms which we are currently trying to progress with you.

Matthew Bodley

From: Yohanna Weber <Yohanna.Weber@djblaw.co.uk>
Sent: 25 October 2023 10:39
To: Trevor.Goode@ashurst.com
Cc: nbennett@chichester.gov.uk; Brian.Cheung@ashurst.com;
peter.roberts@dwdllp.com; Matthew Bodley
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Trevor

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.

I hope that assists.

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: **Exchange House, The Crescent, Taunton TA1 4EB**

From: Trevor.Goode@ashurst.com <Trevor.Goode@ashurst.com>
Sent: Tuesday, October 24, 2023 1:35 PM
To: Yohanna Weber <Yohanna.Weber@djblaw.co.uk>
Cc: nbennett@chichester.gov.uk; Brian.Cheung@ashurst.com; peter.roberts@dwdllp.com;
Matthew@matthewbodleyconsulting.com
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [DJB_DMS-DJB-DMS.FID218381] [ASH-EUS.FID4047256]

Dear Yohanna

Please see attached.

Happy to discuss.

Regards

Trevor

Trevor Goode

Partner, Co-Head of Planning and Environment

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

Matthew Bodley

From: Matthew Bodley
Sent: 02 November 2023 16:27
To: Peter Roberts
Cc: Nicholas Bennett; Yohanna Weber; Brian.Cheung@ashurst.com; Trevor.Goode@ashurst.com
Subject: RE: Heaver and CDC
Attachments: Tangmere - Heavers et al; 221612 - PR Let to M Bodley.pdf

Peter

I refer to your latest email of 24 October below, which is most unhelpful.

You appear to be putting forward a proposal which is going off at a tangent to anything we have discussed before. We have made very clear to you on numerous occasions the basis upon which my client is prepared to dispose of its land. This is on the basis of the vesting of the land within CPO1 (pursuant to the confirmed powers of CPO1) and the transfer by agreement of the small area of additional land which falls outside of CPO1 and within CPO2 (Plot 19E). The transfer of Plot 19E will complete on the vesting date for the land vested under CPO1 for a consideration of £10,000 and the compensation for the CPO1 Land will be assessed on the assumption that Plot 19E formed part of the CPO1 Land.

This is the proposal that you initially put forward in your email to me of 24 May 2022 (attached for ease of reference) and as Option 2 to your letter of 16 December 2022 (also attached). Ashurst prepared a draft contract which reflects these terms which was issued to DJB on 18 July. You responded with proposed track change amendments and comments by email on 16 October. My client, Ashurst and I met to discuss and consider your comments and addressed them in a revised draft of the agreement that was returned to DJB, with a copy to you, on 24 October. As the covering letter explained, the only difference between us of any substance appears to be the level of advance payment payable on vesting. We proposed a figure based on your stated estimate of the rule 2 compensation as submitted in evidence to the CPO1 inquiry. We don't agree the figure but we proposed it in order to try and avoid debate and delay, safe in the knowledge that we could pursue our full claim in the Upper Tribunal following vesting. Given that you now wish to resile from that figure we invited you to confirm the figure that you propose for inclusion as an advance payment.

We then received your email of 24 October effectively stating that you were no longer prepared to continue negotiations to try and reach an agreement based on the draft which had been going back and forth between us and coming up with a completely different proposal. We then, rather confusingly, received an email the following day from DJB responding to the draft agreement and saying that "*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*". This appears to be in direct conflict with your statement the previous day that an agreement on this basis could not be resolved prior to the inquiry.

We have no interest in your latest alternative proposal which has come completely out of the blue. You are suggesting that my client agrees to a transfer of Plot 19E alone without any agreement for the transfer of the CPO1 Land. In other words you are proposing that my client disposes of the principal access into its land, whilst retaining the majority of its land which will no longer have an access. That is clearly not acceptable to my client and I don't understand why you think it would be. My client has no interest in this proposal and will not be withdrawing its objection on the basis of some Heads of Terms.

With regard your comments about the objection, I can assure that the intention is for us to reach an agreement as soon as reasonably practicable and to withdraw the objection ahead of the CPO2 inquiry. I assume your comments about the timing of withdrawing the objection relate to the current drafting where it states that withdrawal of the objection will not be until after completion of the sale and purchase of Plot 19E and that this will occur on the

vesting date. This is not the intention and we can amend the agreement to tie withdrawal of the objection to the service of the vesting notice as opposed to completion.

I am not aware of the “*fundamental and deeply held differences between us*” that would prevent us from proceeding with the draft agreement subject to some minor drafting amendments. The draft agreement is based on your proposal. I agree that there is a fundamental difference between us in respect of the compensation to which my client is entitled, but that is not a matter of relevance to the inquiry and it does not need to be resolved for the purposes of the draft agreement. That will be a matter for the Upper Tribunal following vesting. Please could you advise what fundamental and deeply held differences you are referring to as a matter of urgency so that I can discuss them with my client.

There is a very simple way forward here, based upon the proposal that you initiated. The offer to proceed on the basis of the draft agreement (subject to any required drafting amendments) remains and we are keen to proceed in order to enable the withdrawal of the objection and avoid the need to attend the CPO2 inquiry, and all the associated costs. The only substantive issue appears to be the level of advance payment. If you are not prepared to proceed on the basis of your previous estimate please confirm what figure you now propose as an alternative.

Regards
Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
1ST Floor, 26 Market Place, London W1W 8AN
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: Tuesday, October 24, 2023 6:06 PM
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Cc: Nicholas Bennett <nbennett@chichester.gov.uk>; Yohanna Weber <Yohanna.Weber@djblaw.co.uk>;
Brian.Cheung@ashurst.com; Trevor.Goode@ashurst.com
Subject: RE: Heaver and CDC

Apologies again- further plot number corrections!

From: Peter Roberts
Sent: Tuesday, October 24, 2023 5:33 PM
To: 'Matthew Bodley' <Matthew@matthewbodleyconsulting.com>
Cc: Nicholas Bennett <nbennett@chichester.gov.uk>; Yohanna Weber <Yohanna.Weber@djblaw.co.uk>;
Brian.Cheung@ashurst.com; Trevor.Goode@ashurst.com
Subject: RE: Heaver and CDC

Dear Matt

I thank you and Trevor for your emails of today. To answer Trevor’s point in respect of conduct the position remains as advised previously, i.e., that you and I need to agree the principles first before solicitors get involved and start racking up costs.

In this regard, you say that Ashurst have adopted my terms, but I don’t recall proposing that the Council would enter into an agreement that keeps your client’s objection live for another three months (i.e., well after the Inquiry closes) and then terminates on 1 March 2024. We have also still not agreed the Advance Payment and are going round in never ending circles in that regard. In any event, it is clear that there are fundamental and deeply held differences between us that will not be resolved prior to the Inquiry such I think that we have exhausted trying to

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 02 November 2023 17:54
To: Matthew Bodley
Cc: Nicholas Bennett; Yohanna Weber; Brian.Cheung@ashurst.com;
Trevor.Goode@ashurst.com
Subject: RE: Heaver and CDC

Matt

As Trevor/Brian should be able to confirm to you it is a basic principle that a voluntary acquisition of the freehold interest in land does not extinguish any pre-existing third party rights. You are therefore mistaken to think that a voluntary acquisition would have any impact on your client's existing rights to the extent that they exist which I presume the is the subject of your current dispute with National Highways. As this is the sole reason cited by you for rejecting that proposal, I look forward to confirmation that, having taken legal advice you will now reconsider your objection to this suggestion.

I have already told you what the Council's opinion of value is but you haven't been prepared to accept it. This is a "fundamental and deeply held difference between us".

I also requested a meeting with Quod to see if they had any valid planning points that might assist in reviewing that opinion, but you have declined. Are they still involved?

I will leave it to you to review the numerous previous offers that have been discussed during the life of this project but, if you do, you will find that this offer is entirely in keeping with what has been proposed previously. I have simply revisited previous proposals in light of the impasse we seem to be in regarding your approach.

My suggestion achieves exactly what your client wants – a voluntary transfer of Plot 19E that preserves your clients' rights of access and the right to claim compensation once the GVD is served. It also provides clarity on what the Council is prepared to pay in respect of fees. In this regard, you have still not advised what fees your client is expecting to recover as part of any agreement and this is in square brackets in the Ashurst draft. The indication from you is that your client intends to recover all its fees including those dating back to the previous inquiry - this is a "fundamental and deeply held difference between us".

For clarity, your proposal that the objection be withdrawn when the Council serve a GVD is not acceptable under any circumstances, and I would be negligent to recommend this to the Council– this is another "fundamental and deeply held difference between us". I have no doubt that you would take the same stance if you were in my shoes.

In any event, you seem to now be suggesting that your client will not be withdrawing on the basis of Heads of Terms. Given that this is your position it seems to me that your client has no intention of withdrawing their objection prior to the Inquiry. I hope I am mistaken.

If you are the view that Ashurst are able to provide a Deed that addresses my concerns such that I am mistaken to consider that we have reached an impasse please send it through for my consideration.

Kind regards

Peter

Peter Roberts
FRICS CEnv

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 06 November 2023 21:00
To: Matthew Bodley
Cc: Nicholas Bennett; Yohanna Weber; Brian.Cheung@ashurst.com;
Trevor.Goode@ashurst.com
Subject: RE: Heaver and CDC
Attachments: 231106 PLOT 19E Acquisition.docx; 231106 PLOT 19E Acquisition.pdf

Matt

As a follow up to the email below and the outline proposal set out therein I have attached more formal Heads of Terms for discussion with your client.

You previously informed me that your client had granted rights of access to John Heaver Farming and Shores Farming hence, as I set out below, these would survive a purchase of the freehold interest. If you are, for any reason, not happy that these rights are robust enough the Council would be happy to grant a licence to them to provide comfort on the point.

Now that I have addressed your sole concern in respect of access rights I look forward to your confirmation that these are agreed so that we can move onto to discussing planning and valuation matters.

Kind regards

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

69 Carter Lane, London, EC4V 5EQ

DWD

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From: Peter Roberts
Sent: Thursday, November 2, 2023 5:53 PM
To: 'Matthew Bodley' <Matthew@matthewbodleyconsulting.com>
Cc: Nicholas Bennett <nbennett@chichester.gov.uk>; Yohanna Weber <Yohanna.Weber@djblaw.co.uk>;

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		

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 15 November 2023 14:45
To: Matthew Bodley
Cc: Nicholas Bennett; Yohanna Weber; Brian.Cheung@ashurst.com;
Trevor.Goode@ashurst.com
Subject: RE: Heaver and CDC
Attachments: Agreement - Plot 19E - 15_11_2023 - OC(150083011.1).docx

Dear Matt

I haven't heard from you since my email below.

You told me on 2 November 2023 that your client "*would not be withdrawing on the basis of some Heads of Terms*" so I have commissioned the attached Deed to deal with that.

You raised various concerns in respect of your client's access over Plot 19E – this Deed preserves and potentially enhances the existing rights following the transfer of title to the Council.

You have said that your client would only treat with the Council – this Deed provides for an acquisition by the Council.

You have told me that your client requires the exercise of CA powers so that your client can mount an argument for rollover relief. This Deed allows for that whilst acknowledging that, because the Council is prevented from acquiring the National Highways land by virtue of your clients' proceedings, CPO 2 may still be required in any event.

You wanted the agreement to be "without prejudice" to your client's compensation arguments. This Deed is to be disregarded when assessing compensation matters so, as far as the Upper Tribunal (Lands Chamber) is concerned, it never existed.

This Deed also preserves your client's full statutory rights to request advance payments.

This Deed incentivises the Council to serve GVDs at the earliest opportunity and thereby avoid having to hand the land back.

If the Council cannot, for any reason, serve GVDs in time, your client will get the land back at nil cost.

The Purchase Price has already been agreed by you on behalf of your client(s).

I believe that I have addressed every objection you have raised and look forward to completion so that we move on and save Inquiry time.

I would be grateful for an update as to the progress of matters between your client and National Highways as I have no information in this regard.

I look forward to hearing from you.

Kind regards

Peyet

Peter Roberts

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

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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:)

Matthew Bodley

From: Trevor.Goode@ashurst.com
Sent: 17 November 2023 15:41
To: Yohanna.Weber@djblaw.co.uk
Cc: nbennett@chichester.gov.uk; Brian.Cheung@ashurst.com; peter.roberts@dwdllp.com; Matthew Bodley
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [DJB_DMS-DJB-DMS.FID218381] [ASH-EUS.FID4047256]
Attachments: Letter to DJB re CPO 2 Plot 19E dated 17 November 2023.pdf; Heaver - Draft Heads of Terms - 17.11.2023.docx

Dear Yohanna

Please see attached.

Can I suggest that we schedule a time for a discussion early next week to see whether it will be possible for us to agree the HoTs and the subsequent agreement in time to enable the objection to be withdrawn in advance of the start of the public inquiry?

Regards

Trevor

Trevor Goode

Partner, Co-Head of Planning and Environment

Ashurst LLP, London Fruit & Wool Exchange, 1 Duval Square, London, E1 6PW
D: +44 20 7859 1114 | M: +44 7771 663 845

From: Yohanna Weber <Yohanna.Weber@djblaw.co.uk>
Sent: 25 October 2023 10:39
To: Goode, Trevor 11114 <Trevor.Goode@ashurst.com>
Cc: nbennett@chichester.gov.uk; Cheung, Brian 12732 <Brian.Cheung@ashurst.com>; peter.roberts@dwdllp.com; Matthew@matthewbodleyconsulting.com
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [ASH-EUS.FID4047256] [DJB_DMS-DJB-DMS.FID218381]

Caution: External email.

Trevor

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.

I hope that assists.

Regards

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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.

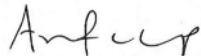
We are aware that the public inquiry into objections to CPO 2 is due to open on 12 December 2023. Our clients wish to avoid incurring the cost and expense of appearing at the public inquiry – particularly when an agreement is capable of being agreed by the end of this month.

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

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

Matthew Bodley

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: 24 November 2023 12:08
To: Matthew Bodley
Cc: nbennett@chichester.gov.uk; Brian.Cheung@ashurst.com;
Trevor.Goode@ashurst.com; Yohanna.Weber@djblaw.co.uk
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [DJB_DMS-DJB-DMS.FID218381] [ASH-EUS.FID4047256]

Dear Matt

I trust that you are keeping well.

I refer to the letter from Ashurst to DJB dated 17 November 2023 and the draft Heads of Terms attached thereto.

For the avoidance of doubt, I reconfirm that I am instructed by the Council, and I still have conduct of these negotiations on behalf of the Council. I would therefore be grateful if you would address communications to me.

The Ashurst letter and draft terms have been carefully considered by both the Council and its advisers in light of which I have set out some "high level" non-exhaustive comments in response which need to be resolved before we can address the detail.

Clause 2 (Occupier)

You have previously responded to my requests for copies of any leases or licenses by telling me that there weren't any, but your Heads of Terms refer to a licence in favour of Shores Meadow Farming Partnership. I would be grateful if you would now send me a copy of this by return.

Clause 6 (Property)

Why do the Heads of Terms only refer to Plots 16, 17, 18 and 19E but not include Plots 1, 3, 4 and 5? Is this a mistake?

Clause 9 (Advance Payment)

The Council's offer in respect of the amount of an Advance Payment remains as set out in my Heads of Terms dated 21 August 20223 subject only to clarification as to what plots are to be included in the transfer and therefore fall to be valued.

Clause 11 (Seller's Costs)

Unless I am mistaken, your clients have no entitlement to the reimbursement of any costs in respect of objecting to CPO 1 or CPO 2 as there have been no consequential amendments made to either CPO as a result of your clients' objections.

Furthermore, these costs do not relate to the preparation and negotiation of a compensation claim and are not, therefore, compensable.

If you disagree, please point me to the relevant provisions, provide me with full copies of invoices which you seeking to recover together with accompanying timesheets (both have been previously requested from you on more than one occasion) and I will take advice on the point.

I have already provided you with a proposal in respect of fees to cover this agreement and am happy to receive a reasoned counterproposal.

Clause 15 (Conditions)

As previously advised, the agreement will need to be conditional upon the earlier of CPO 2 being confirmed or the transfer of the National Highways land to the Council being completed. In this regard, I note the update provided by Mr Goode but the Council has yet to be furnished with any details of the proposed agreement between your client and National Highways or receive confirmation from National Highways that a) they concur with Mr Goode's understanding, b) they are still prepared to transfer their land voluntarily, c) the terms upon which National Highways would transfer their land voluntarily and d) the timing thereof relative to the Inquiry proceedings. You may tell me that the Council do not need the National Highways land but, until the Council is furnished with full details/copies of the proposed agreement the Council is unable to make that assessment.

As I am sure you are aware, your client requires the consent of Bloor, pursuant to, inter alia, clause 4.1 of the Option Agreement, to enter into any voluntary sale to the Council. I assume that your clients have, in anticipation of agreeing a disposal to the Council, already secured this consent such that a voluntary transfer can take place in full accordance with the Option Agreement which will remain live in the absence of the exercise of compulsory purchase powers, but I am unaware of any request for a Deed of Covenant pursuant to Schedule 8 of the Option Agreement being made to the Council. I would therefore be grateful if you would provide confirmation of the position and provide details thereof.

These, to me, seem the main issues that need to be addressed before we can progress further. As ever, I am more than happy to meet to try and resolve these issues.

Kind regards

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

From: Trevor.Goode@ashurst.com <Trevor.Goode@ashurst.com>

Sent: Friday, November 17, 2023 3:41 PM

To: Yohanna.Weber@djblaw.co.uk

Cc: nbennett@chichester.gov.uk; Brian.Cheung@ashurst.com; Peter Roberts <peter.roberts@dwdllp.com>; Matthew@matthewbodleyconsulting.com

Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [DJB_DMS-DJB-DMS.FID218381] [ASH-EUS.FID4047256]

Dear Yohanna

Matthew Bodley

From: Matthew Bodley
Sent: 30 November 2023 18:03
To: Peter Roberts
Cc: nbennett@chichester.gov.uk; Brian.Cheung@ashurst.com; Trevor.Goode@ashurst.com; Yohanna.Weber@djblaw.co.uk; afrost@chichester.gov.uk
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [DJB_DMS-DJB-DMS.FID218381] [ASH-EUS.FID4047256]
Attachments: NH - Deed of Easement of Access Rights (Tangmere) - 15.11.2023 (NH counterpart - wet ink)(106687734).pdf

Dear Peter

Thank you for your email of 24 November setting out your initial comments on Ashurst's letter of 17 November.

My response to your comments is as follows:

Clause 2 Occupier

I am not in a position to provide you with a copy of any licence to Shores Meadow Farming Partnership ("SMFP"). SMFP is the vehicle which farms the land and is controlled by John Heaver. Mr Heaver also controls the two companies that own the freehold interest in the land, Bosham Ltd and Shopwyke Ltd. Mr Heaver also controls the John Heaver Farming Partnership which is the contractor which farms the land. Because Mr Heaver controls the relevant entities, as I have previously told you, Mr Heaver can terminate the arrangements on short notice and provide vacant possession of the land prior to transfer. The draft agreements and Heads of Terms prepared on behalf of my clients have been clear that vacant possession would be provided on transfer.

Clause 6 Property

You are correct that the 17 November Heads of Terms only relate to Shore's Meadow (plots 16, 17, 18 and 19E of CPO2). We consider that it is sensible to deal with Shore's Meadow and Tangmere Corner (plots 1, 3, 4 and 5 of CPO2) separately. This is partly because they are physically separate and also because it is only Shore's Meadow that has the complexity of requiring the acquisition of land which lies outside of CPO1. We would propose that if terms can be agreed for Shore's Meadow then identical terms (other than the level of advance payment) can be used for Tangmere Corner. We would like to try and settle the terms for Shore's Meadow first before drafting a contract for Tangmere Corner. In addition, as all of Tangmere Corner sits entirely within CPO1, the Council has the added comfort of being able to acquire that land via the CPO1 powers if necessary.

Clause 9 Advance Payment

You state that the Council's offer in respect of the Advance Payment is as set out in your email of 21 August 2023, which is £700,000 inclusive of Loss Payments. As you know, I think your position on this is unreasonable and I don't accept that this is reflective of the compensation due to my clients if their interests were compulsorily acquired. We consider it to be considerably greater. I would also remind you once again that your email of 25 August 2021 was clear that you, as the Council's advisor, expressed the view that the value of the entirety of my client's land on a rule 2 basis was approximately £2.3m. I am, of course aware, that you have subsequently sought to distance yourself from this figure by stating that it was a commercial offer put forward by Countryside (not the Council) and not reflective of the rule 2 compensation. I'm afraid I don't accept this as it is clear from the content of the email and its attachments that it was an assessment put forward on the basis of the compensation code. This is also clear from your evidence to the CPO1 inquiry. There are various statements to this effect in your Statement of Evidence to the CPO1 inquiry, most clearly stated at paragraph 4.46. As to your comment that it was made by Countryside and not the Council, this is in direct conflict with your email to me of 20 September 2021 that stated that the proposals set out in your previous emails assume that my clients' interests will be acquired by the Council.

Your changing position as to what you have submitted as evidence to the CPO1 inquiry and the CPO2 inquiry is something that can be addressed in cross examination at the CPO2 inquiry if necessary, but my client's preference remains to try and reach an agreement which avoids the need to appear at the CPO2 inquiry.

As you know, my clients are of the view that the land is worth considerably more than £2.3m, however, they also want to reach an agreement and are prepared to exercise a bit of pragmatism to get there. It was for this reason they were prepared to accept an advance payment on what we understood to be your estimate of £2.3m to try and conclude an agreement provided they have the ability to refer the matter to the Upper Tribunal. I am now further instructed that in order to try and close this down they are prepared to agree to a slightly lower advance payment if it can get a deal over the line. However, there can be no reasonable basis for the Council to change its opinion of value from £2.3m excluding Loss Payments to £700,000 inclusive of Loss Payments in the space of two years. This is a reduction of over two thirds. During the same period the Council's evidence to the inquiry is that the value of the entire TSDL has nearly doubled from circa £16m to circa £30m.

In a last attempt to try and agree this without recourse to the inquiry, my clients are prepared to agree to an advance payment somewhere between the two figures and I am instructed to propose an advance payment of £2m inclusive of Loss Payments but excluding fees.

Clause 11 Sellers' Costs

We haven't sought recovery of costs for CPO1. With regard to CPO2 we consider this to be unnecessary for the reasons stated in our objection and will, if necessary, be appearing at inquiry to make our case on this. We would rather avoid this if an agreement can be reached but will require recovery of our costs in respect of CPO2 as part of such an agreement.

If we can agree the terms of an agreement we will provide you with full information on our costs but at the moment our focus is on trying to reach an agreement and preparing for inquiry.

Clause 15 Conditions

You have requested an update of the position with National Highways ("NH"). The Ashurst letter advised that an agreement had been concluded a couple of weeks back and at that time the parties were in the process of disposing of the legal proceedings. The current position is that these legal proceedings have now been discontinued and the interim injunction has been withdrawn so NH are free to dispose of their land to the Council in accordance with the previously agreed terms. For your information I attach a copy of the Deed of Grant of Access Rights which has been entered into between NH and my clients. The Deed doesn't actually change anything other than formalising the position that previously existed by giving meaning and effect to the 1991 Side Roads Order and the intention of the parties to the 1998 Deed of Exchange.

With regard to Bloor I agree with you that my clients require Bloor's approval for a voluntary transfer of their land. We have not yet sought this approval as we feel it would be premature to do so unless and until terms have been agreed with the Council. We don't see this as being contentious, particularly given we understand that the Council and/or Countryside has already reached an agreement with Bloor. I assume that the agreement you have reached with Bloor contemplates the Council's acquisition of my client's land given that the agreement was reached in the context of the Countryside scheme and the Council's CPOs.

We assume that the Council would agree to enter into the deed of covenant required by clause 4.1(b) of the Bloor Option but should be grateful if you would confirm.

In the unlikely event that Bloor did not consent to the transfer this may cause some issues but we do not see these as being insurmountable as the Council has the benefit of its powers in the confirmed CPO1 and could simply GVD Shore's Meadow as previously proposed and take free of the Bloor option, either by exercise of CPO powers or engagement of section 203 of the Housing and Planning Act 2016. We would expect there to be provision in the Council's agreement with Bloor to deal with this, although obviously we haven't had sight of the agreement. Bloor's interest in respect of Plot 19E is not included in CPO1 but we assume that the Council's agreement with Bloor also addresses Plot 19E. If not, and in any event, my clients have no objection to the transfer of Plot 19E being conditional upon acquisition, compulsory or otherwise, of Bloor's interest.

I believe that if both parties are willing it should still be achievable for us to reach an agreement prior to the commencement of the CPO2 inquiry, albeit it will take a bit longer to document it. I note your offer of a meeting and I think this would be sensible to try and close down the remaining issues. My preference would be for this meeting to be held on an open basis so that the details can be shared with the inquiry if necessary with full transparency. I would also like Trevor Goode of Ashurst to attend the meeting and, on that basis, I would extend the invite to Yohanna Weber at DJB. I also suggest that it would be helpful if Mr Frost could attend and have taken the liberty of copying him in.

Trevor and I have compared diaries and are available for a Teams meeting at the following times next week:

- Monday 4th – PM
- Tuesday 5th – 3.00pm to 5.00pm
- Wednesday 6th – 11.00am onwards

Please let me know if any of those suit.

I look forward to hearing from you.

Regards

Matt

Matthew Bodley MRICS
Matthew Bodley Consulting
1ST Floor, 26 Market Place, London W1W 8AN
M: +44(0)7814 545287
E: matthew@matthewbodleyconsulting.com

www.matthewbodleyconsulting.com

From: Peter Roberts <peter.roberts@dwdllp.com>
Sent: Friday, November 24, 2023 12:08 PM
To: Matthew Bodley <Matthew@matthewbodleyconsulting.com>
Cc: nbennett@chichester.gov.uk; Brian.Cheung@ashurst.com; Trevor.Goode@ashurst.com; Yohanna.Weber@djblaw.co.uk
Subject: RE: Chichester District Council (Tangmere) (No 2) CPO 2023- Plot 19E [DJB_DMS-DJB-DMS.FID218381] [ASH-EUS.FID4047256]

Dear Matt

I trust that you are keeping well.

I refer to the letter from Ashurst to DJB dated 17 November 2023 and the draft Heads of Terms attached thereto.

For the avoidance of doubt, I reconfirm that I am instructed by the Council, and I still have conduct of these negotiations on behalf of the Council. I would therefore be grateful if you would address communications to me.

The Ashurst letter and draft terms have been carefully considered by both the Council and its advisers in light of which I have set out some “high level” non-exhaustive comments in response which need to be resolved before we can address the detail.

Clause 2 (Occupier)

You have previously responded to my requests for copies of any leases or licenses by telling me that there weren't any, but your Heads of Terms refer to a licence in favour of Shores Meadow Farming Partnership. I would be grateful if you would now send me a copy of this by return.

ashurst

Deed of Grant of Access Rights

National Highways Limited

and

Bosham Limited

and

Shopwyke Limited

and

CS South Limited

15 November 2023

THIS DEED OF EASEMENT is made on

15 November

2023

BETWEEN:

- (1) **NATIONAL HIGHWAYS LIMITED** (Company registration number 09346363) whose registered offices is c/o Company Secretary, Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ (the "**Grantor**") and
- (2) **BOSHAM LIMITED** (Company registration number 11145803) and **SHOPWYKE LIMITED** (Company registration number 11145921) and **CS SOUTH LIMITED** (Company registration number 08333692) all of which have their registered offices at 22 Chancery Lane, London WC2A 1LS (together the "**Grantees**")

RECITALS

- (A) Prior to 31 March 1998, the Grantor's Land and the Grantee's Land (collectively the "**Original Land**") were in the common ownership of Herbert George Heaver, a predecessor in title to the Grantees. During that period of common ownership, the northern boundary of the Original Land was formed by the southern edge of the old A27 trunk road and, as such, the Original Land benefitted from a means of access to and from the old A27 trunk road.
- (B) In 1991, the A27 Trunk Road (Westhampnett Bypass) Compulsory Purchase Order (No SE 4) 1991 (the "**CPO**") and the A27 Trunk Road (Westhampnett Bypass Side Roads) Order 1991 (the "**SRO**") were made by the Secretary of State for Transport for the purposes of upgrading the A27 road and building the Westhampnett Bypass.
- (C) The CPO authorised the Secretary of State for Transport to compulsorily acquire the Grantor's Land and other land.
- (D) The SRO provided for the stopping up of the private means of access between the Original Land and old A27 trunk road and for a replacement means of access over the Accessway between the new A27 road and the Grantees' Land.
- (E) On 31 March 1998, a deed of exchange (the "**Deed of Exchange**") was made between Herbert George Heaver and the Secretary of State for Transport under which Herbert George Heaver transferred land including the Grantor's Land to the Secretary of State for Transport.
- (F) The parties have agreed to enter into this deed to provide that the Grantor's Land enjoys a right of access over the Accessway to and from the current A27 road in accordance with the terms of this deed.

1. DEFINITIONS AND INTERPRETATION

In this deed unless the context otherwise requires:

1.1 the following words and expressions have the following meanings:

- (a) "**Accessway**" means the access from the Grantees' Land to the roadway (such roadway currently configured as a roundabout as shown on the Plan and currently forming part of the adopted highway) such access shown edged blue on the Plan and forming part of the Grantor's Land
- (b) "**Ancillary Access Land**" means the land shown cross-hatched green on the Plan (such land currently being adopted highway) forming part of the Grantor's Land
- (c) "**Conduits**" means all conduits sewers drains mains ducts pipes gutters watercourses wires cables fibres channels flues and all other conducting media

including any fixings louvres cowls and any other ancillary apparatus by means of which any facility service or matter may pass

- (d) **"Grantees' Covenants"** means the covenants set out in clause 3
 - (e) **"Grantees' Land"** means the land registered at HM Land Registry under title numbers:
 - (i) WSX217492
 - (ii) WSX355209 and
 - (iii) WSX355210(shown edged red on the Plan) and includes the whole and every part of such land
 - (f) **"Grantor's Land"** means the land registered at HM Land Registry under title number WSX220808 (shown hatched pink on the Plan) and includes the whole and every part of such land
 - (g) **"Plan"** means the plan annexed to this deed
 - (h) **"Rights"** means the rights set out in clause 2.2
- 1.2 references to the Grantor and the Grantees include their respective successors in title and those deriving title under the Grantor and the Grantees respectively
- 1.3 obligations entered into by any party which comprises more than one person shall be deemed to be joint and several
- 1.4 words importing persons shall include firms companies and corporations and vice versa
- 1.5 the headings to the clauses of and the schedules to this deed are for reference purposes only and shall not affect its interpretation
- 1.6 references in this deed to clauses and the schedules are unless otherwise stated references to clauses of and the schedules to this deed
2. **GRANT**
- 2.1 The Grantor grants the Rights to the Grantees with full title guarantee to hold the Rights to the Grantees in fee simple for the benefit of the Grantees' Land
- 2.2 The Rights are the right for the Grantees their successors in title the owners and occupiers for the time being of the Grantees' Land and all persons authorised by them at all times:
- (a) for all purposes to pass and re-pass over and along the Accessway with or without vehicles plant machinery equipment and/or apparatus
 - (b) on reasonable prior notice (or at any time in the case of an emergency) to enter and remain upon the Accessway and the Ancillary Access Land from time to time (and for so long as may reasonably be required) with or without vehicles plant machinery equipment and apparatus in order to:
 - (i) repair maintain inspect cleanse clear improve resurface and/or renew the Accessway and/or

- (ii) install Conduits on in under upon across or through the Accessway and/or to inspect or carry out any subsequent work whatsoever from time to time to any such Conduits

SUBJECT TO the Grantee (in the case of 2.2(b) only) obtaining any necessary consents from the relevant highway authority to exercise any of the rights referred to in that clause 2.2(b) in respect of any part of either the Ancillary Access Land or the Accessway while the same are from time to time adopted as public highway

2.3 All rights not expressly included in the Rights are reserved to the Grantor

2.4 The Rights are not granted exclusively to the Grantee and are granted in common with the Grantor and any other persons lawfully entitled to the Rights or similar rights in respect of the Grantor's Land

3. GRANTEES' COVENANTS

3.1 The Grantees covenant with the Grantor so as to bind the Grantees' Land into whosoever's hands it may come for the benefit and protection of the Grantor's Land that the Grantee and its successors in title shall:

- (a) not cause any damage to the Grantor's Land in the exercise of the Rights (fair wear and tear excepted) and shall immediately make good any damage so caused to the Grantor's reasonable satisfaction;
- (b) not exercise the Rights in a manner so as to cause any nuisance to the Grantor or any occupiers of the Grantor's Land;
- (c) pay to the Grantor within 14 days of demand a fair proportion according to user of the cost of repairing, maintaining or replacing the Accessway;
- (d) keep the Grantor indemnified from and against any liability in respect of death personal injury or damage to property arising from the exercise of the Rights; and
- (e) not to transfer the freehold interest in the whole or part of the Grantees' Land without procuring that the transferee enters into a deed of covenant with the Grantor to comply with the Grantees' Covenants insofar as they bind the land the subject of the relevant freehold transfer (and upon provision of the relevant deed of covenant to the Grantor the transferor shall be automatically released from all future liability under or in respect of the Grantees' Covenants insofar as they bind the land the subject of the relevant freehold transfer)

4. REGISTRATION AT HM LAND REGISTRY

4.1 The Grantees agree following completion of this deed to apply to HM Land Registry to register

- (a) the Rights and Grantees' Covenants in the register of title to the Grantees' Land; and
- (b) a notice relating to the Rights in the register of title to the Grantor's Land

4.2 The Grantees shall respond promptly and properly to any requisitions raised by HM Land Registry in connection with the applications referred to in clause 4.1

4.3 The Grantees shall as soon as reasonably practicable provide the Grantor with official copies of the title registers showing the proper completion of the applications referred to in clause 4.1

5. **GOVERNING LAW AND JURISDICTION**

5.1 This deed and any dispute or claim arising out of or in connection with it is to be governed by the laws of England and Wales

5.2 The parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales in respect of any matter, dispute or claim arising out of or in connection with this deed

6. **THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not a party to this deed shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms

7. **COSTS**


Each party shall pay their own legal costs in connection with this deed

IN WITNESS whereof this deed has been executed on the date first above written

Executed as a deed by affixing the common seal of
NATIONAL HIGHWAYS LIMITED



Director or Authorised Signatory
SIMON HETHERINGTON



Director or Company Secretary or Authorised Signatory
JONATHAN MCGRAE



Signed as a deed by **BOSHAM LIMITED**)
acting by a director in the presence of:)

Director

Signature of Witness

Name (in BLOCK CAPITALS)

Address

Occupation

Signed as a deed by **SHOPWYKE LIMITED**)
acting by a director in the presence of:)

Director

Signature of Witness

Name (in BLOCK CAPITALS)

Address

Occupation

Signed as a deed by **CS SOUTH LIMITED**)
acting by a director in the presence of:)

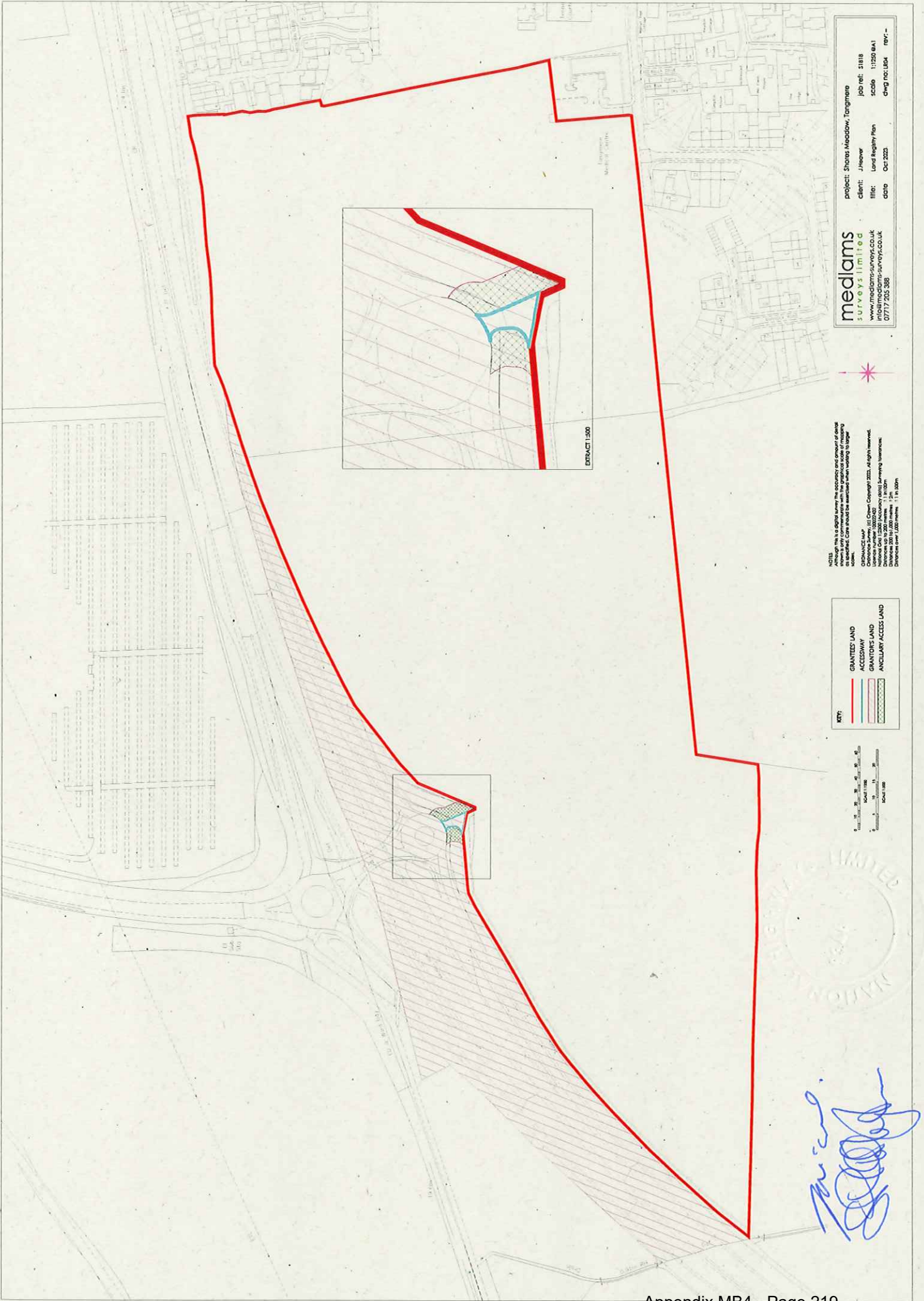
Director

Signature of Witness

Name (in BLOCK CAPITALS)

Address

Occupation

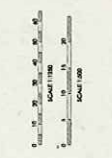


project: Shons Meadow, Tangmere
 client: J. Howler
 title: Land Registry Plan
 date: Oct 2023
 job ref: 3118
 scale: 1:1250 OAI
 chng no: L04 rev: -
medlams
 SURVEYS LIMITED
 www.medlams-surveys.co.uk
 0777 755 585



NOTE: Although this is a digital survey the accuracy and amount of detail in this plan may vary from the original survey. It is not intended to be used as a legal document. It is intended to be used as a planning application only.
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KEY:
 GRANTEE'S LAND
 ACCESSWAY
 GRANTOR'S LAND
 ANCILLARY ACCESS LAND



[Handwritten signature in blue ink]