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Secretary of State for Levelling Up, Housing and
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The logo for Ashurst LLP, featuring the word "ashurst" in a lowercase, bold, sans-serif font.

Dear Sir/Madam

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

Objection on behalf of Herbert George Heaver of Broadbridge Farmhouse, Delling Lane, Bosham, Chichester, PO18 8NN; Temple Bar Partnership LLP of The Estate Office, Downs Road, Chichester, PO18 9BQ; and Denton & Co Trustees Limited of Sutton House, Weyside Park, Catteshall Lane, Godalming, GU7 1XE (our "Clients")

1. INTRODUCTION

- 1.1 Our Clients have each received a letter from Chichester District Council (the "**Council**") dated 5 April 2023 giving notice of the making of the Order. We are instructed by our Clients to lodge an objection to the Order on their behalf.
- 1.2 Our Clients, as the joint owners of the freehold interest in the land known as The Medical Centre, Malcolm Road, Tangmere, Chichester, PO20 2HS, benefit from the following rights over the land referred to in the schedule to the Order and the Order Map that are numbered 16, 17, 18 and 19E: the right to the passage of services through and the use of the conducting media and facilities; right to enter for the purpose of inspecting, maintaining, repairing and renewing any building including boundary walls and fences as contained in a transfer dated 3 November 2006 in respect of The Medical Centre.
- 1.3 Our Clients are "qualifying persons" under section 12 of the Acquisition of Land Act 1981 (the "**1981 Act**") and this letter should be treated as a "relevant objection" under section 13 of the 1981 Act.
- 1.4 Unless otherwise stated, capitalised terms in this letter have the same meaning as defined in the Council's Statement of Reasons which was issued alongside the Order.

2. CONTEXT

Land subject to CPO 1

- 2.1 As explained in the Council's Statement of Reasons, the land that is proposed to be acquired under the Order is substantially the same as the land which is subject to CPO 1 (the "**CPO 1 Land**"). Other than minor adjustments, the only additional land in the Order compared

to CPO 1 is the land identified as plots 19A, 19C, 19D, 19E and 19F (the "**Additional Land**"). According to the CPO schedule, these areas of land total 2,400 square metres, which is a mere 0.3 per cent of the total area of the Order Land and is on the periphery of the Order Land.

- 2.2 CPO 1 was confirmed on 11 November 2021. Notice of its confirmation was published on 23 December 2021. The Council had committed in the Statement of Reasons accompanying CPO 1 that it would "*take possession of the entirety of the [CPO 1 Land] within 6 months*" of confirmation of CPO 1. About a year and a half has now passed and, as far as we are aware, the Council has not served any notice to treat or general vesting declaration under CPO 1.
- 2.3 Notwithstanding this, the Council has a further period of a year and eight months to implement CPO 1. The Council has again committed in its Statement of Reasons to "*take possession of the entirety of the Order Land within 6 months*" of confirmation of the Order. Paragraph 106 of the Guidance states that, when considering whether to confirm a compulsory purchase order, the Secretary of State should consider "*whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means*". In this case, in relation to the CPO 1 Land, there is an obvious alternative means of acquiring that land, given that CPO 1 will remain extant and capable of implementation in the period during which the Council has committed to take possession. The Council has failed to demonstrate why there is a need for any of the CPO 1 Land to be included in the Order nor that making a further compulsory purchase order is proportionate to any such need.
- 2.4 Our Clients have no wish to reopen the arguments that were before the Inspector in the CPO 1 inquiry. Our Clients accept that CPO 1 was confirmed by the Inspector following his acceptance of assurances and undertakings from the Council that our Clients' existing rights would be re-granted. However, the legal agreement required to protect the existing rights and to secure their re-grant or the re-grant of suitable replacement rights has not yet been completed. Terms were agreed and a legal agreement was settled between the parties in November 2022. Our Clients signed (but did not date or deliver) their parts of the agreement in November 2022, but the Council and Countryside have yet to do so.
- 2.5 We have now received from Countryside's solicitors an updated draft of the legal agreement that takes into account the Order. We presume that the Council and Countryside's intention is that the previously settled agreement will no longer be completed and will be replaced by an updated agreement. Our Clients are of the view that this updated agreement is unnecessary for the same reasons that it considers the Order to be unnecessary. However, our Clients are willing in principle to enter into an updated agreement subject to their legal costs being borne by the Council or Countryside.
- 2.6 Paragraph 19 of the Guidance states, "*Compulsory purchase proposals inevitably lead to a period of uncertainty and anxiety for the owners and occupiers of the affected land.*" The same paragraph states that acquiring authorities should "*[keep] any delay to a minimum by completing the statutory process as quickly as possible and [take] every care to ensure that the compulsory purchase order is made correctly*". The Council has prolonged the uncertainty and anxiety suffered by our Clients by inexplicably failing to enter into a legal agreement to protect our Clients' existing rights despite the agreement having been settled since November 2022.
- 2.7 That uncertainty and anxiety is now being further prolonged by the making of this Order. The Council failed to take every care to ensure that CPO 1 included all of the land necessary for the Scheme. It has the option of correcting this through proportionate and targeted means, such as a private treaty acquisition or a compulsory purchase order in respect of the Additional Land only. Instead, it now seeks to compound the additional uncertainty and anxiety caused by its error by the making of this Order.

2.8 As such, to the extent that the Order is confirmed in relation to the CPO 1 Land, our Clients submit that CPO 1 should be revoked and the costs of our Clients objecting to CPO 1 should be fully reimbursed by the Council. The alternative option is for the Order to be amended so that it only includes the Additional Land.

3. **SUMMARY GROUNDS OF OBJECTION**

Our Clients' grounds for objecting to the Order are detailed above and summarised as follows:

- (a) the Order is unnecessary;
- (b) the Order fails to comply with the Guidance and should not be confirmed by the Secretary of State;
- (c) the purpose of the Order could be achieved by other means – including amending the Order so that it only includes the Additional Land;
- (d) the Council has failed to demonstrate that the purposes of the Order cannot be achieved by other means and without the use of compulsory purchase powers additional to those in CPO 1;
- (e) the Council has failed to demonstrate that there is a compelling case in the public interest for the Order; and
- (f) confirmation of the Order would amount to an unjustified and disproportionate interference with our Clients' rights under Article 1 of the First Protocol to the European Convention on Human Rights.

4. **RESERVATION OF RIGHTS**

Our Clients reserve the right to amend their grounds of objection as and when more information becomes available from the Council.

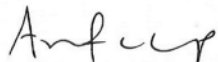
5. **OBJECTORS' CONTACT DETAILS**

Any enquiries regarding this objection should be addressed to this firm and marked for the attention of Trevor Goode (trevor.goode@ashurst.com).

Please acknowledge receipt of this objection.

We look forward to receiving details as to how the Secretary of State intends to consider this objection.

Yours faithfully



Ashurst LLP

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