

Our Ref: DW:100086.0017

7 March 2023

The Secretary of State for Levelling Up, Housing and Communities
Planning Casework Unit
23 Stephenson Street
Birmingham
B2 4BH

By post and by e-mail: pcu@levellingup.gov.uk

Dear Sir or Madam

The London Borough of Haringey (High Road West Phase A) Compulsory Purchase Order 2023

1. INTRODUCTION

This firm acts for Canvax Limited, Goodsyard Tottenham Limited, Meldene Limited, Tottenham Hotspur Stadium Limited, Paxton17 Limited, Stardare Limited and High Road West (Tottenham) Limited – for the purpose of this letter we refer to these companies collectively as “Our Clients”.

All of these companies are either group companies within the Tottenham Hotspur Football Club (“THFC”) group structure, or otherwise connected to THFC as group companies of THFC’s ultimate parent company.

Our Clients have been served with notice of the making of the London Borough of Haringey (High Road West Phase A) Compulsory Purchase Order 2023 (“the CPO”).

Canvax Limited is the owner of land comprised within Plots 45, 46, 47, 48, 48a, 51, 52, 77 and 78 within the CPO. It owns a leasehold interest in Plot 67. The CPO seeks the acquisition of these interests.

Canvax Limited has also been included within Table 2 of the Book of Reference as a qualifying person pursuant to Section 12(2A)(b) in respect of Plots 48a, 49a, 53, 60, 61, 64, 65, 65a, 65b, 66, 67, 68, 72, 75, 86, 94, 95, 96, 97, 98, 99, 100, 108, 110, 111, 112, 113 and 114.

Goodsyard Tottenham Limited is the owner of land comprised within Plots 103, 104 and 105 within the CPO. The CPO seeks the acquisition of crane oversailing rights in respect of these Plots.

Canvax Limited, Goodsyard Tottenham Limited, Tottenham Hotspur Stadium Limited, Meldene Limited, Paxton17 Limited, Stardare Limited, High Road West (Tottenham) Limited have all been included within the Rights of Light Table in the Book of Reference.

Having reviewed the Book of Reference, our Clients are concerned that some properties have been included whilst other adjoining properties have not. THFC is reviewing the Rights of Light impact of the Scheme and it may be that other THFC land owning companies should have been included.

Our Clients are “qualifying persons” for the purpose of Section 12(2) of the Acquisition of Land Act 1981 (“the 1981 Act”).

Our Clients object to the CPO and this letter represents a “relevant objection” for the purpose of Section 13(6) of the 1981 Act. Our Clients wish for their objection to be considered at a public inquiry.

Our Clients object to the CPO for the following reasons:

- i. The purpose for which the land is proposed to be acquired is inconsistent with the Local Plan for the area;
- ii. The purported economic, social and environmental benefits are overstated and there is a real prospect that many will not actually be delivered;
- iii. There is no evidence that the CPO scheme is viable and there is a real risk that it will not be delivered;
- iv. The planning permission underlying the CPO scheme is currently subject to challenge pursuant to a claim for judicial review and, if successful, the absence of planning permission represents an impediment to delivery;
- v. The CPO scheme will give rise to unacceptable safety impacts to visitors attending the Tottenham Hotspur Stadium; and
- vi. High Road West could be developed in an alternative way, that would be fully consistent with the Local Plan and deliver far greater economic, social and environmental benefits.

In summary there is no compelling case in the public interest to justify the confirmation of the CPO.

2. BACKGROUND AND LACK OF ENGAGEMENT

The London Borough of Haringey (“the Council”) granted planning permission for the High Road West scheme (ref HGY/2021/3175) on 31 August 2022 (“the High Road West Planning Permission”).

However, the CPO has been made only in respect of land forming part of the development authorised by the High Road West Planning Permission – being that part of the development lying south of White Hart Lane (“the Scheme”).

Section 2 of the Statement of Reasons purports to set out the background to the High Road West scheme and the steps leading to the making of the CPO. In turn Section 3 (and in particular paragraphs 3.29 to 3.36) seek to summarise the Council and Lendlease’s engagement with THFC regarding the Scheme.

These sections of the Statement of Reasons are partial and deeply misleading in a number of material respects.

First, they fail to properly record THFC’s key involvement in the origins of the development of the High Road West concept leading to the adoption of the High Road West Masterplan. The proposed regeneration of High Road West was crucial to THFC’s decision to invest

over £1bn in the Tottenham Hotspur Stadium and associated Northumberland Development Project.

Secondly, these paragraphs (and the Statement of Reasons as a whole) fail to fully set out the extent to which the CPO Scheme departs from the Tottenham Area Action Plan and the adopted Masterplan.

Thirdly, they misleadingly imply that THFC was fully consulted in the development of the planning application which led to the grant of the High Road West Planning Permission on 31 August 2022 on which the Scheme is now predicated.

Fourthly, they fail to record that THFC strongly objected to the planning application and has brought a claim for judicial review against the grant of the High Road West Planning Permission.

There was no meaningful consultation or engagement with THFC (from either the Council or Lendlease) regarding either the design or composition of Scheme or in respect of the impacts of the Scheme on the operation of the Tottenham Hotspur Stadium prior to the making of the planning application on which the CPO is now based.

In turn there have only been very limited attempts to acquire our Clients' interests by agreement.

THFC is fully supportive of the desire to secure the regeneration of High Road West and the wider North Tottenham area. It is the largest landowner within the wider High Road West area north of White Hart Lane and has secured planning permissions for its sites to seek to expedite the regeneration of the area.

However, THFC considers that the Scheme underlying the CPO will fail to meet the longstanding policy aspirations for the area and risks repeating past failed attempts to regenerate North Tottenham.

3. CONSISTENCY WITH LOCAL PLAN

Paragraph 106 of the Secretary of State's "Guidance on Compulsory Purchase and the Crichel Down Rules" (updated July 2019) ("the Guidance") sets out the factors the Secretary State can be expected to consider when making a decision whether or not to confirm the CPO.

The first factor is whether the purpose for which the land is being acquired fits within the adopted Local Plan for the area.

The Scheme is inconsistent with the principles and detail of the Tottenham Area Action Plan (TAAP) which forms the most important part of the development plan for the purpose of assessing this factor.

The description of the Site Allocation for High Road West (NT5) is set out in paragraph 5.125 of the TAAP as follows: '*Masterplanned, comprehensive development creating a new residential neighbourhood and a new leisure destination for London*'.^[our emphasis] However, neither the High Road West Planning Permission nor the Scheme quantitatively or qualitatively provide for the required new leisure destination for London – which is the key objective of the relevant planning policy framework.

The High Road West Planning Permission commits to just 500 sqm. GEA of dedicated leisure uses (indoor sports, recreation, fitness), representing just 0.2% of the minimum floorspace of what is permitted. Even taking into account the maximum ranges allowed for and potential inclusion of cinema floorspace (which there is no requirement in the Planning Permission to deliver), it is clear that the permitted scale and composition of leisure uses would not come close to delivering a new leisure destination for London to complement existing provision (including the Tottenham Hotspur Stadium which lies directly to the east of the Order Land).

This matters because it means that the Scheme fails to deliver key objectives in planning policy and conflicts with detailed policies in the TAAP including:

- The Key Neighbourhood area objective (TAAP paragraphs 5.85 and 5.86) - which seeks to transform the North Tottenham Neighbourhood Area into a new leisure and residential destination for London against the backdrop of *'fundamental social and economic disadvantage'*.
- The TAAPs Strategic Objectives for Tottenham (TAAP page 29 and 330) - an absence of meaningful leisure provision means that (along with limited provision employment – see below), the Scheme will fail to provide a prosperous hub for business and local employment (Objective 2), with the over-dominance of housing in the Scheme failing to deliver the required business growth and attract new investment. It will also not provide a strong and healthy community (Objective 6) which, amongst other things, seeks to improve leisure opportunities as part of a continued joint effort to further reduce crime and foster strong and new social networks.
- The specific NT5 Site Requirements for the allocation (which sit adjacent to the THFC Stadium) to *'Enhance the area as a destination through the creation of new leisure, sports and cultural uses'*.

The TAAP was put in place due to the history of North Tottenham, past failed attempts at regeneration and the continuing socio-economic challenges in the area.

The TAAP specifically explains (Paragraph 2.37 and 3.23), that leisure development is required to build on the investment being made by THFC in their stadium as a catalyst for wider change, ensuring that this area becomes a hub for activity throughout the week and not just on match days. This will not happen with the Scheme or any development delivered through the High Road West Planning Permission.

The Statement of Reasons relies upon the grant of the High Road West Planning Permission as evidence that the Scheme fits with the adopted Local Plan.

However, as set out above, the High Road West Planning Permission related to a far wider area and the Council's assessment of the acceptability of the development was undertaken as against the full scheme. No assessment was undertaken in respect of the Scheme in isolation.

4. OVERSTATEMENT OF BENEFITS

The Guidance sets out that the Secretary of State will take into account the extent to which the proposed purpose for the CPO will contribute to the achievement of the promotion or improvement of the economic social or environmental wellbeing of the area.

Section 9 of the Statement of Reasons asserts that the Scheme will deliver a number of benefits including the following:

- 1350-1665 new homes
- A new public square
- A new Library and Learning Centre
- A new GP surgery
- 89 FTE net additional jobs in retail, leisure, hospitality, catering and other services.
- A District Energy Network [check]

However due to the structure of the High Road West Planning Permission and associated Section 106 Agreement (together with the lack of clarity and transparency regarding the terms of the underlying Development Agreement), it is far from certain that all of these benefits will actually be delivered.

The High Road West Planning Permission includes an unusually large degree of flexibility regarding the scale of development and component uses for an urban scheme located in a dense urban area like Tottenham.

The significant amount of variability in physical parameters and huge degree of flexibility allowed for non-residential uses (many of which are in effect optional), means that the harms and benefits of the Scheme are very difficult to assess.

This flexibility creates particular problems in any justification for compulsory acquisition. Reliance can only be placed on the minimum amount approved and indeed a number of specific land uses (and associated benefits) could be omitted altogether and therefore cannot be given any weight.

Even within the ranges identified, leisure provision is tokenistic and contrary to the requirements of the TAAP cited above to deliver a leisure destination for London (in addition to THFC's stadium). The Scheme will also fail to provide meaningful employment which is essential to readdress Tottenham's social and economic challenges.

The Scheme can only guarantee development to the south of White Hart Lane. This means that:

- It delivers significantly less economic, social and environmental benefits than were assessed and balanced at the planning application stage.
- The Scheme is unbalanced because there is no certainty that essential components of the overall scheme which have been granted planning permission will be delivered. This includes the new public park (Peacock Park) to the north of White Hart Lane, an essential community asset in an area of open space deficiency. Without it the new residents would have to rely largely on Moselle Square (a very different civic square) – and as set out below there is no certainty that Moselle Square itself will be developed.
- The planning application process didn't consider or assess important planning considerations including the housing mix, affordable housing viability and open space just for land south of White Hart Lane.

This raises concerns about the reliance that can be placed on the current High Road West Planning Permission and alleged benefits of the Scheme.

The High Road West Planning Permission does not assure the delivery of important social infrastructure on which the CPO has been justified in the Statement of Reasons.

By way of one example, the Section 106 Agreement only requires the Library and Learning Centre to be delivered when 95% of open market housing in the plot within which it is being

delivered are occupied. In practice all the other plots within the Scheme could be built out with no guarantee that the Library would ever be built.

In turn the Section 106 Agreement allows Moselle Square to be deferred until 90% of the open market homes or 780 Open Market Units in the Scheme are occupied¹ which means that this crucial open space and link between the Railway Station and the Tottenham Hotspur Stadium may not be delivered.

Moselle Square is the heart of the Scheme and the principal public realm is effectively being delivered last – contrary to regeneration best practice. In any event there would be nothing in planning terms to stop the developer walking away after selling 90% of the Open Market Units and all the Affordable Units in the Scheme – in total in excess of 1000 units – without ever being required to deliver Moselle Square.

5. IMPEDIMENTS TO DELIVERY

Paragraph 15 of the Guidance advises that the acquiring authority will need to be able to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation – including the need for any planning permission.

As set out above the High Road West Planning Permission is subject to an ongoing claim for judicial review brought by THFC. The status of the High Road West Planning Permission is therefore, at best, uncertain.

Paragraph 14 of the Guidance advises that the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required. In turn a further factor listed in Paragraph 106 is the potential financial viability of the scheme for which the land is being acquired.

The Scheme purports to benefit from in excess of £90m of public sector grant funding. However, even with this funding in place, the Financial Viability Assessments submitted in support of the High Road West Planning Application concluded that that the whole scheme was not viable.

Those assessments were undertaken in late 2021 and early 2022. Since that date, construction costs have increased markedly over the last year, whilst values have fallen. In turn these assessments do not take into account the impact of the Building Safety Act and the requirement for secondary means of escape in all tall buildings. The overall viability of the entire High Road West scheme will only have worsened.

In any event the submitted Financial Viability Assessments related to the entire High Road West Planning Permission. There is no assessment in the public domain relating solely to the Scheme or other evidence to suggest that the Scheme, with a much smaller quantum of overall development, is viable in isolation.

It is instructive that the Statement of Reasons records that Lendlease considers that the Scheme “will” be viable. This is a tacit acceptance that the Scheme is not viable today. No explanation or information has been provided to substantiate this assertion that it will become viable in the future.

This is a fundamental impediment to the delivery of the Scheme.

¹ S106, Schedule 13, paragraphs 2.3 and 2.4

6. IMPACT UPON THE OPERATION OF THE TOTTENHAM HOTSPUR STADIUM

As set out above the THFC objected to the High Road West Planning Application for a number of reasons – including the impact of the proposals on the management of crowd flows to and from the Tottenham Hotspur Stadium. The objections remain directly relevant to consideration of the CPO.

The Scheme will involve the stopping up of sections of public highway which are currently used by spectators traveling between the Stadium and White Hart Lane railway station and beyond.

The mechanisms within the High Road West Planning Permission and associated Section 106 Agreement that purport to provide for the provision of alternative access to THFC for the management of crowd flows are wholly inadequate.

The Section 106 Agreement does not guarantee that alternative access will be provided across the Scheme and there has been no assessment of the impact on the operation of the Tottenham Hotspur Stadium if it is not provided.

Whilst initial discussions have taken place with Lendlease no agreement has been reached and fundamental questions that have been raised by THFC for some time regarding the terms of any access licence remain unanswered.

7. ALTERNATIVE FUTURE FOR HIGH ROAD WEST

Paragraph 106 of the Guidance records that the Secretary of State will take into account whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by other means.

As set out above THFC very much wishes to see the regeneration of High Road West in a way that is consistent with the aspirations of the TAAP and principles of the adopted Masterplan.

THFC considers that there is an alternative vision and future for High Road West – including the area comprised within the Scheme, which is viable, otherwise deliverable and which could provide genuine regeneration consistent with the longstanding aspirations of the TAAP.

8. DOCUMENTS

Section 16 of the Statement of Reasons sets out the documents on which the Council proposes to rely to address objections to the Order.

However, this doesn't include the Development Agreement between the Council and Lendlease or the associated Compulsory Purchase Indemnity Agreement.

Given the reliance placed on the Development Agreement in the Statement of Reasons regarding the deliverability of the Scheme, it is important that a full, unredacted version of the Development Agreement is made publicly available.

9. CONCLUSION

For these reasons Our Clients do not consider there is a compelling case in the public interest to justify the use of compulsory purchase powers and therefore they object to the CPO.

They will expand upon the issues raised in this letter during the formal public inquiry process and reserve the right to make additional submissions in the event that further information regarding the CPO and Scheme is made publicly available.

Please would you kindly acknowledge receipt of this letter.

Yours Faithfully



RICHARD MAX & CO