

**The Town and Country Planning Act 1990 and the  
Acquisition of Land Act 1981**

**CHICHESTER DISTRICT COUNCIL (TANGMERE)  
COMPULSORY PURCHASE ORDER 2020**

**Proof of Evidence**

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**(Planning Matters)**

**For Church Commissioners for England**

August 2021



## Declaration

The evidence which I have prepared and provide for in this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of my professional institutions. I confirm that the opinions expressed are my true and professional opinions.



**Signed:** Pauline Roberts

**Dated:** 17 August 2021



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## 1.0 **Qualifications and Experience**

- 1.1 My name is Pauline Roberts. I am a chartered surveyor and town planner and a hold a BA (Hons) degree in geography and an MSc in development planning. I am a Member of the Royal Town Planning Institute and Royal Institution of Chartered Surveyors.
- 1.2 I am a Planning Director at Lichfields (formerly Nathaniel Lichfield & Partners). I have been engaged in town and country planning for over 15 years, working on a range of residential, commercial, retail and healthcare developments across southern England.
- 1.3 I advise the Church Commissioners for England (the Commissioners) on their Strategic Land Portfolio across the south and south west of the Country and I am responsible for promoting land through Local Plans and negotiating planning permissions for development on their behalf. I have taken an overseeing role on the Tangmere land for the last seven years.
- 1.4 In terms of my experience in bringing forward major residential development sites, by way of a few examples, I have been responsible for preparing and submitting planning applications for the residential led mixed use development at St Bernard's Hospital in Ealing on behalf of the West London NHS Trust, The Portal for the Citrus Group and, Three Elms and West Bersted for the Commissioners. I have also worked on several residential projects for major housebuilders across London and the south east. I therefore have a good understanding and knowledge of bringing forward the delivery of major residential projects.
- 1.5 Lichfields has extensive experience with housing projects across the Country. The company deals with all aspects of town planning and related development matters throughout the UK including residential, commercial and retail developments.

- 1.6 I am familiar with the proposals that are the subject of this CPO Order, including the endorsed Masterplan, the outline planning application and relevant planning policy documents.

**Involvement with the Project**

- 1.7 I was instructed to provide planning evidence for the CPO Inquiry by the Commissioners because of my general experience in dealing with such matters and my involvement with this site.

**Terminology**

- 1.8 All capitalised terms referred to in my evidence have the meaning given to them in Chichester District Council's Glossary (CD/E1). References are also made to Chichester District Council's core documents, by the abbreviation, for example, "CD/A1" and to the Book of Plans (BoP/1).



## 2.0 Overview of scope of evidence

- 2.1 I give evidence, on behalf of the Commissioners in their role as an objector to the CPO, on planning matters related to the justification for the CPO. I have regard to the adopted and emerging planning policy framework and the key planning considerations relevant to the CPO Development.
- 2.2 The CPO Development relates to the Tangmere Strategic Development Location (“TSDL”). The Council made the Order to enable it to acquire the land interests required to proceed with the development of land at Tangmere, including land within the TSDL. The land (“the Order Land”) is identified within the schedule to the Order (“the Schedule”) and on the map accompanying the Order (“the Order Map”).
- 2.3 The Commissioners are the registered freehold proprietors of Plots 9, 10, 11 and 12 of the Order Land registered at HM Land Registry under title numbers WSX323459, WSX323472 and WSX323495 (“**the Land**”) over which the Council are seeking compulsory purchase powers. The Commissioners are, therefore, a ‘qualifying person’ pursuant to section 12 of the Acquisition of Land Act 1981.
- 2.4 In preparing my evidence, I have considered the relevant planning matters set out in the CPO Guidance (CD/9). Along with other witnesses on behalf of the Commissioners, I consider whether, pursuant to paragraph 2 of MHCLG’s “*Guidance on compulsory purchase process and the Crichel Down Rules (July Secretary of State for Housing, Communities and Local Government 2019)*” (“**CPO Guidance**”), there is the necessary “*compelling case in the public interest*” justifying the compulsory acquisition of the Land.
- 2.5 I consider whether the purposes for which the Council is proposing to acquire the Land could be achieved by any other means, which includes considering the appropriateness of any alternative proposals put forward by owners of the Land. The Commissioners consider the Order is unsuitable for delegation to

an Inspector as, among other things, it conflicts with national CPO policy and CPO guidance on alternatives, impediments, reasonable attempts to acquire land by agreement and compulsory purchase being a tool of last resort.

2.6 I also draw the Inspector's attention to an outstanding holding objection from Highway's England to the Countryside Scheme and the absence of a signed Section 106 agreement. To date, both matters remain unresolved and there is, therefore, insufficient certainty that the Countryside Scheme will be permitted and developed.

2.7 Overall, I consider whether the Council have demonstrated that compulsory purchase powers over the Land are necessary in the public interest in circumstances when the Commissioners are prepared for Countryside to acquire the Land by private treaty subject to suitable commercial terms and reasonable assurances, safeguards and protective provisions being agreed.

2.8 Other matters that I do not address in this evidence, but that are covered by Mr Gillington in his proof, include the fact that the Commissioners consider that the Council seeking compulsory purchase powers over the Land at this stage is premature when negotiations on the acquisition of the Commissioners' Land by Countryside are at an advanced stage with heads of terms agreed, the Agreement being drawn up and engrossments prepared. In these circumstances, the Commissioners consider the Order at this stage to be both unnecessary and unjustified.

2.9 For the reasons I shall state, I believe that there is no compelling case in the public interest for the confirmation of the Order in order to facilitate the CPO Development. I also believe that the purposes for acquiring the land could be achieved by an alternative approach. For example, the Commissioners could bring forward a policy compliant development on its Land and secure its delivery through agreement with a delivery partner. In stating this I note the key factual background relevant to the CPO Land, including the evolution of

relevant planning policy and guidance and the planning history background to the site including the 2020 Planning Application.

2.10 In this context, my evidence considers the following matters:

- a The planning policy context for the site – (Section 3);
- b An overview of the development proposals for the site and the overall need and benefits of providing new homes on the CPO Order Land (Section 4);
- c Progress to date and the proposed next steps, as far as it relates to bringing forward the area for development on the CPO Order Land (Section 5);
- d The objections raised against the CPO (Section 6); and
- e Overall conclusions (Section 7).

2.11 As indicated above, my evidence should also be read alongside the evidence prepared by Mr Gillington from Gerald Eve.

### 3.0 **Planning policy context**

3.1 Within this section I consider the planning policy context for the CPO Order Land.

#### **Planning policy context**

##### **National Planning Policy Framework (2021)**

3.2 The NPPF (2021) promotes a presumption in favour of sustainable development (para. 11) and aims to significantly boost the supply of housing (para. 60).

3.3 At paragraph 20 it advises that strategic policies should set out an overall strategy for the pattern, scale and design quality of places, making sufficient provision for a) housing (including affordable housing), employment, retail, leisure and other commercial development; b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat); c) community facilities (such as health, education and cultural infrastructure); and d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.

##### **Chichester Local Plan (2015)**

3.4 The TSDL is a strategic housing allocation and is the only housing allocation at Tangmere in the Local Plan.

3.5 Specific policy considerations can be summarised as follows:

- Policy 2 (Development Strategy and Settlement Hierarchy) of the Local Plan identifies Tangmere as being capable of accommodating further sustainable growth to enhance and develop its role as a settlement hub.

- Policy 4 (Housing Provision) states that strategic development locations are allocated in the Local Plan to accommodate 3,250 homes over the Local Plan period.
- Policy 18 (TSDL) allocates the TSDL for the delivery of 1,000 homes and associated infrastructure including a school, open space and community facilities.
- Policy 7 ('Masterplanning Strategic Development') confirms that development of the strategic locations identified in the Local Plan (including the TSDL) will be planned through a comprehensive masterplanning process, which will involve the active participation and input of all relevant stakeholders.

### **Tangmere Neighbourhood Plan (2016)**

- 3.6 Policy 2 (Strategic Housing Development) of the Tangmere Neighbourhood Plan identifies the land as a Strategic Development Location and sets out the requirement for the provision of 1,000 new homes, new community facilities, a main village street, new open space and green infrastructure.

### **Emerging Local Plan**

- 3.7 The Local Plan is currently under review. The Council consulted on its Preferred Approach plan between December 2018 and February 2019. At this stage, the emerging Local Plan carries limited weight as there remain unresolved objections and it has not yet been through examination. It will attract more weight as it nears adoption.
- 3.8 The Preferred Approach plan contains proposals for at least 12,350 dwellings during the period 2016 – 2035, equivalent to c.650 dpa. It also proposes to meet unmet housing need arising from that part of the District lying within the South Downs National Park. At least 4,400 dwellings are proposed to come forward from strategic allocations, including the TSDL.

- 3.9 In the emerging Local Plan draft Policy S3 (Development Strategy) includes Tangmere on a list of Strategic Development Locations to help achieve sustainable growth. Draft Policy AL14 (Land West of Tangmere) proposes to allocate land to the west of Tangmere for residential-led development of a minimum of 1,300 dwellings. Draft Policy S32 (Design Strategies for Major Development Sites) requires proposals for housing allocations and major development sites to be accompanied by a site-wide design strategy that includes a masterplan.
- 3.10 Having regard to the above framework, I acknowledge that adopted and emerging planning policy supports development at TSDL.

## 4.0 **The Countryside Scheme**

4.1 In this section, I consider the proposed Countryside Scheme and purported benefits arising.

### **Background**

4.2 Chichester District Council secured Countryside Property (UK) Ltd as its delivery partner to bring forward the development of the TSDL in September 2018. A Development Agreement was subsequently signed in February 2019 and a Planning Performance Agreement signed in May 2019, which formalised arrangements for the pre-planning and planning application process.

4.3 As part of the pre-application process, a masterplan (“Masterplan Document”) was prepared by Countryside to outline how the Scheme can be brought forward and comprehensively developed in accordance with the Local Plan, Tangmere Neighbourhood Plan, and the emerging Local Plan.

4.4 The Masterplan Document, intended as a ‘stepping stone’ between the existing allocation and the outline planning application, was submitted to and validated by the Council on 15 November 2019 (ref. 19/02836/MAS). It was then consulted on by the Council and was endorsed by the Council’s Planning Committee on 8 January 2020.

4.5 Countryside submitted an outline planning application for the TSDL on 6 November 2020, and it was validated by the Council on 18 November 2020 (ref. 20/02893/OUT).

4.6 The Scheme comprises a residential-led mixed-use development proposal comprising up to 1,300 homes, an expanded village centre (comprising units suited to Use Classes E and pubs or drinking establishments and/or takeaways in Use Class sui generis under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, (formerly Use Classes A1, A2, A3, A4, A5 and B1(a) under the Town and Country Planning (Use Classes) Order

1987)), community facilities, education facilities, open space and green infrastructure.

- 4.7 The application was presented to Planning Committee on 31 March 2021 where Members resolved to grant planning permission, subject to Highways England withdrawing its holding objection relating to access proposals for the A27 Temple Bar junction and completion of the Section 106 agreement. To date, both matters remain unresolved and there is, therefore, uncertainty that the Countryside scheme will be permitted and developed.
- 4.8 Chichester District Council maintain that the Council's purpose in acquiring the Order Land is to facilitate strategic housing delivery on the TSDL. In this regard the Council assert that, in conjunction with its development partner, they are using the Order Land to bring forward the Scheme.

### **Public benefits**

- 4.9 I acknowledge that the site is allocated for residential development in the adopted Local Plan (2015) and the Tangmere Neighbourhood Plan (2016) and that as of March 2021 there is a resolution to grant planning permission subject to the removal of a Highways England objection and completion of the Section 106 agreement.
- 4.10 It is evident from both adopted and emerging planning that the TSDL and the Countryside Scheme will contribute to, and deliver economic, social and environmental benefits, including housing delivery. I therefore broadly agree with the summary of benefits set out by the Council in Section 5 of its Statement of Case. However, the pace of progress has been slow as outlined in Mr Gillington's proof and these benefits are yet to be realised.
- 4.11 The Commissioners recognised that housing development at this site is supported by the NPPF and the Development Plan and, therefore, accords with paragraph 76 of the DCLG Guidance on compulsory purchase (2015), which states that the purpose for which the land is being acquired should fit 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 NPPF. Delivery of housing is a public benefit.

4.12 However, it is maintained that it is not necessary to compulsorily acquire the Commissioners land, to achieve the delivery of housing as it would be possible to deliver the same benefits through an alternative approach.

4.13 In this regard, the Commissioners are prepared for Countryside to acquire the Land by private treaty subject to suitable commercial terms and reasonable assurances, safeguards and protective provisions being agreed. The Commissioners have been willing and open throughout to proactively negotiate with Countryside and the Council to reach a mutually agreeable arrangement in relation to the Land without the need to resort to compulsory purchase powers and, indeed, terms for the voluntary agreement have now been agreed and agreements engrossed for execution. This is explained in more detail by Mr Gillington in his proof.

4.14 In terms of planning considerations, there is an endorsed masterplan for the site and an outline application with a resolution to grant. It would therefore be open to the Commissioners to agree, as part of a voluntary agreement, to have the Land developed by Countryside.

## 5.0 **Progress to date and next steps**

- 5.1 Discussions between the three principle landowners within the TSDL commenced in 2010 in response to Chichester District Council's identification of the site for development within its "Focus on Strategic Growth Options" consultation document. The Commissioners undertook significant technical work prior to and after adoption of the Local Plan in 2015 and has been extensively involved in the Local Plan process since this time.
- 5.2 For example, in 2012, prior to adoption of the Local Plan, the Southern Landowners appointed White Young Green to commence highways and drainage investigations, which included traffic count surveys along the A27 and in Tangmere around the TSDL. Following adoption of the Local Plan in 2015 and 2016 the Southern Landowners and Seward Homes commissioned further technical work including ecology surveys and further highway and drainage surveys.
- 5.3 It was agreed with the Council that the most appropriate planning strategy was to prepare a framework masterplan for the whole site which would 'lay the foundations' for subsequent planning applications.
- 5.4 OSP Architecture were appointed to prepare a comprehensive masterplan for the TSDL site. In November 2016 this was presented to the Council and Tangmere Parish Council. A further update was presented a year later, in November 2017, at which point there was a discussion about it being progressed to become an endorsed masterplan.
- 5.5 The masterplan document itself was used by the Council in its selection process to find a Development Partner. Countryside used this masterplan and the now endorsed masterplan is largely consistent with this earlier prepared masterplan.
- 5.6 This demonstrates that the principle landowners have been collaborating and working towards a comprehensive masterplan for the site. This does not reflect

the Council's comment in its Statement of Case that *"the only proposals to bring forward development at the TSDL by any of the existing landowners, have comprised suggestions that the development be brought forward on individual land ownerships, on a piecemeal basis"* (para. 5.28).

## 6.0 **Objections to CPO**

6.1 The Commissioners objection to the CPO is principally on two main grounds as summarised below.

### **CPO Guidance: Alternative proposals**

6.2 The SSHCLG must consider whether the purposes for which the Council is proposing to acquire the Land could be achieved by any other means, which includes considering the appropriateness of any alternative proposals put forward by owners of the land. Therefore, I consider whether, if a suitable sale and purchase agreement for the Land cannot be promptly agreed with Countryside, there is an alternative approach to deliver housing and other benefits on the Land.

6.3 In my view, as an alternative to the CPO Order, the Commissioners could combine with the adjoining land owners who are, themselves, intending to collectively bring forward their respective land holdings to deliver a policy-compliant comprehensive sustainable development of the TSDL for the delivery of housing and infrastructure. This alternative means for achieving the purposes of the Order would fully achieve the strategic objectives of the Order and Local Plan, as it could still be in line with the endorsed masterplan and allocation, and deliver the same benefits as those listed by the Council in its Statement of Case.

6.4 In paragraphs 5.27 and 5.28 of the Statement of Case, the Council state that they are aware that landowners have not been able to agree mutually acceptable commercial terms, which has proved a major barrier to development coming forward. The Council maintain that, as a consequence, to date the only proposals to bring forward development at the TSDL by any of the existing landowners, have comprised suggestions that development be brought forward on individual land ownerships, on a piecemeal basis. The Council argue that, such proposals are not acceptable, and would not be

consistent with the Council's objectives. As such, the Council believes that there are no credible alternatives to compulsory purchase to achieve delivery of the Scheme in accordance with the Local Plan.

- 6.5 However, in this regard, there is already in place an executed deed of memorandum of understanding ("**Memorandum of Understanding**") entered into between the Commissioners and the adjoining TSDL landowners on 30 July 2020. Among other things, the Memorandum of Understanding sets out the parties' shared objectives in respect of which they wish to continue co-operating and collaborating, provides for the parties to agree and implement a joint strategy to achieve the shared objectives, and states that the parties have the necessary resources and expertise to bring forward their own comprehensive development of the TSDL to deliver the public benefits outlined by the Council at section 5 of the Statement of Case.
- 6.6 In my experience, there would be no reason why such an application could not be prepared, submitted, endorsed and delivered. It would be a relatively quick process to attend pre-application meetings with the Council to agree outline parameters, in line with the endorsed masterplan and it could take 6-8 months to finalise the application with the determination of the planning application by Autumn/Winter 2022. An indicative timetable is set out within Mr Gillington's proof of evidence at paragraph 5.21. As such, I would not envisage much of a delay in bringing forward such an application, potentially a hybrid application with details of a first phase, for an alternative scheme for the Land. I therefore query the need for the Order as the TSDL could be delivered by the landowners in broadly similar timescales.
- 6.7 Furthermore, the Commissioners could either submit a reserved matters application for their Land, a new drop in application for their Land, that was in line with the outline application/permission parameters, or a new application for the Land that was in accordance with the endorsed masterplan.

- 6.8 In paragraph 5.32 of the Statement of Case, the Council raise concerns about the Memorandum of Understanding and why it should be a reason not to pursue the CPO. At sections 5 and 6 of his proof, Mr Gillington responds to the Council's concerns on the Memorandum of Understanding and explains why this would not hinder an application coming forward on the Land.
- 6.9 Indeed, the Commissioners and adjoining TSDL landowners can achieve many of the same benefits listed in the Council's SoC, which are primarily focused on housing need and delivery.
- 6.10 In striving for a comprehensive development, it does not require one landowner to bring forward development. There are examples elsewhere, for example in Arun District Council, where strategic developments can be brought-forward comprehensively by multiple landowners, by having an agreed masterplan, an infrastructure delivery framework and a coordinated approach to individual S106 agreements and associated obligations.

### **CPO Guidance: Prematurity**

- 6.11 Paragraph 15 of the CPO Guidance states that the Council will need to be able to satisfactorily demonstrate that the scheme underlying the Order is unlikely to be blocked by any physical or legal impediments to implementation which such impediments include the need for planning permission for the underlying scheme.
- 6.12 Applying this policy, the Commissioners consider it is premature for the Council to have made the Order seeking compulsory purchase powers over the Land in circumstances when Countryside have not yet been granted planning permission for their development proposal. With an outstanding holding objection from Highways England and an incomplete S106 agreement, there is insufficient certainty that the Countryside scheme will be granted planning permission or be delivered.

6.13 While in March 2021 the Planning Committee resolved to grant planning permission for the Countryside scheme this was subject to Highways England withdrawing its holding objection and defer for section 106, based on the general Heads of Terms set out in section 8 of this report. However, to date the Holding Objection has not be withdrawn and the S106 has not yet been agreed and/or signed. Therefore, there is insufficient certainty that the Countryside scheme will be permitted or delivered.

## 7.0 **Conclusions**

- 7.1 Individually and/or cumulatively, for the reasons set out above, the Commissioners consider that the Council have not demonstrated, for the reasons set out above, that there is a compelling case in the public interest for the compulsory acquisition of the Land.
- 7.2 Accordingly, the Commissioners hereby request that the SSHCLG does not confirm the compulsory purchase powers sought over the Land.