

WOKING BOROUGH COUNCIL

WOKING BOROUGH COUNCIL
(SHEERWATER REGENERATION)
COMPULSORY PURCHASE ORDER 2020

SUMMARY PROOF OF EVIDENCE

OF

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1. INTRODUCTION

- 1.1 My name is Peter Bryant and I am the Director of Legal and Democratic Services at Woking Borough Council (the “**Council**”), and a Director of ThamesWey Developments Limited and ThamesWey Housing Limited, its wholly-owned joint venture partners. I have worked at the Council, in a number of legal roles, since 1988.
- 1.2 I am the senior officer at the Council responsible for the operational delivery of the Sheerwater Regeneration Scheme (“the **Scheme**”), and I have led or been closely involved in it for approximately 8 years.
- 1.3 This has entailed oversight of the regeneration strategies and the implementation of key development opportunities and land assembly negotiations comprised in this Scheme. I am the lead in-house legal adviser for the Scheme, and either chair, or report to, the Council’s governance/delivery bodies for the Scheme.
- 1.4 My evidence does not include a comprehensive statement on the planning context and policy for the Scheme, but this is dealt with in a statement by Joanne Hollingdale, Principal Planning Officer for the Scheme, which is at Appendix 1.
- 1.5 My evidence also does not provide detail on the phasing and delivery of the Scheme, but this is dealt with in a statement by Mark Rolt of ThamesWey Group, the Council’s regeneration vehicle, which is at Appendix 2.

2. SHEERWATER AND THE ORDER LAND

Location and Context

- 2.1 The Order Land is located within the area covered by the Sheerwater Masterplan (**CDA17**). The primary land use within the Order Land is residential, with 573 residential units lying inside the boundary of the Order Land. The northern part of the Order Land is made up of Sheerwater Recreation Ground, the former Woking Athletics Club and Bishop David Brown School playing fields. The majority of buildings in the area are two-storey, although the local centre is defined by a four storey mixed use block and surrounding three storey residential blocks.
- 2.2 The Order Land includes a parade of shops containing convenience stores and food outlets, a post office, hairdresser and small retailers. The Order Land encompasses a number of community and recreation buildings, including Sheerwater Health Centre, Waterside Dental Centre, Caring Day Care (Nursery and SureStart Centre), Woking Children’s Centre, Parkview Centre for the Community, Birch and Pines Public House (now demolished) and facilities for Woking Athletics Club and Sheerwater Football Club.

3. BACKGROUND TO THE SCHEME

- 3.1 The Sheerwater area has long been identified as being in need of major capital investment having been predominantly built during the 1950s by the former London County Council as housing for areas of London damaged in World War II. A significant negative feature of the area was the large electricity pylons that cut through the housing area, which have already been removed by the Council and at its cost, in readiness for and as part of the Scheme.
- 3.2 The Sheerwater area contains a large number of smaller houses, representing the Council’s largest single stock of smaller social housing. Much of the housing within the Order Land is in poor condition and is ill suited to the needs of existing residents. The existing public open spaces are poor, unattractive, lack sufficient play facilities and feel

unsafe due to them having limited opportunities for passive surveillance.

- 3.3 The Council considers that the current condition of the housing upon and the layout of the Order Land has a negative impact on its community and limits opportunities to improve their economic and social prospects, and that it also contributes to low aspirations and a lack of environmental well-being among residents of Sheerwater. Socio-economic information and statistics highlight the problems faced by the community in the area of the Order Land, which are atypical of the remainder of the Council's administrative area.
- 3.4 Sheerwater was therefore identified as a Priority Place within the Council's Core Strategy 2012, meaning the area is the subject of targeted intervention by the Council and its partner bodies.

Description of the Scheme

- 3.5 The Council's proposals include:
- (a) the demolition of 573 residential units, existing non-residential buildings and sports facilities upon the Order Land; and
 - (b) the comprehensive phased redevelopment of the Order Land to deliver approximately 1,142 new high quality residential dwellings which will include approximately 619 dwellings for sale on the open market dwellings and approximately 523 'affordable' dwellings (of which 134 are the specialist residential dwellings)
 - (c) the provision of up to 134 specialist residential dwellings within Use Classes C2 and C3. These units will be self-contained affordable assisted living units (at a combination of social rent levels and affordable rent levels), all of which will be compliant with Part M of Schedule 1 to the Building Regulations 2010;
 - (d) the provision of:
 - a. a community centre;
 - b. a nursery/children's centre;
 - c. a Leisure Centre and artificial grass pitch with spectator seating;
 - d. flexible Retail Units;
 - e. a Health Centre;
 - f. significantly improved and enhanced public open space and public realm;
 - g. a new Sustainable Drainage (SUDs) scheme throughout the Order Land, enhancing and improving the drainage network and flood prevention infrastructure within the adjacent area; and
 - h. landscaping, improved pedestrian routes, car parking spaces and associated highway and other infrastructure, drainage, servicing and works

together referred to in this Statement as the "**Scheme**".

- 3.6 The Council's Scheme benefits from the detailed element of a hybrid planning permission, granted by the Local Planning Authority on 27 July 2016 – the 2015 Permission (**CDA9**).
- 3.7 This was subject to a Section 73 hybrid application (PLAN/2018/0374) approved on 18 April 2019 – the 2019 Permission (**CDA13**), together referred to in this Statement as the "Planning Permission". The Planning Permission provides detailed planning consent for the earlier phases of the Scheme and outline planning consent for the Scheme as a whole.

4. THE NEED FOR THE SCHEME

- 4.1 The Borough of Woking is generally relatively affluent, but with pockets of extreme deprivation, one of which includes Sheerwater and the Order Land. The Sheerwater area is typically characterised by poor housing conditions and issues of deprivation when assessed against Indices of Multiple Deprivation (**CDC1**) including Income deprivation (ranking the worst in Surrey), Health deprivation and disability (ranking the worst in Surrey), Education, skills and training (ranking 4th worst in Surrey and below average within Surrey, Woking and nationally) and Employment deprivation (ranking the worst in Surrey).
- 4.2 Large parts of the Order Land are ranked among the 20% most deprived neighbourhoods in the country. Further detail is provided in the EqIA (**CDC8**) which sets out a detailed analysis. The area is characterized by low incomes, high unemployment, low educational attainment, poor health, and high incidence of crime and fear of crime.
- 4.3 The Scheme represents an integral and vital part of the Council's proposals for the regeneration of the Sheerwater area as a whole. A failure to deliver the Scheme in full would be detrimental to the aim to secure a transformational regeneration of Sheerwater along with a range of other initiatives being implemented by the Council and other public sector bodies.

5. THE NEED FOR COMPULSORY PURCHASE

- 5.1 Although the Council is the majority freeholder and landlord, there are a number of property interests within the Order Land that remain in the ownership of third parties.
- 5.2 The Council in each instance has considered the reasons why it is necessary to acquire the property interests identified in the Schedule to the Order. The freeholders, leaseholders, Council tenants and occupiers have been invited to enter into discussions with the Council with regard to compensation on the basis of a negotiated acquisition in line with the Charter (**CDC2**) and in accordance with the advice contained in the Guidance (**CBD8**).
- 5.3 The Council's negotiations with freeholders and leaseholders have indicated that it is likely that the timely acquisition of these interests on reasonable terms and within a realistic timescale based on the Council's requirements will, in some instances, only be achievable through compulsory purchase.
- 5.4 In order to maintain the affordability and deliverability of the Scheme and of the wider regeneration of the Sheerwater area, it is vital that the Council has the means to secure all necessary land and property rights to enable the Scheme to be implemented without delay.

6. THE JUSTIFICATION FOR THE ORDER

- 6.1 The development of the Order Land to secure the Scheme will enable the Council's comprehensive proposals to be delivered in line with the Council's planning policy objectives for the area.
- 6.2 The Council is using its powers for the compulsory purchase of land contained in section 226(1)(a) of the 1990 Act because it has a clear and well-developed vision for the land it wishes to acquire, and securing the acquisition of the land will transform the area by improving the physical environment and the economic well-being of its residents and thereby achieve development.

- 6.3 The Council is also using its powers under section 13 of the 1976 Act to secure new rights required for the purpose of delivering the Scheme. Such new rights relate to rights of craneage in connection with the construction of the development as cranes will oversail land outside that part of the Order Land required for the physical delivery of the Scheme.

7. FUNDING

- 7.1 Funding for the Scheme will be provided by the Council through loan facilities specifically established for the delivery of the Scheme. Those facilities are allocated to Thamesway Developments Limited (TDL), which is a wholly-owned subsidiary of the Council responsible for the development of the Order Land and delivery of the Scheme. Thamesway Housing Limited (THL) will acquire the affordable housing units upon the Order Land once completed.
- 7.2 The funding proposals have been prepared using a model originally built by Ernst & Young LLP to ensure the Council that the proposals are sound and affordable, and factor in all costs of compulsory purchase and compensation. The conclusion of the Council's assessment is that the financial modelling (on the information above) could be prudently authorised by the Council.
- 7.3 Therefore, the Council is satisfied it has the resources to pay all compensation arising out of the Order and all costs associated with the Scheme, including all land acquisition costs, and costs associated with land assembly including for the compulsory purchase order, enabling works and other expenditure required to progress the Scheme.

8. DELIVERY

- 8.1 Parts of the Order Land are 'open space' within the meaning of the 1981 Act. An Open Space Certification Application was submitted to the Secretary of State alongside the Order and is addressed in section 15 of this proof.
- 8.2 The Council will additionally require powers to stop up highway land (as shown on the Phasing Plan) under Section 247 of the Town and Country Planning Act 1990. The following orders will be required:
- 8.3 The stopping up of highways in the early phases of the Scheme is ongoing, and at the time of making this Statement:
- 8.3.1 Parts of Bunyards Drive, Devonshire Avenue, Albert Drive and Murray Green were stopped up by order made on 26 April 2019 (Ref NATTRAN/SE/S247/3552);
- 8.3.2 An application for stopping up of part of Dartmouth Avenue and St Michaels Road commenced consultation on 26 February 2021 (NATTRAN/SE/S247/4541).
- 8.4 An application for a stopping up order (NATTRAN/SE/S247/4711) for all remaining highways in future phases of the Order Land was submitted to the Department of Transport on 16 April 2021.
- 8.5 The Council does not foresee any reasons why the stopping up orders should not be secured in due course.

9. THE SECTION 226(1)(a) TESTS

(1) Whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area, or where no such up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework

The Scheme benefits from the 2015 Permission and the 2019 Permission. Together, the Planning Permission is a hybrid planning permission that grants full detailed planning permission for the early phases of the Scheme. The remainder of the Scheme benefits from outline planning permission. The Scheme complies with national, regional and local planning policies. There are no relevant made or emerging neighbourhood plans.

The Planning Statement of Joanne Hollingdale gives further detail about compliance with the adopted planning frameworks.

(2) The extent to which the scheme will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area

The Council considers that, in line with the requirements of the enabling power, the land proposed to be compulsorily acquired will facilitate the comprehensive redevelopment of the Order Land in a manner which will positively contribute to the improvement of the economic, social and environmental wellbeing of the Council's administrative area. This can be evidenced by considering the current status of the Order Land and the benefits that the Scheme will deliver for the locality.

(3) Whether the purpose for which the land is to be acquired could be achieved by other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land, or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired.

Overall therefore, there is no credible alternative which could deliver a comprehensive scheme on the Order Land to meet the planning policy objectives within a reasonable timeframe. The scope for alternative locations is limited by the purposes of the Order, which is to facilitate the Scheme in line with the Planning Permission granted for it.

(4) The potential financial viability of the Scheme (including the timing of any funding, which may be important)

Funding has been approved and put in place to enable site assembly to be achieved. Funding for the implementation of the Scheme as a whole was approved in the form of loan finance from the Council following consideration of the financial modelling of the Scheme and its viability. Accordingly, funding for the Scheme and its overall financial viability is not in doubt. The Council will consider each phase of the Scheme to monitor the financial position once actual costs are known and keep this under review. The Council is therefore confident that funding is in place to enable compulsory acquisition to be completed within the statutory period under section 4 of the Compulsory Purchase Act 1965.

10. HUMAN RIGHTS CONSIDERATIONS

Application of the principle that interference with Convention rights must be proportionate and justified in the public interest

- 10.1 In promoting this Order the Council has carefully considered the balance to be struck between individual rights and the wider public interest.
- 10.2 To the extent that the Order would affect those individual rights, the Council considers that proposed interference with them would be in accordance with the law, necessary in the public interest and proportionate.
- 10.3 All of those persons whose rights under Article 8 of the Convention and under Article 1 of the First Protocol of the Convention would be affected by the Order will have an opportunity to object to the Order and to have their objection considered at a fair and public hearing, in accordance with their rights under Article 6 of the Convention.
- 10.4 Appropriate compensation will be made available to those entitled to claim it under the relevant provisions of the statutory Compensation Code.

11. EQUALITY IMPACT ASSESSMENT

- 11.1 The impacts of the Scheme were considered by the EqIA (**CDC8**) in relation to a number of key themes: Housing development and redevelopment; Community recreational and leisure facilities; Employment and training; Local businesses; Public realm, open space and safety and security; Travel, transport and connectivity; and Community Cohesion.
- 11.2 Considerations as to the Council's equality duty have formed an integral part of the evolution of the Scheme. The preparation of the EqIA and its supporting documents has been a "live" process and have been prepared alongside plans for the Scheme throughout. The EqIA has been through several iterations, with the Council adopting measures to address the recommendations within it as the Scheme has progressed. The EqIA was checked again and confirmed in May 2021 (**CDC9**).
- 11.3 The EqIA (and previous iterations of it) was presented to meetings of the full Council on 5 April 2018 and 13 February 2020 and to the Sheerwater Regeneration Delivery and Oversight Panel at its meeting on 27 June 2018. At all meetings the EqIA and its recommendations were endorsed, together with all of their recommendations.

12. APPROACH TO NEGOTIATIONS

- 12.1 The consultation underpinning the Scheme has been extensive and intensive. On 14 January 2016, the Council adopted a "Sheerwater Community Charter" ("Charter")(**CDC2**), a voluntary, non-statutory document that sets out the Council's commitments to all of the residents within the Order Land, from Council tenants, to leasehold occupiers and owner occupiers.
- 12.2 This document also sets out the Council's proposals for compensation, including home loss and disturbance payments. The offer of compensation contained within the Charter and the package of compensation measures being offered by the Council go beyond the minimum statutory requirements and its purpose is to bring forward meaningful negotiations on a transparent and equal basis in order to facilitate the negotiated acquisition of as much of the Order Land as possible. It also aims to encourage a wide range of engagement as well as setting out the Council's commitments to residents and occupiers within the Order Land.

- 12.3 The Council has been actively promoting the Community Charter since its adoption and has acquired a significant number of interests within the Order Land by negotiation.
- 12.4 Wherever possible, subject to availability, all residents, owners, occupiers and tenants who wish to remain within Sheerwater will have the opportunity to do so, in line with the Council's aspiration to create a truly sustainable mixed community and minimise the disruption to the existing residents so far as possible.

13. OBJECTIONS AND THE COUNCIL'S RESPONSE

- 13.1 A total of six objections were received to the Order, with four having been withdrawn and commercial terms agreed on the fifth.
- 13.2 Unity Schools Trust withdrew its objection on 3 March 2021 (**CDD7**).
- 13.3 Mr Richard Aubry withdrew his objection on 18 April 2021 after further negotiations with the Council.
- 13.4 Hemali Agrawal withdrew her objections on behalf of both herself and as Director of Parmar Supermarkets on 21 May 2021.
- 13.5 One remaining objector, McLagan Investments, is a qualifying objection, and the other, of S Bracken, is a non-qualifying objection.
- 13.6 Commercial terms enabling the withdrawal of the McLagan objection have been agreed, and a final engrossment of the agreement is in circulation for execution. It is expected that the agreement will complete in the week commencing 31 May 2021 and enable the withdrawal of the objection by 4 June 2021.
- 13.7 Negotiations and discussions remain ongoing with S Bracken and the Council is seeking to resolve and minimise the points of objection.
- 13.8 This section summarises the key points of the remaining objections and the Council's response to them.
- 13.9 S Bracken - Table 2: Plot 518 (Access Rights) – Non-qualifying Objection

Summary of Objection	Council's Response
<ul style="list-style-type: none"> • Lack of engagement and clarity on proposals by the AA • Previous construction impacts in 2013 not dealt with adequately 	<ul style="list-style-type: none"> • These matters are not relevant to the merits of the CPO. • As set out in section 13 above, the Council has been engaging extensively with landowners and occupiers in the area since 2016. The Council's dedicated webpage for the project has been regularly updated since 2015 with all key news and decisions. • The Council has granted planning permission for the Scheme which accords with the Sheerwater Masterplan. The Masterplan and the

	<p>planning applications underwent extensive public consultation.</p> <ul style="list-style-type: none"> • ThamesWey has extensive supervision and management procedures in place to ensure that its contractors comply with all relevant construction requirements. All construction to date has been in full compliance with planning conditions. • Further appropriate safeguards will be provided to protect affected owners. Condition 16 of the 2019 Permission (CDA13) requires a Construction Environmental Management Plan to be approved prior to each phase of the Scheme and thereafter complied with.
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14. SECTION 19 CERTIFICATE APPLICATION

- 14.1 The Order Land contains Open Space (as defined by the Acquisition of Land Act 1981). At the time of submitting the Order to the Secretary of State for confirmation, the Council submitted an application (**CDD4**) for the relevant certificate under section 19 of the Acquisition of Land Act 1981.
- 14.2 In connection with the Planning Permission, an assessment of the existing open space was commissioned, the Open Space Justification (**CDA15**), which concluded that the majority of the open space within Sheerwater was concentrated on the recreational areas of Sheerwater Recreation Ground, Athletics Track and school playing fields and that the remainder of the open space within Sheerwater did not provide high quality useable open space, generally being located in areas that were not accessible to all members of the community.
- 14.3 To address these failings, a range of different types and areas of public open space have been incorporated within the Scheme.
- 14.4 The Order Land includes the Sheerwater Recreation Ground and Athletics Track as shown on the Order Map. As part of the Scheme, both facilities are being redeveloped. To account for these areas being removed from the Order Land, they have been re-provided by the Council as part of the Scheme at The Hoe Valley School and Recreation Centre .
- 14.5 The proposed redevelopment of the Order land will provide significantly enhanced high-quality public open space, being more than 'equally advantageous' to the existing provision. The re-provisioned open space will be of significantly improved quality and design and offer enhanced accessibility and availability to the residents of Sheerwater.
- 14.6 Accordingly the Council believes that there will be an overall gain in open space provision having regard to qualitative considerations and functionality of the proposals.

15. CONCLUSION

- 15.1 I consider that the Council has demonstrated that there are sufficiently compelling reasons

for the powers to be sought at this time to enable the Scheme and the benefits it will bring to be delivered.

- 15.2 The Council has more than a clear idea of how it intends to use the land which it is proposing to acquire. The land is required to deliver the Scheme in accordance with the Planning Permission and in compliance with national and local planning policy.
- 15.3 The proposals for the Order Land will deliver significant economic, social and environmental benefits to the Sheerwater area. As explained within this proof, the necessary resources are in place now to deliver the Scheme within a reasonable timescale.
- 15.4 The Council also has the necessary resources to meet all land acquisition and compensation costs (including acquisition and compensation costs arising from the service of any blight notice(s)).
- 15.5 Subject to confirmation of the Order to enable site assembly to be achieved, the Council considers there are no impediments to implementation of the Scheme.
- 15.6 Accordingly, the Council is satisfied that there is a compelling case in the public interest for compulsorily acquiring the Order Land, and believes that the benefits which the Scheme would secure in the public interest outweigh the effect of the acquisition on the rights of individuals. It is considered that in this case, the requirements of the guidance, domestic legal requirements and the requirements of the European Convention on Human Rights, are met.
- 15.7 The Secretary of State can therefore be satisfied that the order is justified and in the public interest, and should be confirmed without modification.