

SUMMARY 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

1.0 Summary Statement of Evidence

- 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 The Ministry of Housing, Communities and Local Government "Guidance on the Compulsory Purchase Process Guidance provides a guide to those bodies proposing to compulsorily acquire land.
- 1.4 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).
- 1.5 It is a theme of the Guidance states that a 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.

(see para's 2.1, 2.2, 2.8 and 2.9 of the Guidance).
- 1.4 This proof of evidence documents the negotiations with landowners who had land interests included in the following orders;
 - The Borough Council of Calderdale (Halifax Town Centre) (Highway Improvements) (West Yorkshire Plus Transport Fund, A629 Phase 2) Compulsory Purchase Order 2020 – made 9th 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 21st 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 9th December 2020.
- 1.5 Negotiations with landowners have been undertaken in accordance with the 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.
- 1.6 The CPO and supplemental CPO included 23 plots of land with 9 'qualifying persons' being identified as having interests in 21 plots; the ownership of the remaining 2 plots is unknown.

1.7 4 objections were received in respect 6 plots of land included within the orders. However, a design change has lead to BCC requesting modification of the CPO with 1 objector consequently having no land taken, which subsequently lead to the withdrawal of their objection – therefore 3 objectors remain.

1.8 The position with each objector is as follows

Objector 1 MRC Pension Trust Ltd – Freeholder (CPO Plots 1/3 and 1/3a)

1.8.1 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, which are occupied by Matalan. 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; this 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.

1.8.2 Engagement with MRC commenced in November 2019 and Lambert Smith Hampton confirmed their instruction in February 2020 and submitted an objection to the CPO dated 29 January 2021, on behalf of MRC (and Matalan).

1.8.3 A site meeting in November 2021 highlighted several points for BCC to consider and action which included the redesign of the original proposal which had sought to change the location of the access to the property. It was agreed that the original access point would be retained, and the design amended accordingly.

1.8.4 MRC changed their agent, with effect from 1 November 2022, employing Workman LLP to represent them.

1.8.5 Negotiations between Workman LLP (MRC's agents) and BCC continued and at the time of submission, draft HoTs are yet to be confirmed to be finalised. However, fee undertakings have been requested by and are being provided to BCC to MRC's legal advisors to progress private treaty agreements. It is the opinion of BCC that the issues detailed within MRC's objection are addressed within the HoTs and appropriate undertakings will be provided by BCC to MRC enabling their withdrawal of their objection. However, until such time as that process is complete, and MRC's objection is withdrawn, certainty is required by the Orders for scheme delivery. I will update my evidence at the inquiry should matters progress.

Objector 2 Matalan Retail Ltd – Leaseholder (CPO Plots 1/3 & 1/3a)

1.8.6 Matalan hold a leasehold interest by way of a lease dated 20 December 2002 made between (1) Broomco (2662) Ltd (now vested in MRC – Objector 1) 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.

- 1.8.7 The scheme detail and history of design mirrors the information detailed above regarding MRC; discussions with Matalan (and MRC) were initially handled on a joint basis by Lambert Smith Hampton, until Workman were appointed to represent MRC on 1st November 2022, however, at this point it was confirmed that MRC and Matalan would act independently of each other – accordingly Matalan appointed Keppie Massie as their agent in July 2023
- 1.8.8 Negotiations with Matalan and their various representatives have culminated in the provision of a draft set of HoTs on 20 December 2024. These are agreed by BCC and Matalan, subject to an undertaking by BCC to confirm the contents of the HoTs which will enable Matalan to withdraw their objection to the CPO. Discussions between the respective legal teams for both parties are ongoing. However, until such time as that process is complete, and Matalan’s objection is withdrawn, certainty is required by the Orders for scheme delivery. I will update my evidence at the inquiry should matters progress.

Objector 3 Palace Capital (Halifax) Limited – Freeholder (Supp CPO Plots 2/1 & 2/1a)

- 1.8.9 Palace Capital (Halifax) Ltd (‘PCL’) own the freehold to Plots 2/1 and 2/1a which were included within the Supplemental CPO and comprise pavement area adjacent to commercial premises and fire escape. Engagement with PCL and their representatives commenced in late 2021.
- 1.8.10 The scheme, as currently designed, requires 72.46 sq m (Plot 2/1) and 59.98 sq m (Plot 2/1a) which is 15.15 sq m less than included within the original scheme design.
- 1.8.11 Negotiations with the agent representing PCL continued throughout 2022, 2023 and 2024 which culminated in HoTs being agreed between PCL and BCC on 20 March 2024.
- 1.8.12 During the remainder of 2024, legal teams have been progressing the relevant documents and at the time of submission BCC’s solicitors are holding signed agreements and are awaiting execution by PCL’s solicitors. Mortgagee consent is awaited by them. The legal documents provide for the withdrawal of the objection by PCL upon the completion of the documents. However, until such time as that process is complete, and PCL’s objection is withdrawn, certainty is required by the Orders for scheme delivery. I will update my evidence at the inquiry should matters progress.

Objector 4 Brixton Pavilion Ltd – (CPO Plots 3/1 and 3/1a – Freeholder)

- 1.8.13 Negotiations commenced in June 2020 with Brixton Pavilion Ltd (BPL) and continued until April 2022 but further to the amendment to the scheme design the proposed scheme no longer required land from BPL and a modification to the CPO is to be requested by BCC accordingly.
- 1.8.14 BCC provided an undertaking to request the same which enabled BPL to formally withdraw their objection.

- 1.9 Extensive negotiations with the other 5 ‘qualifying persons’ who did not object are summarised below. BCC has engaged with all parties who have interests included within the CPO, not only those who objected and agreements with these 5 parties are yet to be concluded.

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

- 1.9.1 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 are currently used as an access to a former gas storage facility and areas of vegetation. This will become a new Private Means of Access under the SRO. BCC estates have been a consultee since initial design stage and the freehold interest will be appropriated for highways purposes.

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

- 1.9.2 Birch Sites Ltd have a leasehold interest required for the scheme. The leasehold interest is in respect of the plots owned by BCC (as detailed above) and this will become a new Private Means of Access under the SRO. The lease commenced on the 29 September 1962 for an original term of 42 years and since the expiration of 42 years the lease has continued on an annual periodic basis.
- 1.9.3 Discussions with the agent for Birch regarding the leasehold interest and the freehold interest which Birch Sites Ltd own, have been ongoing since summer 2020 with draft HoTs been provided to Birch Sites Ltd in July 2023.
- 1.9.4 At the time of submission, Birch Sites Ltd are yet to confirm that the HoTs are agreed. Certainty is required by the Orders for scheme delivery.

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

- 1.9.5 Birch Sites Ltd have a freehold interest in CPO Plots 2/1 and 2/1a.
- 1.9.6 Discussions with the agent for Birch have been ongoing since summer 2020 for their leasehold and freehold interests with draft HoTs been provided to Birch Sites Ltd in July 2023.
- 1.9.7 At the time of submission, Birch Sites Ltd are yet to confirm that the HoTs are agreed. Certainty is required by the Orders for scheme delivery.

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

- 1.9.8 The above plots comprise areas used as a ‘pay and display’ car park, including stone steps to the Hughes Building which will be modified to provide a Disability Discrimination Act compliant ramp. BCC were informed that the ownership of the plots had transferred to Resource Medical (UK) Ltd (‘RML’) on 23 July 2020.
- 1.9.9 Negotiations commenced with RML during July 2020 and various proposals have been made by BCC and rejected by RML; the latest revised proposal was made by BCC on 22 August 2024, to which no response has been made at the time of submitting this report. Certainty is required by the Orders for scheme delivery.

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

- 1.9.10 These plots comprise areas used as a ‘pay and display’ car park and negotiations commenced with Due West Ltd on 6 October 2022.
- 1.9.11 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. Confirmation that the undertaking is acceptable to Due West Ltd has not been received and BCC sought confirmation on 21 January 2025. Certainty is required by the Orders for scheme delivery.

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

- 1.9.12 Both plots comprise an area of bare land which is the former site of Deal Street Mill which was demolished prior to the order being made. Negotiations commenced with Revista Property Ltd (‘RPL’) on 9 September 2021 and despite attempts only very limited responses were received from RPL. Walker Singleton confirmed that they had been instructed to represent RPL on 4 May 2023.
- 1.9.13 Negotiations have continued between the parties with an agreement yet to be agreed. Certainty is required by the Orders for scheme delivery.

1.10 Conclusion

- 1.10.1 My evidence 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.
- 1.10.2 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.
- 1.10.3 In my opinion, there is a compelling case in the public interest for the CPO and Supplementary CPO to be confirmed and all affected parties, including the objectors to the Orders, 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).

1.11 **Expert's Declaration**

- 1.11.1 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.
- 1.11.2 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.
- 1.11.3 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.
- 1.11.4 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 11th February 2025