

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

DOCUMENT CD 10.8

WITNESS 6: PASCAL LEVINE, DS2

REBUTTAL

1. **Introduction**

- 1.1 My name is Pascal Levine. Details of my qualifications and experience are set out in my main proof of evidence [CD 9.11].
- 1.2 In this rebuttal evidence ("**Rebuttal**") I adopt the same references and abbreviations as I used in my first proof [CD 9.11] (my "**Main Proof**").
- 1.3 This Rebuttal has been prepared to respond to the proof of evidence ("**PoE**") submitted by Colin Cottage of Ardent on behalf of THFC [CD 9.23] in respect of the Order. I have responded to the following key themes raised by Mr Cottage:
 - (a) Relevance of the Inspector's decision in respect of the London Borough of Barking & Dagenham Council (Vicarage Field and surrounding land) Compulsory Purchase Order 2021 ("**Vicarage Field**") [CD 5.18];
 - (b) Viability within the Development Agreement; and
 - (c) Viability of the Consented Scheme.
- 1.4 I have sought to avoid repetition from my Main Proof but simply referred to my evidence where necessary and where I have deemed it to be helpful for the Inquiry.
- 1.5 Further rebuttal evidence in respect of Mr Cottage's PoE is provided by Selina Mason of Lendlease [CD 9.3].
- 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. **Relevance of Vicarage Field decision**

- 2.1 It appears that Mr Cottage refers to the Vicarage Field decision to highlight where a CPO has been refused on the basis of a failure to demonstrate a reasonable prospect of the underlying scheme proceeding.
- 2.2 For the reasons set out below, neither the viability of the Consented Scheme nor the information provided in support of the Consented Scheme are comparable to the facts of the Vicarage Field decision.

Viability evidence

- 2.3 Although the developer in the Vicarage Field case asserted that the scheme (the "**VF Scheme**") was viable, no evidence was provided to the CPO inquiry. In making her decision, the Inspector noted at paragraph 133 that it was unusual that an updated viability assessment was not presented. The only substantive evidence available to the Inquiry was a planning financial viability assessment dated September 2016 ("**Vicarage Field Planning FVA**") [CD 5.19]. This was nearly six years old at the date of the Vicarage Field Inquiry.
- 2.4 In contrast, thorough and up-to-date viability evidence has been provided in respect of the Consented Scheme. My Main Proof concluded that there is a significant financial incentive for Lendlease to proceed. This viability evidence is supported by an independent review by BNP Paribas Real Estate ("**BNPPRE**") [CD 9.2].

Planning FVA outcomes

- 2.5 The London Borough of Barking & Dagenham instructed GVA to undertake an independent review of the Vicarage Field Planning FVA ("**Review**") [CD 5.20].
- 2.6 Paragraph 132 of the Vicarage Field decision noted that both the Planning FVA (which DS2 prepared on behalf of the applicant) and Review deemed the VF Scheme to be "*substantially unviable*". The IRR for the VF Scheme was stated as being -15.5 percent at section 12 of the Review.
- 2.7 The Review concluded at paragraph 6, section 13 that "*Both DS2's and GVA's calculations find the scheme to be substantially unviable. Even if the developer takes no profit, the residual land value is £400,000, i.e., £41m below the existing use value, before the 20% premium is added*".
- 2.8 The planning viability for the Development (the Regeneration Scheme) as agreed between DS2 and BNPPRE within the July Letter [CD 4.36] confirmed that it had a positive 11.69 percent IRR.
- 2.9 This is a significant positive cash balance and is in clear contrast to the Vicarage Field Planning FVA.

Updated viability appraisal

- 2.10 In Vicarage Field, during the determination of the planning application the applicant proposed a viability review mechanism which would be triggered at the reserved matters stage, which would likely occur within three years of the date of the planning permission. When undertaking the Review, GVA was cognisant of this and the ability for such a review to result in the delivery of affordable housing in the event the review identified a financial surplus.
- 2.11 In paragraph 7, section 13 of the Review, GVA states the following:
- "In order to generate a residual land value of £49 m, which equates to the benchmark land value, sales will need to increase to £770 psf. This is 62% growth on current values. House price data indicates that average values in Barking are increasing at around 10% per annum. It is likely that reserved matters will need to be submitted within 3 years of outline consent being granted. Based on current growth in residential growth rates we consider there is risk around the schemes ability to deliver any affordable housing at review" (my emphasis)*
- 2.12 GVA was clearly concerned that 62 percent growth was required within three years and expressed reservations as to whether this was realistic and therefore whether the proposed viability review would result in the delivery of any affordable housing.
- 2.13 In respect of the Consented Scheme, the growth (and inflation) is provided over the project cashflow which is 12 years, and the first private sales revenue is not received until 2029 due to the early delivery of the affordable housing which is supported by grant funding and pre-sold to the Council. As explained in Section 3 of my Main Proof (supported by appendices [CD 9.12.7 and 9.12.8]), the Consented Scheme comprises a growth rate on the residential values of 5.25 percent per annum.
- 2.14 The growth cited as being required over a three-year period by GVA in the case of the VF Scheme to deliver any affordable housing was unrealistic. The growth applied for the Consented Scheme is aligned with reasonable market expectations and reflective, and indeed lower than, growth experienced on other estate regeneration project over a similar timeframe.

Regeneration effect

- 2.15 At paragraphs 147 to 155 of the Vicarage Field decision the Inspector considered (in the absence of detailed viability information) the developer's case as to why the VF Scheme might become viable through an increase in residential and commercial values in the town. Such increases were stated as being reliant on the regeneration of the wider town centre, of which the VF Scheme formed a key part.
- 2.16 The Inspector stated at paragraph 153 that *"I also understand that the CPO Scheme is the catalyst for the redevelopment of the town centre. Therefore, it is reliant upon itself to invest and change the land values to create the 'regeneration effect'. A 'Catch 22' situation"*. She identified that the strategy for a viable proposition was dependent on wider regeneration, but as the key town centre redevelopment the delivery of the VF Scheme itself was paramount.

- 2.17 By contrast, in the present case, it is important to have in mind that the assumptions incorporated into the viability assessment for the Consented Scheme are not dependent on the delivery of other sites. I am aware of other projects in the vicinity of High Road West that might be delivered within the timescale of the Consented Scheme. However, the Consented Scheme has a critical mass of its own and is in a unique and enviable location adjacent to White Hart Lane station and a truly world class multi sports stadium that attracts international recognition.

Summary

- 2.18 As evidenced by the Vicarage Field Planning FVA, the VF Scheme was in a significantly negative cash position, whereas the Development (the Regeneration Scheme) illustrated a significant IRR and positive cash balance in the Planning FVA.
- 2.19 No up-to-date viability information was provided to the CPO Inquiry in respect of the VF Scheme, notwithstanding the negative results of the Vicarage Field Planning FVA. That was the factual context in which the Inspector was unable to conclude that there was a reasonable prospect of the VF Scheme proceeding.
- 2.20 In the present case, my Main Proof provides an up-to-date, market facing viability appraisal for the Consented Scheme. My appraisal confirms that the Consented Scheme delivers an 11.59 percent IRR and a gross ungeared developer return of £169 million which provides Lendlease with a significant financial incentive to proceed.

3. **Rates of Return**

- 3.1 At paragraph 5.8 of his PoE, Mr Cottage notes that the definition of Required Return in the DA has been redacted, but that a 13 percent IRR is the target return in the Planning FVA. In paragraph 6.37 of his PoE, Mr Cottage assumes that the Required Return agreed within the DA is likely to be aligned to the IRR adopted in the FVA.
- 3.2 The definition of Required Return in the DA is redacted. I am unaware of the agreed figure.
- 3.3 Instead, my Main Proof appraises the viability of the Consented Scheme and the Development within the context of paragraph 106 of the CPO Guidance. I have not adopted the Planning FVA target rate of return in my Main Proof, and it would not be correct to do so.
- 3.4 The Planning FVA target rate of return was adopted for the Development, not the Consented Scheme. The two schemes have differences which are material for the purposes of appraising development risk and commensurate expected rates of return.
- 3.5 The target rate of return agreed for the Development for the purposes of the Planning FVA was a 13 percent IRR. A target rate of return is derived through an assessment of risk. When comparing the risk profile of the Consented Scheme and the Development, there are a range of variables including:
- (a) Lower quantum of development for the Consented Scheme;
 - (b) Shorter development programme for the Consented Scheme;
 - (c) High level of affordable housing (that comes with less speculative risk than market for sale housing) in the Consented Scheme;
 - (d) Forward sale of affordable housing to the Council in the Consented Scheme (meaning that there is no need for a marketing exercise to a list of Registered Providers);
 - (e) Significant amount of secured funding for the Consented Scheme through the Mayor's Land Fund and through the GLA's Affordable Homes Programme.
- 3.6 As such, it is likely that the target rate of return adopted for the Consented Scheme would have been risk adjusted to a lower rate when compared to the rate adopted for the Development, if the viability of the Consented Scheme had itself been tested in the Planning FVA.

4. **Viability of the CPO Scheme**

- 4.1 At paragraph 7.3 of his PoE, Mr Cottage refers to the viability appraisals appended to my Main Proof [CD 9.12.1 and 9.12.2]. He states that this illustrates that the Consented Scheme is not viable when assessed against the agreed Planning FVA target rate of return and that it is only sales growth in excess of cost inflation that will enable the Planning FVA rate of return to be achieved.
- 4.2 For the reasons which I have given in my Main Proof, I disagree with Mr Cottage. I am satisfied that my market facing approach and assumptions in relation to sales growth and cost inflation are reasonable and founded on sound market evidence for both normal sales growth and a regeneration premium, applied to the delivery profile for the Consented Scheme which I summarise in paragraphs 4.5 to 4.9 of my Main Proof.
- 4.3 My development appraisal for the Consented Scheme is contained at [CD 9.12.2]. This was forwarded to the Inspector and Mr Cottage on 5 October 2023.
- 4.4 Mr Cottage's PoE contains two development appraisals. I understand that the approach adopted in Mr Cottage's two appraisals are as follows:
- (a) Appraisal One is the Consented Scheme (Phase A) appraisal with the Planning FVA agreed inputs. No sales growth or cost inflation is included (i.e., a present-day appraisal) with Mr Cottage having included his own interpretation of cash flows (all the development appraisal inputs are contained within a month-by-month cashflow that is located behind the summary sheet) ("**Appraisal One**");
 - (b) Appraisal Two is the Consented Scheme (Phase A) appraisal that builds on my 5 October 2023 appraisal [CD 9.12.2] with the growth and inflationary measures removed and amendments to certain cost and value inputs ("**Appraisal Two**").
- 4.5 I have prepared a table that illustrates the key variables in each of the three appraisals referred to above (i.e., my appraisal for the Consented Scheme, Appraisal One and Appraisal Two). The table is attached to this rebuttal [CD 10.9.1].
- 4.6 Appraisal One is effectively historic as it is predicated on the Planning FVA inputs that have been superseded by updated information contained within my Main Proof. This is implied by paragraph 7.5 in Mr Cottage's PoE.
- 4.7 This means that the only relevant comparison to make is between my appraisal [CD 9.12] and Appraisal Two. I have shaded the two relevant columns in the table to assist in avoiding confusion.
- 4.8 In respect of the Appraisal Two outturns (paragraph 7.41 of Mr Cottage's PoE) Mr Cottage states that his residual IRR for Appraisal Two is negative and indicates that the CPO Scheme is "*completely unviable*". Mr Cottage states that my market facing viability appraisal shows the Consented Scheme to be viable only on the basis that I have applied "*aggressive growth*" and that the use of growth is "*not normal practice*".
- 4.9 I do not accept Mr Cottage's assessment. Far from being based upon unjustified "*aggressive growth*" assumptions, as I set out in paragraphs 3.39 to 3.50 of my Main Proof, there is a

sound evidence base for both the sales growth and inflationary rates which I have adopted. The growth and inflation measures are by no measure "aggressive". Indeed, based on evidence in terms of historic market performance and a range of case studies (including Lendlease's own experience at Elephant Park in the London Borough of Southwark), the levels of growth assumed are plainly reasonable for the purpose of appraising the viability of the Consented Scheme. There is a 2.25 percent positive delta between the residential value growth and the construction costs.

- 4.10 As set out in my Main Proof, the approach I have adopted is consistent with that taken by Lendlease and indeed other organisations that undertake complex long-term multi phased estate regeneration projects. In fact, on such schemes, modelling growth and inflation is a necessity in order to contemplate the range of risks and the long term returns that might be yielded.
- 4.11 Paragraph 106 of the 2019 Guidance also implies that the longevity of a project and respective property market cycles should be considered, with the 2019 Guidance seeking to examine the "potential viability" of land that is being considered for CPO purposes.
- 4.12 Given the relatively low present-day new build residential values (and by their very nature regeneration schemes are generally characterised by existing low property values), complex and expensive land assembly requirements, high infrastructure costs and high levels of planning obligations, present day project returns on estate regeneration projects in my experience are low and factoring in growth and inflation is a necessity. This is why there are very few organisations with the skills, expertise, risk management, patience, relationships and funding arrangements to undertake such projects.
- 4.13 I do not agree with Mr Cottage's view that the adoption of growth and inflationary rates is not "normal practice", on projects of this nature. In my experience, it is indeed normal practice. Turning to professional guidance, the RICS Professional Standard ("**PS**") 'Valuation of Development Property' 1st Edition (effective from February 2020) when dealing with the adoption of market growth (and inflation), states that projections are used from "*a base rent, sales value or cost to reflect estimated outturn levels in an appraisal*"¹. The PS is attached to this Rebuttal [CD 10.9.2].
- 4.14 The PS states that where projections are adopted, these should be explicitly stated alongside an explanation of the assumptions underpinning those projections. I have provided this in my Main Proof.
- 4.15 In summary, the table [CD 10.9.1] illustrates the respective inputs and outputs when comparing my Consented Scheme appraisal of 05 October 2023 [CD 9.12.2] and the two appraisals prepared by Mr Cottage (with the key focus being on Appraisal Two). The fundamental difference is that my approach adopts growth and inflation on the major inputs whereas Mr Cottage's appraisals do not.
- 4.16 The inclusion of growth and inflation is used widely in the market for such projects where present-day assessments are of limited value and my approach is supported by professional

¹ Page 8, glossary of terms

guidance. I would also note that paragraph 106 of the 2019 Guidance states that one of the factors that an Inspector will consider when deciding whether to confirm a CPO is "*the potential financial viability of the scheme for which the land is being acquired*" (my emphasis). I consider that the reference to "potential" is to ensure that where the question of scheme viability is to be considered, proper consideration is given to the projected performance of the scheme over the course of its delivery, rather than a narrow focus on the present day.

- 4.17 The approach that I have adopted is entirely reasonable, market facing and consistent with professional guidance. I have sought to evidence the rates as far as is reasonably possible and, in my opinion, the outturns provide Lendlease with a significant financial incentive upon which to proceed with the Consented Scheme subject to the outcome of the CPO Inquiry. I understand that BNPPRE, in its capacity as viability advisor to the Council, has agreed that the approach is reasonable.
- 4.18 A significant proportion of Mr Cottage's PoE is focused upon residential growth and what has been a challenging marketplace over the last few years. However, I note that new build residential sales values in Haringey rose 14.2 percent in the 12 months to May 2023 (paragraph 7.22 of Mr Cottage's PoE).
- 4.19 On this basis, the £730 psf base value contained within my appraisal might be a conservative starting point as such an increase (14.2 percent) would equate to present day values of £800 psf. However, the £730 psf has been included in my Main Proof with reference to comparable developments assessed in accordance with professional guidance.
- 4.20 Finally, in order to set Mr Cottage's evidence into the context of THFC's case to the inquiry, I draw attention to an email exchange on 2 October 2023 between the Acquiring Authority's lawyers and those of Canvax Limited. In that email exchange, reference is made to the Alternative Masterplan (which I understand is another form of development proposed by THFC). The objector's lawyer states;
- "It is, however, our client's position that Alternative Masterplan is more deliverable than the CPO Scheme. This is due to the proposal to expedite the decant of existing residents of the Love Lane Estate to the Depot site to the north of White Hart Lane (owned by our clients and with the benefit of planning consent for residential development), which would significantly shorten the overall development programme, whilst ensuring no significant reduction in the number of overall residential units. In turn the proposed phasing of the Alternative Masterplan would facilitate the early delivery of the multi-use venue and Moselle Square, which would significantly improve the place-making impact of the overall scheme creating the potential for increased residential sale values." (my underlining)*
- 4.21 Whilst no viability information has been provided for the Alternative Masterplan, the emphasised final sentence of that email makes it clear that the viability of the Alternative Masterplan is also predicated on a reasonable level of growth for the market for sale residential values generated in part by "place-making" through the delivery of the regeneration.

5. Statement of Truth and Declaration

5.1 I confirm that I have made clear which facts and matters referred to in this Rebuttal 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.

5.2 In preparing this Rebuttal, I confirm that:

- (a) I have drawn attention to all material facts which are relevant and have affected my professional opinion;
- (b) I understand and have complied my duty to the Inquiry as an expert witness which 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;
- (c) I am not instructed under any conditional or other success-based fee arrangement;
- (d) I have no conflicts of interest; and
- (e) I am aware of and have complied with the requirements of the rules, protocols and directions of the Inquiry.

Pascal Levine

31 October 2023