

CD 6.13

Town and Country Planning Act 1990

Acquisition of Land Act 1981

Local Government (Miscellaneous Provisions) Act 1976

Inquiry into:

**THE CORNWALL COUNCIL (LANGARTH GARDEN VILLAGE, THREEMILESTONE)
COMPULSORY PURCHASE ORDER 2022**

Proof of Evidence

of

Andrew Hector

Director, Jones Lang LaSalle Limited

2 January 2024

1. INTRODUCTION

Qualifications and Experience

- 1.1 I am Andrew Hector, a Director at Jones Lang LaSalle Limited (JLL) and lead the firm's development consultancy business in Exeter. I am a Chartered Surveyor, having qualified as an associate member (MRICS) in 1992, and RICS Registered Valuer. I hold a Diploma in Surveying at the College of Estate Management.
- 1.2 I joined JLL in 1997 to establish a professional services business providing commercial and residential valuation, development consultancy and landlord and tenant services to regional clients. I also led the firm's Plymouth office for 3 years from 2008 providing residential estate agency, commercial property, and strategic development land services.
- 1.3 I now specialise in providing development consultancy, land acquisition and disposal services to landowners, developers, funders, occupiers, national and local regeneration agencies and public sector bodies in connection with mixed-use, commercial, and residential developments throughout the South-West.
- 1.4 I am active in the regional development market in both a disposal and acquisition capacity and current instructions include disposal of a 350-unit student housing development site in Exeter, acquisition of a 100-bed hotel site in St Ives and acquisition of a former foodstore site in Penzance for a Towns Fund regeneration project.
- 1.5 I advise local authorities extensively on development matters including Exeter City Council, Plymouth City Council, Torbay Council and Cornwall Council. I also provide a range of consultancy services to landowners and developers including viability assessments, long lease restructuring, covenant releases and modifications.
- 1.6 I have considerable experience in property negotiations and dispute resolution matters generally, including in arbitration, independent expert and mediation settings, and have acted as expert witness on a number of occasions including at planning appeal and in connection with County Court and High Court proceedings.
- 1.7 This proof of evidence is provided on behalf of Cornwall Council as acquiring authority in accordance with the RICS Practice Statement and Guidance Note (4th Edition) entitled 'Surveyors acting as Expert Witnesses'.

Involvement with the Scheme

- 1.8 JLL was appointed in October 2019 to provide agency support and advice to Cornwall Council (**Council**) to inform its engagement and negotiations with landowners at Langarth, and ultimately provide advice on compulsory purchase and compensation matters where it has not been possible to acquire land by agreement.
- 1.9 My role has been to advise on matters relating to the acquisition of land by agreement and the exercise of compulsory purchase powers by the Council in order to facilitate the development of Langarth Garden Village (**Scheme**).
- 1.10 My instructions have involved working with the Council and Treveth together with their respective professional teams to:
 - 1.10.1 seek the acquisition of land by agreement
 - 1.10.2 establish the boundary of a compulsory purchase order and the interests and new rights in land within that boundary
 - 1.10.3 advise on likely levels of compensation (including the preparation and updating of a property cost estimate)

- 1.10.4 advise on the likelihood of the Council being able to acquire the required interests in the land by agreement
- 1.10.5 consider objections to the compulsory purchase order and respond to these on behalf of the Council.
- 1.11 I have led JLL's engagement in relation to the Scheme and been personally involved in the negotiation of all land acquired by agreement and in relation to the steps taken to compulsorily acquire the remaining land and rights required for the purposes of the Scheme.
- 1.12 In undertaking my instructions, I have complied with the RICS professional statement *"Surveyors Advising in Respect of Compulsory Purchase and Statutory Compensation, UK"* (1st edition April 2017, amended September 2019).

Terminology

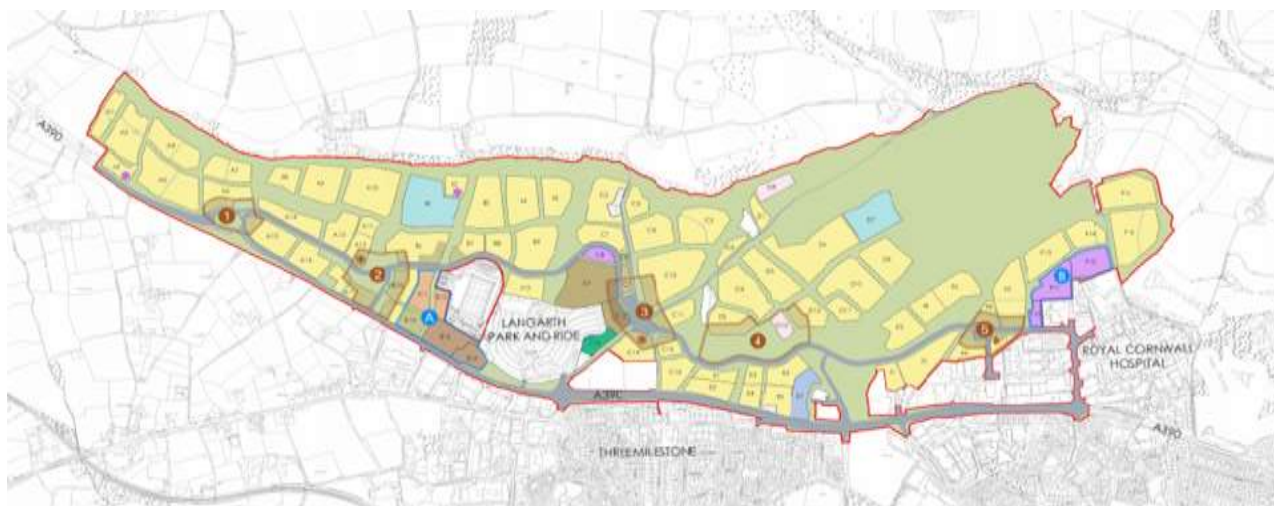
- 1.13 In my proof of evidence references to the core documents are made by the abbreviation, for example, "CD 1.1". Specific abbreviations are noted in the text on first use, and these abbreviations are also set out in the Glossary (**CD 6.17**). The proofs of evidence of other witnesses are referred to by the name of the author.

2. SCOPE OF EVIDENCE

- 2.1 I have prepared this proof of evidence in support of The Cornwall Council (Langarth Garden Village, Threemilestone) Compulsory Purchase Order 2022 (**CPO**) (**CD 4.1**), which was made on 3 November 2022. My evidence relates primarily to the need for a CPO to assemble the land and secure new rights to enable the development to proceed, together with the negotiations carried out with affected landowners, and in particular negotiations with objectors to the CPO.
- 2.2 In carrying out my instructions I have been assisted by officers of the Council and Treveth, together with their other professional advisors, some of whom will also provide evidence to the Inquiry.
- 2.3 My evidence covers:
 - 2.3.1 A description of the land and rights included within the CPO
 - 2.3.2 A summary of the need for the land and new rights within the CPO (**Order Land**)
 - 2.3.3 Consideration of the justification for the use of compulsory purchase powers, with particular reference to the Guidance on Compulsory purchase process and The Crichel Down Rules published by MHCLG (now the Department for Levelling Up, Housing & Communities) in July 2019 (**CPO Guidance**) (**CD 5.4**).
 - 2.3.4 A summary of negotiations with affected landowners to acquire land or new rights over land by agreement
 - 2.3.5 A summary of the objections to the CPO and the response of the Council to these and
 - 2.3.6 My conclusions on the need for the CPO.
- 2.4 The need for the associated Cornwall Council (Truro Northern Access Road) (Classified Road) (Side Roads) Order 2022 (**SRO**), together with a summary of objections to the SRO and the response of the Council to these is considered in the evidence of Mr Tim Wood (**CD 6.9**).

3. LAND INTERESTS INCLUDED IN THE CPO

- 3.1 The CPO has been made to facilitate the delivery of the Scheme, being a comprehensive mixed use, landscape-led community (to be known as Langarth Garden Village).
- 3.2 The Scheme comprises a phased development of up to 3,550 dwellings plus 200 extra care units and 50 units of student/health worker accommodation, including affordable housing; five local centres (comprising local retail, offices, restaurants, cafes, health and community facilities), a local care health centre, up to two primary schools, business and commercial floorspace, brewery / public house and associated areas of open space to include a suitable alternative natural greenspace (**SANG**) as a strategic open space, community farm / allotments, public realm, renewable energy provision and energy centre, park and ride extension; and the delivery of a new central access road with cycle lanes together with utility supplies, access junction arrangements onto the A390, new junctions to quiet lanes and associated earthworks and retaining and boundary features (known as the **Northern Access Road** or the **NAR**), providing vehicular, pedestrian and cycle connectivity through Langarth Garden Village and linking the new community to the A390, established adjoining residential and commercial/industrial areas and also the Royal Cornwall Hospital at Treリスケ.



- 3.3 The evolution of the Scheme is described in the proofs of evidence of Mr Philip Mason (section 5) (**CD 6.1**) and Mr Gavin Smith (section 4) (**CD 6.3**). The planning permissions relating to the Scheme are detailed in the proof of evidence of Mr Terry Grove-White (sections 6, 7 and 8) (**CD 6.5**) and Mr Gavin Smith (section 11) (**CD 6.3**).

The boundary of the Order Land

- 3.4 The Council has taken a proportionate approach to determining the boundary of the Order Land, seeking to limit the extent of third party land included within the CPO where appropriate. In setting the boundary of the Order Land, the Council carefully considered the third party land required to deliver the key strategic infrastructure needed to facilitate the Scheme in accordance with the planning permissions.
- 3.5 In high level summary, the land included within the CPO is therefore only that needed to implement the NAR and the other associated infrastructure required to:
- 3.5.1 directly control the delivery of 68% of the development by housing units, both school sites, the SANG and the Park and Ride Extension, and
 - 3.5.2 facilitate the coherent delivery of the remaining mixed use, masterplanned, landscape-led community to be known as Langarth Garden Village.

3.6 To arrive at the boundary of the Order Land, a plan of the Scheme was overlaid onto a plan of the Site. This was the starting point in identifying the land required to develop the Scheme. This was then refined to exclude land in third party ownership and which was:

3.6.1 not required to achieve the objectives set out in paragraph 3.5 above

3.6.2 capable of independent viable delivery by existing landowners and so likely to come forward without the need for public sector intervention.

3.7 This applies to the development parcels set out in **Table 1** below:

Table 1	
Development Parcels	
B12/ B14/ B15/ B16	Future development expected to come forward in conjunction with or subsequent to development on the Stadium land
C2 and part of C3	Includes a number of dwellings which are intended to be retained, with adjoining land with development potential which is expected to be brought forward independently by or in conjunction with private developers
D2	A discrete potential development opportunity which could be independently promoted and brought forward in conjunction with local SME builders/developers
D3/ D4/ D5/ D11/ D12/ D13	Development parcels which are expected to be brought forward by the landowners in collaboration with development partners, where the Council is helping to facilitate and accelerate development through delivery of critical road and utility infrastructure.
F1 and part of F2	
F3/ F4/ F5/ F6/ F7/ F8/ F9/ F13/ F14/ F15/ F16	
F10/ F11/ F12	

3.8 In addition to the land interests included in the Order Land, the CPO also provides for the creation of new rights in accordance with the provisions of section 13 of the Local Government (Miscellaneous Provisions) Act 1976. The nature of those new rights is set out in paragraph 3.16 below.

Description of the Order Land

3.9 The Order Land comprises a site area of approximately 175 hectares and primarily consists of unregistered existing highway or previously undeveloped farmland and is in a variety of ownerships. Full details of the ownership of each interest in the land and the new rights comprised in the CPO are contained in the Schedule to the CPO (**CD 4.1**).

3.10 The land proposed to be acquired is shown coloured pink (**Pink Land**) on the maps which accompany the CPO (**CPO Map**) (**CD 4.2**). In respect of the Pink Land, the Council intends to acquire all of the interests in the land unless expressly stated in the Schedule to the CPO.

3.11 The land over which new rights are sought is shown coloured blue on the CPO Map (**Blue Land**).

3.12 The CPO Map comprises sheets 1-3 together with a location plan. Individual plot boundaries and numbers on the CPO Map correspond with the Schedule.

3.13 Land reference agents, Ardent Management, have been instructed by the Council to compile a detailed schedule of the identified third-party land interests within the Order Land. These

are listed in Table 1 of the CPO Schedule. In addition, the Schedule lists other parties who may have a qualifying interest in the Order Land where known after reasonable enquiry. The Schedule has been based on information gathered through site inspections and enquiries, responses to questionnaires sent to known landowners and occupiers and inspection of Land Registry documents. Whilst based on extensive enquiry, currently unknown interests may emerge in the course of proceeding with the compulsory purchase process.

3.14 The Pink Land includes the interests set out in **Table 2** below:

Table 2	
Plot numbers (as shown on CPO Map)	Description of land
Plots 15, 35, 50 to 65, 80, 85, 90, 115 to 125, 126, 135, 140, 145, 150, 160 to 162, 270 to 295, 335 to 365, 375, 380 to 410, 420, 435 to 485, 495 to 505, 525, 550 to 560, 570, 575, 610, 616 to 618, 665, 670, 680 and 685	Land laid out and either held and/or used as public highway
Plots 5, 10, 20 and 25	Land currently laid out as open farmland known as West Langarth, with adjoining areas of woodland and scrubland, and Penstraze which includes a detached dwelling with outbuildings and paddocks
Plots 75, 95, 100 to 110, 155, 305, 310, 325, 330, 415, 425, 430, 490, 510, 515 and 520	Land currently laid out as open farmland known as Langarth Farm
Plot 130	Land currently laid out as open farmland known as Pollards Field
Plot 70	Land currently laid out as scrubland and road-side verge including land known as Biondi Field
Plot 165 and 231	Land currently laid out as open land and buildings known as The Willows together with access
Plot 180	Land containing fishing ponds
Plots 181 and 185	Land forming part of West Langarth Farmhouse
Plots 300, 315 and 320	Land laid out as or immediately adjacent to Park and Ride together with access
Plots 370, 535 and 540	Land currently laid out as open farmland known as East Langarth
Plots 565, 580 and 585	Land currently laid out as open farmland known as Govers Farm
Plots 590 and 592	Land currently laid out as open farmland known as Willow Green

Plot numbers (as shown on CPO Map)	Description of land
Plots 595, 600, 620 and 635	Land currently laid out as open farmland known as Maiden Green
Plot 625	Land laid out as hardstanding area forming part of Treliske Industrial Estate
Plots 40, 45, 86, 200, 205, 215, 225, 230, 240, 246, 250, 260, 530, 630 and 650	Land currently laid out as private road or footpath or verge adjacent thereto
Plots 645, 655, 660, 666, 675 and 690	Land currently laid out as a private access to the Royal Cornwall Hospital

3.15 The Blue Land includes (east to west) the interests set out in **Table 3** below:

<u>Table 3</u>	
Plot numbers (as shown on CPO Map)	Description of land
Plots 6, 7, 166, 167, 168, 186, 187, 188, 522, 523, 524, 581, 582 and 583	Land laid out as existing watercourse to north of Site

3.16 The new rights in respect of the Blue Land are described in the Schedule. They are required for the following principal purposes:

3.16.1 The right to enter onto land adjacent to the Site to facilitate the installation and future maintenance of new surface water drainage infrastructure.

3.16.2 The right for surface water to drain across adjacent land to reach the watercourse.

Ownership

Land acquired by the Council

3.17 There are 152 separate land parcels within the CPO. At the time of writing, and as a result of the Council's efforts to assemble the Order Land by agreement (which has continued since the CPO was made as set out in Section 5 below), of the 138 plots identified within the Order Land for permanent acquisition (i.e. Pink Land plots), the Council has successfully acquired the freehold interest in 47 of those Pink Land plots, accounting for the vast majority (90%) of the Order Land by area (388 acres out of a total of 428 acres). However:

3.17.1 in respect of 22 of these plots, the mines and minerals are excluded from the freehold title. It has not been possible to identify the name and/or address of the current owner of the mines and minerals interest and these plots are therefore included within the Order Land in order to acquire these interests.

3.17.2 in respect of 8 of these plots there are leasehold/occupational interests which it is necessary to bring to an end in order to facilitate delivery of the Scheme. While these plots have been included within the Order to ensure that vacant possession of the land can be achieved, the Council is actively managing these interests to

allow the Council to bring the interest to an end by the point in time at which vacant possession is required to allow construction of the Scheme. In respect of one of these (plot 650), agreement has been reached with the leaseholder to amend their leasehold boundary as an alternative to the use of compulsory purchase powers in respect of their interest in the plot.

- 3.18 Of the remaining 91 Pink Land plots within the Order Land at the time of making the CPO:
- 3.18.1 48 are public highway where the freehold is unregistered. In respect of 28 of these highway plots, the Council is presumed to already be the owner of the underlying subsoil beneath the highway crust and/or roadside verges and footpaths under the *ad medium filum* rule up to the halfway point. Here, the Council is relying on the CPO to both confirm its land ownership position up to the halfway point and to acquire the freehold interest in the remaining half. In total, these highway authority plots account for 8 acres of the Order Land (less than 2%) by area.
 - 3.18.2 1 plot (Plot 565) is a watercourse forming the boundary between plots 520 and 580 where the Council is the freehold owner in both cases and thus presumed to be the owner of the entirety of the watercourse under the *ad medium filum* rule.
 - 3.18.3 16 plots comprise land where the freehold title is unregistered and the land is not public highway and so no presumptions can be made as to ownership. It has not been possible to identify the relevant owner despite press and site notices. Here, the Council is relying on the CPO to facilitate engagement and acquire the interest.
 - 3.18.4 9 plots are owned by the Royal Cornwall Hospital NHS Trust (**RCHT / 'the Trust'**). Agreement has been reached with the RCHT regarding the construction of Stage 5 of the NAR, including the agreement of RCHT to the dedication of the existing access road as public highway as an alternative to compulsory purchase (**CD 5.3**).
- 3.19 At the time of making the CPO, the freehold interests in the remaining 17 plots, totalling 29 acres or 6.8% of the Order Land by area, were held by 7 parties, three of whom were connected. Two of these plots are subject to leasehold/occupational interests.
- 3.20 Of the total 152 plots within the Order Land, there are 14 plots where the Council is not seeking permanent acquisition of the land but does require new rights over the land for the purpose of the construction and operation of the Scheme (i.e. Blue Land plots). In respect of 4 of these Blue Land plots, the Council is already the presumed riparian owner under the *ad medium filum* rule but is relying on the CPO in order to confirm its ability to exercise the right for the benefit of the Scheme. One of these Blue Land plots is unregistered and it has not been possible to identify the owner despite press and site notices.

Excluded interests

- 3.21 Following the advice at paragraph 204 in Section 14 of the CPO Guidance (**CD 5.4**) the CPO has been drafted to exclude the acquiring authority's interests. The Council either acquired its existing interests in the Order Land for the purpose of the Scheme, or has otherwise appropriated it for such purposes, which allows for the use of the powers in Section 203 of the Housing and Planning Act 2016 to override easements and other third party rights that affect the Order Land and might otherwise present an obstacle to delivery of the Scheme.
- 3.22 **Special Considerations**
- 3.23 There is no land within the Order Land which is owned by another local authority, by the National Trust or which forms part of a common, open space land or fuel or field garden allotment.
- 3.24 There are a number of gas, water and electricity undertakers and telecommunications operators with interests in the Order Land to whom section 16 of the Acquisition of Land Act 1981 would apply. These are set out and listed in the CPO Schedule. The Council (through

its agents Arcadis and Cormac) has approached each undertaker seeking to reach agreement with them as to the relocation or removal of any existing apparatus within the Site, or the removal or amendment of rights over the Site, where this is required in order to implement the Scheme. These discussions are ongoing. As a result of these discussions, no objections to the CPO have been received from any of the statutory undertakers with existing apparatus within the Order Land.

3.25 There are the following known Crown interests within the Order Land:

3.25.1 Royal Cornwall Hospital Trust: has land interests in Plots 645, 655, 660, 665, 666, 675, 680, 685, 690 and has the benefit of a registered restriction against the title to Plot 650. These plots are required for the construction of Work No 5 being the NAR connection to the public highway at Penventinnie Lane adjacent the Royal Cornwall Hospital. The Trust has agreed to grant the Council a licence over these plots to allow for the construction of the works and for the Trust to thereafter dedicate its interests in this land as public highway. This agreement completed on 6 June 2023 (**CD 5.3**) as a result of which there is no longer any requirement for the Council to implement the CPO in respect of these interests. The Trust did not object to the CPO.

3.25.2 Department of Health and Social Care (**DHSC**): has the right to construct and maintain a water drain across Plot 620 and a right of access across Plot 690. The above agreement with the Royal Cornwall Hospital Trust has resulted in the RCHT agreeing to dedicate Plot 690 as public highway. As a result, the Council is no longer exercising the CPO to acquire Plot 690 and there will be no interference with the existing DHSC right of access. Implementation of the Scheme will not impact upon the DHSC's right to construct and maintain a water drain across Plot 620.

3.25.3 Defence Infrastructure Organisation (**DIO**): there is an abandoned aviation fuel pipe which originally ran from Falmouth docks to RAF St. Mawgan (now Newquay Cornwall Airport) and which intersects with a section of the NAR (plot 600) and continues northwards through Govers Farm (plot 585). Although originally operated by the Ministry of Defence, it is now managed by the British Pipeline Agency (**BPA**). The pipeline was subsequently made redundant and decommissioned. While the pipeline is in situ, the DIO does not have any registered legal interest in the land to be acquired. The BPA has confirmed to the Council (through its agent Cormac) that there is nothing to prevent the abandoned pipeline from being removed as required during the Scheme works. The pipeline was capped at the extents of the works on 20 December 2023. The pipe itself will be removed later during the earthworks operation to create the NAR. A letter from the DIO is appended as **Appendix AH3** to my proof of evidence.

3.26 There are two heritage assets situated within the Order Land:

3.26.1 A listed milestone sits within Plot 60. The listed milestone will be relocated to the South side of the A390. Listed Building Consent to relocate the listed milestone was granted by the LPA on 5 April 2022 (**CD 3.12**).

3.26.2 A scheduled monument (Penventinnie Round, at Govers Farm) sits within Plot 585. No works are proposed to the scheduled monument with the layout and design of the Scheme ensuring provision of strategic open space/SANG at Govers Farm which will serve as the setting of Penventinnie Round and facilitate its ongoing management and maintenance.

4. THE NEED FOR THE USE OF COMPULSORY PURCHASE POWERS

The purpose of the CPO

4.1 The purpose of the CPO is to secure the assembly of all the outstanding interests in the Order Land. The Order Land will then be used to enable the development of the Scheme. Thus, the

Council's objective in making the CPO is to bring all of the Order Land into a single ownership and to obtain vacant possession of it to ensure delivery of the Scheme.

- 4.2 The extent of the Order Land has been determined by the requirement to achieve the objectives of the Council, being the need to rationalise facilities and land uses in the Langarth area in order to improve the planning outcomes for Truro and Threemilestone, set higher standards for place-making and design in the area and to facilitate the creation of a sustainable new mixed use community, whilst addressing the overall imbalance of jobs and homes in the area. The Council's objectives are set out more fully in section 4 of the evidence of Mr Philip Mason (**CD 6.1**).

Number of Plot Interests in the CPO

- 4.3 There are 152 plots in the Order Land, of which 138 are included for permanent acquisition.
- 4.4 New rights only are required over 14 plots.
- 4.5 Since 2019, the Council has acquired 47 plots comprising most of the Order Land (90%) permanently required for Scheme purposes by agreement. Details of these acquisitions are set out in paragraph 5.12 of this proof.
- 4.6 There are a further 65 plots making up a total of 9 acres within the Order Land (2%) where the ownership is unknown or in question, where there is the need for clear title to be obtained in order to facilitate delivery of the Scheme or which otherwise comprise interests in small land parcels beneath or immediately adjoining the adopted highway where changes or improvements are proposed for Scheme purposes.
- 4.7 Agreement has been reached with RCHT in respect of the 9 plots it owns affecting Stage 5 of the NAR works, including the Trust's agreement to the dedication of the existing access road as public highway as an alternative to compulsory purchase. Agreement has also been reached with the purported owners of 4 other plots.
- 4.8 The Council has made good progress with the acquisition of the remaining interests by agreement, and at the date of this proof there are 13 plots that remain to be permanently acquired, currently owned by 4 parties. Details of the status of these negotiations are set out in Section 5.24 of this proof.
- 4.9 Of the 14 plots over which new rights only are required, the Council has made good progress in negotiating the acquisition of the necessary rights by agreement with the 3 known landowners affected. Details of the status of these negotiations are set out in paragraph 5.25 of this proof.
- 4.10 I am not surprised that the Council has been unable to conclude agreement concurrently with all parties with an interest in a scheme of this scale and nature. Even if all of the owners were known and willing sellers, I would not expect an acquiring authority to be able to agree terms for the acquisition of all interests within an acceptable timescale. The delay that would inevitably arise if acquisition by agreement were to be relied upon exclusively would potentially prejudice the achievement of the Council's objectives.

Statutory Basis for the Compulsory Purchase Order

- 4.11 The CPO has been made pursuant to section 226 of the TCPA. Guidance to acquiring authorities on the use of this power is provided by the CPO Guidance (**CD 5.4**) and in particular Stage 2 of Tier 1 and Section 1 of Tier 2.
- 4.12 In preparing and making the CPO, the Council has been mindful of the provisions of Section 226(1)(a) of the TCPA together with the Guidance.

The Guidance

- 4.13 Paragraph 13 of the CPO Guidance (**CD 5.4**) sets out how the Secretary of State will consider the acquiring authority's justification for making a CPO by taking a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire and the wider public interest. This paragraph notes that if the acquiring authority *"does not have a clear idea of how it intends to use the land which it is proposing to acquire; and cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale it will be difficult to show conclusively that the compulsory acquisition of land included in the order is justified in the public interest"*. This proof, and the proofs of others, set out why the CPO is justified to be in the public interest.
- 4.14 Paragraph 14 of the CPO Guidance (**CD 5.4**) sets out the need for the acquiring authority to address the sources and timing of funding for the proposed scheme, which is contained in section 6 the proof of Mr Philip Mason (**CD 6.1**).
- 4.15 Paragraph 15 sets out the need for the acquiring authority to demonstrate that the scheme is unlikely to be blocked by any other physical or legal impediments to implementation, including the programming of any infrastructure accommodation works or remedial work which may be required and any need for planning permission or other consent or licence. As set out at section 5 of the proof of evidence of Mr Patrick Valvona (**CD 6.7**), section 7 of the proof of evidence of Mr Harry Lewis (**CD 6.11**) and at Section 6 of the Council's Combined Statement of Reasons (**CD 4.6**) and considered further below in respect of additional guidance for CPOs made under section 226 of the TCPA, the Council does not consider there are any such impediments.
- 4.16 Paragraph 106 of the CPO Guidance (**CD 5.4**) sets out four matters that the Secretary of State is expected to consider in deciding whether to confirm a CPO made under section 226 of the TCPA. I have set out these four matters below and named the proof of evidence that sets out how the Council has had regard to each of these as follows:

"whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework."

- 4.17 The compatibility of the Scheme within the planning framework for the area is set out in the proof of evidence of Mr Gavin Smith (section 7) (**CD 6.3**) and Mr Terry Grove White (section 5) (**CD 6.5**).

"the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area."

- 4.18 This is explained in the proofs of evidence of Mr Philip Mason (section 7) (**CD 6.1**) and Mr Terry Grove-White (section 5) (**CD 6.5**) and Mr Tim Wood (section 5) (**CD 6.9**).

"whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land, or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired."

- 4.19 As set out in section 5 of the proof of evidence of Mr Philip Mason (**CD 6.1**) the Council's objectives could not be achieved by any other means.

“the potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitments from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be. The timing of any available funding may also be important. For example, a strict time limit on the availability of the necessary funding may also be an argument put forward by the acquiring authority to justify proceeding with the order before finalising the details of the replacement scheme and/or the statutory planning position.”

- 4.20 Details of the funding for the Scheme, together with the Council's commitment to its delivery, is set out in section 6 to the proof of evidence of Mr Philip Mason (**CD 6.1**). Commentary on the viability of the Scheme is set out in section 7 to the proof of evidence of Mr Anthony Lee (**CD 6.15**). The strategy for delivery of the Scheme is discussed in section 6 of the proof of evidence of Mr Harry Lewis (**CD 6.11**).

Summary of the Need for Compulsory Purchase

- 4.21 In deciding to make the CPO, the Council has considered whether they think that acquisition of the Order Land will facilitate the development of the Scheme. They have then considered whether such development is likely to contribute to achieving the promotion or improvement of the economic, social and environmental well-being of their area. These considerations are summarised at paragraph 8.59 of the Council's Combined Statement of Case (**CD 4.5**).
- 4.22 The Council has concluded that acquisition of the Order Land will secure the delivery of the Scheme that will satisfy those objectives.
- 4.23 The social, economic and environmental improvements that the Council expects the Scheme to deliver are explained in the proofs of evidence before the Inquiry, particularly the proofs of Mr Philip Mason (**CD 6.1** section 7) and Mr Gavin Smith (**CD 6.3** – section 8) and Mr Terry Grove-White (**CD 6.5** – section 5) and Mr Tim Wood (**CD 6.9** – section 5).
- 4.24 Notwithstanding the progress made in achieving land assembly by agreement as described in Section 5 of this proof, I consider it highly unlikely that the development of the Scheme to achieve the stated objectives would be deliverable without the availability of compulsory purchase powers over all the Order Land.
- 4.25 The land over which new rights are being sought is also shown shaded blue in the CPO Plan (**CD 4.2**). These new rights, rather than permanent land acquisition, are required to facilitate construction of the Scheme and a summary of these is set out at paragraph 3.16 above.
- 4.26 In my opinion the Council is justified in making the CPO and has followed the CPO Guidance (**CD 5.4**). In particular, the Council has a clear purpose for the acquisition and is satisfied that the necessary resources are likely to be available to achieve that purpose in an appropriate time-scale. As set out in the Section 6 of the Council's Combined Statement of Case (**CD 4.5**), in this proof of evidence, and in the other proofs of evidence submitted by the acquiring authority, there are no impediments to implementation that will not be overcome by the confirmation of the CPO.

5. NEGOTIATIONS TO ACQUIRE INTERESTS BY AGREEMENT

- 5.1 The requirements set out in paragraphs 2, 3, 17 and 19 of CPO Guidance (**CD 5.4**) have directed the approach taken to negotiations and the Council's dealings with property owners and occupiers generally.
- 5.2 Paragraph 2 of the CPO Guidance states:

“The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Where acquiring authorities decide to/arrange to acquire land by agreement, they will pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market. Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:

- plan a compulsory purchase timetable as a contingency measure; and*
- initiate formal procedures.*

This will also help to make the seriousness of the authority’s intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.”

5.3 Paragraph 3 of the CPO Guidance states:

“When offering financial compensation for land in advance of a compulsory purchase order, public sector organisations should, as is the norm, consider value for money in terms of the Exchequer as a whole in order to avoid any repercussive cost impacts or pressures on both the scheme in question and other publicly-funded schemes.

Acquiring authorities can consider all of the costs involved in the compulsory purchase process when assessing the appropriate payments for purchase of land in advance of compulsory purchase. For instance, the early acquisition may avoid some of the following costs being incurred:

- legal fees (both for the order making process as a whole and for dealing with individual objectors within a wider order, including compensation claims)*
- wider compulsory purchase order process costs (for example, staff resources)*
- the overall cost of project delay (for example, caused by delay in gaining entry to the land)*
- any other reasonable linked costs (for example, potential for objectors to create further costs through satellite litigation on planning permissions and other orders)*

In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant.”

5.4 Paragraph 17 of the CPO Guidance states:

“Undertaking negotiations in parallel with preparing and making a compulsory purchase order can help to build a good working relationship with those whose interests are affected by showing that the authority is willing to be open and to treat their concerns with respect. This includes statutory undertakers and similar bodies as well as private individuals and businesses. Such negotiations can then help to save time at the formal objection stage by minimising the fear that can arise from misunderstandings.

Talking to landowners will also assist the acquiring authority to understand more about the land it seeks to acquire and any physical or legal impediments to development that may exist. It may also help in identifying what measures can be taken to mitigate the effects of the scheme on landowners and neighbours, thereby reducing the cost of a scheme. Acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted, save for lands where land ownership is unknown or in question.”

5.5 Paragraph 19 of the CPO Guidance states:

“Compulsory purchase proposals will inevitably lead to a period of uncertainty and anxiety for the owners and occupiers of the affected land. Acquiring authorities should therefore consider:

- providing full information from the outset about what the compulsory purchase process involves, the rights and duties of those affected and an indicative timetable of events; information should be in a format accessible to all those affected*
- appointing a specified case manager during the preparatory stage to whom those with concerns about the proposed acquisition can have easy and direct access*
- keeping any delay to a minimum by completing the statutory process as quickly as possible and taking every care to ensure that the compulsory purchase order is made correctly and under the terms of the most appropriate enabling power*
- offering to alleviate concerns about future compensation entitlement by entering into agreements about the minimum level of compensation which would be payable if the acquisition goes ahead (not excluding the claimant’s future right to refer the matter to the Upper Tribunal (Lands Chamber))*
- offering advice and assistance to affected occupiers in respect of their relocation and providing details of available relocation properties where appropriate*
- providing a ‘not before’ date, confirming that acquisition will not take place before a certain time*
- where appropriate, give consideration to funding landowners’ reasonable costs of negotiation or other costs and expenses likely to be incurred in advance of the process of acquisition”*

5.6 The scope of evidence within my proof of evidence seeks to demonstrate that the Council has sought to ensure compliance with the CPO Guidance accordingly, and by making diligent enquiries to identify, and thereafter proactively and constructively engage in meaningful negotiations with, all parties potentially affected by the CPO to acquire the Order Land through private treaty agreement, and making reasonable attempts to deal with their concerns in parallel with preparations for the making of the CPO as a contingency measure and last resort.

5.7 This has led to the acquisition by agreement of the vast majority of the Order land, with ‘in principle’ provisional agreements being reached with all but one of the remaining affected landowners in relation to permanent land acquisition, compensation, mitigation and protective provisions. Of the three known landowners where new rights only are sought, in principle agreements have been agreed with all parties, including the only remaining owner with an outstanding objection to the CPO and SRO.

Approach to negotiations

5.8 In January 2019, the Full Council resolved to take a proactive role in the delivery of Langarth Garden Village, allocating £109m, to support the development of a masterplan, the delivery of key infrastructure and the acquisition of relevant land interests. In November 2020, Cabinet resolved to delegate authority to the Strategic Director for Economic Growth and Development (in consultation with relevant Members) to progress negotiations with affected owners.

5.9 Since the resolution of Full Council in January 2019, the Council, assisted by JLL, has been seeking to acquire by agreement the land interests required for the delivery of the NAR, together with other land interests required for key infrastructure needed to facilitate the delivery of the Scheme.

- 5.10 The Council has taken a very flexible and pragmatic approach to reaching agreement with affected landowners, including (as appropriate):
- 5.10.1 offers for an outright purchase
 - 5.10.2 agreement of terms for a future purchase
 - 5.10.3 the surrender of part of land from leasehold interests
 - 5.10.4 the dedication of land as public highway as an alternative to the use of compulsory purchase powers
 - 5.10.5 the grant of replacement occupational interests on terms that allow the affected party to remain in occupation until such time as the vacant possession is required to enable development of the Scheme
 - 5.10.6 the acquisition of additional land outside of the boundary of the Order Land in order to better meet the relocation requirements of the affected landowner
 - 5.10.7 agreement for the express grant of rights over Council owned land in order to facilitate mitigate the impacts of the CPO or SRO on an affected landowner
 - 5.10.8 undertakings to offer back land not required for the ongoing operation of the NAR following its construction
 - 5.10.9 the upfront settlement of overage payments or compensation for the interference with existing rights over land
 - 5.10.10 acquisition subject to retained rights or restrictive covenants to mitigate the Council's potential compensation liability
 - 5.10.11 negotiated revisions to Scheme roads / junctions design to mitigate impacts on an affected landowner
 - 5.10.12 negotiated revisions to plot boundaries to mitigate impacts on affected landowners
 - 5.10.13 undertakings to delay exercise of the CPO (in respect of one plot) to give the landowner time to secure and implement approvals for a compatible or facilitating development
 - 5.10.14 undertakings to provide road and utility infrastructure within agreed timescales to facilitate development of retained land
 - 5.10.15 offers to undertake works in lieu of compensation
 - 5.10.16 offers to collaborate on planning and development management matters, and
 - 5.10.17 offers to provide support and make resources available in designing, obtaining approvals for, and implementing compatible or interfacing development.
- 5.11 Further, in assessing the level of offers to make to affected landowners for the acquisition of their interests within the Order Land, JLL has adopted the approach set out at paragraph 2 of the CPO Guidance. JLL therefore recommended that the Council made offers which considered all of the costs involved in the compulsory purchase process and the benefits to both the development programme and overall cost to the project of the savings to be gained from reaching acquisitions by agreement (including savings in legal fees, wider compulsory purchase order process costs (for example, staff resources), the overall cost of project delay (for example, caused by delay in gaining entry to the land). Where requested, the Council

has agreed interim payments of legal, surveyor and other professional fees to assist affected landowners and to ensure that costs did not create an impediment to meaningful engagement.

Status of negotiations

- 5.12 The Council has been very successful in negotiating to acquire land interests by agreement, having successfully completed the following agreements for the acquisition of land interests required for the delivery of the Scheme prior to making the CPO¹:
- 5.12.1 the acquisition of land at West Langarth, Langarth Farm (known as “Phases 1 and 2” and parts of “Phases 3, 4, and 5”), Pollards Field and Biondi Field required for the construction of Stages 1 to 3 of the NAR and delivery of the wider Scheme;
 - 5.12.2 the acquisition of land at East Langarth required for the construction of Stage 6 of the NAR and the delivery of the wider Scheme;
 - 5.12.3 the acquisition of land known as The Willows, identified as the preferred site for the first Langarth Garden Village primary school and part of the Bosvisack corridor (strategic valley cycle route);
 - 5.12.4 the acquisition of land known as Governs Farm, identified as the preferred site for the second Langarth Garden Village primary school, together with housing and Governs Park (comprising the SANG, community woodland, allotments and parks);
 - 5.12.5 the acquisition of the balance of Langarth Farm Phases 3, 4 and 5 for delivery of the wider Scheme;
 - 5.12.6 the acquisition of land at Penstraze (part of West Langarth Farm) for delivery of the wider Scheme;
 - 5.12.7 the acquisition of all title, rights and interests in adjacent sections of the unregistered lanes and other parcels from neighbouring landowners and the successful registration of possessory title to some of those parcels to facilitate the delivery of the Scheme;
 - 5.12.8 the modification of covenants affecting part of the Park and Ride to enable the development of the energy centre for the Scheme;
 - 5.12.9 the release of covenants affecting land known as the “Park and Ride Extension” to facilitate its development;
 - 5.12.10 the release of specific restrictive covenants and other obligations affecting the Bus Gate and a general release of covenants and obligations affecting the majority of the Council’s holdings at Langarth Garden Village (with specific exceptions) to facilitate the delivery of the Scheme;
 - 5.12.11 the surrender and release of an option agreement with various covenants and obligations affecting Langarth Farm Phases 1 and 2;
 - 5.12.12 the surrender of a potential farm business tenancy and/or agricultural holdings act tenancy and ancillary rights affecting part of Langarth Farm and its replacement with a grazing licence to assist with land and environmental management, bio-diversity and meeting planning requirements to facilitate the delivery of the Scheme;
 - 5.12.13 the surrender of three protected business tenancies and a potential farm business tenancy and ancillary rights affecting part of Governs Farm and their replacement

¹ See Figures 5 and 31 at Appendix PM2 to the proof of evidence of Mr Philip Mason to assist with the locations of the land interests listed in this paragraph.

- with contracted out leases and/or grazing licences to facilitate the delivery of the Scheme;
- 5.12.14 the grant of a new farm business tenancy affecting land at Governs Farm to assist with land and environmental management, bio diversity and meeting planning requirements to facilitate the delivery of the Scheme;
 - 5.12.15 the settlement and release of overage obligations and positive obligations affecting land known as Biondi Field to facilitate the development of the primary junction and access for the Scheme;
 - 5.12.16 the variation of an existing option agreement over part of Langarth Farm which affects the remainder of the land forming part of the Scheme.
- 5.13 While the majority of affected landowners had already been contacted, either by myself or other Council officers or representative, between March and June 2022, the Council undertook a comprehensive engagement exercise prior to making the CPO in line with paragraph 19 of the CPO Guidance.
- 5.14 This included letters issued in March 2022 notifying potentially affected landowners and occupiers of a formal land referencing exercise to be undertaken by Ardent to identify relevant interests, explain the background and context for subsequent notices and correspondence and the steps and timescales associated with the process, and to emphasise the Council's preference for acquiring land by agreement in order to avoid reliance on compulsory purchase powers.
- 5.15 This was followed by Requests for Information (RFI) questionnaires being sent to all those believed to have a relevant legal interest, either in or adjacent to the Order Land, to seek confirmation of information already held by the Council, with subsequent direct contact and a series of site visits being made to cross check information provided and identify parcel boundaries.
- 5.16 Having completed the land referencing exercise referred to at paragraph 5.13 to 5.15 above, in advance of its decision whether or not to make the Order, the Council wrote to all parties with an identified interest in the Order Land to offer to negotiate for the acquisition of that interest by agreement to understand and address any concerns as to how any interests or rights may be adversely affected and what (if any) compensation affected parties may be entitled to. An example of the letter sent to all those with land interests affected by the CPO is provided as **Appendix AH3** to my proof of evidence.
- 5.17 I also wrote formally to those parties with whom the Council had previously actively engaged to make formal offers of compensation. This included offers to reimburse the landowners' reasonable professional fees of the negotiation and suggestions of how to identify and engage a suitably qualified surveyor where not already appointed.
- 5.18 Further engagement has also been undertaken with a large number of separate "one to one" meetings or correspondence in order to ensure that those affected interest owners are fully appraised of how and when they may be affected by the CPO, the SRO or otherwise by the construction and operation of the Scheme and what mitigations the Council is putting in place in order to minimise disruption where possible.
- 5.19 Following the making of the CPO, the Council has successfully secured the following further acquisitions by agreement:
- 5.19.1 the completion of an agreement with the RCHT for a licence to facilitate the construction of Stage 5 of the NAR, together with the agreement for the RCHT to dedicate its interest in existing access roads as public highway.
 - 5.19.2 the acquisition of West Langarth Farm in order to facilitate the delivery of the Bosvisack Corridor (strategic valley cycle route).

Current status of negotiations

- 5.20 As at the date of this proof of evidence, there are 91 plots due for permanent acquisition pursuant to the CPO.
- 5.21 These include 48 plots of unregistered public highway where ownership of the subsoil interest is unknown or presumed only, pursuant to the *ad medium filum* principle. The Council is the presumed owner of 28 of these plots (and the presumed riparian owner of a further single plot of unregistered watercourse). Of the remaining 20 plots, there are only 8 where no “in principle” agreement has been reached with the presumed owners, comprising 6 separate parties none of whom have objected to the CPO.
- 5.22 There are a further 16 plots where the ownership is unregistered and unknown, mostly comprising sections of unnamed road running along the western boundary of Langarth Farm providing access from the A390 at Rosedene to various private residences at West Langarth. The Council’s land referencing exercise and engagement with residents has resulted in a claim for possessory title and/or prescriptive rights in respect of 3 of these plots from a single house owner who also objected to the CPO and SRO. However, in this case, agreement has been reached and the objections withdrawn.
- 5.23 9 of the remaining 22 plots are owned by RCHT and form part of the agreement referred to in paragraph 5.19.1 above. Terms have been agreed with the purported owner of a further 4 plots (see paragraph 4.7 above).
- 5.24 A summary of the status of the negotiations in respect of each of the remaining 13 plots included in the CPO for permanent acquisition is set out in **Table 4** below:

Table 4

	Plot Numbers	Status of negotiations with freehold landowner
1	270 and 280 275 and 285 (presumed owner of half-width of subsoil beneath public highway)	No objection to the CPO was made by the landowners. No response to correspondence seeking to engage in negotiations to acquire land. Engagement has continued via Mr Tim Wood with regard to impact of the construction of the Scheme on retained land interests.
2	300, 330 and 510 375, 380, 385, 390, 395, 400, 405 and 505 (presumed owner of half width of subsoil beneath public highway)	No objection to the CPO was made by the landowners. Agreement in principle reached between agents. Solicitors instructed.
3	590, 592, 595, 600 and 620. Claimed ownership of unregistered plot 635. 555 (presumed subsoil of half width of subsoil beneath public highway)	Mr Richard Walker and associated companies – objections withdrawn. Agreement in principle reached between agents. Solicitors instructed.
4	625, 630 and 640	No objection to the CPO was made by the landowner.

	Plot Numbers	Status of negotiations with freehold landowner
		Offer has been made by Council. JLL has engaged with agents although no agreement yet reached.

- 5.25 There are 14 Blue Land plots where the Council is not seeking permanent acquisition of the land but does require new rights over the land for the purpose of the construction and operation of the Scheme. All 14 Blue Land plots are unregistered. One of these is in unknown ownership and 4 are presumed to be owned by the Council under the *ad medium filum* rule. The remaining 9 plots are believed to be in the ownership of 3 separate landowners. The Council has engaged with each of these landowners and, where appropriate, offers to acquire the new rights by agreement have been made to each based on expert valuations undertaken by JLL. A summary of the status of the negotiations with each of the 3 known owners of the land over which new rights are sought is set out in **Table 5** below:

Table 5

	Plot Numbers	Status of negotiations with freehold landowner
1	166, 186, 522, 524 and 582	Mr Treseder and family – objection withdrawn. Agreement in principle reached and documentation with solicitors.
2	6 and 7	No objection to the CPO was made by the landowners. JLL is in discussion with landowner's agent. Offer has been made to secure agreement for grant of express rights to drain into watercourse and "in principle" agreement has been reached.
3	167 and 188	No objection to the CPO was made by the landowners. JLL is in discussion with landowner's agent. Offer has been made to secure agreement for grant of express rights to drain into watercourse and "in principle" agreement has been reached.

- 5.26 For the reasons set out in this Section 5, I am satisfied that the Council has fully complied with the advice provided at paragraphs 2, 3, 17 and 19 of the CPO Guidance.

6. OBJECTIONS TO THE ORDER

- 6.1 The Secretary of State has received seven objections to the CPO. All objections to the CPO have now been withdrawn.
- 6.2 In this section, for each objection I summarise the property interest that is owned, together with the current position with each objector.

CPO Objector Number 1: Ashfords on behalf of Mr Walker and associated companies

Plots 555, 590, 592, 595, 600, 620 and 635 (permanent acquisition)

- 6.3 Mr Walker is the freehold owner of plot 595. His associated company is the freehold owner of plots 555, 590 and 592. His second associated company is the freehold owner of plots 600

and 620 and has claimed title to the unregistered plot 635. The objection raised various concerns relating to the objectors' ability to access and independently develop their retained land. These were further articulated through subsequent engagement and discussions with Council officers and its technical, legal and commercial advisers, culminating in detailed heads of terms being agreed for a comprehensive voluntary settlement and appointment of solicitors to document the agreement in August this year. Since that time the parties have been in detailed legal negotiations to conclude various legal agreements that will collectively:

- 6.3.1 Provide the objectors with a financial settlement reflecting the compensation to which would be entitled in the event of compulsory acquisition.
- 6.3.2 Commit the Council to acquiring additional land in the objectors' ownership to enable it to directly deliver built frontage to the NAR.
- 6.3.3 Commit the Council to fund and deliver a range of other infrastructure works and mitigations to facilitate access to and development of retained land.
- 6.3.4 Commit both parties to fund and deliver additional infrastructure works to facilitate development on retained or adjoining land, subject to contributions towards costs.
- 6.3.5 Provide mechanisms for ongoing co-operation and collaboration over planning and development matters to ensure successful delivery of compatible development.

The parties have signed a deed of undertaking to commit to progress matters accordingly and fully expect to achieve legal completion over the next few weeks before the start of the Inquiry. Consequently, the objections submitted on behalf of Mr Walker and his associated companies has been withdrawn. I therefore have not considered this objection further in my proof of evidence.

CPO Objector Number 2: Carter Jonas on behalf of Mr Ali and Ms Briggs
--

Plots 165, 181, 185, 187 (permanent acquisition)

- 6.4 The objection has now been withdrawn and I therefore do not consider it further in my proof of evidence.

CPO Objector Number 3: Michelmores LLP on behalf of Ms Lutey and Ms Jones
--

Plot 620 (permanent acquisition)

- 6.5 The objection has now been withdrawn and I therefore do not consider it further in my proof of evidence.

CPO Objector Number 4: Spanview Limited
--

Plot 524 (acquisition of new rights)

- 6.6 This objection has now been withdrawn and I therefore do not consider it further in my proof of evidence.

CPO Objector Number 5: Savills on behalf of Mr Treseder and family

Plots 166, 186, 522, 524 and 582 (acquisition of new rights)

- 6.7 New rights in respect of surface water drainage are required over a watercourse which runs along the northern boundary of the Site including those parts of the watercourse owned by the objectors. In addition, the objectors own land outside of the boundary of the Order Land but which has the benefit of prescriptive rights of access over an existing lane which runs through the Order Land and which is proposed for permanent acquisition.
- 6.8 Negotiations with the objectors have culminated in agreed terms and this objection has now been withdrawn. I therefore do not consider it further in my proof of evidence.

CPO Objector Number 6: Lodge and Thomas on behalf of Mrs Biondi
--

Plot 70 (permanent acquisition)
--

- 6.9 The objector does not own any property within the Order Land but has the benefit of a restrictive covenant over plot 70. Plot 70 is included in the CPO for permanent acquisition. The objection has now been withdrawn and I therefore do not consider it further in my proof of evidence.

CPO Objector Number 7: Mr and Mrs Gordon

Plots 225, 231 and 240 (permanent acquisition)

- 6.10 The objectors own a property outside of the Order Land but claim to be additionally in occupation of plots 225, 231 and 240 which are included in the CPO for permanent acquisition. The objection has now been withdrawn and I therefore do not consider it further in my proof of evidence.

7. CONCLUSION

- 7.1 In accordance with the Guidance the Council has sought to acquire the Order Land wherever possible by means of agreement rather than by compulsory purchase.
- 7.2 The Council has made reasonable attempts to reach agreement with land owning objectors in advance of making the CPO in accordance with paragraphs 2, 3 and 17 of the CPO Guidance.
- 7.3 Negotiations to acquire land have been ongoing with the objectors since the Order was submitted for confirmation.
- 7.4 The Council has undertaken to meet the reasonable professional fees and costs incurred by those parties with whom it has been negotiating and all affected landowners and occupiers. The costs referred to include the costs of translation services where appropriate and surveyor's fees to help with the identification and purchase of suitable relocation properties.
- 7.5 The Council has sought to provide general updates in relation to the scheme and has met with landowners and occupiers to provide more detail and answered queries on technical matters where requested to do so.
- 7.6 The Council continues to work with affected parties and will endeavour to reach agreement wherever practically possible without the use of compulsory purchase powers. In all cases, where objections have been made the Council has addressed the concerns raised and reached agreement with the objectors resulting in the withdrawal of their objections.
- 7.7 My conclusions on the CPO are that:

- 7.7.1 the interests and rights included within the Order Land are required in connection with the carrying out of the Scheme in accordance with the objectives of the acquiring authority;
 - 7.7.2 without the CPO, there is no reasonable prospect that the required interests and rights could be assembled within an acceptable timescale;
 - 7.7.3 therefore without the CPO, the acquiring authority would not be able to deliver the Scheme for this important proposal for Cornwall;
 - 7.7.4 the objections made have been fully considered. The acquiring authority has sought to address the concerns raised where it is practicable to do so without prejudicing the Scheme. In particular the Council has taken great care to ensure that the impact of the Scheme upon those most affected is kept to a minimum; and
 - 7.7.5 all of the objections have now been withdrawn.
- 7.8 In my opinion the CPO is demonstrably in the public interest and should be confirmed.

8. STATEMENT OF TRUTH

- 8.1 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

- 8.2 In preparing this proof of evidence, I confirm that:
- 1. I have 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 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;
 - 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 of evidence 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).



Andrew Hector
2 January 2024

Town and Country Planning Act 1990

Acquisition of Land Act 1981

Local Government (Miscellaneous Provisions) Act 1976

Inquiry into:

**THE CORNWALL COUNCIL (LANGARTH GARDEN VILLAGE, THREEMILESTONE)
COMPULSORY PURCHASE ORDER 2022**

Appendices to Proof of Evidence

of

Andrew Hector

Director, Jones Lang LaSalle Limited

2 January 2024

Appendix AH1: Chronology of contact with Objectors to the CPO

Appendix AH2: Authors of Evidence providing Response to Ground of Objection

Appendix AH3: Copy open correspondence where referred to in Proof of Evidence

APPENDIX AH1

The Cornwall Council (Langarth Garden Village, Threemilestone) Compulsory Purchase Order 2022

Chronology of contact with Objectors to the CPO

Black text = Freehold acquisition of land included in the CPO

Blue text = Acquisition of New Rights included in the CPO (New Rights only required from Objector where entire row is shown in blue text)

No.	Objector/Affected Parties	CPO Plot Number(s)	Interest owned by Objector	Chronology of Contact
1	Ashfords on behalf of Richard Walker and associated companies	Plots 555, 590, 592, 595, 600, 620 and 635 (permanent acquisition)	Freehold	Objection withdrawn.
2	Carter Jonas on behalf of Mr Ali and Ms Briggs	Plots 165, 181, 185, 187 (permanent acquisition)	Freehold	Objection withdrawn.
3	Michelmores on behalf of Ms Jones and Ms Lutey	Plot 620 (permanent acquisition)	Freehold	Objection withdrawn.
4	Savills on behalf of Spanview Limited	Plot 524 (acquisition of new rights)	Freehold	Objection withdrawn.

No.	Objector/Affected Parties	CPO Plot Number(s)	Interest owned by Objector	Chronology of Contact
5	Savills on behalf of Mr Treseder and family	Plots 166, 186, 522, 524 and 582 (acquisition of new rights)	Freehold	Objection withdrawn.
6	Lodge & Thomas on behalf of Mrs Biondi	Plot 70 (permanent acquisition)	Freehold	Objection withdrawn.
7	Mr and Mrs Gordon	Plots 205, 215, 225 and 240 (permanent acquisition)	Freehold	Objection withdrawn.

APPENDIX AH2

The Cornwall Council (Langarth Garden Village, Threemilestone) Compulsory Purchase Order 2022

Authors of Evidence providing Response to Ground of Objection

	Objector Name and Agent/Rep	Plots	Summary of issues raised in objection	Witness evidence providing response
1	Ashfords LLP on behalf of Richard Walker and associated companies	555, 590, 592, 595, 600, 620, 635	Objection withdrawn	N/A
2	Carter Jonas on behalf of Mr Ali and Ms Brigg	181, 185, 187 (plus existing rights over 165)	Objection withdrawn	N/A
3	Michelmores on behalf of Elaine Lutey and Shirley Jones	620	Objection withdrawn	N/A
4	Savills on behalf of Spanview UK Limited	Rights only: 524	Objection withdrawn	N/A
5	Savills on behalf of Andrew Ross Treseder, Pamela Margaret Treseder and Christopher Treseder	Rights only: 166, 186, 522, 524, 582 Plus benefit from existing right of way over 200, 250, 260	Objection withdrawn	N/A
6	Lodge and Thomas on behalf of Mrs Biondi	70	Objection withdrawn	N/A

	Objector Name and Agent/Rep	Plots	Summary of issues raised in objection	Witness evidence providing response
7	Mr and Mrs Gordon	Benefit from existing rights of way over 165, 200, 205, 215, 225, 231, 240, 250 and 260	Objection withdrawn	N/A

APPENDIX AH3

Copy open correspondence where referred to in Proof of Evidence



Defence Infrastructure Organisation

Email enquiries@gpss.info

Ref. LSBUD-201217-20824905

18 December 2020

Miss Emma Reed
Cormac Solutions Ltd
Murdoch Building
Western Group Centre

SCORRIER TR16 5EH

Dear Sir/Madam

Redundant Pipelines – Land Powers (Defence) Act 1958 (formerly part of the GPSS)

Thank you for your enquiry dated 17 December 2020. Using the confirmed location provided by your LSBUD search, our records indicate there may be a redundant pipeline in the area shown on the attached plan. The plan(s) supplied are intended for general guidance only and should not be relied upon for excavation or construction purposes. If you are working in close proximity to the pipeline we would recommend that you seek the advice of a specialist pipeline contractor by contacting the Pipeline Industries Guild, along with gaining confirmed asset locations and agreements from any other asset owners that may be affected by your works.

This pipeline has been declared redundant by the Ministry of Defence and the necessary legal charges have been removed in accordance with the Land Powers (Defence) Act 1958 and subsequent legislation. If the landowner wishes to remove the pipeline from the land they may do so at their own cost; however, as different methodologies were used to decommission pipelines we would highly recommend using specialist contractors.

This letter relates to the abandoned pipelines from the former Government Oil and Pipeline System and you should make separate enquiries relating to live pipelines owned by other third parties that may be in close proximity.

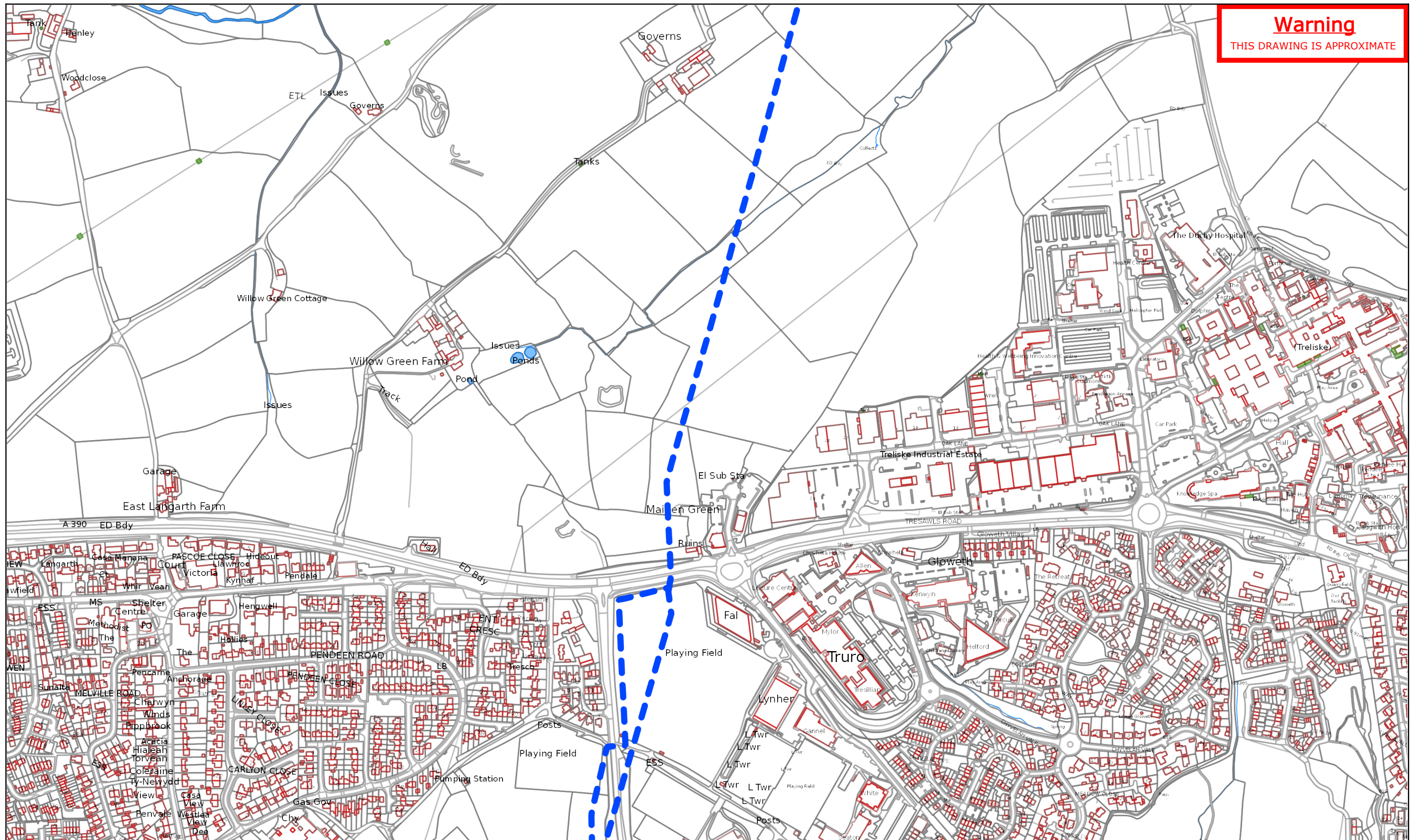
Yours faithfully

DIO (MOD Abandoned Pipelines)

Enc Location Plan

Warning

THIS DRAWING IS APPROXIMATE



Defence
Infrastructure
Organisation

Legend
 MOD Abandoned Pipeline

Site centre coordinates: 0E, 0N

Scale: 1:5000 @A3
Date Plan Created: 18th Dec 2020, 09:15:06



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Ordnance Survey License Number AL1000005237





Title, initial, surname

First line of address

Second line of address

Town

County

Postcode

Your ref: Recipients reference

My ref: CC reference

Date: Day Month Year

**IMPORTANT – THIS COMMUNICATION AFFECTS LAND IN WHICH THE COUNCIL BELIEVES YOU
MAY HAVE AN INTEREST**

Dear

The Cornwall Council (Langarth Garden Village, Threemilestone) Compulsory Purchase Order

This letter has been sent to all parties with a potential interest and we are aware that some recipients are actively engaging with us. If you have engaged with us separately, please continue to use your established contacts within the Council or its agents.

You will have received previous letters from the Council, or its appointed land referencing agent, Ardent, regarding the Council's intentions to make a compulsory purchase order (the "Order") to acquire all land and interests needed for the delivery of the Langarth Garden Village, including the new Northern Access Road between the A390 and the Royal Cornwall Hospital at Treliske (the "Project").

The Council is now close to completing the exercise of confirming what land and new rights over land it needs to acquire for the Project, and identifying those parties that may have an interest in, or rights over, that land. The Council will shortly be making a final decision on whether or not to proceed with the Order.

The Council believes that you may have an interest in, or rights over, land which is intended to be included within the Order. Consequently, should the Council decide to proceed to make the Order, you will shortly receive a statutory notice which will confirm the extent and nature of the land or new rights that the Council is looking to acquire through the Order. The Council will then submit the Order to the Secretary of State for Levelling Up, Housing and Communities. You will have the opportunity to make submissions to the Secretary of State in relation to the Order. The details of how to do so will be set out in the statutory notice that you receive.

Cornwall Council | Konsel Kernow

Building Name, Street Name, Town, Cornwall Postcode

E: xxxxxxxxxxxx@cornwall.gov.uk | **T:** 0300 1234 100

www.cornwall.gov.uk

In advance of its decision whether or not to make the Order, and throughout the process as appropriate, the Council is keen to engage with you to understand and address any concerns that you may have regarding how your interest or rights may be adversely affected by the Order and what (if any) compensation entitlement you may have. If you would like more information or would be interested in taking forward such discussions, please contact in the first instance:

langarthgv@cornwall.gov.uk

Further details of the compulsory purchase process can be found at:

www.gov.uk/guidance/compulsory-purchase-and-compensation-guide-1-procedure

Further details of the Project are available to view on the Council's website at:
www.langarth.co.uk

Yours sincerely

First Name Surname

Job Title

Service Name

Tel: Your direct line number

Email: Your email address