

REIGATE AND BANSTEAD BOROUGH COUNCIL
THE REIGATE AND BANSTEAD BOROUGH COUNCIL (MARKETFIELD WAY) COMPULSORY
PURCHASE ORDER 2018

AND

ASSOCIATED APPLICATION TO EXTINGUISH PUBLIC RIGHTS OF WAY

TOWN AND COUNTRY PLANNING ACT 1990

AND

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

AND

ACQUISITION OF LAND ACT 1981

Proof of Evidence of **Nigel Riley**

on behalf of Reigate & Banstead Borough Council

Public Inquiry 2-4 October 2018

Planning Inspectorate and Planning Casework Unit Reference:
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Appendix A: Map showing order map overlaid by planning application plan

Appendix B: Schedule of negotiations and contact with third parties

1 Introduction and Qualifications

- 1.1 My name is Nigel Riley. I hold a Bachelor of Science degree in Estate Management, I have been a Member of the Royal Institution of Chartered Surveyors since March 1987 and I am a member of the Compulsory Purchase Association.
- 1.2 I am a founding Director of Citicentric Ltd and have specialised in the field of compulsory purchase for the last twenty years. Prior to setting up Citicentric I was a Partner or Director in the Regeneration and Development teams at major UK surveying practices, Donaldsons, DTZ and GVA.
- 1.3 During my career I have advised acquiring authorities and developers involved in the promotion of mixed use town centre developments, including schemes such as Tangmere extension Chichester, Portland Drive Estate Regeneration Merstham, Dickens Yard Ealing, Woking Gateway Woking, Rose & Young site Caterham, Peel Police Training Centre Hendon, Station Quarter site Havant, Portsmouth Northern Quarter Portsmouth, Fremlins Walk Maidstone, Highcross Quarter Leicester, Summer Row Wolverhampton, Victoria Square Belfast, East Pilgrim Street Development Newcastle Upon Tyne, Northgate Chester, Willow Place Corby and Regent Place Swindon.
- 1.4 Citicentric has been instructed by Reigate & Banstead Borough Council (the Council) from 26 March 2015 to provide compulsory purchase and land assembly advice in respect of the Marketfield Way regeneration scheme. Specifically, we were instructed to undertake compensation estimates; provide advice regarding the basis and justification for the compulsory purchase order; advise on the timing and extent of land referencing; advice regarding the procurement of specialist land referencing and other consultants; co-ordinate the strategy for site assembly; undertake negotiations to acquire premises not owned by the Council by agreement; assist in the preparation of the Order schedule and map; provide input into the preparation of the Statement of Reasons; advise in formulating an agreed strategy for dealing with any objections received in respect of the Order; undertake negotiations with

objectors and co-ordinate the production of agreements in order for objections to be withdrawn prior to any Inquiry; support the council as an expert witness at any public Inquiry and negotiate and agree compensation with affected parties following possession.

2 Scope of Evidence

2.1 My evidence will address the following issues:

- i) A description of the site and the land interests.
- ii) The need for all the relevant interests to be included in the Order.
- iii) The efforts that the Council has made to acquire relevant interests by agreement including negotiations with affected landowners and third parties.
- iv) The outstanding objections to the compulsory acquisition of the Order Land and the Council's response to those objections.
- v) A summary and conclusion as to why the Council needs to exercise compulsory purchase powers in order to deliver the scheme.

2.2 To implement the scheme, the Council has also made an application for the stopping up of the public highway under Section 251 of the Town and Country Planning Act 1990 (as amended). The public inquiry to determine the Compulsory Purchase Order is conjoined with the Stopping-Up Order procedure. My evidence does not address the Stopping-Up Order which is addressed in the evidence of Neil Rowe (Highways Consultant to the Council).

3 Description of Site and Land Ownerships.

- 3.1 The development site, the land that is the subject of this Order, extends to approximately 0.59 hectares in Redhill town centre. It predominately comprises a local authority owned surface car park (the Marketfield Way car park) and a series of mixed use retail and office premises at 18 to 44 (even) High Street. The precise extent of the site is identified on the Order plan which is included as core document 2 (CD2).
- 3.2 The Council and probably its predecessor authorities has owned the Marketfield Way car park (plots 22 and 23) for many years. The Council added to their landholding in the area by purchasing the freehold interest in premises 18 to 44 High Street (plots 1 to 16) in September 2009. It has been negotiating with other property owners and occupiers to purchase their interests and gain vacant possession since the scheme design was worked up and approved in 2010 and 2011 (Executive approval CD11). At the time of writing this proof I calculate that the Council are the freehold owners of approximately 85% of the Order land by area. Since the scheme received Council Executive approval in December 2011 (CD11) the Council has spent more than three million pounds on acquisitions and fees to secure vacant possession of the Order lands. The Council's in-house property team has secured vacant possession of premises where it has been able to use its landlord and tenant powers and the Council has held a significant amount of property vacant as a consequence at 36 to 44 High Street in anticipation of the scheme.
- 3.3 Using the Order plan as a reference I have described the properties and interests within the Order lands in the following paragraphs.
- 3.4 The Council has owned the freehold interest in a mixed-use property known as Surrey House (36 to 44 High Street) since September 2009. The property comprises four ground floor shop units and two floors of offices above. The Order plan identifies the premises as comprising plots 1 to 7 inclusive. At the commencement of the development process in 2010, when the Council first started to work up the concept for the site with a professional team, the premises were let by the Council to commercial tenants in each of the four shop units on the ground floor and a single office occupier in the two floors of offices above. At the time of writing this proof

the Council's property department has succeeded in negotiating with the occupational tenants with the result that only two of the four shop units remain occupied and upper floors that are all vacant. The two remaining tenants in the building are Nicola Orzelleca trading as La Moda Hairdressers, 42 to 44 High Street (plot 2) and Evapo Ltd trading as Evapo, 40 High Street (plot 3). Both tenants (La Moda and Evapo) occupy their premises on commercial leases contracted out of the security of tenure provisions of the Landlord and Tenant Act 1954 with development break clauses at one month's notice from October 2018. Neither have objected to the CPO.

3.5 The Council has also owned the freehold interest in 18 to 34 High Street (plots 8 to 14 on the Order plan) since September 2009. For the most part this property comprises six ground floor shops and ancillary accommodation at first floor level. 28 High Street used to be a restaurant at the first floor with an entrance at street level, however, this has been vacant for some years. Whilst the Council is the freeholder the ownership of the block is complicated by the presence of two further long leasehold interests and then the occupational leases. In May 2016 the Council purchased one of the long leasehold interests for a sum in excess of £3 million. The Council has also attempted to purchase the other long leasehold interest, without success. The Council has agreed to purchase the occupational lease of retail premises at 28 to 34 High Street (plot 8), the former Argos unit and solicitors have been instructed. It has agreed with the British Heart Foundation, the occupier of 18 High Street (plot 13) to guarantee a minimum level of compensation for them to relocate to alternative premises in the town. At the time of writing this proof, I understand that they have agreed terms on an alternative unit close by and are looking to relocate shortly. The Council has engaged with the remaining occupational tenants to encourage their relocation. Details of our contacts with the tenants is included in the schedule of negotiations at Appendix B to this proof. The Council is conscious of the difficulty for smaller businesses to commit to relocation in advance of a vesting notice. Therefore, it has paid for a small business in the block to receive professional surveying advice to assist the process.

3.6 Plots 15 and 16 on the Order plan are pavement and highways areas in which the Council has a freehold interest in the sub-soil alongside the highways authority's

(Surrey County Council) interest. In the case of plot 16 there is also believed to be a further unknown owner the reference to which is included in the CPO Schedule, Table 1, page 8, plot 16 (CD1). The highways authority has interests in both plots given that they form part of the highway.

3.7 South Eastern Power Networks (SEPN) are the freehold owners of the substation adjacent to the main car park area. Their ownership is described as plot 17 on the Order plan. The Council has been in negotiation with the utility provider for some time and at the time of writing this proof I understand that an agreement has been reached with SEPN for the Council to purchase its interest in plot 17 and to provide a suitably enhanced replacement facility in the new scheme for the substation.

3.8 Residential Freeholds Limited (RFL) are freehold owners of Marylebone House at 2 to 12 High Street (outside the Order lands). This is a mixed-use block with retail units on the ground floor and residential accommodation above. RFL are also the owners of plot 18 to the rear of the premises. Currently, this area (plot 18) is used for private parking. The parking area is laid out as twelve car spaces and denoted as a private road on the Order map. In the main RFL lets out the spaces on licences to the occupiers of Marylebone House. The Council has reached an agreement with RFL to re-provide the same number of car spaces in a different and more space-efficient orientation adjacent to the rear of Marylebone House and grant back to RFL a 999-year lease of this area. In addition, rights of access are to be granted to the owner and occupiers of Marylebone House to replace those existing rights that will be affected by the implementation of the proposed Compulsory Purchase Order and Stopping Up Order. At the time of writing this proof heads of terms have been agreed and solicitors instructed to prepare documentation and conclude the agreements.

3.9 To the north of Marylebone House is an access way through to the High Street. I believe this might have historically been a continuation of Marketfield Road that once also joined the High Street with Marketfield Way after following a route that included plots, 26, 25, 19, 20 and 21. In the case of plots 25 and 26 the Council is proposing to acquire new pedestrian rights only and not the title to the land.

- 3.10 Plot 19 is currently a surfaced access route to the High Street. It is to be acquired to formalise an access way from the rear of the scheme, and premises that currently back onto the Marketfield Way car park, through to the High Street.
- 3.11 Plot 20 is a thin strip of land to the rear of premises 20 to 30 High Street. It is not currently used for anything other than access to the rear of the buildings. The property is owned by Ekom Build and Design Ltd and is part of their ownership in 26 to 28 Station Road, which are located outside the Order lands. The Council is negotiating to acquire the premises (plot 20) and has made several offers to purchase the land, however, as yet these have not matched the vendor's aspirations regarding price. Ekom are an objector to the Order and as part of section 6 to this proof I have detailed efforts made to acquire plot 20.
- 3.12 Plot 21 is another very small strip of land to the rear of 16 to 18 Station Road that provides rear access to the building. At the time of writing this proof no agreement has been reached to purchase the interest.
- 3.13 The Council is the freehold owner of plots 22 and 23 that comprise the current Marketfield Way car park. John Reed's evidence addresses the termination of the car parking designation on the Marketfield Way car park which will be accomplished without the use of Compulsory Purchase powers. In addition to this use the town's market traders have several former shipping containers on the land that are used to store market stalls when not in use. The Council's ability to relocate the market traders' storage containers is addressed in John Reed's proof. I understand the Council has made arrangements to relocate these and provide replacement parking for the traders' vehicles that also use the car park on market days.
- 3.14 Plot 24 comprises the first and second floors of offices at 36 to 44 High Street (Surrey House). The Council is the freeholder. The offices are now vacant as a consequence of the Council negotiating vacant possession with the former occupational leaseholder. The Council helped the occupier to remain in Redhill by agreeing to a flexible occupational arrangement at the point that their lease expired which enabled the company to time its relocation to alternative offices in Redhill when they became available.

- 3.15 Plot 25 and 26 are the subject of the acquisition of new access rights by the Council. They form the access way adjacent to Marylebone House from the High Street to the current car park. The acquisition of new rights over the land will result in the Council being able to provide pedestrian access from the High Street to the rear of the new scheme and grant replacement rights in favour of owners and occupiers of premises that front Station Road and the Marylebone House tenants.
- 3.16 The Council owns the freehold interest in approximately 85% of the site. It has also agreed to purchase the freehold interest in plots 17 and 18. However, it is yet to agree a purchase of plots 19, 20 and 21. In addition there are a number of leasehold interests, both long lease and occupational leases that are to be acquired along with the acquisition of new rights over land shaded blue on the Order map (plots 25 & 26).
- 3.17 Whilst the Council has made good progress with the acquisition of freehold and leasehold interests, it is my opinion that the Council will not be able to fully assemble the site by negotiation and therefore the confirmation of the CPO and Stopping-Up Orders are required to enable the scheme to be delivered. This is because: 1) there are a number of stalled negotiations where owners have aspirations regarding the price the Council should pay for their properties that is significantly above the Council's estimate of their true value; 2) there are owners of properties outside the Order lands, but who have rights over the Order lands, who object to the scheme on an in-principle basis; 3) there are a large number of interests that still need to be acquired, in particular, a considerable number of rights of escape, access, drainage and other utility rights over parts of the Order lands to the benefit of properties that lie outside the Order boundary. These rights are identified in table two of the Order schedule (CD1) and need to be overridden in order for the scheme to proceed. Despite the Council's intention to grant replacement rights over the service yard area of the new scheme following implementation of the Order it is unrealistic to expect all these agreements to be concluded via negotiation.

4 Need for the relevant land and rights

- 4.1 The need for the scheme and for the acquisition of the Order lands arises from a longstanding priority of the council to address the underperformance of Redhill. The Council's Statement of Case (CD50) addresses the background and need for the scheme within section 3. The detail of the Council's relevant planning policies and objectives are dealt with by Andrew Benson, Development Manager at the Council in his proof under sections "3.0 Policy Context", "4.0 Relevant Background Evidence" and "5.0 Regeneration Objectives". In addition, the proof of John Reed, Head of Property at the Council, addresses in detail the Council's "Policy and Strategic Vision" for the site in Section 7, "The Need for Regeneration and Development" in Section 8 and the "Scheme Benefits" in Section 11.
- 4.2 In brief however, the need for the scheme in Redhill results from a recognition in the Reigate and Banstead Local Plan Core Strategy (CD 38) that regeneration of the Town Centre is necessary if Redhill is to realise its full potential to become the thriving centre of the Borough where people want to live, work, shop and spend their leisure time.
- 4.3 The Marketfield Way site is a large and centrally located development opportunity in the town centre that has the potential to make an important contribution to the improvement of the town which has suffered from the increasing competition of the surrounding towns and a lack of continuous investment in the town.
- 4.4 The Council has been working up a scheme for this location since 2010 when it commenced work on early capacity studies prior to gaining the approval from the Council Executive in December 2011. A copy of the Report to the Executive, titled "Regeneration of Marketfield Way site in Redhill Town Centre" is included as CD 11.1. Subsequently, the scheme has changed to reflect market/economic conditions and changes in Council policy. Andrew Benson's proof addresses policy matters and the proofs of John Reed and Nick Doyle (Coplan Estates) provide further information regarding the evolution of the scheme as a result of market conditions. Most notably the original scheme included 21 residential apartments whereas the current scheme benefits from a planning consent for inter alia 153 units. The increase in the number of apartments is a product of a need to ensure the viability of the scheme is

maintained, combined with a significant improvement in the residential property market. This improvement coincided with the creation of a new (to the UK) property product, the Build to Rent property/investment class. The now establishing Build to Rent market means that the Council is able to forward sell all the apartments to a residential owner/operator. This is a significant benefit to the viability and deliverability of the scheme.

- 4.5 Following the work to refine the scheme undertaken by the Council's development managers and professional team a planning application was submitted and approved by the Council through the grant of permission on 20 January 2017. A copy of the permission and approved plans is included as CD 35.
- 4.6 The permitted scheme comprises a new multiplex cinema, 11 ground floor retail units and 153 apartments comprising 4 studios, 69 x 1-bedroom apartments and 80 x 2-bedroom apartments. 47 basement car parking spaces would also be provided in addition to 220 cycle spaces.
- 4.7 On the 18th May 2017 the Council used its powers of appropriation for Planning Purposes under Section 122 of the Local Government Act 1972. By that decision it "Resolved to appropriate with immediate effect land at the site known as Marketfield Way and held by the Borough Council for income purposes and as a Public Car Park to Planning Purposes (mixed use retail, cinema and residential development), under Section 122 of the Local Government Act 1972, in connection with the proposed development and regeneration of Redhill" (CD 19.2 & 19.3). The effect of the appropriation is that in the context of land owned by the Council all easements, covenants, rights and other interests in the land will be overridden pursuant to S.203 of the Housing and Planning Act 2016 provided that all of the criteria prescribed in s203(2) are engaged. Any interference with these rights would be converted into a claim for compensation pursuant to S.204(1) and (2) of the Housing and Planning Act 2016 in such circumstances.
- 4.8 In my opinion the use by the Council of its powers of appropriation further demonstrates its commitment to the scheme. The use of these powers has reduced the risks to the scheme during the development process thereby increasing the likelihood of the scheme being delivered.

- 4.9 On the 18th May 2017 the Council resolved to make the Compulsory Purchase Order under S.226 (1) (a) of the Town and Country Planning Act 1990 (as amended) the Acquisition of Land Act 1981 and S.13 of the Local Government (Miscellaneous Provisions) Act in respect of new rights. The Order was made, sealed and dated by the Council on 23rd February 2018. The Order was publicised in accordance with the statutory requirements. The objection period expired on 23 March 2018 and a General Certificate confirming that the proper statutory procedures had been followed in making and publicising the Order was subsequently issued to the Secretary of State on 26 March 2018 (CD8).
- 4.10 The extent of the land to be acquired and new rights created to secure the delivery of the scheme has been the product of careful consideration by the Council and its professional team. The proposed scheme, for which planning permission has been granted has been designed to meet the policy objectives of the Council and to be viable and deliverable. The Council is aware that only land necessary for the scheme should be included in the Order. Therefore, there has been a process of refining the extent of the land and rights required which has included a series of meetings and site visits to ensure that only land and rights necessary for the delivery of the scheme have been included in the Order. A plan showing the boundary of the Order Map overlaid by a plan of the boundary of the planning permission has been produced. This is included as Appendix A and demonstrates that for the scheme to be delivered, all the land and new rights included in the Order are required.
- 4.11 A total of six objections were received to the Compulsory Purchase Order. Details of these are included as CD44. At present, there are agreements in place with four objectors and therefore the hope is that only two objections will remain at the time of the Compulsory Purchase Inquiry.
- 4.12 The Council has also submitted an application for a Stopping-up Order to extinguish public rights of way necessary to enable the scheme to be delivered. Six objections have been made to the Stopping-up Order and details of these are included as CD49. Highways consultant Neil Rowe will detail the outstanding objections to the Stopping-up Order in his proof of evidence. I have addressed the outstanding objections to the CPO in section 6 of this proof.

- 4.13 Some of the objectors to the CPO are also objectors to the Stopping-Up Order. Of the six remaining objectors to the CPO, five objectors are also objectors to the Stopping-Up Order.
- 4.14 The Council owns approximately 85% of the freehold interest in the Order lands. Section 3 above, "Description of the site and land ownerships" details the Council's and other ownerships. In brief, however, the Council has a freehold interest in plots 1 to 16, 22, 23 and 24 as identified on the Order map. However, as previously mentioned, there are significant numbers of third party interests with rights over, or the benefit of restrictive covenants affecting, the Order Land. The Order schedule extends to some 316 pages of interests detailed in both table 1 and 2. In the light of the number of interests required I do not believe the Council will be able to acquire all the necessary interests by agreement, within a reasonable timescale without the exercise of compulsory purchase powers.
- 4.15 Whilst the Council has acquired some 85% of the freehold of the Order lands by area there are plots that it has not acquired. I have listed these in the following paragraphs. Details of negotiations with owners are included in Section 5 of this proof.
- 4.16 Plot 17: The site of an electricity sub-station owned freehold by South Eastern Power Networks Plc (SEPN). UK Power networks on behalf of SEPN submitted a holding objection to the Order. An agreement has now been reached with them and solicitors are instructed.
- 4.17 Plot 18: The site of car spaces owned freehold by Residential Freeholds Ltd. This plot occupies a location that is a significant proportion of the proposed servicing and access area for the new scheme. A fundamental element of any significant development on this site. Managing agents for Residential Freeholds Ltd (Moreland Estates) have objected to the CPO on behalf of their client. An agreement has been reached with them and solicitors have been instructed.
- 4.18 Plot 19: A very small plot, currently a paved access way to the High Street, that is owned freehold by two individuals. This plot is necessary to provide part of the access roadway and servicing area to the rear of the proposed scheme and

replacement access rights for premises fronting Station Road and which have rights of rear access. An agreement for the purchase of this property has not been reached.

4.19 Plot 20: A long and thin plot to the rear of 20 to 30 Station Road owned freehold by Ekom Build and Design Ltd. Currently, this provides rear access to these premises and is undeveloped. This plot is required to provide part of the access roadway and servicing area to the proposed scheme, replacement servicing facilities and rear access for premises fronting Station Road. An agreement has not been reached with the owner to purchase the land.

4.20 Plot 21: A very small plot to the rear of 16 to 18 Station Road that is owned freehold by Broad Reach Investments Ltd, a Jersey based company. The land is undeveloped and used for access to the rear of 16 to 18 Station Road which Broad Reach also own. This plot is required to provide part of the access roadway and servicing area to the proposed scheme and replacement servicing facilities and rear access for premises fronting Station Road. Furthermore, it is proposed to be the location for a new refuse bin store for the benefit of Station Road occupiers that currently only have access to bins on this and other parcels of land to the rear of their premises. An agreement to purchase the premises has not been reached.

4.21 Plots 25 and 26 are two small plots that are the current access route to the High Street from the Marketfield Way car park. The Council has included these plots in the Order to acquire new rights over the land to access the proposed scheme.

4.22 In addition to the plots that are to be acquired there are occupational tenants in premises 18 to 34 High Street (plots 8,9,10,11,12 and 13). Currently, they are occupied by an Oxfam charity shop, Mama Mia a locally owned café/restaurant, a British Heart Foundation charity shop, and a Corals bookmaker. This area will be redeveloped as part of the new scheme and will provide the High Street frontage for the new development linking it into the High Street and remainder of the town. An agreement has been reached with the British Heart Foundation to guarantee their compensation ahead of a relocation.

4.23 In addition to the owners and occupiers of individual plots Rochpinion Properties (4) Llp has a long leasehold interest in premises at plots 8 to 15. This interest is required to redevelop the premises at 18 to 34 and as a fundamental part of the new scheme

which will front the High Street. An agreement to purchase this interest has not been reached.

4.24 In addition to the purchase of freehold, long leasehold and occupational interests the scheme cannot proceed without addressing the many owners that have rights over the Order lands. Table two of the Order schedule details these rights over some three hundred pages. A confirmed Order is required to override these rights. The Council is proposing to regrant similar replacement rights that will not compromise the proposed scheme.

4.25 The Council has considered carefully the use of its compulsory purchase powers and has determined that their use is necessary and justifiable in the public interest to enable the scheme to be delivered as a comprehensive whole and in accordance with the Council's policies and aspirations. I have explained above the extent of the interests that still need to be acquired to deliver the proposed scheme. I am conscious that the Order includes several small parcels of land and that objectors are often tempted to make a case that the scheme can proceed without including their small piece of land. In this case the Council's project team have worked hard to include in the Order only the land necessary to deliver the scheme. The small parcels provide land to service, access and provide refuse storage areas for both the new scheme and those occupiers adjacent to the scheme. Their inclusion in the Order lands is necessary and has been carefully considered.

4.26 In my opinion and in light of my experience in assembling complex sites such as this, within town centres where there are many legal interests, this scheme can only be delivered with the benefit of a confirmed Compulsory Purchase Order. I have identified the reasons why all interests are required and believe there is a compelling case for the inclusion of all land and new rights within the Order to deliver the benefits associated with the scheme.

5 Negotiations with affected landowners and third parties

- 5.1 The Council has been negotiating with owners of land necessary for the development of the scheme since August 2015. As of the time of writing this proof the Council owns approximately 85% of the freehold lands required to deliver the scheme. As stated in Section 4 above, the Council holds a freehold interest in plots 1 to 16, 22, 23 and 24 identified on the Order map.
- 5.2 Table 1 of the Order schedule identifies 24 plots of land which either need to be acquired freehold or which include leasehold interests that need to be acquired. Plots 25 and 26 are identified as areas over which new rights need to be acquired. Table 2 of the order schedule identifies the beneficiaries of various rights over the Order land.
- 5.3 More recently the Council's officers and agents have conducted negotiations in parallel with making the Order in accordance with the government "Guidance on Compulsory Purchase Process and the Crichel Down Rules" updated February 2018 (CD41), where section 17 states;
- 5.4 ***"17. What are the benefits of undertaking negotiations in parallel with preparing and making a compulsory purchase order?"***
- 5.5 *Undertaking negotiations in parallel with preparing and making a compulsory purchase order can help to build a good working relationship with those whose interests are affected by showing that the authority is willing to be open and to treat their concerns with respect. This includes statutory undertakers and similar bodies as well as private individuals and businesses. Such negotiations can then help to save time at the formal objection stage by minimising the fear that can arise from misunderstandings.*
- 5.6 *Talking to landowners will also assist the acquiring authority to understand more about the land it seeks to acquire and any physical or legal impediments to development that may exist. It may also help in identifying what measures can be taken to mitigate the effects of the scheme on landowners and neighbours, thereby reducing the cost of a scheme. 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.”

- 5.7 As a result of its contact with third parties the Council has successfully acquired a number of interests and the Council will continue to negotiate with affected parties up to the point at which it becomes necessary to compulsorily acquire the remaining interests to maintain the programme for the delivery of the Scheme.
- 5.8 A detailed chronology of the Council’s contact with affected third parties over the past two and a half years is included at Appendix B. This has been via several different people during the period. The Council’s property team have been in direct contact with occupiers and owners where the Council already owns and manages property, such as in the case of 36 to 44 High Street (plots 1 to 7) and the Car Park (plots 22 and 23). Representatives of Coplan Estates (the Council’s appointed development managers) have been involved in meetings with affected parties, particularly to explain the likely impact of the construction of the scheme and its eventual operation. The majority of the contact with third parties that do not have a direct contractual relationship with the Council has been undertaken by me.
- 5.9 The Council is conscious that compulsory purchase should only be used as a last resort and therefore where it holds or acquires a superior interest it has used its landlord and tenant powers to secure vacant possession and will continue to use these powers to ensure vacant possession of commercial interests where appropriate.
- 5.10 The Council is aware that some occupiers will wish to relocate their businesses. The Council has adopted a flexible approach to assisting affected parties. The Council has helped the relocation process by circulating details of available property to occupiers. Appendix B includes references to the instances where affected parties have been provided with details of premises that are relocation opportunities in the town. The Council is conscious that for small/independent traders the risks attached to a relocation of their business in advance of the implementation of an Order can be significant. Therefore, in the case of a small trader the Council has undertaken to indemnify it for the costs of employing professional surveying/property advice.

5.11 In conclusion, the approach adopted by the Council is consistent with the “Guidance on Compulsory Purchase Process and the Crichel Down Rules” updated February 2018. The Council has already acquired premises and secured vacant possession of a number of properties. The Council now owns the freehold interest in approximately 85% of the Order lands. The Council and its professional team are actively engaged with owners and occupiers to purchase property and other interests. Currently solicitors for the Council are instructed on the purchase of an occupational retail lease (plot 8) have agreed a level of minimum compensation to assist another retailer to relocate in the town (plot 13) and have guaranteed to fund the professional costs of several smaller owner/occupiers to enable them to be properly represented. Negotiations to acquire interests by agreement will continue throughout the compulsory purchase process.

6 Response to objections

- 6.1 There are six objections to the CPO. The objectors are Moreland Estates on behalf of Residential Freeholds Ltd (freehold owner plot 18), UK Power Networks (freehold owner plot 17) Mr S Luxford (rights over plots 18, 19, 20, 21, 25 & 26) Mr F So-Wing Lau (rights over plots 18, 19, 20, 21, 25 & 26) Ekom Build & Design (freehold owner of plot 20) Thomas Cook Retail Ltd (rights over plots 18, 19, 20, 21, 25 & 26). Copies of the objections to the CPO can be seen at CD44. Agreements have been reached with Moreland Estates, UK Power Networks, Mr S Luxford and Thomas Cook Retail Ltd for the withdrawal of their objections. Solicitors have been instructed and documentation is being prepared. I anticipate that these objections are likely to be withdrawn prior to the commencement of the Inquiry. Therefore, there are likely to be two objections remaining at the commencement of the Inquiry.
- 6.2 The Council has considered the letters of objection and remains satisfied that notwithstanding the objections, there is a compelling case in the public interest for the acquisition of all plots within the Order Land. The Council's initial response to the original objections is set out at Section 11 of its Statement of Case (CD50).
- 6.3 Of the six outstanding objectors to the Compulsory Purchase Order, five are also objectors to the Stopping-up Order, namely, Moreland Estates, Mr F So-Wing Lau, Ekom Build & Design, Thomas Cook Retail Ltd and UK Power Networks. In addition to these objectors to the Stopping-Up Order there were a further two objectors to Stopping-Up Order, Carpetright (now withdrawn) and Mr de Silva. The Council has considered the objections to the Stopping-Up Order and remains satisfied as to the justification for making the Order. Neil Rowe (highways consultant for the Council) has provided a detailed analysis of the outstanding objections and other relevant matters to the Stopping-Up Order in his proof.
- 6.4 Many of the objections to the Compulsory Purchase Order are matters that were considered at the planning application stage. They constitute planning objections to a scheme which has now secured planning permission and in my view the CPO Inquiry process is not the correct forum at which to revisit these matters. Other concerns relate to the alleged loss of value to premises that are subject to acquisition

or in the opinion of the objectors are affected by the scheme. Matters of compensation are dealt with through a separate process, initially negotiation between the parties and in the event of a dispute a reference to the Upper Tribunal of the Lands Chamber. They are not matters to be considered at a CPO inquiry.

6.5 I have set out below a summary of the objection points (in *italics*) made to the Compulsory Purchase Order by each objector and deal with each of these in turn. At the end of each section I have scheduled the negotiations that have taken place to date with the relevant objector.

6.6 **Moreland Estate Management (on behalf of Residential Freeholds Ltd freehold) (owners of Plot 18 with rights over plots 19, 20, 21, 25, 26)**

6.7 *A development of the scale and massing proposed will have a detrimental effect on the amenity and enjoyment of the leasehold occupiers.*

6.8 The development to which Moreland Estate Management objects secured planning permission on 20 January 2017. The impact of the development on neighbourhood amenity was considered as part of that process. The planning application was supported by a Design and Access Statement (CD22); a Daylight and Sunlight Report (CD26) and Townscape and Visual Impact Assessment (CD33). Objections to the permitted scheme should not be revisited at this Inquiry.

6.9 *The scheme will remove areas of private parking (to the rear of Marylebone House) owned by Residential Freeholds Limited and occupied by leaseholders.*

6.10 As set out in section 9.9 of the Council's Statement of Case (CD 50), the Council is prepared to enter into an agreement with Residential Freeholds Ltd to re-provide the same number of parking spaces immediately to the rear of Marylebone House, to re-provide rights of access and servicing to the owners and occupiers of Marylebone House and to offer parking permits to the beneficiaries of the existing parking bays for the occupiers of Marylebone House at no cost and for use in its car park at Gloucester Road during periods of the construction phase in which bays are unavailable. The Council has entered negotiations with surveyors acting for Residential Freeholds Ltd to agree the details of such an agreement. At the time of

writing this proof an agreement has been reached whereby the twelve parking spaces owned by Residential Freeholds Ltd are to be re-positioned so that they are in a single line perpendicular to the rear of Marylebone House. A summary of contact with Residential freeholds Ltd is included as part of appendix B of this proof and the details of my contact is also re-produced below in para 6.13. The precise location of the new parking spaces is illustrated on a servicing plan included as CD 58. This plan forms part of a suite of documents that comprises a Non-Material Amendment recently submitted to the Council as planning authority. This minor change to the permitted scheme will enable, inter alia, the repositioning of the car parking spaces, provide revised loading and servicing spaces and identify suitable bin store areas and we are hopeful that it will enable Moreland Estate Management to withdraw its objection.

6.11 Heads of terms have been exchanged and solicitors instructed to produce the final agreement between the Residential Freeholds Ltd and the Council. The completion of the agreement will be conditional on the Council granting consent for the Non-Material Amendment. This is due to be considered prior to the commencement of the Inquiry. Upon the agreement being concluded Residential Freeholds Ltd will withdraw its objections to both the Compulsory Purchase Order and the Stopping-Up Order.

6.12 *The council has made no genuine attempt to reach a negotiated settlement with Residential Freeholds Ltd.*

6.13 The Council has made contact with Residential Freeholds via its managing agent and agreed to underwrite the costs of a CPO surveyor to advise the objector. An agreement has now been reached. Paragraphs 6.9 and 6.10 above detail the current position.

6.14 Details of contact with Moreland Estate Management/Residential Freeholds Ltd.

- 1 May 2018: Email to Moreland Estates Ltd agent for Residential Freeholds Ltd addressing their objection points, including a copy of the servicing plan and suggesting a meeting.

- 8 May 2018: Email to Mr Freilich of Morland Estates Ltd. Requesting he contact me following my email to him addressing their objections and offering a meeting on site.
- 14 May 2018: Email to Mr Freilich of Morland Estates Ltd. confirming that we will commit to pay for Keith Murray to represent them in negotiations.
- 04/06/2018: Email to Keith Murray, acting for owners of Marylebone House, with draft heads of terms.
- 12/06/2018: Email Keith Murray, agent for Residential Freeholds Ltd, responding to his scheme queries.
- 13/06/2018: Email to Keith Murray answering further queries.
- 18/06/2018: Email to Keith Murray attaching plans of revised permanent and temporary parking and servicing proposals.
- 11/07/2018: Plans of further alterations to parking and servicing in an attempt to reach agreement with Mr Murray's client.
- 17/07/2018: Email from Mr Murray regarding structure of agreement.
- 24/07/2018: Revised parking plan submitted to Mr Murray.
- 25/07/2018: Mr Murray confirmed principles of an agreement
- 14/08/2018: Email to Mr Murray with heads of terms.
- 15/08/2018: Email to Mr Murray with final version of heads of terms, agreed by Mr Murray. Solicitors instructed to document agreement.

6.15 UK Power Networks (Freehold owners of Plot 17).

6.16 UK Power Networks submitted a "holding objection" to the order.

6.17 The Council has been negotiating with UK Power Networks (UKPN) to agree a solution to the technical issue of the replacement of existing network infrastructure on the Order Land, along with the provision of new substations and suitable alternative equipment to supply the new scheme. At the time of writing this proof an agreement has been reached with UKPN. Engrossments are currently being signed by UKPN. We are hopeful that once the agreement has been signed, UKPN will withdraw its objection.

- 6.18 **Mr S Luxford (rights over Plots 18, 19, 20, 21, 25 & 26 and long lessee of flat 2 16-18 Station Rd, overlooking the scheme but outside the Order lands).**
- 6.19 *Mr Luxford does not believe that the acquisition of plot 21 is necessary to deliver the scheme.*
- 6.20 Plot 21 is required for the scheme. The plan at Appendix A shows the scheme overlain on the Order plan. Plot 21 is important to deliver the scheme. In particular, it provides a location for bin stores and a delivery bay. The proposed servicing arrangements plan illustrates the uses noted above and their location. The servicing plan (CD58) is one of a number of documents that comprise the Non-Material Amendment application.
- 6.21 *Mr Luxford asserts that the acquisition of plot 21 will result in the fire escape for his premises opening onto land to be acquired and therefore put at risk occupants who will have no control over access at this point and that the right of way would be removed and potentially no means of escape from fire*
- 6.22 The Council intends to grant replacement access rights in favour of properties which currently benefit from such rights over the Order Land. Paragraphs 9.10 (during construction) and 9.15 (after completion) of the Council's Statement of Case (CD50) specifically address the matter of fire escapes. The paragraphs draw attention to the preservation of pedestrian rights of way to and from the High Street and vehicular access for fire engines along the New Road to the fire exit at the rear of Mr Luxford's property in common with the owners of other commercial and residential properties. The Council has negotiated an agreement with Mr Luxford on this point and as part of a broader agreement that will enable him to withdraw his objections to the Compulsory Purchase Order and Stopping-up Order. Heads of terms have been negotiated and solicitors instructed. In particular, we have addressed Mr Luxford's concern regarding access, rights of way and fire escape. A deed of easement will be entered into with Mr Luxford granting pedestrian rights over the area to the rear of his premises and the new scheme and then onto Marketfield Way.

The rights will be secured over plots 25 and 26 through the Compulsory Purchase process to provide access to the High Street.

6.23 *The acquisition of plot 21 will result in the nine flats at 16 to 18 Station Road of not having a location for their refuse bins.*

6.24 The Council in its Statement of Case (CD50) confirms that plot 21 is required to deliver the New Road and provide a location for bin stores and other uses. The agreement with Mr Luxford that I referred to in the paragraph above will also include specific rights to be granted by virtue of the deed of easement that will enable those flats that will lose their current external rubbish facility to use the new bin store to the rear of 16 to 18 Station Road and on plot 21. My understanding is that at present the flats at 16 to 18 Station Road do not benefit from a bespoke bin store. Rather the occupants place their rubbish in the commercial waste bins that the Council provide and which are sited in the car park area close by. The new scheme will provide a formalised system to replace the current informal arrangement and will provide a demonstrable improvement for occupiers without bespoke refuse areas and reduce the incidence of littering and the associated environmental issues that currently occur. The location of the new bin store, to the rear of 16 to 18 High Street is illustrated on the Proposed Servicing Arrangements Plan in the Non-Material Amendment application (CD58).

6.25 *The proposed compulsory purchase of land would not properly compensate the occupants or owners of flats affected as the land is not owned by the lessees rather the freeholder of the block*

6.26 This objection relates to compensation matters, which will be assessed in accordance with the statutory code should the CPO be confirmed and implemented

6.27 Details of contact with Mr Luxford.

- 06/11/2017: Email from Mr Luxford regarding timing of CPO and other information
- 07/11/2017: Information to Mr Luxford following his request

- 16/11/2017: Email from Mr Luxford confirming his opinion as to the impact of the scheme on his premises
- 23/11/2017: Chase up email from Mr Luxford regarding compensation negotiations and scheme impact.
- 24/11/2017: Email to Mr Luxford delaying response prior to a meeting
- 30/11/2017: Email from Mr Luxford asking for a date when his compensation will be addressed
- 12/12/2017 Email from Mr Luxford chasing Council for answer to his compensation request
- 22/12/2017: Email to Mr Luxford responding that the Council is unlikely to be able to address his queries until the new year
- 05/01/2017: Mr Luxford chasing Council
- 16/01/2017: Email from Mr Luxford to Mr Reed chasing Council
- 05/02/2018: Chasing email from Mr Luxford.
- 08/02/2018: Chasing email from Mr Luxford.
- 09/02/2018: Email to Mr Luxford updating him regarding programme and stating that the Council needed to take legal advice regarding his property and compensation. Telephone call also to Mr Luxford explaining the situation.
- 11/02/2018: Email from Mr Luxford reiterating his fears about the impact of the scheme on his property
- 07/03/2018 Email from Mr Luxford following him receiving notification of the CPO
- 10/04/2018: Email from Mr Luxford requesting an update
- 12/04/2018: Holding email to Mr Luxford
- 20/04/2018: Chasing email from Mr Luxford.
- 15/05/2018: Chasing email from Mr Luxford.
- 17/05/2018: Email exchange and telephone call with Mr Luxford regarding his opinion of the potential damage to his interest
- 21/05/2018: Email to Mr Luxford arranging to meet on site.
- 22/05/2018: Email exchange with Mr Luxford confirming meeting on site

- 25/05/2018: Email to Mr Luxford requesting that John Reed attend the meeting following his return from holiday.
- 04/06/2018: Email from Mr Luxford regarding proposed meeting. Email exchange setting date to meet.
- 05/06/2018: Email exchange confirming meeting date and time.
- 15/06/2018: Meeting with Mr Luxford on site. Email from Mr Luxford following meeting
- 18/06/2018: Email to Mr Luxford with copy of his lease. Further email to Mr Luxford enclosing copy of access and parking solutions along with temporary hoarding drawings.
- 20/06/2018: Email from Mr Luxford informing the Council that he was taking legal advice.
- 29/06/2018: Email to Mr Luxford with an offer to settle his dispute with the Council and withdraw his objections.
- 18/07/2018: Email from TWM Solicitor instructed by Mr Luxford.
- 20/07/2018: Email to TWM
- 27/07/2018: Email from Mr Luxford regarding a revised settlement.
- 28/07/2018: Email from Mr Luxford confirming hope to agree matters shortly.
- 03/08/2018: Chasing email from Mr Luxford.
- 07/08/2018: Email to Mr Luxford following a telephone call.
- 10/08/2018: Confirmation of Council agreement to a settlement with Mr Luxford conditional on his withdrawal of objections
- 14/08/2018: Email from Mr Luxford, requesting assistance regarding mortgage company. Final point of negotiation on professional fees.
- 31/08/2018: Email from Mr Luxford confirming he has chased his mortgage company, also confirming that he wants to conclude matters.
- 05/09/2018: Email from Mr Luxford regarding his mortgage company and legal requirements from them, plus timing of documents.
- 05/09/2018: Email to Mr Luxford confirming basis of payment, additional legal costs and anticipated date for legal documents.

- 6.28 **Mr F Lau (freehold owner of 20 Station Road outside the Order lands and with rights over Plots 18, 19, 20, 21, 25 & 26).**
- 6.29 *Mr Lau is concerned that the height of the proposed service road would result in his premises being more susceptible to flooding and requested that the Council clarify this in writing.*
- 6.30 As is discussed at paragraph 11.16 of the Council's Statement of Case (CD50) a Flood Risk Assessment was submitted with the planning application. The report sets out the proposed mitigation measures that would form part of the Permitted Development. These measures have been approved as part of the planning process by Thames Water, Surrey County Council (as the lead local flood authority) and the Environment Agency. New foul and surface water drainage infrastructure is proposed to ensure the site is properly drained. Conditions 17 and 18 of the Planning Permission (CD35) require submission of drainage layout plans and SUDS maintenance regimes to be approved prior to construction of the development. Andrew Benson addresses the issue of flood risk in his proof. He has appended to his proof a technical note on flooding that has been prepared by Mark Geddes of Richard Jackson Consulting (the authors of the Flood Risk Assessment).
- 6.31 *Mr Lau is also concerned that the approved plan will affect delivery access to the rear of his restaurant and that this will affect his business. He has asked for clarification on this matter.*
- 6.32 The Council has contacted Mr Lau and confirmed that his premises will continue to benefit from rear servicing and access. The Council's Statement of Case confirms reinforces the point (CD50). The Council and its representatives has met with Mr Lau on several occasions. Mr Lau has been informed that the Council will enter into a deed of easement that will re-grant to Mr Lau rights to ensure that his current rights of access and servicing will be maintained over the Order lands. This will grant a right of access across the service area for the scheme and to the rear of Mr Lau's premises. The Servicing Arrangements Plan (CD58) illustrates the parking and servicing provision available to Mr Lau and others that have rights over the current land and who will be offered similar replacement rights by the Council. The Council has

pointed out to Mr Lau that there will be three dedicated loading bays to the rear of his property and that this will be an improvement on the current position where loading is via the Marketfield Way public car park or Marketfield Road, depending on the number of vehicles parked in the car park and across the rear of Mr Lau's premises.

6.33 *Mr Lau asked for clarification as to how the car spaces provided as part of the scheme will be allocated and specifically whether they will be available for the general public and whether there are any plans to increase the number of spaces*

6.34 The spaces to be created in the basement of the scheme/new building will be for the benefit of the tenants only. This has been confirmed to Mr Lau and he has been informed that there are no plans to increase the number of car spaces within the scheme for his clientele or the general public.

6.35 Mr Lau's premises does not benefit from any dedicated parking. The Marketfield Way car park is to the rear of Mr Lau's premises. However, the Council has undertaken a parking study (CD13) that concluded that there will be sufficient car parking spaces available in Redhill after the closure of the Marketfield Way car park. A plan showing existing town centre car parks in proximity to the site, their capacity, times of operation, charging structure and provision of disable parking spaces can be seen at CD57. This plan has previously been provided to Mr Lau for his information. The plan demonstrates that within a short walk of Mr Lau's premises there are a number of easily accessible car parks. Some of these are closer to Mr Lau's premises than the southern end of the Marketfield Way car park. Andrew Benson's proof of evidence addresses the parking provision for the scheme and the provision of new car parking in the town centre more generally (paras 4.14 to 4.19). The new parking results in a greater number of car spaces being created particularly because of the nearby new Warwick Quadrant scheme (the new Sainsburys and Travel Lodge development) which resulted in a net increase of 268 car spaces (after deducting the loss of the 97 public spaces in the Marketfield Way car park).

6.36 *Mr Lau is concerned that the scheme will result in an effective reduction in parking "an issue of demand over supply" and this in his view will affect customers accessing his restaurant.*

6.37 The Council commissioned a parking study, the Redhill Town Centre Parking Needs Study (CD 13) that concluded there is a significant amount of spare parking capacity in Redhill Town Centre. I have addressed this point in my response above and made reference to where Andrew Benson has provided a detailed commentary on parking in the town centre in his proof. The extent to which Mr Lau's business may be affected financially by the closure of the Marketfield Way car park does not relate to the merits of the compulsory purchase order or the underlying development scheme. Contact with Mr Lau.

- 10/10/2017: Telephone conversation with Mr Frankie So Wing Lau 20 Station Rd. Meeting arranged for 13 Oct 10.30 to discuss impact of scheme.
- 13/10/2017: Meeting on site with Mr Lau to discuss his concerns.
- 3/05/2018: Email to Mr Lau, responding to his objection letters and requesting a meeting on site.
- 8/05/2018: Email to Mr Lau, asking him to respond to my email addressing his objections and offering a meeting.
- 15/05/2018: Email to Mr Lau requesting he contact me to make a meeting on site. Several calls made to Mr Lau but unable to connect.
- 18/05/2018: Meeting with Mr Lau, on-site along with Barry Goode to discuss impact of scheme and explain technical points.
- 23/05/2018: Email to Mr Lau asking that he withdraws his objection to the CPO and RCO following meeting.
- 29/06/2018: Without Prejudice offer made to Mr Lau to withdraw his objections.
- 13/06/2018: Response to Mr Lau's email and answering questions raised therein.
- 18/06/2018: Email to Mr Lau attaching updated service and access plans.
- 29/06/2018: Further without Prejudice offer to Mr Lau to settle dispute and withdraw objections.
- 13/07/2018: Email to Mr Lau asking for response to the Council's offer to settle dispute.
- 25/07/2018: Email to Mr Lau restating the Council's offer to settle his objection and addressing some of his points of concern.
- 01/08/2018: Email from Mr Lau rejecting revised offer from Council.
- 15/08/2018: Email and telephone conversations with Mr Lau.
- 16/08/2018: Meeting on-site with Mr Lau, John Reed (Council) & Barry Goode (Coplan Estates) to seek to address Mr Lau's outstanding concerns.

- 21/08/2018: Email to Mr Lau, attaching plan prepared by highway consultants (CD57) demonstrating location & capacity of car parks in Redhill.

6.38 Mr C Walia, EKOM Build & Design Ltd (freehold owner of Plot 20, rights over plots 18, 19, 20, 21, 25 & 26).

6.39 *EKOM suggest that “as being the freeholder our asset value would be affected immensely”. EKOM is also the freehold owner of 26-28 Station Road Redhill.*

6.40 Matters relating exclusively to diminution in value or compensation will be negotiated and determined through a separate procedure in the event that the CPO is confirmed. They are not matters that should properly be considered at this inquiry. Any compensation payable will be calculated in accordance with the statutory code should the CPO be confirmed and implemented.

6.41 *EKOM suggest that the inconvenience caused by the scheme to residents and commercial tenants would be “immense”.*

6.42 The planning application was supported by a detailed noise assessment (CD30) air quality assessment (CD28) and daylight/sunlight report (CD26). The scheme was granted planning permission and was acceptable in planning terms. The planning officer’s report to the committee at the time (CD34) considers these issues specifically in the context of the technical reports produced to support the application and the objections/consultation responses received. The council will engage a major contractor to construct the scheme. This will be a member of the considerate contractors’ scheme and will have experience in working in sensitive urban environments. These measures will minimise the disruption to surrounding occupiers and owners.

6.43 The Council’s professional team has undertaken further work following the granting of planning permission to address any inconvenience to the adjacent owners and occupiers that might be caused by either the construction or operation of the scheme. A form of undertaking has been drafted to ensure that those that have rights over the proposed service area will be offered replacement rights of access

and servicing. The existing privately owned car parking spaces to the rear of Marylebone House will be relocated adjacent to the property, the occupiers of those spaces will be offered parking permits in the nearby Council owned Gloucester Road car park in the event that continuity of parking cannot be provided, the refuse provision for some occupiers will be significantly improved by the provision of bespoke bin storage and delivery bays will be created and thereby the current position whereby delivery vehicles compete with car park users to park as close to the rear of the premises to which they are delivering will be resolved. The highways consultants have produced and negotiated with the highways authority a detailed delivery and servicing management plan (CD58) demonstrating that the scheme and the surrounding premises can be serviced and accessed appropriately. The construction team has also been working with the likely contractor for the scheme to establish that the rear access to the Station Road and High Street premises (that are affected by the implementation of the Order) can be serviced and accessed adequately during the construction period.

6.44 *There is not enough parking at Redhill High Street and the scheme would make this worse. EKOM have not been able to sell the flats that they have constructed above 26-28 Station Road due to a lack of parking. There should be replacement parking allocated.*

6.45 The Redhill Town Centre Parking Needs Study (CD13) was undertaken by the Council concluded that there is significant spare parking capacity within Redhill Town Centre, and that this oversupply would continue even if Marketfield Road Car Park closed. Andrew Benson's proof addresses the provision of car parking in Redhill town centre, confirming that even with the closure of the Marketfield Way car park there will be a net increase of some 268 public car spaces in the town centre after the Marketfield Way car park is closed (paragraphs 4.14 to 4.19). The High Street and Station Road are subject to a Pedestrianisation Order, and vehicles do not generally have a right of access over those roads.

6.46 EKOM implemented a planning consent to construct 14 flats above 26-28 Station Road. The planning application included a Design and Access statement that promoted the scheme as a car free development in line with the Council's core strategy. The flats do not have any allocated parking spaces. If that has made them

difficult to sell, it is unrelated to the CPO. Neil Rowe, Highways Consultant to the Council addresses this issue also in his proof of evidence in section 5.4.

6.47 *EKOM have assumed that the area to the rear of their premises will be pedestrianised and objected to this*

6.48 EKOM are incorrect in assuming that the area to the rear of their premises will be pedestrianised. The area to the rear of their properties (the freehold ownership of 26 and 28 Station Road is outside the Order boundary, however, they are freehold owners of Order plot 20) is to be incorporated into the service area for the scheme. In addition, the existing occupiers and owners who have rights over the area will be granted replacement rights of access and servicing. Therefore, owners and occupiers that benefit from vehicular access rights will still be able to service the rear of their premises by vehicle, see Planning and Service Access drawing (CD58) that accompanied the recent non-material amendment to the planning permission. This objection is probably directed at the Stopping Up Order. Neil Rowe has addressed these points in his proof.

6.49 Contact with EKOM.

- 10/01/2018: Email to Mr Walia of Ekom requesting him contact me to discuss transfer of his land.
- 25/04/2018: Email to Mr Walia regarding Ekom's objection to the CPO and RCO.
- 27/04/2018: Email to Mr Walia chasing my previous email for a reply. Chan Walia called to discuss his issues.
- 01/05/2018: Email to Mr Walia including a copy of the servicing plan and offering to meet on site.
- 08/05/2018: Email to Mr Walia regarding his objection and telephone conversation.
- 11/05/2018: Telephone conversation with Mr Walia to seek his agreement to sell.
- 18/06/2018: Email to Mr Walia of Ekom, attaching layouts for the parking and servicing arrangements and an attempt to commence negotiations for the purchase of plot 20.
- 29/06/2018: Email to Mr Walia on a Without Prejudice basis offering to purchase plot 20.

- 12/07/2018: Call to Mr Walia to try and negotiate a purchase of plot 20.
- 08/08/2018: Telephone call to Mr Walia making an enhanced offer to purchase the Ekom freehold interest. Offer rejected by Ekom.

6.50 **Thomas Cook Retail Ltd (Shoosmiths solicitors) (rights over Plots 18, 19, 20, 21 & 25).**

6.51 *Thomas Cook operate from 2a High Street and benefit from rights of access and servicing that enables them to trade from the premises. There had not been negotiations with the Council to offer new rights or guarantee continuation of rights during construction.*

6.52 The Council intends to grant replacement access and servicing rights over the Order Land where properties currently benefit from such rights. Such rights are proposed to be granted both during the construction and operational phases. A private agreement and Deed of Easement to secure these rights has been negotiated with Thomas Cook with a view to formalising these arrangements. At the time of writing this proof lawyers have been instructed and it is hoped that this objection can be withdrawn before the Inquiry.

7 Summary and Conclusion

- 7.1 My proof of evidence has been prepared in the context of the Reigate and Banstead Borough Council (Marketfield Way) Compulsory Purchase Order 2018 and associated application to extinguish public rights of way. My proof describes the extent of the Order lands and the land ownerships; the need for all the relevant land and rights to be included in the Order; the efforts that the Council has made to acquire relevant land by agreement including negotiations with affected landowners and third parties; the outstanding objections to the compulsory acquisition of land and the Council's response in each case.
- 7.2 The Order land extends to approximately 0.59 hectares in Redhill town centre. It predominately comprises a local authority owned surface car park (the Marketfield Way car park) a parade of mixed use retail and office premises at 18 to 44 (even) High Street, land to the rear of these premises and land to the rear of premises on Station Road.
- 7.3 The Council has owned the Marketfield Way car park (plots 22 and 23) for many years. The Council added to their landholding in the area by purchasing the freehold interest in premises 18 to 44 High Street (plots 1 to 16) in September 2009. It has been negotiating with other property owners and occupiers to purchase their interests and gain vacant possession since the scheme design was worked up and approved in 2010 and 2011 (Executive approval CD11). At the time of writing this proof I calculate that the Council are the freehold owners of approximately 85% of the Order land by area. Since the scheme received Council Executive approval in December 2011 (CD11) the Council has spent more than three million pounds on acquisitions and fees to secure vacant possession of the Order lands.
- 7.4 Following the work to refine the scheme undertaken by the Council's development managers and professional team a planning application was submitted. Planning permission was issued on 20 January 2017.

- 7.5 The permitted scheme comprised a new multiplex cinema, 11 ground floor retail units and 153 apartments comprising 4 studios, 69 x 1-bedroom apartments and 80 x 2-bedroom apartments. 47 basement car parking spaces would also be provided in addition to 220 cycle spaces.
- 7.6 On the 18th May 2017 the Council resolved to make the Compulsory Purchase Order under S.226 (1) (a) of the Town and Country Planning Act 1990 (as amended) the Acquisition of Land Act 1981 and S.13 of the Local Government (Miscellaneous Provisions) Act in respect of new rights. The Order was made, sealed and dated by the Council on 23rd February 2018. The objection period expired on 23 March 2018 and a General Certificate confirming that the proper statutory procedures had been followed in making and publicising the Order was subsequently issued to the Secretary of State on 26 March 2018.
- 7.7 The extent of the land to be acquired and new rights created to secure the delivery of the scheme has been the product of careful consideration by the Council and its professional team. The proposed scheme has been designed to meet the policy objectives of the Council for the regeneration of Redhill Town Centre and to be viable and deliverable. The Council has, at all times, been conscious that only land necessary for the scheme should be included in the Order. There has been a process of refining the extent of the land and rights required which has included a series of meetings and site visits to ensure that only land and rights necessary for the delivery of the scheme have been included in the Order. By way of illustration a plan showing the boundary of the Order Map overlaid by a plan of the boundary of the planning permission has been produced. This is included as Appendix A and demonstrates that the planning application and Order boundaries are co-incident. For the scheme to be delivered, all the land and new rights included in the Order are required.
- 7.8 The Order schedule identifies some three hundred pages of rights and easements over the Order lands. These are predominately in favour of owners of property outside the Order boundary. To deliver the scheme, it is necessary to relieve the Order lands of this burden. It will not be possible to negotiate a settlement with all parties therefore a confirmed Compulsory purchase order is required.

- 7.9 The Order includes two plots (25 and 26) where new rights are to be created. These are important as they will provide for the right to access the new scheme via the access way from the High Street. The land over which rights are sought is already a walkway to the Marketfield Way car park.
- 7.10 There are currently only six objections to the Compulsory Purchase Order. Details of these are included as CD44. At present, there are agreements in place with four objectors and therefore the hope is that only two objections will remain at the time of the Inquiry.
- 7.11 I have provided a short summary in respect of each of the outstanding objectors.
- 7.12 **Moreland Estate Management** (on behalf of Residential Freeholds Ltd freehold) (owners of Plot 18 with rights over plots 19, 20, 21, 25, 26). A negotiated agreement has been reached with Residential Freeholds Ltd for the withdrawal of their objection to the Compulsory Purchase Order and Stopping Up Order. Their car parking spaces will be re-provided, and rights of access and servicing granted. Lawyers are drafting the documentation and I hope this will enable the objector to withdraw their objection before the Inquiry.
- 7.13 **UK Power Networks** (freehold owner of plot 17). An agreement has been reached with the objector, for the purchase of their property and the re-provision of necessary equipment in the proposed scheme. Engrossments are currently being signed by UK Power Networks. I hope that this will enable their objection to be withdrawn before the Inquiry.
- 7.14 **Mr S Luxford** (rights over Plots 18, 19, 20, 21, 25 & 26 and long lessee of flat 2 16-18 Station Rd, overlooking the scheme but outside the Order lands). An agreement has been reached with the objector and lawyers are preparing the necessary documentation. I hope that this will enable Mr Luxford's objection to be withdrawn before the Inquiry.
- 7.15 **Mr F Lau** (freehold owner of 20 Station Road outside the Order lands and with rights over Plots 18, 19, 20, 21, 25 & 26). Mr Lau has made objections to the scheme on planning related matters (including parking and flooding). The potential effect of the scheme on deliveries to his restaurant and matters of loss of trade. The Council has

given an assurance that servicing will be maintained and produced evidence that there will not be a shortfall in parking. Neil Rowe and Andrew Benson address these points in their proofs. Unfortunately, despite several meetings and considerable correspondence Mr Lau maintains his objection.

7.16 **Mr C Walia**, EKOM Build & Design Ltd (freehold owner of Plot 20, rights over plots 18, 19, 20, 21, 25 & 26). Mr Walia has made an objection on several bases including his perception that the scheme will devalue his landholding outside the Order lands. Matters of diminution in value should not properly be considered at this Inquiry. He has also objected based on an assumption that the scheme will be a general inconvenience. I do not agree with him and the planning application addressed his concerns. Mr Walia also objected to the scheme on the matter of parking. Neil Rowe has addressed this issue in his proof. Unfortunately, it has not been possible to reach an agreement with Mr Walia, despite making him several offers to settle and withdraw his objection.

7.17 **Thomas Cook Retail Ltd (Shoosmiths solicitors)** (rights over Plots 18, 19, 20, 21 & 25). Thomas Cook objected to the both the Compulsory Purchase Order and Stopping up Orders on the basis that they had not been offered replacement rights of access and servicing. The Council has offered these and a private agreement along with a deed of easement are being negotiated via solicitors. I hope that this will enable their objection to be withdrawn before the Inquiry.

7.18 In conclusion, the scheme is necessary to deliver the regenerative benefits to Redhill town centre. The scheme requires the acquisition of a substantial number of freehold, leasehold and other interests that are in the ownership of third parties. Despite efforts to acquire these by agreement it has not proved possible to acquire all that are necessary to assemble the site. Due to the number of interests involved, in my view it will not be possible to complete this by negotiation within a reasonable timetable to enable the delivery of the permitted scheme to come forward.

7.19 My view is that the Council has used all reasonable efforts to acquire the Order land by agreement, resorting to powers of compulsion only as a last resort, and the confirmation of the CPO is justified in all the circumstances.

8 Professional Declaration

This proof of evidence has been prepared in accordance with the obligations of my professional body, the Royal Institution of Chartered Surveyors and the Practice Statement and Guidance Note (England, Wales and Northern Ireland) on 'Surveyors Acting as Expert Witnesses' (fourth Edition) 2014:

Statement of Truth

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.

Declaration

1. I confirm that my report has drawn attention to all material facts which are relevant and have affected my professional opinion.
2. I confirm that I understand and have complied with my duty to the Inquiry as an expert witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.
3. I confirm that I am not instructed under any conditional or other success-based fee arrangement.
4. I confirm that I have no conflicts of interest.
5. I confirm that I am aware of and have complied with the requirements of the rules, protocols and directions of the Inquiry.

6. I confirm that my report complies with the requirements of RICS – Royal Institution of Chartered Surveyors, as set down in the RICS practice statement 'Surveyors acting as expert witnesses'.

Signed

A handwritten signature in black ink, appearing to read 'Nigel Riley'.

Name Nigel Riley BSc Est Man MRICS

Date 07/09/2018