

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

DOCUMENT CD 10.1

**WITNESS 1: PETER O'BRIEN, LONDON BOROUGH OF
HARINGEY**

REBUTTAL

1. Introduction

- 1.1 My name is Peter O'Brien. Details of my qualifications and experience are set out in my main proof of evidence (my "**Main Proof**") (**CD 9.01**).
- 1.2 In this further proof of evidence ("**Rebuttal**") I adopt the same references and abbreviations as I used in my Main Proof (**CD 9.01**).
- 1.3 This Rebuttal has been prepared to respond to the following evidence submitted in respect of the Order:
- (a) The proof of evidence submitted by Alecos Tryfonos, on behalf of Alecos Tryfonos, Kate Tryfonos, Kyriacos Tryfonos, Tryfonas Tryfonos, Maria Tryfonos and Tryfonos Bros. Ltd (**CD 9.17**);
 - (b) The proof of evidence submitted by Richard Serra, as representative of Tottenham Hotspur Football Club ("**THFC**") and on behalf of Canvax Limited, Goodsyard Tottenham Limited, Meldene Limited, Tottenham Hotspur Stadium Limited, Paxton17 Limited, Stardare Limited and High Road West (Tottenham) Limited (**CD 9.27**);
 - (c) The proof of evidence submitted by Mary Powell (**CD 9.29**); and
 - (d) The proof of evidence submitted by Adrian Sherbanov (**CD 9.31**).
- 1.4 Further rebuttal evidence in respect of Alecos Tryfonos's proof of evidence is provided by Selina Mason of Lendlease (**CD 10.3**) and James Franklin of CBRE (**CD 10.6**).
- 1.5 Further rebuttal evidence in respect of Richard Serra's proof of evidence is provided by Selina Mason of Lendlease (**CD 10.3**) and Tom Horne of DP9 (**CD 10.5**).
- 1.6 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. Alecos Tryfonos's Proof of Evidence

- 2.1 This rebuttal responds to the following matter raised within the proof of evidence submitted by Alecos Tryfonos (**CD 9.17**):
- 2.2 ***The Tryfonos family feel that they have been bullied, harassed and discriminated against because they do not have the aesthetic required by the developer (paragraph 20 of Mr. Tryfonos's evidence).***
- 2.3 Mr. Tryfonos suggests that the Council and Lendlease do not consider the Tryfonos objectors to be suitable businesses and occupiers within the scheme, which is not the case. On the contrary, the Council and Lendlease have put measures in place to support existing residents and businesses to remain in the area, including the Tryfonos objectors, so they can benefit

from and contribute to the success of the new neighbourhood and enhanced North Tottenham Local Centre that the Scheme will deliver.

- 2.4 The need to acquire the High Road properties, including those owned by the Tryfonos objectors, is founded upon the planning, design and townscape principles through which the Scheme seeks to deliver its economic, social and environmental benefits to the local and wider community. These principles have been supported by the community through the development of the Regeneration Scheme, see paragraph 4.18 of my Main Proof (**CD 9.01**), and are explained and justified in paragraphs 7.60-7.75 of the main evidence of Tom Horne (**CD 9.05**) and section 9 of the main evidence of Lucas Lawrence (**CD 9.07**).
- 2.5 The inclusion of the properties owned by the Tryfonos objectors within the NT5 allocation of the TAAP (**CD 3.5**), the permitted Regeneration Scheme, and the Scheme, is not driven by a desire to put pressure on existing occupiers on the High Road to move elsewhere, but by the legitimate purpose of realising the objectives of the adopted planning framework. The need to include the High Road properties within the Scheme in order to achieve the Council's objectives has been both publicly known and consistently asserted by the Council since early consultation on the HRWMF (**CD 3.6**) between April and June 2013, as I explain in section 4.13 of my Main Proof (**CD 9.01**).
- 2.6 The Council and Lendlease have been consistent in offering to accommodate the Tryfonos businesses within new units in the Scheme, as explained in James Franklin's main evidence (**CD 9.09**) and rebuttal evidence (**CD 10.6**). In doing so, this approach taken by the Council and Lendlease has and will continue to deliver on the commitments made within the Business Charter (**CD 5.7**) as agreed by Cabinet in December 2014. The Council has also agreed to make an equity loan offer to the Tryfonos residential owner-occupiers, to ensure that there is an option available for them to relocate into new residential properties into the Scheme should they wish to do so, as I explain in paragraphs 6.12.1 and 6.17-6.19 of my Main Proof (**CD 9.01**).
- 2.7 I respectfully but strongly disagree with Mr. Tryfonos's assertion regarding bullying, harassment, and discrimination by the Council. The Council has always sought to engage in a professional and sensitive manner with the Tryfonos objectors, as with all members of the community. This has included in its efforts to ensure members of the community are kept up to date with the Regeneration Scheme, providing opportunities to input into design and other matters relating to the proposals, and to seek to open dialogue with relevant parties regarding the acquisition of land and property interests where appropriate.
- 2.8 The Council also takes seriously its responsibilities under the Public Sector Equality Duty and as I explain in section 14 of my Main Proof (**CD 9.01**), has developed and updated an Equalities Impact Assessment (EqIA) at each stage of the key decision-making for the Regeneration Scheme. The most recent EqIA for the Scheme, updated October 2023 and appended to my Main Proof (**CD 9.02**) considers the impacts on business owners and employees as well as resident owner-occupiers as a result of the Scheme and sets out the range of mitigation measures that are in place to reduce these impacts as far as possible.

3. Richard Serra's Proof of Evidence

- 3.1 The proof of evidence submitted by Richard Serra (**CD 9.27**) makes a number of points. I address these in turn below.
- 3.2 ***The chronology is for the evolution of the Regeneration Scheme presented in the Acquiring Authority's Statement of Reasons is misleading and incomplete, with key omissions (paragraphs 3.1-3.8 of Mr. Serra's evidence).***
- 3.3 Mr. Serra is incorrect. The Statement of Reasons provides an accurate and complete summary of the background to the Scheme and its evolution, including by setting out the Council's key decision-making stages. In section 4 of my Main Proof (**CD 9.01**), I expanded on this to provide further context to the evolution of the Scheme, including discussion of the It Took Another Riot independent panel report (**CD 5.13**) and Plan for Tottenham document (**CD 5.14**) both referenced in the evidence of Mr. Serra.
- 3.4 ***The 2012 Memorandum of Understanding between the Council and THFC provided that 'Phase 2b' (including the link between the Stadium and White Hart Lane Station would be delivered as the first phase of the Regeneration Scheme. This is in direct contrast to the phasing of the Scheme which envisages the equivalent Moselle Square being one of the final phases of development (paragraph 3.27 of Mr. Serra's evidence)***
- 3.5 The copy of the 2012 Memorandum of Understanding appended to Mr. Serra's evidence (**CD 9.28**) appears to be a partial extract and I am not aware of the 2012 Memorandum of Understanding being signed by the Council. The 2013 Memorandum of Understanding provides for the link between the High Road and the Station to be delivered within 'Phase 4', which is the final phase of regeneration referenced in the document and includes the entirety of the High Road West area.
- 3.6 Notwithstanding this, Mr. Serra's statement that Moselle Square is "one of the final phases of development" is incorrect, both in the context of the Scheme and Regeneration Scheme. Moselle Square will be delivered as part of the Scheme, which in itself is the initial phase of the Regeneration Scheme. Under the current, approved phasing programme for the Scheme (set out in paragraphs 8.3 and 8.4 of the main evidence of Selina Mason (**CD 9.03**)) the delivery of Moselle Square is anticipated to start in Q2 2028 and complete in Q1 2030, which is four years prior to the completion of the Scheme in its end state. As Selina Mason states in paragraph 8.2 of her main evidence, the current, approved phasing programme for the Scheme prioritises the delivery of replacement affordable homes for existing Love Lane Estate residents and new commercial units for existing businesses, with social infrastructure including Moselle Square to follow soon afterwards.
- 3.7 ***The Scheme is not only a missed opportunity. By disregarding the clear recommendations following the August 2011 riots in It Took Another Riot, A Plan for Tottenham, the HRWMF 2014 and ultimately the adopted TAAP, the Acquiring Authority risks repeating the same mistakes from failed regeneration attempts previously (paragraph 3.86 of Mr. Serra's evidence).***
- 3.8 I strongly disagree with this assertion by Mr. Serra. The Scheme fits in with the adopted planning framework, which includes the HRWMF 2014 (**CD 3.6**) and TAAP (**CD 3.5**). The local

planning authority has granted the Planning Permission (**CD 4.28**) for the Regeneration Scheme (including the Scheme). The correct position is explained further in the main evidence of Tom Horne (**CD 9.5**). There is no basis to suggest that the Scheme disregards the recommendations within that planning framework.

- 3.9 A Plan for Tottenham (**CD 5.14**) is a strategic document, rather than a planning policy document, developed by the Council working with its partners in 2012 to inform the development and delivery of the regeneration strategy for Tottenham. While recognising the document's status, the Council is of the view that the nature of the Scheme is aligned with the overarching principles for regeneration in North Tottenham envisaged at that time, including the delivery of new housing and a new public space linking White Hart Lane Station with the Stadium as part of the Scheme. The It Took Another Riot report (**CD 5.13**) was produced by an independent panel and was not adopted by the Council. However, the Council has considered all of the recommendations within the report and is confident that the Scheme responds to many of the recommendations for regeneration in Tottenham.
- 3.10 In my Main Proof (**CD 9.01**) I describe how the Scheme will make a significant contribution to the achievement of the promotion and improvement of the economic, social and environmental wellbeing of North Tottenham. This demonstrates how the Scheme is not a "missed opportunity", and on the contrary, is a long overdue and urgently needed intervention which will play a key role in addressing the significant barriers that residents in North Tottenham have experienced over many years. It is vital that the land required for the delivery of the Scheme is assembled now through confirmation of the CPO.
- 3.11 ***THFC had anticipated that it would play a prominent role in the development of the Regeneration Scheme and as the Council's delivery partner. Notwithstanding the commitments in the Memorandum of Understandings, the Council unilaterally took the decision to seek a third-party development partner pursuant to the Competitive Dialogue procedure under the Public Contract Regulations 2015. It is that decision that has led directly to the breakdown in co-ordination between the Council and THFC on the regeneration of North Tottenham (paragraph 3.78-3.81 of Mr. Serra's evidence).***
- 3.12 Firstly, I note that both the 2012 and 2013 Memorandum of Understandings between the Council and THFC, appended to Mr. Serra's evidence (**CD 9.28**) properly recorded the following in recognition of the Council's public and statutory functions and responsibilities:
- "This memorandum is not legally binding and nothing in it shall constitute a fetter on the discretion of LBH (the Council), future decisions that it might make or in any other way override its public law and local government duties".*
- 3.13 In paragraphs 4.27-4.33 of my Main Proof (**CD 9.01**), I outline the procurement process for a development partner for the Regeneration Scheme. As I explain there, in 2015 the Council undertook work to develop a preferred delivery structure and procurement route for the Regeneration Scheme, which found that a development arrangement was the preferred option for the Council.
- 3.14 As part of this work, the Council received legal advice that it had to comply with the Public Contracts Regulations 2015 (the "Regulations"). The Council also obtained external legal

advice from solicitors with great experience and expertise in the field of local government law as to the extent of the Council's obligations under the Regulations, any exemptions and the most appropriate procedure to use in the procurement. The advice was that the Council had to comply with the Regulations and that the Competitive Dialogue procedure was the most appropriate procurement procedure available under the Regulations. It was in light of this legal advice that the Council's Cabinet agreed on 15th December 2015 to proceed with a Competitive Dialogue procedure under the Regulations to procure a development partner to deliver the Regeneration Scheme. The fact that the Council opted use the Competitive Dialogue procedure, offered the opportunity for any party to submit a bid to be the Council's development partner, including THFC.

- 3.15 The Council involved THFC in the procurement process for a development partner for the Regeneration Scheme. In April 2017, THFC were invited to meet each of the shortlisted bidders and present their vision for the area. The purpose of this exercise was for the bidders to understand THFC's vision and key objectives when bidders were considering their illustrative masterplan framework for submission. This presentation also importantly included information on design related access between the Station and THFC Stadium, responding to guidance provided by THFC, to ensure the submissions of the bidders were consistent with THFC's objectives for regeneration in North Tottenham.
- 3.16 Lendlease Europe were the successful bidder in that legally compliant procurement process. The Council entered into a DA and CPOIA with Lendlease on 20th December 2017. The Council and Lendlease have continued to engage THFC on various topics in relation to the Regeneration Scheme since that date, as is explained in the evidence of Selina Mason (**CD 9.03**), to support the co-ordination of regeneration in North Tottenham and ensure that THFC had the opportunity to engage with the plans for the Regeneration Scheme as it has progressed.
- 3.17 ***THFC has carried out directly or facilitated a number of developments that have contributed to the regeneration of North Tottenham so far (paragraph 4.6 of Mr. Serra's evidence).***
- 3.18 The Council does not dispute the developments listed in this paragraph by Mr. Serra. However, Mr. Serra omits the role of the Council in enabling the funding required for delivering some of these projects. In particular, the Council provided a substantial budget for heritage building improvements, which included improvements to the properties at 792-794 High Road, as well as a contribution to the public realm provided as part of the Tottenham Hotspur Stadium / Tottenham Experience developments as referred to in Mr Serra's evidence.

4. **Mary Powell's Proof of Evidence**

- 4.1 The proof of evidence submitted by Mary Powell (**CD 9.29**) makes a number of points. I address these in turn below.
- 4.2 ***A letter from Scott Mundy at the Council, dated 14th November 2022, appears to have been created on 2nd May 2023 and Ms. Powell does not recall receiving it in November 2022 (see paragraph 5.4 of Ms. Powell's evidence).***

- 4.3 I have made inquiries, and I can confirm that the letter referenced was sent by the Council to Ms. Powell in November 2022 (**CD 10.2.16**). A version of the same letter was sent to all leaseholders on the Love Lane Estate. In respect of Ms. Powell's comment that the PDF file appeared to be created on 2nd May 2023, the reason for this is that when sent in November 2022 the letter was saved within the Council's files as a Word document format. A PDF version was generated to attach to the email sent by Scott Mundy to Ms. Powell on 16th May 2023 (**CD 10.2.24**), to refer back to recent correspondence.
- 4.4 I note that Ms. Powell has appended copies of some correspondence with the Council to her evidence (**CD 9.30**). To provide a fuller record, I have appended redacted copies of correspondence between the Council and Ms. Powell to this rebuttal evidence (**CD 10.2**). This includes the correspondence I have summarised in paragraph 15.93 of my Main Proof (**CD 9.01**) and which is also listed and expanded upon in Appendix 3 of my Main Proof (**CD 9.02**). In preparing these appendices, it has been identified that three of the letters / emails listed in Appendix 3 of my Main Proof have been misdated and should read as follows.
- (a) Letter sent by the Council on 06/06/2016 should read 06/10/2016.
 - (b) Email sent by Mary Powell on 10/06/2016 should read 10/10/2016.
 - (c) Letter sent by the Council on 01/11/2022 should read 14/11/2022.
- The dates provided in paragraph 15.93 of my Main Proof are correct.
- 4.5 An index of correspondence is provided in the appendix to this rebuttal evidence (**CD 10.2**).
- 4.6 ***No indication has been given of indicative service charges, including any list of service chargeable items on the new estate, and no indication has been given of how ground rents might be calculated (paragraph 6.1-6.4 of Ms. Powell's evidence).***
- 4.7 The new homes for resident leaseholders within the Scheme will be leased by the Council. Service charges for these new properties will be calculated based only on the services that are provided. The Council's aim is that, through careful consideration of the services required, combined with engagement with residents who will be moving into the new residential blocks, the costs to residents will be minimised while still ensuring that the buildings are managed and maintained to a high quality. As the Scheme progresses, the Council and Lendlease will be working closely with residents to understand the type and level of services that tenants and leaseholders want and need in the new residential buildings.
- 4.8 The legal rights of leaseholders in respect of service charges will be the same for any new property in the Scheme as they are for existing properties on the Love Lane Estate. This includes that service charges must be fair and reasonable, and that leaseholders must be consulted before major works are carried out to their block or estate.
- 4.9 The ground rents in the new properties in the Scheme will have a peppercorn limit.
- 4.10 While the Council's aspiration is that many resident leaseholders do choose to take up the opportunity to move into a new home in the Scheme, this is not the only rehousing option available to existing resident leaseholders pursuant to the terms of the Love Lane Leaseholder Offer, as explained in paragraph 6.12 of my Main Proof (**CD 9.01**):

- i. Resident leaseholders can access a rent and interest-free equity loan option from the Council for properties elsewhere in Haringey on the open market. This could include properties where a service charge and ground rent are not payable if such properties are available. Ms. Powell has confirmed to the Council that she is not interested in the equity loan option, including in her email of 02.07.2023 (**CD 10.2.26**).
- ii. A leasehold swap option is also available to buy and own the leasehold of a Council-owned property of equivalent value within the Council's housing stock which may have different types of services provided in comparison to the properties within the new Scheme. The Council has offered to Ms. Powell to discuss the leasehold swap rehousing option further, including by email on 03.08.2023 (**CD 10.2.30**).

4.11 ***The updated phasing plan for the Scheme has not gone through the planning process (paragraph 7.3 of Ms. Powell's evidence).***

4.12 This is incorrect. On 19th September 2023, the Council as Local Planning Authority granted approval of details pursuant to a condition associated with the Planning Permission (**CD 4.28**) regarding the updated phasing plan for the Scheme. I provide background to the consultation and engagement on the phasing plan at paragraph 15.99 of my Main Proof (**CD 15.99**).

5. **Adrian Sherbanov's Proof of Evidence**

5.1 This rebuttal responds to the following matter raised within the proof of evidence submitted by Adrian Sherbanov (**CD 9.31**).

5.2 ***Breach of Section 3 of the Local Government Act 1999 in respect of the Council's consultation on the Regeneration Scheme, including in a lack of engagement with private tenants in the resident ballot on the Love Lane Estate undertaken in 2021.***

5.3 As I summarise in section 4 of my Main Proof (**CD 9.01**), the Council has undertaken extensive consultation and engagement on the Regeneration Scheme since 2012, which has informed the key decision-making process. This includes the 2013 options consultation, the 2014 consultation on the HRWMF, and the 2021 consultation on the planning application. As part of these consultations all properties within the Regeneration Scheme area, including those occupied by private tenants, received a newsletter notifying them of the consultation, providing an opportunity for them to provide feedback and to discuss the proposals with a Council officer. This formal consultation is in addition to the broader engagement undertaken with residents which includes letters, drop-in sessions and door-knocking which has consistently taken place with all households on the Love Lane Estate since 2013.

5.4 In respect of the resident ballot in 2021, this was undertaken in line with the GLA's Capital Funding Guide, as Mr. Sherbanov notes. Section 8.4 of the GLA's Capital Funding Guide sets out the following in relation to the voter eligibility requirements:

To ensure resident ballots are consistent across London, IPs do not have discretion to set the voter eligibility criteria for ballots. Ballots must be open to all residents on an existing social housing estate – not just those currently occupying homes that are due to be demolished – that fall into one or more of the following three eligibility criteria:

- i. *Social tenants (including those with secure, assured, flexible or introductory tenancies named as a tenant on a tenancy agreement dated on or before the date the Landlord Offer is published).*
- ii. *Resident leaseholders or freeholders who have been living in their properties as their only or principal home for at least one year prior to the date the Landlord Offer is published and are named on the lease or freehold title for their property.*
- iii. *Any resident whose principal home is on the estate and who has been on the local authority's housing register for at least one year prior to the date the Landlord Offer is published, irrespective of their current tenure.*

5.5 As such, tenants who rent privately on the estate were generally not eligible to vote in the resident ballot, unless they had been on the Council's housing register for at least one year prior to the date the Landlord Offer is published (this date was July 2020, as the Landlord Offer was published in July 2021). Notwithstanding this, the Council ran a number of pop-up outreach events on the estate during the ballot period, including a resident fun day, and door-knocking, to ensure that all residents on the estate were aware of the progress of the Regeneration Scheme more broadly and the support available.

5.6 The other points raised by Mr. Sherbanov are responded to in my Main Proof (**CD 9.01**). For completeness, I attach to my rebuttal evidence (**CD 10.02**) the following:

- (a) The land interest questionnaires (LIQs) served on the 85 Whitehall Street property prior to the making of the CPO, addressed to Mr. Erdal Pinar and Mrs. Gulseren Pinar, as referenced in paragraph 15.70 of my Main Proof; and
- (b) The letter sent to Mr. Sherbanov on 1 September 2023, summarising previous discussions and the support available to Mr. Sherbanov's household, as referenced in paragraph 15.74 of Main Proof (noting that my Main Proof erroneously dates this letter as 31 August 2023).

6. **Statement of Fact**

6.1 The facts stated in this Rebuttal are either within my own knowledge or, where indicated, reflect the advice that I have received. The opinions I have expressed represent my true opinion.

Peter O'Brien

31 October 2023