

**CD 6.19**

**Town and Country Planning Act 1990**

**Acquisition of Land Act 1981**

**Local Government (Miscellaneous Provisions) Act 1976**

**The Highways Act 1980**

**Inquiry into:**

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

**Summary Proof of Evidence**

**of**

**Gavin Smith**

**2 January 2024**

## 1. INTRODUCTION

- 1.1 I am Gavin Smith, a Group Leader (Areas 5 and 6, Regulatory Services) at Cornwall Council. I hold a Master of Social Science (Honours). I report to the Head of Development Management and was the Head of Service Representative that dealt with the planning applications for the Scheme including the Hybrid Planning Permission (**CD 3.1**).

## 2. SCOPE OF EVIDENCE

- 2.1 My proof of evidence addresses the following policy tests as set out in the Government's Guidance on Compulsory Purchase and The Crichel Down Rules (2019) (the **CPO Guidance**) (**CD 5.4**):
- 2.1.1 Whether, from a planning perspective, the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means (paragraph 106);
  - 2.1.2 Whether the Scheme fits with the adopted Local Plan for the area (paragraph 106);
  - 2.1.3 The extent to which the Scheme contributes to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area (paragraph 106); and
  - 2.1.4 Whether there are any planning related impediments to implementation of the Scheme, (paragraph 15).

## 3. TERMINOLOGY

- 3.1 In my proof of evidence references to the core documents are made by the abbreviation, for example, "CD1.1. The proofs of evidence of other witnesses are referred to by the name of the author.

## 4. PLANNING HISTORY

- 4.1 Following the revocation of the Regional Spatial Strategy and Cornwall Structure Plan in 2010 - in the period between 2012 and 2016 - a range of planning applications were submitted for development of the Site by neighbouring private developers.
- 4.2 The previous permissions mainly comprise of large-scale mixed-use development. As illustrated in the proof of evidence of Mr Philip Mason (**Appendix PM2 – Figure 7**) (**CD 6.2**), most of these permissions were anchored by large-scale retail.
- 4.3 None of these out-of-town centre retail proposals has come forward within the lifetime of the relevant permissions.
- 4.4 The precedent of development established by these previous permissions was reflected in the adopted Cornwall Local Plan (Strategic Policies) 2016 (**CD 2.3**) and the Truro and Kenwyn

Neighbourhood Plan 2016 (**2016 TKNP**) (**CD 2.4**) – the key adopted development plan policies for the area in which the Site is situated, as at the time the application for the Scheme was submitted and determined<sup>1</sup>.

4.5 In practice, the 2016 TKNP relies upon the previous permissions to meet the Local Plan's requirement for 3,900 houses for Truro in the period up to 2030<sup>2</sup>.

4.6 The 2016 TKNP (**CD 2.4**) underwent review in parallel to the Council submitting the application for the Scheme. The Truro and Kenwyn Neighbourhood Plan 2023 (**2023 TKNP**) (**CD 2.7**) was adopted in June 2023. The 2023 TKNP contains a bespoke policy for Langarth (Policy H3) which allocates the Site as a sustainable community with a mix of housing, public and private spaces and supporting infrastructure, in accordance with an overall masterplan.

4.7 The planning and policy history of the Site assists in demonstrating that the purpose for which the Council is proposing to acquire the land could not be achieved by any other means.

## 5. **PLANNING APPLICATION FOR THE SCHEME**

5.1 The application for the Scheme is a hybrid application formed of two parts: a full element for the NAR (application A) and an outline element concerning the masterplanned mixed use component of the development (application B) (together, the **Hybrid Application**).

5.2 The Hybrid Application was determined by the Strategic Planning Committee, in line with the request of the Head of Development Management, inter alia, "to enable transparent decision making of a planning application submitted by Cornwall Council which proposes development of a significant scale"<sup>3</sup>.

5.3 The full application for the NAR represents the Council's updated scheme for a spine road, junctions off the A390 and related road infrastructure. It builds on principles approved under the previous permissions for the Site. The technical differences between the NAR forming part of Scheme and previous iterations of the NAR are explained in the proof of evidence of Mr Tim Wood (**CD 6.9**).

5.4 The outline application for mixed use development comprises the following land uses:

- up to 3550 dwellings, 200 extra care units and 50 units of student/health worker accommodation, including affordable housing

<sup>1</sup> The Hybrid Application was validated on 4 December 2020 and determined on 5 April 2022.

<sup>2</sup> Policy 2a: Key targets – Table showing housing apportionment for Truro with Threemilestone

<sup>3</sup> see under heading 'Reason for application being called to Committee' in the Committee Report provided as **CD 1.9**

- five local centres comprising local retail (use class E), offices (E), restaurants and cafes (E), drinking establishments (sui generis), hot food takeaway (sui generis), health and community facilities (F1 and E)
- a local care health centre (E)
- a blue light centre for emergency services (sui generis)
- up to two primary schools (F1)
- business and commercial floorspace (E)
- brewery / public house (sui generis)
- areas of open space to include a suitable alternative natural greenspace (SANG), other strategic open space and a community farm/allotments
- public realm
- energy centre
- Park and Ride extension (of up to 600 spaces or 2.73 ha)
- cycle lanes
- connections with the existing highway network including crossings of the A390
- quiet lanes
- drainage and associated infrastructure; and
- the demolition of buildings and structures, site clearance and associated earthworks.

5.5 As Schedule 2 EIA development, the Hybrid Application was supported by an Environmental Statement (**ES**). Further information on the ES is contained in Appendix TGW1 to the proof of evidence of Mr Terry Grove-White (**CD 6.6**).

## 6. **PLANNING POLICY POSITION IN RELATION TO THE SCHEME**

7. In accordance with the statutory framework, the Hybrid Application was assessed against the development plan and all other material planning considerations.

7.1 **Appendix GS2** to my proof summarises the relevant Strategic Policies of the Local Plan (**CD 2.3**) and how the Scheme achieves compliance with these policies.

- 7.2 **Appendix GS3** to my proof summarises the relevant policies from the 2016 and 2023 TKNPs (**CD 2.4** and **CD 2.7**) and how the Scheme achieves compliance with these development plan policies, in particular Policy H3 in the 2023 TKNP.
- 7.3 **Appendix GS4** to my proof summarises the relevant policies from the Government's National Planning Policy Framework (**NPPF**) (**CD 2.1** and **2.2**) and how the Scheme achieves compliance with these policies.
- 7.4 **Appendix GS5** to my proof summarises compliance with the relevant policies from the Climate Emergency DPD (**CD 2.10**) and other local planning policies and guidance in force at the time the Hybrid Application for the Scheme was determined.
- 7.5 A copy of the Report to Strategic Planning Committee is provided as **CD 1.9**. This provides further detail on the LPA's assessment of the Scheme, against this policy framework.

## 8. **PLANNING BENEFITS OF THE SCHEME**

- 8.1 With reference to the other limb of paragraph 106 of the CPO Guidance, the Scheme contributes to the achievement of the promotion or improvement of the economic, social and environmental well-being of the area in a number of ways.

### **Housing**

- 8.2 The Scheme provides for a policy compliant mix of good quality housing to meet the housing needs of the area, as set out in the Cornwall Local Plan (Strategic Policies) (**CD 2.3**). This includes affordable homes and the provision for self-build housing and key worker accommodation. The Scheme is located within Kenwyn Parish and will make a significant contribution to meeting local affordable housing need. It also has an important role in assisting the Council in meeting its wider strategic housing need for the Truro area.

### **Employment**

- 8.3 The Scheme provides for employment opportunities during its construction. In its operational stage, the Scheme provides for a mix of other uses to support the development of a self-sustaining community and to reduce the need to commute into Truro.

### **Energy**

- 8.4 The Scheme provides for an Energy Centre as well as opportunities for domestic microgeneration.

## **Natural Environment**

- 8.5 The landscape-led masterplan for the Scheme looks at opportunities and constraints on a sitewide basis and provides for a coherent and cohesive network of green infrastructure and open space.
- 8.6 The Scheme achieves above policy compliant levels of BNG.
- 8.7 The approach to sustainable urban drainage (**SUDS**), provides opportunities for improved water quality as well as increased biodiversity.
- 8.8 The Scheme also provides relief from the recreational pressures on a nearby Special Area of Conservation (Penhale Dunes SAC) through the provision of Suitable Alternative Natural Greenspace (**SANG**) which proposals were brought forward in consultation with Natural England.

## **Historic Environment**

- 8.9 The LPA welcomes the sensitive design response to historic hedgerows and ancient byways and routes through the Site and proposals for improved management and interpretation of the Penvenitnnie Round.

## **Transport**

- 8.10 The NAR will unlock the development on the Site as well as providing relief to the A390 and dedicated cycle provision.
- 8.11 The Scheme is predicated on an ambitious modal shift target, supported by financial contributions towards public transport, a network of off-site mobility hubs and facilities for electric bikes and vehicles – all features which help to future proof the Scheme for future generations.

## **Garden Community**

- 8.12 Overall, the Scheme represents an opportunity for an exemplar development to showcase sustainable living.

## **9. PLANNING BALANCE**

- 9.1 In making its decision to grant the planning permission for the Scheme, the LPA weighed the following factors:
  - 9.1.1 loss of agricultural land;
  - 9.1.2 harm to the immediate character of the landscape;
  - 9.1.3 draw of trade from existing town centres;

9.1.4 harm to the setting of the nearby heritage assets and loss of undesignated heritage features, such as some hedgerows; and

9.1.5 increased traffic movements,

against the benefits of the Scheme, key ones highlighted above.

9.2 Where appropriate, the LPA sought mitigation via planning conditions and section 106 planning obligations.

9.3 The LPA concluded that the benefits – some of which are direct, and others which are catalytic - outweighed the harms and granted planning permission for the Scheme on 5 April 2022 (the **Hybrid Planning Permission**) (**CD 3.1**).

## 10. **PLANNING CONDITIONS AND PLANNING OBLIGATIONS**

10.1 The approach to planning conditions and section 106 planning obligations responds to the hybrid nature of the application and the nature and plurality of land interests in the planning application site.

10.2 As the LPA cannot enter into a contract with itself or compel third-parties to enter into section 106 planning obligations at the point of grant of Hybrid Planning Permission, the LPA made use of two negatively worded planning conditions to secure that a Memorandum of Understanding (**MOU**) (condition 30 – Council land) or section 106 planning obligation<sup>4</sup> (condition 31 – third party land) is entered into prior to commencement of development under the outline element of the Hybrid Planning Permission, on the relevant land.

10.3 As the Council, the LPA and the Council's delivery partner (LGV LLP<sup>5</sup>) are currently working proactively together to agree the form of the MOU and the approach is supported by a Cabinet approved delivery strategy (**CD 1.11**) I do not consider this to be an impediment to delivery.

10.4 If third parties want to take the benefit of the Hybrid Planning Permission, condition 31 requires them to enter into a section 106 planning obligation substantially in the form of the template published alongside the Hybrid Planning Permission (see **CD 3.7**), prior to commencement of development on their land. This ensures that no development 'takes free' of mitigation which is necessary to make the development acceptable in planning terms.

10.5 The template section 106 planning obligation accompanying the Hybrid Permission is provided as **CD 3.7**.

<sup>4</sup> Planning obligations entered into under section 106 of The Town and Country Planning Act 1990

<sup>5</sup> LGV Property Holdings LLP – for further information on the LGV LLP see paragraph 5 of the proof of evidence of Mr Harry Lewis – CD 6.11

- 10.6 The section 106 terms are summarised in chronological order in Appendix TGW3 to the proof of evidence of Mr Grove-White – **CD 6.6**.
- 10.7 A summary of the planning conditions to the full and outline element of the Hybrid Planning Permission is provided at Appendix TGW4A and Appendix TGW4B to the proof of evidence of Mr Grove-White – **CD 6.6**.
- 10.8 I do not consider that any of the planning obligations or planning conditions attached to the Hybrid Planning Permission present an impediment to delivery of the Scheme. Amongst other things, both have been structured in a way that facilitate discharge/performance as individual parcels are released/assembled for development.

11. **OTHER PLANNING DECISIONS RELATING TO SCHEME**

**Table 2** in **Appendix GS1** to my proof of evidence provides a summary of the other planning decisions which are linked to the Scheme. To the extent applications are pending determination, and whilst I cannot fetter the LPA's final discretion, I am not aware of any impediment to positive determination.

12. **THIRD PARTY APPLICATIONS RELATING TO SITE**

**Table 1** in **Appendix GS1** provides a full summary of the third-party applications relating to the Site. Most permissions have now lapsed and permission which remain extant are, in my view, capable of implementation in a way which is compatible with the contemporaneous implementation of the Scheme and do not, in my view, represent an impediment to delivery.

13. **ADJOINING APPLICATIONS/DEVELOPMENTS**

Paragraph 13.1 of my proof summarises the planning position for the key developments outside of or materially outside of the Site but referred to in the objections to the CPO. I note that the relevant objections have now been withdrawn. For the avoidance of doubt, I consider that such permissions capable of implementation in a way which is compatible with the contemporaneous implementation of the Scheme and do not, in my view, represent an impediment to delivery.

14. **EASTERN JUNCTION**

At the time of writing this statement, the LPA is in the process of determining a reserved matters application to provide details of the link road between the Northern Access Road and the A390, known as the Eastern Junction. Whilst I cannot fetter the LPA's final discretion, I am not aware of any impediment to positive determination which is due in January 2024.



15. **CONCLUSION**

15.1 With reference to paragraph 106 of the CPO guidance, my proof of evidence demonstrates how the Scheme fits with the adopted Local Plan for the area and how the purpose for which the Council is proposing to acquire the land could not be achieved by any other means. It also explains the many ways in which the Scheme contributes to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area.

15.1.1 With reference to paragraph 15 of the CPO guidance, my analysis of the planning conditions and section 106 obligations attached to the Hybrid Planning Permission, together with my review of the other permissions or consents required to implement the Scheme and other permissions benefiting the Site and/or adjoining land helps demonstrate that there are no planning impediments to realising the benefits that will arise from the delivery of the Scheme.

16. **STATEMENT OF TRUTH**

16.1 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.



Signed by Gavin Smith

2 January 2024