

**Document Reference 2.5S**

**Town and Country Planning Act 1990**

**Acquisition of Land Act 1981**

**Local Government (Miscellaneous Provisions) Act 1976**

**Inquiry into:**

**THE COUNCIL OF THE CITY OF COVENTRY (CITY CENTRE SOUTH) COMPULSORY  
PURCHASE ORDER 2022**

**and**

**Town and Country Planning Act**

**Stopping-up of public highway**

**Summary Proof of Evidence**

**of**

**Alex Morton**

**Director at Deloitte**

**On behalf of the Council of the City of Coventry**

**29 December 2022**

## 1. INTRODUCTION

### Qualifications and Experience

- 1.1 I, Alexander James Morton, am a Director at Deloitte LLP working in its real estate advisory business.
- 1.2 I am a Member of the Royal Institution of Chartered Surveyors (RICS), having been admitted in 2007. I am a RICS Registered Valuer. I hold a Bachelor of Arts degree in Geography from the University of Sheffield and a Masters of Science degree in Real Estate from the University of Reading.
- 1.3 Following completion of my Masters degree, I joined Drivers Jonas (which merged with Deloitte LLP in 2010) in 2005. Since that time I have advised numerous public authorities in respect of development and regeneration matters. My work has regularly involved advising on mixed-use development schemes, typically comprising residential, retail and commercial components.

### Involvement with the Scheme

- 1.4 I have been advising Coventry City Council (“the **Council**”) in its capacity as the acquiring authority on the proposed redevelopment of land known as ‘city centre south’ (“the **Scheme**”) since 2014. My role has been to support the Council in the procurement of a development partner and subsequent development agreement negotiations.

## 2. SCOPE OF EVIDENCE

- 2.1 My evidence primarily relates to the basis upon which the Developer was appointed and the basis upon which the Council, as acquiring authority, is satisfied that there is a reasonable prospect of the Scheme being delivered from a funding and viability perspective.
- 2.2 In carrying out my instructions I have been assisted by officers of the Council, as acquiring authority, and its professional advisors, as well as the Developer and its professional advisors, some of whom will also provide evidence to the inquiry.

## 3. BACKGROUND TO THE SCHEME

- 3.1 The Council has longstanding ambitions to bring forward a mixed-use development project within Coventry City Centre, known as City Centre South (“**CCS**”).
- 3.2 On 8 September 2015, full Council endorsed Cabinet’s recommendation to proceed with a procurement for CCS.
- 3.3 The Council, in its capacity as landowner, commenced the procurement process on 6 November 2015.

- 3.4 Final Tenders were received on 29 July 2016. Following a period of evaluation and clarification, Shearer Property Group (“**SPG**”) was confirmed as the Council’s preferred bidder in January 2017.
- 3.5 SPG and the Council entered into detailed Heads of Terms in June 2017. These Heads of Terms provided SPG with an initial 12 month period to secure an anchor store tenant (assumed at Final Tender to be one of House of Fraser or Fenwick), with a further 6 month period to then enter into a funding agreement.
- 3.6 During autumn 2017 it became increasingly evident that there was a struggle to secure anchor store interest; with SPG advising at the time that House of Fraser was experiencing financial difficulties and Fenwick was undergoing internal restructure.
- 3.7 Through subsequent discussions between the Council and SPG it was agreed that an updated approach to the anchor store requirement would be pursued. The revised approach envisaged a prominent ‘pavilion’ building, comprising flexible space which could accommodate a diverse range of occupier types.
- 3.8 SPG further developed its scheme proposals, incorporating the pavilion concept. These outline proposals, along with the detailed Heads of Terms referred to above, informed the DA which was entered into on 21<sup>st</sup> March 2019, with the parties being:
- The Council;
  - Shearer Property Regen Limited (“**SPRL**”) (as ‘Developer’)
  - Shearer Property Group Limited (as ‘Guarantor’).

#### **Selection of an Approved Funder**

- 3.9 The DA places an obligation upon the Developer to take responsibility for securing a private sector funding and delivery partner (‘Funder’). The Funder will provide the necessary capital to meet the Developer’s obligations up to the unconditional date within the DA – the point at which all condition precedents have been satisfied and the Scheme is capable of being delivered.
- 3.10 The Funder is also required to provide a commitment in principle to fund the construction and delivery of the Scheme, subject to all pre-conditions having been met.
- 3.11 Following a selection process, SPG wrote to the Council on 22<sup>nd</sup> February 2022, seeking the Council’s approval to Hill Holdings Limited becoming the Approved Funder under the terms of the DA. The Council provided its written confirmation to this on 3<sup>rd</sup> March 2022. In my proof of evidence, Hill Holdings Limited is referred to as the “**Approved Funder**”.

3.12 Hill Residential has to date acquired a 33.3% shareholding in SPRL, which as noted above is the joint venture entity tasked with delivering the Scheme. The Share Sale and Purchase Agreement provides Hill Residential with the ultimate controlling decision, to enable it to invest in the project subject to achieving the agreed milestones.

#### **4. CONSIDERATION OF THE JUSTIFICATION FOR THE USE OF COMPULSORY PURCHASE POWERS**

4.1 Under the terms of the DA, responsibility for securing vacant possession of the land required for the Scheme resides with the Council. The Council has been making efforts to acquire the required interests by agreement and made the Council of the City of Coventry (City Centre South) Compulsory Purchase Order 2022 (the “**CPO**”) to facilitate the delivery of the Scheme.

4.2 In preparing my proof of evidence, I have had regard to the financial and funding proposals for Scheme and considered the extent to which they can offer confidence that there is a reasonable prospect that the Scheme will proceed in the context of the DLUHC Guidance on Compulsory Purchase Process and the Crichel Down Rules (the “**CPO Guidance**”).

#### **5. SUMMARY OF THE DEVELOPMENT AGREEMENT ARRANGEMENTS**

5.1 The DA is a conditional contract, which provides for the grant of a long lease of 250 years to the Developer, subject to a number of pre-conditions having been satisfied. These pre-conditions relate to matters of planning, funding, site assembly, highways, ground conditions and viability.

#### **6. SUMMARY OF THE SCHEME PROPOSALS**

##### **Current Scheme Proposals**

6.1 For the purposes of commenting upon funding and viability prospects, I have been provided with an indicative set of Scheme proposals, the particulars of which are summarised as follows:

- 1,500 residential units, of which 711 are for market sale, 489 for build to rent, and 300 for affordable housing; and
- approximately 11,600 sqm (GIA) of Class E commercial space<sup>1</sup>.

##### **Programme for Delivery**

6.2 SPRL proposes to commence demolition of the site under licence during autumn 2023, assuming that vacant possession is achieved by September 2023.

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<sup>1</sup> The SPRL appraisal excludes the former Empire Cinema, which forms part of the Revised Scheme proposals but which will continue to be held and managed by the Council.

6.3 Delivery of the Scheme is envisaged to comprise two principal phases. Phase 1 is set to commence with Block A1 in January 2024, which is on a parcel of land already cleared of buildings.

6.4 Phase 2 comprises Block D only and is due to commence in February 2029.

6.5 The Scheme is due to fully complete in September 2033.

## **7. WEST MIDLANDS COMBINED AUTHORITY FUNDING**

7.1 In order to help facilitate the delivery of the Scheme, the Council has entered into a grant agreement ('GA') with the West Midlands Combined Authority ("WMCA"). The GA provides for up to £98.8m of funding to be utilised against various enabling costs, including land assembly and demolition, as well as potentially supporting the delivery of the Scheme itself. To date, public sector spending on the Scheme has been around £15 million.

7.2 The GA has been subject to a 'change request' to reflect updates to the scheme composition. This change request has been approved by the WMCA Investment Committee and Investment Board, over the course of September and October 2022 respectively.

## **8. ASSESSMENT OF THE DEVELOPER'S FUNDING POSITION AND DEVELOPMENT APPRAISAL**

### **Funding Position**

8.1 Funding for SPRL will be provided by the Approved Funder. Tony Parker (DR2.10) explains the proposed funding arrangements within his proof of evidence.

8.2 Deloitte LLP reported to the Council that it was satisfied that the proposed funding arrangements reflect terms that are reasonably competitive in a market context and that the arrangements satisfied the requirements stipulated within the DA.

8.3 The Council has also undertaken a review of the Approved Funder's financial standing and has confirmed to me that it is satisfied that the entity is of sufficient financial strength to fulfil its obligations under the DA and the Funding Security Deed.

8.4 I am therefore satisfied that the Developer's access to funding is not an impediment to the progress of the Scheme.

### **Scheme Viability Appraisal**

8.5 The Developer has set out its assessment of the Scheme viability in an appraisal which was submitted to the Council on 26<sup>th</sup> October 2022.

8.6 The development appraisal adopts what is known as a residual approach, with anticipated development profit being the output. On the basis that the Council is tasked with assembling

the land required for the Scheme and intends to ultimately transfer its land for a nil premium, the costs of land acquisition are excluded from the Developer's appraisal.

8.7 The current Scheme calculated profit is agreed to be 12.3%. SPRL intends to proceed on that basis but is seeking to improve the profit level up to 16.5%. The likely range is therefore between 12.3% and 16.5% and the Council anticipates that SPRL will proceed within that range.

8.8 Given this commitment and as the target profit threshold is capable of being waived by the Developer, a projected shortfall at this stage is not considered an undue cause for concern. In reaching this conclusion, I have also had regard to the financial commitments made by SPRL also where there may be opportunities to further refine the Scheme.

## **9. THE ACQUIRING AUTHORITY'S POSITION**

### **Funding Support**

9.1 The Council – at its meetings of Cabinet and Full Council held on 15 November and 6 December 2022 respectively - has committed to provide up to £32.75m of funding towards the Scheme. This funding is to be utilised alongside the WMCA Grant referred to in Section 7.

### **The Statutory Basis of Disposal**

9.2 The powers for local authorities to dispose of land are contained within Section 123 of the Local Government Act 1972 and Section 233 of the Town and Country Planning Act 1990 (the "1990 Act").

9.3 The land to be transferred will comprise both interests the Council already owns and will have appropriated for planning purposes, as well as land acquired from third parties pursuant to the CPO.

9.4 The basis for determining best consideration will be made with reference to the obligations placed upon the Developer under the DA and with reference to the overage mechanism contained within the DA and will ensure that the consideration realised is the best reasonably obtainable.

### **Alternative Means of Delivery**

9.5 Given the good progress the Developer is making, particularly in the context of planning and funding, the Council considers that an alternative Council-led delivery approach is not likely to be required.

9.6 If unexpected circumstances arose where the Developer was unable to proceed with the Scheme and the DA was to terminate, the Council's fallback position would be to work with

the WMCA and seek to take on a 'Master Developer' remit. The Council would then seek to deliver enabled development phases, either directly or through disposals to private sector developers.

## **10. CONCLUSIONS**

10.1 My conclusions on the CPO are that:

- (a) the Developer has a credible and demonstrable basis of funding the Scheme; and
- (b) given the Developer's capability of delivering mixed use schemes of scale; having regard to the viability assessment presented; and in light of the opportunity for the Developer to enhance the currently indicated return that there is a reasonable prospect that the scheme will proceed.

## **11. STATEMENT OF TRUTH AND DECLARATION**

### **Statement of Truth**

11.1 I confirm that I have made clear which facts and matters referred to in my proof 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**

11.2 In preparing my Proof of Evidence, I confirm that:

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

6. my Proof complies with the requirements of the Royal Institution of Chartered Surveyors Practice Statement and Guidance Notes set out in the publication "Surveyors acting as expert witnesses" (4th edition, amended August 2020).



**Alex Morton**

**29 December 2022**