

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 of Proposed Amendments to the Development Agreement between:

The City of Coventry Council (“**the Council**”;

Shearer Property Regen Limited (“**SPRL**”) (as ‘Developer’)

Shearer Property Group Limited (as ‘Guarantor’).

17 January 2023

1. INTRODUCTION

- 1.1 As set out within the proofs of evidence of Andy Fancy (DR 2.4), Alex Morton (DR2.5), and Tony Parker (DR2.10), there is an existing development agreement (“DA”) between the Council and SPRL.
- 1.2 In order to facilitate the delivery of Scheme following the approval of Hill Holdings Limited as the “Approved Funder”, some amendments are required to the DA. These amendments will be documented through a Deed of Variation which the DA allows for in Clause 7.4.1 and which is expected to be finalised shortly.
- 1.3 For the purposes of the inquiry and as set out within the letter to Alex Morton from the Council's Director of Property Services and Development (appended to Alex Morton's Rebuttal Proof DR6.03), the key terms of the proposed amendments are agreed.
- 1.4 This document provides a summary of these key terms, so as to assist the inquiry. It should be read alongside the existing DA, which has been provided in a partially redacted form to the inquiry.
- 1.5 It should also be read alongside the attached plan from the S73 planning permission, which illustrates the location of the development blocks referred to.

2. PROPOSED AMENDMENTS TO DEFINITIONS WITHIN THE DA

- 2.1 A limited number of definitions within the DA have been updated or added to, in order to reflect the current funding and planning arrangements for the City Centre South development.
- 2.2 Table 1 provides a summary of the key updates and additions.

Table 1: New and Amended Key Definitions

Definition	Changes	Rationale
“Approved Funder”	This has been updated to read: <i>‘means Hill Holdings Limited (company number 04202304) being the Funder pre-approved by the Council in satisfaction of clause 7.1’</i>	To reflect the proposed funding arrangements.
“Affordable Units”	New definition to mean: <i>‘Residential Units within the Development which are to be provided as either:-</i> <ul style="list-style-type: none"> <i>Shared Ownership Units; or</i> <i>Social Rented Units’</i> 	To reflect the inclusion of affordable housing units within the scheme as a Council (in its capacity as landowner) requirement.
“Commercial Works”	Updated definition, which captures the removal of the Anchor Store and Car Park (as defined in the existing DA. The updated definition also modifies the other Commercial Works to include: <ul style="list-style-type: none"> Provision of retail, leisure and medical Commercial Units comprising a minimum Gross 	This is to reflect the updated scheme design proposals and is consistent with the S73 planning permission and the viability appraisal prepared by SPRL.

Definition	Changes	Rationale
	<p>Internal Area of 13,275 sqm and a maximum Gross Internal</p> <ul style="list-style-type: none"> The option (subject to occupier demand) to provide a hotel comprising at least 60 rooms. 	
“Empire Building Site”	New definition which relates to the former Empire cinema site, which currently operates in part as the ‘HMV Empire’ music venue.	The parties have agreed to physically retain this building. Certain works will be required to it, which will be captured elsewhere in the DA.
“Golden Brick”	This is a new definition, which relates to the stage of construction at which works have progressed beyond the foundation stage.	This is to reflect the inclusion of affordable housing units, with Golden Brick being a relevant milestone for the grant of an underlease to a Registered Provider.
“Headlease Term”	This definition has been updated to provide the ability of any block or sub block designated to affordable housing to have a Headlease term of 990 years.	This is to reflect the inclusion of affordable housing units and statutory requirements needed for registered providers and housing associations.
“Material Change”	<p>This definition has been updated, to include provisions that the following would constitute a Material Change:</p> <ul style="list-style-type: none"> The provision of less than 20% Affordable Units The delivery of less than 65% of the Affordable Units in Phase 1 The provision of less than 1,350 new homes and/or the provision of more than 1,500 new homes A reduction in the Gross Internal Area of the Commercial Works below 13,275 sqm <p>The definition has also been amended to remove references that are no longer applicable in respect of the Car Park and the Anchor Store.</p>	This has been updated to reflect the incorporation of Affordable Units and changes to the Commercial Works and Residential Works as summarised above.
“Planning Permission”	<p>This has been updated to read:</p> <p><i>‘means the planning permission granted on 27 January 2022 in respect of the application for outline planning permission for the Development with application number OUT/2020/2876’</i></p>	To reflect the updated planning position.
“Qualifying Pre-Construction Works” and “Qualifying Construction Works”	New definitions which relate to works SPRL can draw down WMCA grant funding and the Council contribution against.	To reflect the proposed public funding arrangements.

Definition	Changes	Rationale
"RCF"	This has been updated to read: <i>'means the Revolving Credit Facility dated 7 December 2021 made between Hill Holdings Limited, National Westminster Bank plc and others.'</i>	To reflect the proposed funding arrangements.
"Suitable Substitute"	New definition which outlines the basis upon which the Approved Funder could propose a suitable substitute developer in the event of a default or potential termination event.	To reflect the proposed funding arrangements.

3. PROPOSED AMENDMENTS TO THE CLAUSES WITHIN THE DA

- 3.1 A limited number of changes and additions have been made to the following clauses within the DA. The key changes are summarised within Table 2 below.
- 3.2 As with the definitions, these changes have been made to reflect the specific funding and planning arrangements which are now in place to facilitate the delivery of the City Centre South development.

Table 2: New and Amended Key Clauses

Clause	Changes	Rationale
Clause 15 (Empire Cinema)	A new sub-clause has been added to address the basis upon which the Empire Site will be physically retained. Owing to the inter-relationship of these arrangements with the tenancy arrangements of the occupier, no further details can be provided at this stage on the grounds of commercial sensitivity.	The parties have agreed to physically retain this building. Certain works will be required to it and new landlord and tenant arrangements will be put in place.
Clause 16 (Council's Obligations and Payment Provisions)	This clause has been updated to reflect the agreed public contributions towards the scheme: <ul style="list-style-type: none"> WMCA funding support of £39,067,590. 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 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. The clause sets out the basis upon which the Council will make these funding sources available to SPRL and	As explained within the Proof of Evidence and Rebuttal Evidence prepared by Alex Morton of Deloitte LLP, WMCA and Council funding arrangements have been agreed. On the basis that the grant agreement is between the WMCA and the Council, the DA provides the legal basis upon which SPRL can access the relevant funding.

Clause	Changes	Rationale
	is to be read alongside a new Schedule 12, which is summarised later within this document.	
Clause 18 (Management Strategy and Meanwhile Use Strategy)	A new sub-clause has been added to reflect a new requirement for the parties to agree a 'meanwhile use' strategy prior to the unconditional date.	It is the intention of both parties to have a meanwhile use strategy in place, which helps to both maintain the viability of the scheme area during development and also helps to complement SPRL's sales and marketing activities.
Clause 20 (Grant of Building Licences, Completion of the Block Head Leases or Sub-Block Head Lease)	<p>This clause has been updated to reflect the specific phasing arrangements for the scheme. This clause is to be read alongside the updated Schedule 13, which collectively set out the proposed lease drawdown arrangements. These arrangements can be summarised as follows:</p> <ul style="list-style-type: none"> Following the Unconditional Date and the grant of vacant possession, the Developer will be granted a licence to undertake the Demolition Works. These Demolition Works are to be concluded within a 24 month period. Following the completion of the Demolition Works, SPRL will have up to 6 months to accept the headlease for Blocks A1, A2 and B. There are obligations upon SPRL to develop these blocks, with target and ultimate longstop provisions. The ultimate longstop provisions equate to a period two times the estimated build period for each block. The drawdown of Blocks C and D will be conditional upon defined progress milestones being achieved in respect of Blocks A1, A2 and B. There will be longstop dates by which the headleases for Blocks C and D must have been accepted. Once headlease for Blocks C and D have been accepted, target and ultimate longstop date provisions will apply, adopting the same principles of Blocks A1, A2 and B. 	<p>An overarching requirement for the Council is to secure the comprehensive delivery of the scheme.</p> <p>The proposed licence and lease drawdown provisions help to secure this and also help to mitigate the risk of the developer 'cherry picking' which block(s) to deliver.</p> <p>The longstop provisions reflect typical industry arrangements, whereby they provide sufficient time for the developer to re-build a block in the event of a catastrophic event prior to practical completion.</p>

Clause	Changes	Rationale
Clause 33 (Marketing, Letting and Sales and Block D)	The sub-clauses which related to the potential disposal of Block D have been deleted.	SPRL intends to deliver the entire scheme.

4. PROPOSED AMENDMENTS TO THE SCHEDULES WITHIN THE DA

- 4.1 A limited number of changes and additions have been made to the schedules within the DA. The key changes are summarised within Table 3 below.
- 4.2 As with the other amendments summarised above, these changes have been made to reflect the specific funding and planning arrangements which are now in place to facilitate the delivery of the City Centre South development.

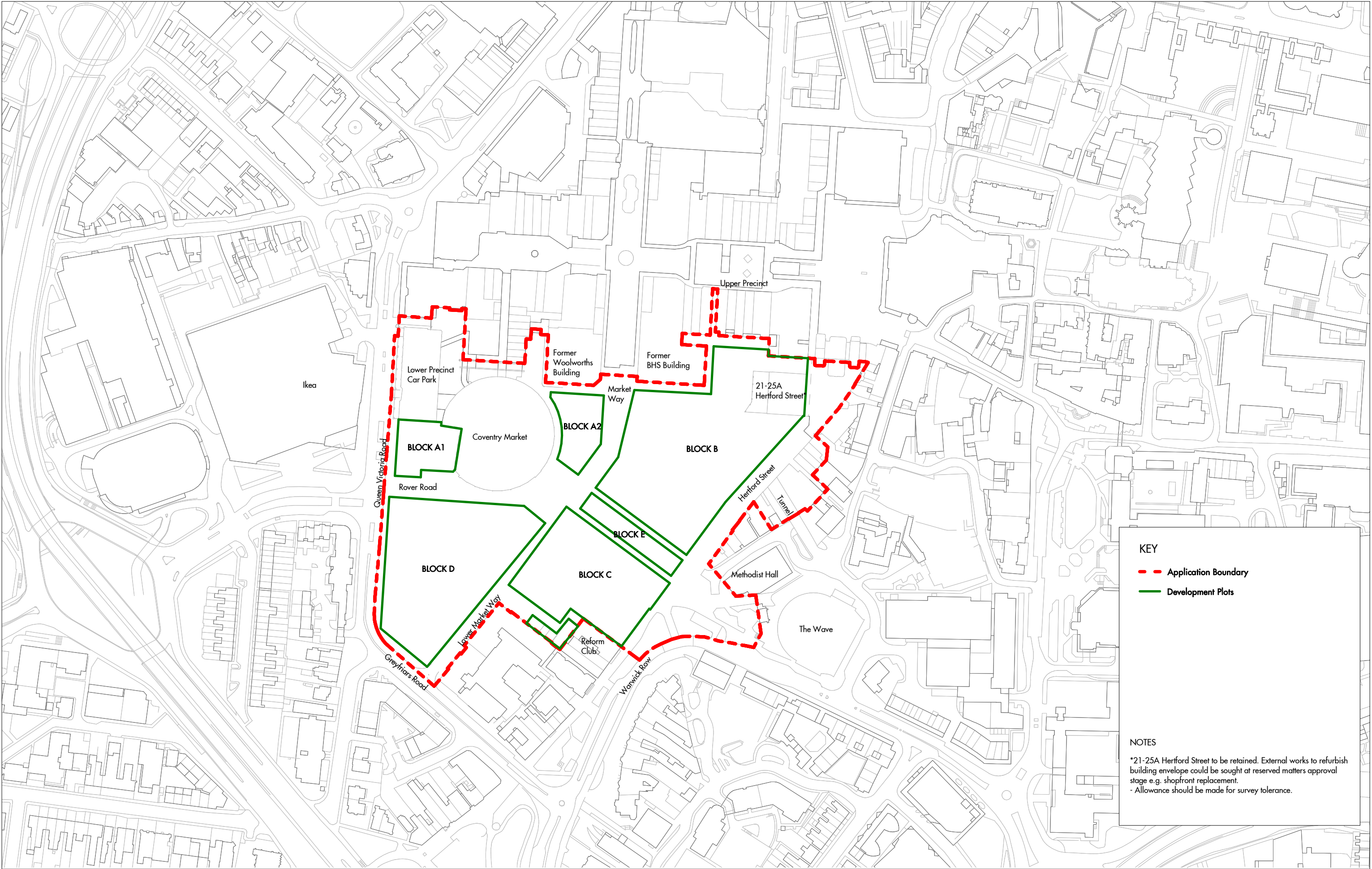
Table 3: Key amendments to the DA Schedules

Clause	Changes	Rationale
Schedule 4 Head Lease Completion Mechanics	<p>This schedule has been updated and amended to cater for the following:</p> <ul style="list-style-type: none"> • The inclusion of 'sub-block' leases. • Restrictions on leases granted for blocks and sub-blocks comprising Affordable Units, that prohibits alternative uses of these blocks. • A provision to restrict the occupation of a final tranche of residential units within Block D, until Blocks E1 and E2 have practically completed. • Specific arrangements to cater for the grant of underleases to Registered Providers and Build to Rent Investors. 	These amendments are required to help facilitate the proposed funding and delivery arrangements and the inclusion of Affordable Units within the scheme.
Schedule 6 (Overage)	This schedule has been updated to allow the Council to realise a 50% share of any overage which may become payable.	These amendments reflect the additional funding the Council is making to the scheme.
Schedule 10 Contribution to the Works	<p>This schedule has been added to set out the basis upon which the Council funding contribution is to be drawn down. Provisions which have been agreed include the following principles:</p> <ul style="list-style-type: none"> • the contribution can be only drawn down in arrears against qualifying works; • qualifying works expenditure will be subject to the approval of the Certifying Consultant; and • payments will be subject to neither the Developer nor the Approved Funder being in breach of the DA and/or putting the Council in breach of the WMCA grant agreement. 	The addition of this schedule is necessary to cater for the inclusion of a Council financial contribution towards the delivery of the scheme.

Clause	Changes	Rationale
Schedule 12 Total Works Contribution	This sets out the basis upon which the WMCA funding and Council financial contribution is both arrived at and drawn down.	This schedule reflects the specific funding arrangements agreed with the Council and the WMCA. They are designed to regulate the release of these funding streams against delivery of works.
Schedule 13 Sequencing of Blocks	<p>This Schedule has been updated to reflect the arrangements summarised against the Clause 20 amendments above.</p> <p>The Schedule sets out the following for each block:</p> <ul style="list-style-type: none"> • any specific additional pre-conditions to satisfy • A target longstop date; and • an ultimate longstop date. 	<p>An overarching requirement for the Council is to secure the comprehensive delivery of the scheme.</p> <p>The proposed licence and lease drawdown provisions help to secure this and also help to mitigate the risk of the developer 'cherry picking' which block(s) to deliver.</p> <p>The longstop provisions reflect typical industry arrangements, whereby they provide sufficient time for the developer to re-build a block in the event of a catastrophic event (e.g. a fire) prior to practical completion.</p>

17th January 2023

Appendix 1: S73 Block Plan



KEY

- Application Boundary
- Development Plots

NOTES

*21-25A Hertford Street to be retained. External works to refurbish building envelope could be sought at reserved matters approval stage e.g. shopfront replacement.
- Allowance should be made for survey tolerance.

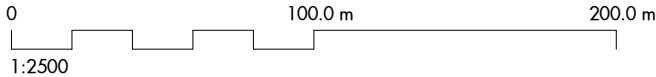
Figured dimensions are in millimetres unless noted otherwise. All dimensions and levels shall be verified on site before proceeding with works. Detailed site survey to be carried out to verify positions and level relationships with site features and ordinance survey. The Architect must be notified of any discrepancy. Boundaries are indicative only and are to be verified by others.

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REV	DATE	DESCRIPTION	CKD
P1	04/11/22	ISSUED FOR PLANNING	CH



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Coventry City Centre South

Site Context Plan

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SCALE 1 : 2500 @A3

P1

Revision