

**THE LONDON BOROUGH OF HARINGEY
(HIGH ROAD WEST PHASE A)
COMPULSORY PURCHASE ORDER 2023**

DOCUMENT CD 9.5

WITNESS 3: TOM HORNE, DP9

REBUTTAL

1. **Introduction**

- 1.1 My name is Tom Horne. Details of my qualifications and experience are set out in my main proof of evidence [CD 9.5] (my “**Main Proof**”).
- 1.2 In this short rebuttal statement (“**Rebuttal**”) I adopt the same references and abbreviations as I used in my Main Proof [CD 9.5].
- 1.3 This Rebuttal has been prepared to respond to the following evidence submitted in respect of the Order:
- (a) The proof of evidence (“**PoE**”) submitted by Sean Bashforth on behalf of THFC [CD 9.19].
 - (b) The PoE submitted by Richard Serra as Property Director of THFC [CD 9.27].
 - (c) The PoE submitted by Sophie Camburn on behalf of THFC [CD 9.21].
- 1.4 Since my Main Proof was issued on 10 October 2023, the substantive hearing in relation to Tottenham Hotspur Limited's application to judicially review the Planning Permission has taken place and the Judgment issued [CD 5.17]. The Judgment dismissed all grounds of claim. This is discussed in more detail later in this Rebuttal.
- 1.5 This is not intended to be an exhaustive rebuttal of the contentions made in the evidence listed at paragraph 1.3 above. This document only deals with certain points where it is considered appropriate and helpful to respond in writing. Where specific points have not been dealt with, this does not mean that those points are accepted. They may be dealt with further at the Inquiry and/or in writing.

2. Sean Bashforth's Proof of Evidence

2.1 This Rebuttal responds to the following key themes within the PoE of Mr Bashforth:

- (a) Whether the Scheme fits in with the adopted Local Plan – namely the provision of leisure uses within the Consented Scheme;
- (b) The requirement for comprehensive development of Site Allocation NT5; and
- (c) The flexibility contained within the Planning Permission.

2.2 I respond to each point in turn below.

Leisure Provision

2.3 Paragraphs 3.3 to 3.15 of Mr Bashforth's PoE broadly makes the point that there is not enough leisure floorspace in the Consented Scheme to fulfil the objectives of the adopted local plan and that Consented Scheme is too dominated by housing uses.

2.4 Leisure uses are discussed in significant detail in my Main Proof from paragraphs 7.7 to 7.34. I do not propose to repeat what is set out there as it largely responds to the points made by Mr Bashforth.

2.5 Suffice to say, Mr Bashforth's PoE takes a narrow view of what constitutes leisure uses, despite policy and guidance not defining this term. At paragraph 3.5, Mr Bashforth's view of leisure uses is limited to only the sui generis cinema and indoor sports, recreation and fitness floorspace permitted by the Planning Permission. Even so, Mr Bashforth acknowledges that up to 7,000 sqm of these two types of floorspace could be delivered by the Consented Scheme.

2.6 Notwithstanding the above, there is, in my opinion, an important and relevant distinction to be drawn between what may constitute a "leisure use" and what is required to create a "leisure destination", which is the term used within the TAAP [CD 3.5].

2.7 What constitutes a "leisure destination" and the range of uses and activities which such a destination can embrace should be interpreted in a much wider context. There are various examples across London where retail and food & beverage offerings are fundamental to the creation of leisure destinations. The Westfield shopping centres are good examples of this. In my opinion, it is appropriate in the present case to consider the Library and Learning Centre, proposed retail and food & beverage uses as essential to the creation of a "leisure destination". This approach increases the maximum floorspace which can be considered as leisure within the Consented Scheme to 17,500 sqm (a mixture of Class E (retail and leisure), the library and learning centre, cinema and public house). This interpretation is in fact referred to at paragraph 3.4 of Mr Bashforth's PoE which quotes the supporting text from the TAAP. Specifically it refers to '*leisure orientated retail*'. This is exactly the type of floorspace one might expect in a "leisure destination".

2.8 The creation of a "leisure destination" is also not something which can be measured solely by floorspace, There is a qualitative element. The Consented Scheme will create active frontages around Moselle Square and the High Road. The Illustrative Masterplan shows this

particularly well and is highlighted in Lucas Lawrence's PoE [CD 9.7] in the images on pages 33, 34, 35 and 36. These show vibrant, active and engaging ground floor frontages which will be experienced by those moving through the Consented Scheme.

- 2.9 Furthermore, and as noted within my Main Proof, the creation of a "leisure destination" is not principally focused on Site Allocation NT5, but Site Allocation NT7 within which the Stadium is located. As set out clearly within Section 5 of the PoE of Richard Serra, the Stadium is now a "leisure destination" in and of itself. The Consented Scheme will complement the Stadium and enhance the "leisure destination", as Mr Lawrence's evidence demonstrates.
- 2.10 Finally, it is again worth revisiting the Committee Report [CD 4.9] on this point where at paragraph 4.22 officers concluded that *"The proposed community and leisure uses are proposed at the lower floors of the proposed buildings and around the proposed new public realm, notably around Moselle Square, Peacock Park, White Hart Lane and High Road to facilitate the creation of active street level frontages. The overall quantum of community and leisure floorspace proposed is commensurate with the aspirations of enhancing the area as a destination through the creation of new leisure, sport and cultural uses and complementing existing centres in the local area and is considered to be acceptable"* (my emphasis added).
- 2.11 At paragraph 3.7 of his PoE, Mr Bashforth's refers to the minimum floorspace parameters of indoor sports, recreation and fitness floorspace being 500 sqm. He asserts that this represents only 0.2% of the total permissible minimum floorspace. This is a significant mischaracterisation. As I have stated above, indoor sports, recreation and fitness is an overly narrow interpretation of what constitutes leisure uses, let alone a leisure destination. Secondly, the percentage quoted seems to be measured against the whole Planning Permission. This is another mischaracterisation given that there are leisure uses approved in Phase B including public houses, cinema and retail. Lastly, Mr Bashforth has measured his interpretation of leisure against land uses above ground floor. Again, this is a mischaracterisation given that the vast majority of leisure uses will be at ground floor whilst the vast majority of above ground floor uses can and should be residential. For these reasons, no significant weight should be attributed to the percentage provided by Mr Bashforth at paragraph 3.7 of his PoE.

Comprehensive Development

- 2.12 There is a repeated point made by Mr Bashforth that Phase A fails to deliver comprehensive development in accordance with the requirements of Site Allocation NT5. There is a secondary point that there is infrastructure, namely open space, in Phase B that Phase A is reliant upon.
- 2.13 With regard to the first point on comprehensive development, Mr Bashforth states that the *"Planning Permission relates to the land south (Phase A) and north (Phase B) of White Hart Lane and during the determination of the planning process Phase A was not considered in isolation"*¹.

¹ Paragraph 3.1 of Mr Bashforth's PoE

- 2.14 Mr Bashforth goes onto argue that the *"Partial Scheme" confined to the south of White Hart Lane raises fundamental concerns which put the Scheme at odds with planning Policies requires comprehensive development*².
- 2.15 This is incorrect.
- 2.16 As highlighted by Mr Bashforth, the TAAP requires the *"masterplanned, comprehensive development..."* of Site Allocation NT5.
- 2.17 In accordance with planning policy, the Planning Permission grants consent for a masterplanned, comprehensive development.
- 2.18 The Consented Scheme is the first phase (Phase A) of the *"comprehensive development"* that policy requires and the Planning Permission has authorised. This is a function of a normal phased approach to the delivery of large-scale development proposals.
- 2.19 As set out within the proof of evidence of Peter O'Brien [CD 9.01] the decision to proceed with the Consented Scheme (as Phase A) first was due to a number of factors, including that the Council owns a large proportion of the land within Phase A, including the Love Lane Estate, the redevelopment of which is one of the primary objectives of the TAAP.
- 2.20 Furthermore, it is also acknowledged that THFC owns a large proportion of the land to the north, the majority of which benefits from extant planning permissions. In light of this, the Planning Permission reflects the THFC permissions which were extant at the time the Planning Permission was granted, with a view to allowing THFC to deliver, if it desires, those parts of the Site Allocation independently.
- 2.21 However, I do note that the THFC permissions are for much smaller areas and comprise only limited contributions to the wider aspirations of the Site Allocation. None of the permissions has yet been implemented. One of them has expired. Another, originally containing a cinema, is being replaced with a Purpose-Built Student Accommodation development.
- 2.22 Mr Bashforth's second point relates to Phase A being reliant on infrastructure contained within Phase B. This is incorrect. It is not stated anywhere in the Committee Report [CD 4.9] that Phase A is reliant on infrastructure delivered in Phase B. Secondly, the Order does not rule out or depend upon future delivery of the remainder of the Regeneration Scheme or the Planning Permission, it simply phases that delivery. The Planning Permission is a phased consent.
- Flexibility of the Planning Permission*
- 2.23 Mr Bashforth asserts at paragraph 4.3 of his PoE that, due to a perceived excessive flexibility in the Planning Permission, only the minimum floorspaces contained within the Development Specification approved pursuant to the Planning Permission [CD 4.4] can be relied upon in the context of the Consented Scheme. I do not consider that this approach is appropriate, given that the maximum floorspaces permitted and set out in Table 2.1 of Mr Bashforth's PoE can be delivered. At paragraph 4.5 of his PoE, Mr Bashforth notes that the Planning

² Paragraph 4.11 of Mr Bashforth's PoE

Permission is capable of delivering "*up to the maximum floorspaces and associated economic and other benefits*".

- 2.24 There are numerous references within Mr Bashforth's PoE to an overdominance of residential uses in the Planning Permission. The figures provided in relation to this overdominance are misleading, in particular the figure of 94.3% residential floorspace quoted at paragraph 3.12 of Mr Bashforth's PoE.

- 2.25 In relation to the HRWMF, Mr Bashforth notes that the HRWMF envisaged a development scheme comprising 83% commercial and 5% commercial leisure. It appears that Mr Bashforth is seeking to use this as a benchmark against which the Consented Scheme should be judged.

- 2.26 The short answer to this point is that the Council acting as a local planning authority considered the planning application against the Development Plan. The Council determined that the Development makes efficient use of the site and delivers on the HRWMF vision and principles to the benefit of the community. In light of that assessment, the Council resolved to grant the Planning Permission.

- 2.27 Moreover, as detailed in Peter O'Brien's proof of evidence [CD 9.01], the housing situation within the Borough has significantly worsened since the adoption of the HRWMF. Although the HRWMF indicated a residential capacity for the Site Allocation of 1,200 units, the adopted TAAP sets a minimum (not maximum) residential density of 1,400 units. As such, the TAAP requires a higher residential density than the HRWMF. This is the main reason for a higher residential percentage. This does not equate to an over provision of residential floorspace.

3. **Richard Serra's Proof of Evidence**

3.1 The PoE of Richard Serra [**CD 9.27**] makes a number of points. This Rebuttal responds to the following matters raised:

- (a) Primacy of the Development Plan;
- (b) Architectural quality of the Scheme;
- (c) Employment Figures from the Environmental Statement; and
- (d) Tenure mix.

Primacy of the Development Plan

3.2 Section 3 of Mr Serra's PoE places considerable emphasis on the 'It Took Another Riot' report from 2011 and the ensuing 2013 Memorandum of Understanding ("**MoU**").

3.3 To be clear, neither of these documents form part of the Council's Development Plan against which planning applications are to be considered. Although "It Took Another Riot" helped inform and guide the creation of the Development Plan documents that followed, it is not of itself part of the Development Plan. Mr Bashforth agrees that this is the case.³

3.4 The TAAP, within which the Regeneration Scheme is identified as Site Allocation NT5, is the most recent and most relevant part of the Development Plan in the context of the Planning Permission and consideration of the Order within the context of paragraph 104 of the 2019 Guidance. The Scheme and the Consented Scheme's compliance with the TAAP is set out in detail within my Main Proof and further evidenced within the Council's Committee Report [**CD 4.9**].

Architectural Ambition

3.5 At paragraph 3.48 of his PoE, Mr Serra asserts that the Scheme lacks architectural ambition.

3.6 This is incorrect.

3.7 First, the masterplanning architects for the Scheme are Studio Egret West, a multi-award-winning architectural practice.

3.8 Secondly, and as set out further in the PoE of Lucas Lawrence [**CD 9.07**], the Quality Review Panel ("**QRP**") was consulted on the Scheme on numerous occasions and the Scheme was amended to reflect the various comments and recommendations made by the QRP.

3.9 Thirdly, other than Plot A, the Consented Scheme has been granted in outline such that the final design of the buildings remains to be approved. However, the Design Code approved pursuant to the Planning Permission sets clear parameters within which the Consented Scheme must be delivered. Lendlease are committed to involving the QRP with each

³ See paragraph 2.1 of Mr Bashforth's PoE which identifies the statutory Development Plan relevant to the consideration of the Order.

reserved matters application that is brought forward as appropriate. This is secured through the Design Code [CD 4.5] associated with the Planning Permission.

- 3.10 Finally, Schedule 14 of the Section 106 Agreement [CD 4.29] contains an express obligation on Lendlease to undertake an architectural competition for the Library and Learning Centre. This demonstrates a strong ambition to deliver high quality architecture.

Employment Figures from the Environmental Statement

- 3.11 Mr. Serra raises several points in relation to the number of jobs impacted by and created by the Scheme. In short, the figures referenced by Mr Serra reflect a misunderstanding and incorrect interpretation of the information contained within Chapter 14 of the Environmental Statement dated October 2021 ("ES") [CD 4.45] and Chapter 14 of the Environmental Statement Addendum dated February 2022 ("ESA") [CD 4.46], as well as the Economic Benefits Statement [CD 4.42].
- 3.12 At paragraph 3.57 of his PoE, Mr Serra states that paragraph 12.4.1.1 of the ES refers to 690 FTE jobs being created. I believe that Mr Serra is in fact referring to paragraph 14.4.1.2. First, this paragraph is discussing the development permitted by the whole of the Planning Permission, not the Consented Scheme. Secondly, the reference to 690 FTE jobs is a reference to the number of jobs across the whole of the High Road West which are likely to be impacted by the construction phase of the development permitted by the Planning Permission.
- 3.13 At paragraph 3.58 of his PoE, Mr Serra refers to Table 14.19 of the ES which he asserts sets out a purported "worst case" masterplan *"albeit including 3,161 m² of B8 industrial floorspace that is not actually authorised by the Order Scheme planning permission"*. First, the assessment within the ES is of the whole of the development consented by the Planning Permission, not just the Consented Scheme. Secondly, the Planning Permission includes a requirement in the Development Specification [CD 4.4] to provide a minimum floorspace of 3,161 sqm across use classes E(g), B2, and B8 in addition to the minimum 1,525 sqm of use class E(g) floorspace (Table 3 of the Development Specification). As such, this use is authorised by the Planning Permission. Of these use classes, use class B8 provides the lowest FTE jobs and was accordingly used to assess the worst-case scenario for the purposes of the Environmental Statement. Finally, the ESA and the Socio Economic Benefits Statement [CD 4.42] assess the Consented Scheme in isolation. These assessments do not include any allowance for B8 industrial floorspace as such floorspace is permitted by the Development Specification within Phase B, not the Consented Scheme.
- 3.14 At paragraph 3.59 of Mr Serra's PoE, in referring to Table 14.21 of the ES he states that the Scheme could result in a net loss of between 298 and 343 FTE jobs. I do not recognise the numbers Mr Serra refers to. In any event, Table 14.21 of ES refers to the impact of the whole development permitted by the Planning Permission, not the Consented Scheme in isolation.
- 3.15 To provide further clarity on the number of jobs impacted and created by the Consented Scheme, I have set out the following points:
- i) Paragraph 14.5.1 of the ESA outlines that there are around 154 existing FTE jobs within the Order Land (named the Southern Site in the ESA).

- ii) Paragraph 14.5.20 of the ESA sets out how, in the worst-case scenario, the Consented Scheme could result in a net decrease of around 26 FTE jobs. This assumes that all of the 154 existing FTE jobs within the Order Land would be affected. However, when the Illustrative Masterplan is assessed (which represents a more likely scenario) the Consented Scheme could support around 453 FTE jobs (see paragraph 4.3.1.2 of the Economic Benefits Statement [**CD 4.42**]).

Tenure Mix

- 3.16 At paragraph 3.51 of his PoE, Mr Serra asserts that the Scheme in relation affordable housing is unbalanced in favour of social housing. The TAAP, in relation to the wider Tottenham area requires a more diverse housing product with an emphasis on intermediate housing and market housing (Policy AAP 3).
- 3.17 The balance towards social housing within the Planning Permission is founded upon the Council's clear policy objective to re-house the existing residents of the Love Lane Estate. These social housing units are central to and necessary for the delivery of the key objectives of Site Allocation NT5.

4. **Sophie Camburn's Proof of Evidence**

- 4.1 The PoE of Sophie Camburn focuses on the Alternative Masterplan.
- 4.2 I do not intend to respond in detail to the points raised in respect of the Alternative Masterplan. As noted in my Main Proof, I consider that the Consented Scheme delivers on the objectives identified within the Development Plan to a much greater extent than the Alternative Masterplan.
- 4.3 However, I note that at paragraph 2.2.3 of her PoE, Ms Camburn reports on the High Road West consultation feedback from 2014 and refers to two specific results.
- 4.4 The first result highlighted by Ms Camburn is that 79% of respondents wanted to see a new Library and Learning Centre located on the High Road and facing into Moselle Square. That aspiration was carried forward in to the HRWMF as a key principle.
- 4.5 The Alternative Masterplan does not deliver on this requirement. Instead, the Library and Learning Centre is relocated into the Grange on White Hart Lane, a much less visually prominent position with lower footfall and with the added problems of the building being listed and containing an existing occupier. This part of the Alternative Masterplan is demonstrably less compliant with policy than the Consented Scheme.
- 4.6 The second result highlighted by Ms Camburn is that 70% of respondents "*strongly agreed*" or "*agreed*" that "*new leisure, food and retail business should be located around the new public square to help create the new sports and leisure destination*"⁴. As noted above and within my Main Proof, the Consented Scheme provides for new leisure, food and retail within and around Moselle Square to help create, alongside the THFC Stadium, a sports and leisure destination.

⁴ Paragraph 2.2.3 of PoE of Sophie Camburn

5. **Judicial Review Outcome**

5.1 On 10 October 2023, the judicial review claim was heard in front of Mr Justice Saini.

5.2 The Judgment was handed down on 18 October 2023 [CD 5.17] and confirmed that the claim had been dismissed.

5.3 In the context of paragraph 104 of the 2019 Guidance, I note paragraph 27 of the Judgment:

“I am satisfied that this is a planning decision for a scheme which will deliver significant benefits to the locality. The Council’s judgment was that it accorded with the development plan as a whole, and that the tilted balance under paragraph 11 of the NPPF applied such that the question for it was whether the harm overall caused by the scheme could be said to significantly and demonstrably outweigh the benefits. The extent of the public benefits was such that the decision would have been substantively the same even absent the claimed error. The planning assessment of public benefits is clear. There is a clear development plan support for this development and the regenerative impacts of the scheme are of overwhelming significance in the planning balance” (my emphasis).

5.4 At the time of writing, I am unaware of any application to appeal Mr Justice Saini’s decision.

6. Statement of Truth and Declaration

6.1 I confirm that I have made clear which facts and matters referred to in this Rebuttal 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.

6.2 In preparing this Rebuttal, I confirm that:

- (a) I have drawn attention to all material facts which are relevant and have affected my professional opinion;
- (b) I understand and have complied my duty to the Inquiry as an expert witness which overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in preparing my evidence impartially and objectively, and I will continue to comply with that duty as required;
- (c) I am not instructed under any conditional or other success-based fee arrangement;
- (d) I have no conflicts of interest; and
- (e) I am aware of and have complied with the requirements of the rules, protocols and directions of the Inquiry.

Tom Horne

31 October 2023