

DR 6.3

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

Rebuttal Proof of Evidence

of

Alex Morton BA (Hons) MSc MRICS

Director at Deloitte LLP

On behalf of the Council of the City of Coventry

In response to the proof of evidence submitted by:

- **Robert Fourt on behalf of Royal London**
- **Keith Hardman on behalf of Royal London**

12 January 2022

1. **INTRODUCTION**

1.1 My name is Alex Morton. Details of my qualifications and experience are set out in my Main Proof of evidence (document no. DR2.5).

1.2 In this further proof of evidence ("**Rebuttal Proof**") I adopt the same references and abbreviations as I used in my first proof, document DR2.5 (my "**Main Proof**"). This Rebuttal has been prepared to respond to:

- (a) The Proof of Evidence submitted by Robert Fourt on behalf of "Royal London"; and
- (b) The Proof of Evidence submitted by Keith Hardman on behalf of "Royal London".

in respect of the CPO.

1.3 This is not intended to be an exhaustive rebuttal of the contentions made in the evidence listed in paragraph 1.2 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 and they may be dealt with further at the Inquiry and/or in writing.

2. **THE ROYAL LONDON MUTUAL INSURANCE SOCIETY LIMITED ("ROYAL LONDON")**

Scheme Assumptions

2.1 Robert Fourt refers to what he describes as the 'Order Scheme' and the 'Alternative Scheme'. The Alternative Scheme is derived from the parameters set out in the S73 application which was granted permission on 9 January 2023.

2.2 On the basis of the S73 planning permission and the evidence submitted by SPRL, references to what Robert Fourt describes as the 'Order Scheme' are therefore not taken forward as the S73 permission is the one which is intended to be taken forward.

2.3 Where I make comparisons within this Rebuttal Proof to the viability evidence submitted, it is the Robert Fourt 'Alternative Scheme' that I have had regard to.

Provision of Development Agreement ("DA") Information

2.4 The proof of Robert Fourt refers to what he considers to be limited information provided in respect of the DA between the Council and SPRL, stating at paragraph 4.2:

"In matters such as providing evidence on viability, I normally consider the parties involved: i.e. the Council; SPRL; and Hill Residential Limited ("HRL"). This would be in the context of development agreement(s) between each. These are important for understanding such matters as acceptable returns, funding and the respective responsibilities of each party. To date I have not seen any such document(s) and assume these will be provided as part of the Council's evidence."

2.5 In this respect, I provided within my Main Proof a summary of the key relevant DA arrangements within section 5, with paragraph 5.1 summarising the conditions to the DA and the status of each one. Furthermore, my Main Proof explains at paragraph 7.2 that the West Midlands Combined Authority ("**WMCA**") grant provides funding for, amongst other things, demolition works and land assembly costs.

2.6 To summarise further, the relevant points pertinent to the DA and viability matters are as follows:

- 2.6.1 A DA dated 21 March 2019 is in place between the Council, SPRL and Shearer Property Group Limited.
- 2.6.2 This DA is a conditional contract, with the conditions precedent detailed within section 5 of my Main Proof.
- 2.6.3 The DA provides the legal mechanism for utilising the WMCA grant funding towards the Scheme, with the Council and WMCA having entered into a grant agreement dated 8 February 2018.
- 2.6.4 This WMCA grant agreement has been subject to a Change Request process, as detailed within section 7 of my Main Proof. This Change Request has been approved by both the WMCA's Investment Committee and Investment Board. The terms of the amended grant agreement have been agreed between the Council and WMCA, with a letter from Andy Street, the Mayor for the West Midlands, confirming this to be the case. This letter is provided at **Appendix AM4** to my Rebuttal Proof.
- 2.6.5 Under the terms of the DA and with reference to the WMCA grant funding, SPRL is able to draw upon the following funding streams:
- (a) WMCA funding support of £39,067,591. This is to be utilised for the recovery of demolition, enabling works, public realm works and other infrastructure works associated with the SPRL's development proposals; and
 - (b) Council funding support of £32,750,000. This is to be utilised alongside the WMCA funding for various infrastructure works and will also assist in the delivery of affordable housing.
- 2.6.6 Following the DA going unconditional, SPRL is to take all development risk, with the above grant funding streams being the maximum sums provided for within the DA.
- 2.6.7 In return for taking this development risk, SPRL is entitled to realise a development profit. The DA defines the target profit return as being 16.5% on Net Development Costs, with Net Development Costs being those costs which the developer has funded directly.
- 2.6.8 The appraisal submitted by SPRL for the purposes of the public inquiry and which I comment upon within my Main Proof indicates an anticipated profit of 12.3% on Net Development Costs. As detailed at paragraph 7.25 of the proof of Tony Parker (DR2.10), SPRL intends to proceed on this basis if required and is working on increasing this anticipated profit level where possible.
- 2.7 I consider that sufficient information with regard to the DA arrangements pertinent to the matters of viability and funding have been provided.
- 2.8 However, to assist the inquiry, a copy of the DA, with necessary commercially confidential information redactions, has been provided to the inquiry.
- 2.9 The DA has not previously been made available as there have been ongoing commercially sensitive discussions to progress variations to the DA to reflect the updated Scheme and delivery arrangements and because it will shortly therefore be varied.
- 2.10 A note summarising the key variations to the DA is to be submitted to the inquiry as an additional core document. I have also received a letter from the Council, which I include at **Appendix AM5** to my Rebuttal Proof, which confirms that all key terms are agreed and the variation to the DA is with lawyers for documenting and will be concluded in very short order. A copy, with necessary commercially confidential information redactions, will be provided when available.

Provision of information for viability purposes

- 2.11 Robert Fourt's references his previous requests for additional information for viability purposes, at paragraphs 4.5 and 4.6 of his proof.
- 2.12 The Council and SPRL provided details on the appraisal which forms the basis of the review within my Main Proof, in correspondence with Royal London's solicitors on 8 December 2022. In addition, my Main Proof and the proof of evidence of Tony Parker (DR 2.10) provided further viability related information, including an 'Argus' appraisal summary, which forms Appendix AM1 to my Main Proof.
- 2.13 Having reviewed the appraisal prepared by Robert Fourt with the equivalent appraisal referred to within my Main Proof, I note that the assumptions relating to scheme composition are similar.
- 2.14 I summarise the comparison of the respective appraisal scheme composition assumptions as follows:

Table 1: Comparison of Floor Areas

Component	Council (SPRL Appraisal)	Robert Fourt (Alternative Scheme)
Total Residential Net Floor Area (sq ft)	1,064,804	1,086,110
Commercial Net Floor Area (sq ft)	125,337	204,515
Total Net Floor Area (sq ft)	1,190,141	1,290,625
Residential Gross Floor Area (sq ft)	1,448,148	1,448,147
Commercial Gross Floor Area (sq ft)	125,337	215,279
Total Gross Floor Area (sq ft)	1,573,485	1,663,426

- 2.15 As Table 1 indicates, Robert Fourt has adopted the same residential gross floor area as SPRL.
- 2.16 Robert Fourt has then assumed a residential net internal area which is 2% greater than that adopted by SPRL. This is as a result of SPRL assuming a gross to net efficiency of 73% and Robert Fourt assuming a gross to net efficiency of 75%. The approach taken by Robert Fourt is not unreasonable and is consistent with the comment that I make at paragraph 8.27 of my Main Proof that I would anticipate gross to net efficiency of between 75% and 80% could be achieved through more detailed design.
- 2.17 With regard to the commercial floor areas, it appears that Robert Fourt has adopted a set of assumptions which reflect the upper end of the range provided for within the parameters in the S73 application submitted by SPRL. In contrast, SPRL has adopted floor areas at the lower end of the parameters. The assumptions with regard to the commercial floor areas adopted by SPRL are made clear within my Main Proof.
- 2.18 In summary, I consider that that the Council and SPRL have provided sufficient information in advance of the public inquiry to enable Royal London and other objectors to base their own viability assessments off consistent assumptions with regard to floor areas and scheme composition.

Provision of Cost and Value Assumptions

- 2.19 Assumptions with regard to value and cost variables are for each party to make their own assessment of. SPRL has set out its assumptions within the proof of evidence submitted by Tony Parker (DR2.10) and which are also referred to within my Main Proof, which

supplemented information provided by the Council to Royal London's solicitors on 8 December 2022.

- 2.20 Having reviewed the proof of evidence of Robert Fourt, it appears that the different conclusions he has arrived at with regard to the viability of the scheme have been primarily driven by the cost and value assumptions he has made.

Comparison of Viability Assessments

- 2.21 I have provided a summary comparison of the appraisal prepared by SPRL (and referred to within my Main Proof) and the appraisal prepared by Robert Fourt within Table 2. This summary is derived from the 'Argus' appraisal summaries appended to our respective proofs of evidence, with some cost items amalgamated to allow for ease of comparison.

Table 2: Appraisal Comparison

Variable	SPRL	Robert Fourt	Difference
Private Sale Revenue	£191.9m	£163.5m	-£28.3m
Build to Rent Revenue	£112.2m	£113.4m	£1.2m
Affordable Revenue	£62.5m	£42.4m	-£20.0m
Total Residential Revenue	£366.6m	£319.4m	-£47.2m
 Commercial Revenue (Net)	 £31.3m	 £48.6m	 £17.3m
 Gross Development Value	 £397.9m	 £368.0m	 -£29.8m
Costs			
Acquisition Costs	£0.9m	£0.0m	-£0.9m
Construction Costs and Professional Fees	£413.4m	£425.2m	£11.8m
Sales and Marketing Costs	£8.0m	£9.1m	£1.0m
S106 Costs	£0.0m	£3.0m	£3.0m
Finance Costs	£3.8m	£184.0m	£180.2m
Historic Costs	£0.0m	£15.0m	£15.0m
Servicing Costs	£0.0m	£2.0m	£2.0m
Gross Development Costs	£426.2m	£638.3m	£212.1m
 Grant Funding	 £71.8m	 £0.0m	 -£71.8m
 Net Development Costs	 £354.4m	 £638.3m	 £283.9m
 Profit	 £43.5m	 -£270.3m	 -£313.8m

- 2.22 I have highlighted the differences within Table 2, where there is a difference between the respective appraisals of +/- £2m. As Table 2 indicates, the areas where such differences apply related to:

- (a) Private Sales Revenue;
- (b) Affordable Housing Revenue;
- (c) Commercial / Retail Revenue;

- (d) Construction Costs;
- (e) S106 Costs;
- (f) Historic Costs; and
- (g) Finance Costs.

2.23 Taking each of these items in turn, I comment as follows:

Private Sales Revenue

- 2.24 As I have explained above, Robert Fourt has adopted the same gross internal floor areas for the private residential units as SPRL. The principal reason for the difference in revenue attributed to the private residential units appears therefore to be a product of the respective sales value assumptions adopted. The assumptions Robert Fourt has adopted equate to an average value of £307 psf, compared to £368 psf adopted by SPRL.
- 2.25 In arriving at its assumptions and as explained further within the proof of evidence of Tony Parker (DR2.10), SPRL has sought external residential sales advice provided by Savills on its behalf, as well as the insight of Hill Residential's internal sales team. Tony Parker has provided further information in his Rebuttal Proof.
- 2.26 In undertaking my own investigations, I had regard to a number of the comparable schemes referenced by Robert Fourt within his proof of evidence. In addition, I had regard to the refurbishment of the former Co-Operative building for 62 apartments. This development is located within close proximity to the Scheme and was completed in 2019. The evidence I derived from that scheme indicates average sales values of approximately £314 psf when it first completed in 2019, with more recent re-sales achieving values of up to £350 psf.
- 2.27 Within my Main Proof, I make the comment that the sales values adopted by SPRL reflect a premium over those achieved within Coventry city centre. I attributed this to what developers often term a 'regeneration premium', arising from delivering a scheme of a scale and quality not previously realised. I have seen developers assuming and realising similar assumptions on other regeneration of projects of scale and concluded that it was not an unreasonable position for SPRL to have adopted.

Affordable Housing Revenue

- 2.28 As I explain within my Main Proof at paragraph 8.19 and as detailed within the proof of evidence of Tony Parker (DR2.10), SPRL based its affordable housing value assumptions from bids received from three Registered Providers. I understand that SPRL has now reduced this shortlist to two parties, with further detail offered within the Rebuttal Proof of Tony Parker.
- 2.29 The particulars of the Registered Provider bids were shared with me in the preparation of my evidence and were also reviewed by Deloitte LLP's affordable housing team. I am satisfied that the assumptions SPRL has adopted have been arrived at on a reasonable basis.

Commercial / Retail Revenue

- 2.30 The assumptions adopted by Robert Fourt in respect of rental values, incentives and yield are similar to those adopted by SPRL. The difference between the two appraisals appears to be driven by Robert Fourt adopting a larger floor area, as I explain within paragraph 2.17 above.

Construction Costs

- 2.31 The construction costs (including professional fees and contingencies) adopted by Robert Fourt are approximately 3% greater than those adopted by SPRL. This difference in itself is relatively modest and even more so when considered in the context of Robert Fourt having

adopted a gross floor area which is approximately 5.7% greater (as a result of the retail floor area discrepancy I explain within paragraph 2.17 above).

S106 Costs

- 2.32 There is a S106 Deed of Variation agreed as part of the S73 planning permission. This S106 Deed of Variation sets out the following contributions:
- £2,110,699 for NHS
 - £1,146,032 for Primary Health Care
 - £14,188,383 for education (early years, primary, secondary and post 16)
- 2.33 These figures are similar to those in the existing s106 agreement other than an increase in the Primary Health Care and education contributions, effectively in line with the increase in maximum dwellings from 1,300 to 1,500.
- 2.34 As with the existing S106 agreement, these payments would only be made subject to viability and at present, the amount able to be paid towards them is nil. Therefore I am satisfied that SPRL was correct in making no S106 cost allowances within its appraisal.

Historic Scheme Costs

- 2.35 Robert Fourt includes £15m of what he terms 'Historic Scheme Costs'.
- 2.36 These costs relate to early land acquisitions the Council has made and also the demolition of the former Coventry Point Tower, which was undertaken by the Council.
- 2.37 As explained within paragraph 2.6 above, the costs of demolition and land assembly are recoverable under the grant funding agreement with the WMCA. The Council has recovered these historic scheme costs on this basis and therefore they are to be excluded from the viability appraisal.

Finance Costs

- 2.38 As indicated within Table 2, financing costs represent the most significant difference between the SPRL appraisal and Robert Fourt's assessment.
- 2.39 From the information provided within Robert Fourt's evidence, I attribute this to the following factors:
- (a) **Grant Funding** – Robert Fourt has excluded all of the WMCA Grant Funding and Council contributions. As these can be utilised towards a range of early works, including demolition and various infrastructure works, this grant funding significantly reduces the call upon developer equity and third party debt in the early stages of development;
 - (b) **Finance Rate** – Robert Fourt has adopted a blended cost of finance of 8.5%. In comparison, SPRL has adopted 7.5% (including bank fees) for debt finance and 5% for its equity, which blends to around 6.5%. However, the SPRL finance assumptions are based upon the requirements of the Approved Funder and the terms of the RCF Facility which it has in place, as explained by Tony Parker within his proof of evidence (DR2.10); and
 - (c) **Cashflow Assumptions** – at paragraph 8.10 of his proof of evidence, Robert Fourt states that he has assumed "two singular sales proceeds on practical completion", in respect of the Build to Rent blocks. This approach differs from that adopted by SPRL, which assumes that the Build to Rent

investor makes staged payments throughout the construction period of the relevant block(s), therefore reducing the need for the developer to fund works through debt or equity. The SPRL approach is consistent with the forward funding terms that Build to Rent investors often adopt.

- 2.40 As I explain within my Main Proof, I replicated the SPRL appraisal within the *Argus* software package, adopting the cashflow, grant funding and financing assumptions provided. This produced a total cost of finance which was consistent with what SPRL had advised.

Sensitivity Analysis

- 2.41 Robert Fourt refers to the importance of undertaking sensitivity analysis and provides two summary tables at paragraph 10.10 of his proof of evidence.
- 2.42 As I commented upon within paragraph 8.27 of my Main Proof, I undertook my own sensitivity analysis in reviewing the SPRL appraisal. This analysis focused upon improvements to the 'gross to net' efficiency, which I considered was a variable within SPRL's capability to improve upon through further detailed design.

Viability Conclusions

- 2.43 Whilst Robert Fourt has arrived at a significantly different viability outcome to that presented by SPRL, I consider that this can be largely explained by his exclusion of grant funding and adoption of alternative financing arrangements to those proposed by SPRL, which in turn results in Robert Fourt adopting financing costs which are c.£180m more than those assumed within the SPRL appraisal.
- 2.44 The revenue variances relate primarily to private sale and affordable values. The latter is supported by proposals received from Registered Providers. Private sales assumptions reflect a premium over what is currently being achieved in Coventry but is an area in which SPRL specialises and a risk for which it seeks to be rewarded through its profit expectations.
- 2.45 The cost variances (beyond financing) are either minor or reflect a misunderstanding, as is the case in respect of the allowances erroneously made for S106 costs and 'historic scheme costs'.
- 2.46 On this basis, the evidence provided does not lead me to change the conclusions that I set out within my Main Proof, with regard to the funding and viability prospects for the Scheme.

West Midlands Combined Authority Grant and Coventry City Council Funding

- 2.47 Within his proof, Keith Hardman considers there to be uncertainty regarding the availability of funding from the West Midlands Combined Authority ("WMCA") and the Council, to sustain the viability of the Section 73 application scheme.
- 2.48 Following submission of a Full Business Case and associated Change Request to WMCA in August 2022, £98.9m of grant funding (of which £60m has already been drawn down) was approved by WMCA's Investment Panel on 26 October and Investment Board on 17 October 2022. A new Deed of Variation and a Grant Funding Agreement, setting out the conditions relating to grant drawdown, are currently being concluded between WMCA and the Council and will be finalised in short order.
- 2.49 In addition to the £98.9m of grant funding awarded by WMCA, the Council is providing funding support of £32.75m to address the remaining viability gap demonstrated by the scheme. As I explain at paragraph 9.1 of my Main Proof, this funding contribution has been approved by the Council's Cabinet and Full Council. The combination of the WMCA grant funding and the Council's contribution represents the total public funding required by the developer to sustain the viability of the Section 73 application scheme.

- 2.50 Keith Hardman's proof refers to WMCA's net additional floor area output "requirements", which are set out in the Council's response to the Schedule 1 requests (letter dated 11 December 2022 Schedule 1 Requests section 3). For clarity, the outputs set out within the Council's response are net additional with reference to the previous Business Case scheme, and not net additional compared to the existing accommodation.
- 2.51 Further, the outputs are expressly stated as anticipated outputs and do not constitute "requirements" for WMCA's purposes. The scheme has evolved since the time these outputs were set out as part of the Change Request process, as detailed within section 7 of my Main Proof, and the anticipated outputs associated with the Section 73 permission scheme have therefore evolved correspondingly.
- 2.52 Following the recent grant of the Section 73 planning permission, SPRL will produce a Benefits Realisation Plan, which sets out the expected objectives and outputs related to the scheme. The Benefits Realisation Plan will be used to monitor the scheme's progress against these metrics over the development period. The Benefits Realisation Plan will be provided to WMCA before drawdown of any funds related to construction.
- 2.53 Within his proof, Keith Hardman considers the minutes from the WMCA Investment Board meeting, which reference the decision of the WMCA not to apply an intervention rate when considering the grant funding request. Although it is not explained within Keith Hardman's proof, I understand the meaning of 'intervention rate' to be the amount of a scheme's funding requirement which has been met by public sector grant.
- 2.54 As I was not in attendance at the WMCA Investment Committee meeting, I am unable to comment on the discussion that took place beyond that which is detailed in the Minutes provided. However, I consider the point to be largely academic given WMCA took the decision not to apply an intervention rate in this instance. I am not in a position to speculate on why this decision was made.

3. CONCLUSION

- 3.1 For the reasons above, I continue to consider that neither the availability of funding nor viability considerations reflect impediments to delivery and that there clearly remains a reasonable prospect that the Scheme will proceed.

4. STATEMENT OF TRUTH AND DECLARATION

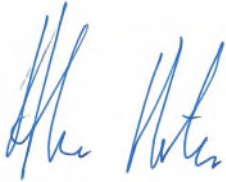
Statement of Truth

- 4.1 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

- 4.2 In preparing this Rebuttal Proof, I confirm that:
1. my Rebuttal 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

12 January 2023



11th January 2023

To whomever it may concern,

Re: Coventry City Centre South and The Council of the City of Coventry (City Centre South) Compulsory Purchase Order 2022

As Mayor of the West Midlands, I would like to provide this letter of support in relation to the Coventry City Centre South Scheme and the associated Compulsory Purchase Order that has been made by the City Council.

Coventry City Centre South will be transformational for Coventry and the wider West Midlands. It will bring much needed new homes to the region and create a step change in quality for Coventry city centre. Importantly, it will turn a challenged and declining urban environment into a set of thriving new communities supported by a mix of retail, leisure, and community facilities. It will also ensure these new homes are delivered through the effective reuse and reimagining of existing brownfield land which is a key priority for partners across the West Midlands.

The scheme's delivery is a key priority for the West Midlands Combined Authority (WMCA) which is evidenced by the significant grant support being provided by the WMCA. Our commitment to the Scheme is further evidenced by a formal set of Decisions being taken by the WMCA's Investment Board on the 17th October 2022 which has authorised the restructuring of elements of the grant funding to further optimise and support Scheme delivery. This is being captured through formal Variations to the Grant Agreement and I am advised that all key commercial terms are agreed between the City Council and the WMCA.

The scheme will provide a thriving commercial and residential space in the city centre and has my full support.

Yours sincerely,

A handwritten signature in blue ink that reads "Andy Street".

Andy Street
Mayor of the West Midlands



FAO Mr Alex Morton
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12 January 2023

Dear Alex

Coventry City South CPO Inquiry

You have asked me to confirm from the Council's perspective the status of the variation to the Development Agreement with SPRL in respect of the City Centre South Scheme ("the Scheme").

As you know, I am the Director of Property Services and Development for Coventry City Council responsible for a diverse portfolio including development, regeneration, property, capital programmes and facilities management. I have overall project responsibility for the Coventry City Centre South project and am directly involved in the variation to the Development Agreement with SPRL to reflect the refinements to the Scheme and its delivery.

You are of course directly involved in the variation and can deal with any relevant matters directly, but I can confirm for the benefit of the CPO Inquiry that from the Council's perspective that the key terms are agreed and are now with the lawyers for documenting. We anticipate the variation will be concluded very shortly, in a matter of weeks.

From the Council's perspective, it is clearly evident that there is a reasonable prospect of delivery of the Scheme. The Council is delighted at the progress made and looks forward to successful delivery of the Scheme to help continue the transformation of Coventry City Centre and act as a further catalyst for investment in Coventry.

Please do let me know if I can help further.

Kind regards

Richard Moon
Director (Property Services & Development)