

## **STATEMENT OF EVIDENCE**

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On behalf of

**Borough Council of Calderdale**

THE BOROUGH COUNCIL OF CALDERDALE (HALIFAX TOWN CENTRE) (HIGHWAY IMPROVEMENTS) (WEST YORKSHIRE PLUS TRANSPORT FUND, A629 PHASE 2) COMPULSORY PURCHASE ORDER 2020

THE BOROUGH COUNCIL OF CALDERDALE (HALIFAX TOWN CENTRE) (HIGHWAY IMPROVEMENTS) (WEST YORKSHIRE PLUS TRANSPORT FUND, A629 PHASE 2) SUPPLEMENTAL COMPULSORY PURCHASE ORDER 2021

THE BOROUGH COUNCIL OF CALDERDALE (HALIFAX TOWN CENTRE) (HIGHWAY IMPROVEMENTS) (WEST YORKSHIRE PLUS TRANSPORT FUND, A629 PHASE 2) (SIDE ROADS) ORDER 2020

February 2025

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## **1.0 Introduction and Role**

- 1.1 My name is Kevin Thomas Guy. I am a Member of the Royal Institution of Chartered Surveyors and RICS Registered Valuer.
- 1.2 I have over 25 years' experience of providing advice on compulsory purchase and compensation matters, having initially qualified as a rural practice surveyor.
- 1.3 During this period, I have advised acquiring parties and claimants on both compulsory purchase procedure (including preparing and presenting evidence on behalf of both promoters of and Objectors to compulsory purchase) and settlement of compensation claims. Such schemes include
  - 1.3.1 Phase 1b A629 Calder and Hebble Junction
  - 1.3.2 A58 and A646 Corridor Improvement Programme
  - 1.3.3 The Carlisle Northern Development Route (CNDR)
  - 1.3.4 A684 Bedale, Aiskew and Leeming Bar Bypass
  - 1.3.5 A1(M) Ferrybridge to Hook Moor
  - 1.3.6 A1(M) Hook Moor to Barton
- 1.4 I am Land Portfolio Officer for the Borough Council of Calderdale ('BCC').
- 1.5 I was appointed by BCC in August 2017.
- 1.6 I am instructed to pursue negotiations with all parties affected by BCC's A629 Phase 2 Halifax Town Centre scheme with a view to securing an agreement to purchase interests, by private treaty. This includes responding to objections, as appropriate.
- 1.7 My proof of evidence is structured as follows:
  - background;
  - scope of evidence;
  - powers to secure land;
  - position with interested parties; and
  - conclusions.
- 1.8 I have read the RICS Professional Statements
  - "Surveyors advising in respect of compulsory purchase and statutory compensation, 1<sup>st</sup> Edition" published in April 2017, and as amended Sept 2024"
  - "Surveyors acting as expert witnesses, as amended"

And consider that in both instances I am compliant with them.

## **2.0 Background**

- 2.1 The Halifax Town Centre scheme is the second phase of the A629 corridor programme that links Halifax and Huddersfield. The A629 corridor programme was developed in partnership between BCC and Kirklees Metropolitan Borough Council and includes highway capacity and operational improvements, investment in public transport, improvements to strategic accessibility and public realm within Halifax Town Centre to deliver regeneration and growth aspirations.
- 2.2 The A629 Phase 2 scheme will improve pedestrian accessibility and cycle access into the town centre area by addressing severance, re-routing of traffic (on the eastern side of the central area) and capitalising on placemaking opportunities through pedestrianisation and the creation of public spaces. In addition to the active mode enhancements, a revised bus network around the town centre will better connect the railway and bus stations, whilst also still allowing bus access to the town centre.
- 2.3 A comprehensive scheme history is set out in Harriet Sunderland’s Proof of Evidence.
- 2.4 The 3 Orders that are the subject of this Inquiry are
- The Borough Council of Calderdale (Halifax Town Centre) (Highway Improvements) (West Yorkshire Plus Transport Fund, A629 Phase 2) Compulsory Purchase Order 2020 – made 9<sup>th</sup> December 2020 (“the CPO”).
  - The Borough Council of Calderdale (Halifax Town Centre) (Highway Improvements) (West Yorkshire Plus Transport Fund, A629 Phase 2) Supplemental Compulsory Purchase Order 2021 – made 21<sup>st</sup> October 2021 (“the Supplemental CPO”)
  - The Borough Council of Calderdale (Halifax Town Centre) (Highway Improvements) (West Yorkshire Plus Transport Fund, A629 Phase 2) (Side Roads) Order 2020 – made 9<sup>th</sup> December 2020.

## **3.0 Scope of Evidence**

- 3.1 The evidence which I provide covers
- consideration and implementation of guidance relevant to all compulsory purchase orders, as per the Ministry of Housing, Communities and Local Government (MHCLG) “Guidance on the Compulsory Purchase Process relating to attempts to acquire land;
  - summary of negotiations to acquire required interests by agreement; and
  - a summary of remaining objections, description of my dealings with the affected parties, agreements that are in the process of being concluded and my response

to those issues that fall within the scope of my evidence.

- 3.2 In carrying out my instructions I have been assisted by other professional advisers to BCC and officers of BCC.

#### 4.0 Guidance

- 4.1 The Ministry of Housing, Communities and Local Government “Guidance on the Compulsory Purchase Process Guidance first published in October 2014 (as amended) and most recently revised in October 2024 (the Guidance) provides a guide to those bodies proposing to compulsorily acquire land – in my evidence this is referred to as ‘the Guidance’.

- 4.2 Acquiring authorities, such as BCC, should use compulsory purchase powers where it is expedient to do so and where there is a compelling case in the public interest to make a compulsory purchase order (Paragraph 2.1 of the Guidance).

- 4.3 Paragraph 2.2 of the Guidance states

*‘The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to:*

*- understand the impact of the exercise of the compulsory purchase powers included in the compulsory purchase order on those with an interest in the land, for example affected owners and occupiers, through direct engagement with those parties;*

*- attempt the acquisition of all of the land and rights included in the compulsory purchase order by agreement*

- 4.4 Paragraph 2.8 of the Guidance makes it clear that *‘the compulsory purchase of land is intended as a last resort’.*

- 4.5 However, Paragraph 2.8 clarifies that

*- ‘an acquiring authority does not need to wait for negotiations with affected parties to break down or for the affected parties to begin to engage with them before starting the compulsory purchase process in parallel with negotiations’.*

- 4.6 And,

*- ‘if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:*

- *plan a compulsory purchase timetable as a contingency measure; and*
- *initiate formal procedures'*

4.7 Paragraph 2.9 of the Guidance states

- *'this will also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiation. In starting these procedures, the acquiring authority should make it clear that it is willing to continue to engage with affected parties to purchase land by agreement'.*

4.8 BCC has corresponded extensively with the remaining objectors and their advisers, including attending meetings on site, where appropriate. Details of the correspondence between BCC and these parties is set out in core document 5.2.

4.9 Talking to landowners has assisted BCC to understand more about the land it seeks to acquire and any physical or legal impediments to development that may exist. It has also help in identifying what measures can be taken to mitigate the effects of the scheme on landowners and neighbours.

4.10 Acquiring Authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted, save for lands where land ownership is unknown or in question."

4.11 BCC has at all stages of the scheme considered the Guidance and has

- sought to engage with landowners;
- kept them informed of the progress of the scheme; and
- actively sought and positively participated in discussions with those owners.

4.12 BCC has undertaken to meet the reasonable professional fees and costs incurred by those with whom it has been negotiating.

## **5.0 Position with Interested Parties - parties who did object to the Compulsory Purchase Orders**

5.1 BCC received 4 objections from landowners and/or parties with interests in the land plots included within the CPO and Supplemental CPO; these objections covered 6 of the 23 plots included within the orders.

5.2 However, a design change lead to one objector having no land taken and a withdrawal of their objection – see section 7.0 below; this explains why only 3 objectors remain.

5.3 Set out below are details of those objectors and BCC's engagement with them.

Negotiations are ongoing and it is hoped that terms can be agreed, and agreements being documented which, when complete, will lead to the withdrawal of the relevant objection.

#### 5.4 **Objector 1 – MRC Pension Trust Ltd (CPO Plots 1/3 & 1/3a) - Freeholder**

##### **Overview**

- 5.4.1 M R C Pension Trust Ltd ('MRC') are the freehold owners of CPO Plots 1/3 and 1/3a, which form part of a commercial retail premises and associated car park area located just off Cripplegate.
- 5.4.2 The property is occupied by Matalan Retail Limited (Matalan) who hold a leasehold interest by way of a lease dated 20 December 2002 made between (1) Broomco (2662) Ltd (now vested in MRC) and (2) Matalan. This lease is for a term of 25 years from 21 July 2002 and expires 20 July 2027. It is understood that this lease has been extended by way of an agreement dated 22 August 2023 for a term of a further 5 years commencing on 21 July 2027.
- 5.4.3 Discussions with MRC and Matalan were originally handled by Lambert Smith Hampton (who acted on behalf of both companies) in the first instance until a change of agent was notified - see para 5.4.9 below.

##### **Effects of the Scheme**

- 5.4.4 The scheme, as currently designed, requires 849 sq m (Plot 1/3) and 367 sq m (Plot 1/3a) which is currently used as a car park area for the retail store and reduces the number of car park spaces from 211 to 169 (42 car spaces). However, at the time the CPO was published the CPO provided for the existing access to be relocated to a new location on Berry Lane. However, further to discussions with MRC, the design was amended so that the existing access to the retail store is retained and the proposed new access discounted.

##### **Current Position**

- 5.4.5 Engagement with MRC was sought in November 2019 and Lambert Smith Hampton confirmed their instruction in February 2020.
- 5.4.6 During May and June 2020, the agent was provided with various information pertaining to the proposed scheme and their clients' comments were requested; despite a number of attempts to request these, no response was received from either the agent or objector.
- 5.4.7 Lambert Smith Hampton submitted an objection to the CPO dated 29 January 2021, on behalf of MRC. For continuity, Lambert Smith Hampton also submitted an objection, dated 29 January 2021, on behalf of Matalan also;

the form and points of reference in this objection were the same as the MRC objection.

- 5.4.8 Lambert Smith Hampton advised both MRC and Matalan throughout 2021 albeit there was limited engagement with the agent, despite BCC attempts to engage. A site meeting was however convened in November 2021 to discuss the scheme which highlighted a number of points for BCC to consider and action. This involved the redesign of the proposal which originally had sought to change the location of the access to the property. It was agreed that the original access point would be retained and BCC amended the proposed design, as agreed.
- 5.4.9 It was confirmed by Lambert Smith Hampton on 31 January 2023 that Workman LLP had taken over the management of the MRC property portfolio, with effect from 1 November 2022.
- 5.4.10 Workman LLP confirmed that they would solely manage MRC's interests – Matalan would be responsible for negotiating their own case; Ian Cheadle (Property Manager for Matalan) was identified as being the continued point of contact; Ian Cheadle had been involved with all discussions to date during Lambert Smith Hamptons instruction.
- 5.4.11 A site meeting with Workman LLP was convened on 26 April 2023 (Matalan also in attendance). During May, June and July 2023 various information was requested by Workman LLP and supplied by BCC, for consideration by Workman LLP and MRC's advisers.
- 5.4.12 On 31 August 2023 and 21 September 2023 updates were requested from Workman LLP. On 21 September 2023, Workman LLP confirmed that they were awaiting information from MRC regarding a compensation matter.
- 5.4.13 On 28 November 2023, Workman LLP confirmed that a valuer (Nick Davies – AXIS) had been instructed to provide valuation guidance on compensation matters and that he would be reporting soon.
- 5.4.14 During February, March and April 2024, several requests were made to Workman LLP to update BCC as to the compensation advice provided by Nick Davies (AXIS).
- 5.4.15 On 2 May 2024 MRC confirmed that their valuers report was due by the 7 May 2024. On 13 May 2024, MRC confirmed that they had received their valuers report and were considering the same.
- 5.4.16 Workman LLP confirmed that they had discussed the contents of the report with Matalan, who on 12 June 2024 requested additional information regarding temporary works which was to be reviewed by both Workman LLP and Matalan's agent. I understand that this information was discussed



during a Teams call between both parties to which BCC did not expect to be invited to.

- 5.4.17 BCC requested an update from Workman LLP on 18<sup>th</sup> July and 6<sup>th</sup> September 2024; no response was forthcoming. On the 18<sup>th</sup> July 2024, BCC confirmed that all the information requested by Matalan had been sent so Matalan/Workman LLP (MRC) could formulate an opinion/response.
- 5.4.18 BCC were informed by Matalan's agent on 29 October 2024 that Nick Davies (MRC's compensation adviser) was giving the land compensation issue further thought. The same message was received by BCC from Matalan's agent on 14 November 2024 which confirmed that they had not received comments from Nick Davies (MRC's valuer).
- 5.4.19 Draft HoTs were received by BCC from Matalan on 20 December 2024.
- 5.4.20 BCC requested a response from Workman LLP on 6 January 2025 by email and telephone call on 9 January 2024 – no response was received from Workman LLP.
- 5.4.21 Further to a telephone call between BCC and Workman LLP on 13 January 2025, a copy of the draft Matalan HoTs were sent to Workman LLP for their information; Matalan's agent had confirmed that BCC could forward the same to Workman LLP. It was agreed that BCC would attempt to contact Nick Davies (MRC's valuer) to discuss compensation matters; a message was left with Nick Davies to make contact with BCC.
- 5.4.22 BCC confirmed with Workman LLP on 15 January 2025 that Nick Davies had not contacted BCC. Nick Davies contacted BCC on 16 January 2025 confirming that he was dealing with the matter
- 5.4.23 BCC and Nick Davies exchanged various emails before a telephone conversation on 17 January 2025, which included sending a further copy of the Matalan HoTs which had been sent to Workman LLP on the 13 January 2025.
- 5.4.24 BCC confirmed with Workman LLP that the telephone call with Nick Davies had taken place via email on 21 January 2025.
- 5.4.25 BCC received an email from Nick Davies on 21 January 2025 which detailed a number of amendments to the Matalan HoTs which would be required to preserve MRC's position and requested additional information.
- 5.4.26 BCC provided the additional information by email on 23 January 2025.
- 5.4.27 BCC requested an update from Nick Davies and confirmed that Workman LLP/MRC should have received notification regarding the Public Inquiry from the DfT on 27 January 2025 and that, accordingly, matters were becoming

pressing.

- 5.4.28 BCC received information regarding MRC's compensation position from Nick Davies on 28 January 2025.
- 5.4.29 Nick Davies sent an email on 31 January 2025 regarding the lack of engagement with MRC in respect of the CPO.
- 5.4.30 BCC responded on 5 February confirming that BCC had engaged with Workman LLP, as per the detail set out above.
- 5.4.31 A call between Nick Davies and BCC on 5 February 2025 addressed various matters. BCC emailed Nick Davies on 5 February 2025 to confirm actions required by Nick Davies to take matters forward, which included (subject to MRC legal consideration and review by BCC) the provision by Nick Davies of draft HoTs regarding relevant matters, which were discussed during the above call, including confirming the relevant legal fee undertakings by BCC's legal advisers.
- 5.4.32 As at the date of drafting my evidence, BCC await the information requested from Nick Davies.
- 5.4.33 Matalan submitted a detailed objection which outlined reasons for objecting to the CPO; MRC confirmed their support of the reasons detailed within Matalan's objection, which formed the basis of MRC's objection. These reasons are detailed (in italics) at paras 5.4.34.1 to 5.4.43.4 below – for clarity BCC's response to these are highlighted in in red,
- 5.4.33.1 *'As a retail business, Matalan require 24-hour access to the site for customers, staff and deliveries on foot and also by vehicle. We have not received any guarantees from The Borough Council of Calderdale('the Council') that this will remain possible during the construction process. Anything that restricts access to the store for any of these persons will affect trade and have an adverse effect on the business. BCC has undertaken to keep open and unrestricted access to Matalan's carpark at all times with no requirement for contraflow, signal controls or similar during the period of the works, the existing vehicular and pedestrian accesses to the Property will continue, as detailed within the draft HoTs.'* BCC has undertaken to keep open and unrestricted access to Matalan's carpark at all times with no requirement for contraflow, signal controls or similar during the period of the works, the existing vehicular and pedestrian accesses to the Property will continue, as detailed within the draft HoTs.

5.4.33.2 *'We have not received any information from the Council as to how construction will be carried out e.g. the types of plant & machinery to be used and what nuisance might be generated in the form of dust/ debris, noise and vibration. Anything that deters customers from visiting the store (and, in our experience, it proves difficult to get them to return) will have a detrimental impact on the business.'* **Standard construction methodologies will be employed, and this is a level of detail not able to be confirmed at this time, other than in the generality.**

5.4.33.3 *'The Council have not provided any information as to the timing and/or duration of the works or how traffic will be managed in the vicinity of the Matalan store during the construction works. We have found that works of this nature cause significant delays to the flow of traffic which can result in customers abandoning their trips and/ or discouraging them from making a return visit. Again, anything that deters customers will have a negative effect on the business'.*

**As at para 5.4.34.1, BCCs undertaking is quite specific in how it addresses this issue, but in addition scheme design has been changed to retain the existing access rather than provide a new access off Berry Lane.**

5.4.33.4 *'As an edge of town retail outlet, the Matalan in Halifax relies on the availability of unhindered car parking for its' customers. The Council has not provided any detail in respect of whether there will be a temporary loss of spaces during the works and/ or a permanent loss as a result of the land take'.*

**The CPO clearly identified the land which is required permanently Plots 1/3 and Plot 1/3a – since which time information has been provided by BCC to address these issues.**

*'We have not received any information as to whether vehicles will be able to freely circulate during the works or been provided with a final scheme showing how the car park layout will 'work' in the long term'.*

**As above an undertaking has been given regarding ongoing access. Options regarding temporary and revised car park layouts have been provided by BCC to MRC/Matalan; the HoTs identifies that BCC are responsible for relining the car park.**

*'Similarly, we have not been provided with any information by the Council regarding the practicalities of relocating the car*

*park entrance both in the short- and long-terms’.*

This relates to the original design when the existing access was to be relocated; this is not happening now following refinement of the scheme design with the existing access been retained and unrestricted access being always provided during the works.

*‘If customers experience difficulties in navigating the car park and/ or finding a space, they will be deterred from shopping at Matalan and this will have an adverse effect on the business.’*

Matalan will be able to make a compensation claim in respect of any provable impact on trade resulting from the carrying out of the works.

5.4.35 I am of the opinion that the issues detailed in MRC’s objection have been addressed (as detailed at para 5.4.34) and are agreed within the HoTs.

5.4.36 The issue of monetary compensation is provisionally agreed; however, compensation is, of course, not a matter for this Inquiry.

5.4.37 There is no reason why agreement cannot be achieved in respect of these matters with MRC (and Matalan), and the dialogue will continue with the aim of securing a private treaty agreement but, to ensure the timely delivery of the project, BCC does require the certainty of land assembly afforded by the CPO.

## 5.5 **Objector 2 – Matalan Retail Ltd (CPO Plots 1/3 & 1/3a)**

### **Overview**

5.5.1 Matalan are the Tenants of Plots 1/3 and 1/3a, which form part of a commercial retail premises and associated car park area located just off Cripplegate.

5.5.2 As set out above Matalan hold a leasehold interest by way of a lease dated 20 December 2002 made between (1) Broomco (2662) Ltd (now vested in MRC) and (2) Matalan. This lease is for a term of 25 years from 21 July 2002 and expires 20 July 2027. It is understood that this lease has been extended by way of an agreement dated 22 August 2023 for a term of a further 5 years commencing on 21 July 2027.

5.5.3 Discussions with Matalan (and MRC) were initially handled on a joint basis by Lambert Smith Hampton in the first instance as set out above.

### **Effects of the Scheme**

5.5.4 The scheme, as currently designed, requires 849 sq m (Plot 1/3) and 367 sq m (Plot 1/3a) which is currently used as a car park area for the retail store and reduces the number of car park spaces from 211 to 169 (42 car spaces). However, at the time the CPO was published the CPO provided for the existing access to be relocated to a new location on Berry Lane. However, further to discussions with MRC, the design was amended so that the existing access to the retail store is retained and the proposed new access discounted.

### **Current Position**

5.5.5 Matalan appointed Keppie Massie as their agent in July 2023.

5.5.6 Discussions commenced between the agent and BCC which considered all aspects of the impact of the scheme on Matalan.

5.5.7 These discussions culminated in the provision of a draft set of HoTs on 20 December 2024 which address accommodation works, license arrangements and reservations regarding compensation matters. The draft HoTs are acceptable to BCC and Matalan, subject to an undertaking being provided by BCC which confirms the same and enables Matalan to withdraw their objection to the CPO. Discussions between Matalan's legal team and BCC's legal representatives are ongoing at the time of writing.

5.5.8 I am of the opinion that the HoTs address all aspects of Matalan's objection, which as explained at para 5.4.34, were tabled in detail by Matalan and supported by MRC. Therefore, the responses made by BCC at para 5.4.34 apply equally to Matalan's position.

5.5.9 Subject to the requisite undertaking being provided, a private treaty agreement will be formalized between both parties, but at the time of writing, to ensure the timely delivery of the project, BCC requires the certainty of land assembly afforded by the CPO.

## **5.6 Objector 3 – Palace Capital (Halifax) Limited - (Supplemental CPO Plots 2/1 & 2/1a)**

### **Overview**

5.6.1 Palace Capital (Halifax) Ltd ('PCL') own the freehold to Plots 2/1 and 2/1a which were included within the Supplemental CPO – the plots comprise pavement area adjacent to commercial premises.

5.6.2 Engagement with PCL and their representatives commenced in late 2021.

### **Effects of Scheme**

5.6.3 The scheme, as currently designed, requires 72.46 sq m (Plot 2/1) and 59.98 sq m (Plot 2/1a) which is currently used as a pedestrian footpath and fire escape exit point.

### **Current Position**

5.6.4 Negotiations with the agent representing PCL continued throughout 2022, 2023 and 2024.

5.6.5 Discussions culminated in an agreement being reached and accepted by PCL and BCC on 20 March 2024; this included the provision of a works license over land required for the scheme, including those areas required permanently to be dedicated as highway and those areas required temporarily to be vacated when works are completed. In addition, some small areas originally included within the scheme are no longer required to be acquired from PCL – these areas extend to 15.15 sq m.

5.6.6 During the remainder of 2024, legal teams have been progressing the relevant documents. At the time of writing BCC's solicitors are holding signed agreements and are awaiting execution by PCL, who require mortgagees' consent. The legal documents provide for the withdrawal of the objection by PCL upon the completion of the documents.

5.6.7 At the time of preparing this evidence, although legal documents are in circulation between both BCC and PCL for completion, to ensure the timely delivery of the project BCC requires the certainty of land assembly afforded by the Supplementary CPO.

## **6.0 Parties who did not object to Compulsory Purchase Orders**

6.1 BCC have engaged with all parties who have interests included within the CPO, not only those who objected.

6.2 This includes 17 plots of land with 5 known parties; 2 of the 17 plots of land are unregistered – Supplemental CPO Plots 2/2 and 2/2a. Set out below is a summary of those parties which are affected but where agreement has yet to be concluded.

6.3 **Borough of Calderdale Council – (CPO Plots 1/1, 1/1a and 1/1b) – Freeholder**

### **Overview**

6.3.1 The plots comprise former access to gas storage compound and area of vegetation. The land is subject to a lease in favour of Birch Sites Ltd – details at para 7.4.1 below.

6.3.2 BCC estates have been a consultee since initial design stage.

#### **Effects of Scheme**

6.3.3 The scheme, as currently designed, requires 119 sq m (Plot 1/1), 95 sq m (Plot 1/1a) and 43 sq m (Plot 1/1b) which is currently used as an access to a former gas storage facility and an area of vegetation. This will become a new Private Means of Access under the SRO.

#### **Current Position**

6.3.4 BCC will appropriate the land required for the scheme to highways purposes but although it is in active discussion with the leasehold owner, it requires the certainty of inclusion of the land within the CPO to deliver the scheme.

### **6.4 Birch Sites Ltd – (CPO Plots 1/1, 1/1a and 1/1b) – Leaseholder**

#### **Overview**

6.4.1 CPO Plot 1/1 provides access to a former gas storage facility (see para 6.5 below) and CPO Plots 1/1a and 1/1b are areas of vegetation. The lease commenced on the 29 September 1962 for an original term of 42 years; since the expiration of 42 years the lease has continued on an annual periodic basis.

6.4.2 Birch Sites Ltd have been in discussion with BCC regarding the disposal of their freehold interest (CPO Plots 2/1 and 2/1a) in the former gas storage facility, which requires a surrender of the current leasehold interest in these specific plots and a new agreement with BCC. These discussions have been ongoing for a period time with BCC and are close to being concluded, however the specific detail of this arrangement is unknown.

6.4.3 Discussions with the agent for Birch have been ongoing since summer 2020.

#### **Effects of Scheme**

6.4.4 The scheme, as currently designed, requires 119 sq m (Plot 1/1), 95 sq m (Plot 1/1a) and 43 sq m (Plot 1/1b) which is currently used as an access to a former gas storage facility and an area of vegetation. This will become a new Private Means of Access under the SRO.

#### **Current position**

6.4.5 Negotiations with Birch Sites Ltd have continued and draft HoTs have been provided to Birch Sites Ltd – see para 6.5 below.

6.4.6 At the time of preparing my evidence, Birch Sites Ltd are yet to confirm that the HoTs are agreed – to ensure the timely delivery of the project BCC requires the certainty of land assembly afforded by the Order.

#### 6.5 **Birch Sites Ltd – (CPO Plots 2/1 and 2/1a) – Freeholder**

##### **Overview**

6.5.1 Plots 2/1 and 2/1a form part of a former gas storage facility and comprises hard standing areas.

6.5.2 Birch Sites Ltd are planning to dispose of the site; due to the access ownership, the site must be promoted on a joint basis with BCC. Discussions with BCC have been on going for a period time and are close to being concluded.

6.5.3 Discussions with the agent for Birch have been ongoing since summer 2020.

##### **Effects of Scheme**

6.5.4 The scheme, as currently designed, requires 3,974 sq m (Plot 2/1) and 1245 sq m (Plot 1/1b) which currently comprises a former gas storage facility, internal roadway, bridge, vegetation and hard standing and part of the watercourse known as Hebble Brook.

##### **Current Position**

6.5.5 Negotiations with Birch Sites Ltd were progressed and draft HoTs have been provided to Birch Sites Ltd in July 2023.

6.5.6 BCC require confirmation that the HoTs are agreed, which is what has been informally intimated by the agent for Birch Sites Ltd. The focus of Birch Sites Ltd has been the bringing of the site to market.

6.5.7 At the time of preparing this report, Birch are to confirm that the HoTs are agreed – to ensure the timely delivery of the project BCC requires the certainty of land assembly afforded by the CPO.

#### 6.6 **Resource Medical (UK) Ltd – (CPO Plots 2/1, 2/1a, 2/1b, 2/2, 2/3 – Freeholder**

##### **Overview**

6.6.1 Plots 2/1, 2/1a, 2/1b, 2/2, 2/3 comprise areas used as a ‘pay and display’ car park including stone steps which are listed.

6.6.2 BCC were informed that the ownership of the plots had transferred to Resource Medical (UK) Ltd (‘RML’) on 23 July 2020.



6.6.3 Discussions with RML commenced from the above date.

#### **Effect of Scheme**

6.6.4 The scheme, as currently designed requires 1,377 sq m in total which is currently used as a 'pay and display' car park. The stone steps will be modified to provide a Disability Discrimination Act compliant ramp to the Hughes Building

#### **Current Position**

6.6.5 Negotiations commenced with RML during July 2020. On 22 September 2020, BCC submitted a proposal to RML which was rejected by RML on 26 September 2020.

6.6.6 A revised proposal was submitted to RML on 2 November 2020 which was rejected on 16 November 2020; RML confirmed that they were appointing an agent to act on their behalf.

6.6.7 A meeting with RML was convened on 23 March 2021 to discuss the scheme: on 14 April 2021 BCC provided information to RML for their consideration.

6.6.8 A revised proposal was made to RML, by BCC on 2 August 2021. RML confirmed on 17 August 2021 that the proposals made by BCC were being considered by RML.

6.6.9 On 1 October 2021, RML requested a further copy of the information sent by BCC on 14 April 2021. On 16 October 2021, RML requested further clarification on the information provided by BCC.

6.6.10 On 22 February 2022 RML confirmed that they had 'appointed' a representative to discuss matters with BCC. On 18 March 2022 the 'representative' contacted BCC to intimate that RML had appointed an agent – Bramleys; the instruction to Bramleys was confirmed by RML on 8 April 2022 and a meeting between RML and Bramleys was convened on 29 April 2022 – unfortunately this was cancelled and never took place.

6.6.11 During the remainder of 2022, there was limited contact from RML, despite regular requests for updates by BCC. On 3 January 2023, Bramley's confirmed their instruction from RML.

6.6.12 On 5 June 2023, BCC received a proposal from the agent representing RML; BCC's counter proposal was submitted to the agent on 11 July 2023.

6.6.13 During the remainder of 2023 requests for updates to the above counter proposal were requested by BCC.

6.6.14 On 29 April 2024, BCC received a counter proposal from RML which included a request for an additional 'cash' sum; this was considered by BCC and a response made to RML on 22 August 2024. No substantive response has been received from RML although assurances have been given by the agent that they were awaiting instructions from RML.

6.6.15 At the time of preparing this report no response has been received from the agent by BCC.

## 6.7 **Due West Limited – (Supplemental CPO Plots 1/1, 1/1a and 1/1b) – Freeholder**

### **Overview**

6.7.1 Plots 1/1, 1/1a and 1/1b comprise areas used as a 'pay and display' car park.

6.7.2 Negotiations commenced with Due West Ltd on 6 October 2022.

### **Effect of Scheme**

6.7.3 The scheme, as currently designed requires 272.51sq m in total which is currently used as a 'pay and display' car park.

### **Current Position**

6.7.4 Negotiations with Due West have been ongoing since October 2022.

6.7.5 Further to a meeting with Due West Ltd on 5 November 2024 it was provisionally agreed that Due West Ltd would transfer the land required for the scheme to BCC prior to works commencing, subject to BCC undertaking to agree compensation in line with statutory provisions post transfer.

6.7.6 Confirmation that the undertaking is acceptable to Due West Ltd has not been received – BCC sought confirmation on 21 January 2025.

6.7.7 I remain of the view that a transfer of land voluntarily is capable of being finalised. The only outstanding issue appears to be the quantum of compensation which is not a matter for this inquiry.

6.7.8 To ensure the timely delivery of the project BCC requires the certainty of land assembly afforded by the Supplemental CPO.

## 6.8 **Revista Property Ltd – (Supplemental CPO Plots 1/2 and 1/2a) – Freeholder**

### **Overview**

6.8.1 Plots 1/2 and 1/2a comprises an area of bare land which is the former site of

Deal Street Mill which was demolished prior to the order being made.

- 6.8.2 Negotiations commenced with Revista Property Ltd ('RPL') on 9 September 2021.

### **Effect of Scheme**

- 6.8.3 The scheme, as designed requires 79.52 sq m in total which is the former site of Deal St Mill which was demolished prior to the order being made.

### **Current Position**

- 6.8.4 Further to an initial conversation with RPL on 9 September 2021, BCC struggled to get engagement from RPL. Further emails were sent by BCC requesting discussions with RPL on 14 October 2021 and 9 November 2021.
- 6.8.5 No responses were received from RPL during 2022; an offer of compensation was made by BCC on 25 October 2022.
- 6.8.6 BCC received an email from an agent which intimated that they were awaiting an instruction from RPL who had engaged with the agent to discuss this matter. Emails dated 25 November 2022 and 19 January 2023 from the agent confirmed that RPL had not confirmed his instruction.
- 6.8.7 BCC contacted RPL by letter in April 2023, which resulted in Walker Singleton confirming that they had been instructed to represent RPL on 4 May 2023.
- 6.8.8 Regular emails and contact between BCC and Walker Singleton confirmed that Walker Singleton awaited instructions from his client. On 25 June 2024 BCC received a counter proposal to the offer made by BCC on 25 October 2022.
- 6.8.9 The Council proposed a counteroffer to RPL on 11 December 2024 after considering the proposal made by RPL. This was rejected by RPL on 16 January 2025; BCC requested further information from RPL by email on 16 January 2025, but at the time of submitting this proof, this information is yet to be provided.
- 6.8.10 I remain of the view that agreement is capable of being finalised and the issue of the quantum of compensation agreed, however, the assessment of this is not a matter for this inquiry.
- 6.8.11 To ensure the timely delivery of the project BCC requires the certainty of land assembly afforded by the Order.

## **7.0 Parties with whom agreements have been concluded.**

7.1 I and members of the BCC team have sought to engage with all affected parties – not only those who objected. Set out below is a summary of those parties where agreement has been concluded.

### **7.2 Brixton Pavilion Ltd – (CPO Plots 3/1 and 3/1a) – Freeholder**

#### **Overview**

7.2.1 Negotiations commenced in June 2020 with Brixton Pavilion Ltd (BPL) and continued until April 2022. At that time the scheme design was amended which resulted in the making of the Supplemental CPO so as to move the alignment of the proposed scheme and land no longer being required from BPL.

7.2.2 Therefore, in consideration of BPL withdrawing its objection to the CPO, BCC provided an undertaking to:

- write to the Secretary of State (via the National Transport Casework Team) to request modifications to the CPO to remove the Heritage Mews Land;

- in the event that, notwithstanding the Council's request, the CPO is confirmed by the Secretary of State with the BPL Land included, not to exercise its CPO powers to acquire the BPL Land.

7.2.3 BPL agreed to the undertaking and formally withdrew their objection.

## **8.0 Conclusion**

8.1 The above information clearly identifies the following;

- advice in 'the Guidance' has been fully met in respect of the Order.
- BCC has engaged with all affected parties,
- BCC have kept all parties fully informed of the progress of the scheme, and
- BCC has actively sought and positively participated in discussions with affected parties.

8.2 BCC has given the requisite undertakings regarding reasonable professional fees and costs incurred by all affected parties and made such payments throughout negotiations, when invoices were received.

8.3 In my opinion there is a compelling case in the public interest for the CPO and Supplemental CPO to be confirmed. All affected parties, including the objectors to

the Order, will be adequately protected, either by an agreement (negotiations are continuing in respect of each interest where agreement remains to be reached) or (following a failure of negotiations) by the statutory entitlement to claim compensation under the relevant provisions of the Compensation Code, including, where compensation cannot be agreed, the ability to refer a claim to the Upper Tribunal (Lands Chamber).

## 9.0 **Expert's Declaration**

- 9.1 I confirm that my duty to the Inquiry as an expert witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty.
- 9.2 I confirm that my report includes all facts which I regard as being relevant to the opinions I have expressed and that attention has been drawn to any matter that would affect the validity of those opinions. I am not instructed under any conditional fee arrangement and have no conflict of interest.
- 9.3 I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.
- 9.4 I confirm my evidence complies with the requirements of the Royal Institution of Chartered Surveyors (RICS), as set down in Surveyors acting as expert witnesses: RICS practice statement.

Signed *K T Guy* .....

Kevin Guy BSc(Hons) MRICS RICS Registered Valuer

Dated 11<sup>th</sup> February 2025