



# SUNNICA ENERGY FARM DCO EXAMINATION

DEADLINE 7 - POST HEARING SUBMISSIONS

SAY NO TO SUNNICA ACTION GROUP LTD

3 March 2023

## Introduction

1. The Say No to Sunnica Action Group Limited (SNTS) is an interested party (ID No 20031080) in the DCO examination.
2. In this document SNTS provides post-hearing comments following the hearings held between 14 and 17 February 2023. A separate note has also been submitted at Deadline 7 commenting on documents submitted at Deadline 6.
3. As has previously been noted (including in our submissions at Deadline 6), a significant aspect of how the Applicant has presented its case is repetition of points previously made. As a result, SNTS does not reply to all parts of the Applicant's submissions, but instead confines itself to new information on which it is of the view that it must comment. This approach has also been adopted in the notes produced by our experts. However, SNTS maintains and repeats its case as presented in past submissions.

## Appended Papers

4. The following papers have been produced by our experts addressing post-hearing submissions and are attached to this report:

- A paper produced by John Jeffcock of Michelle Bolger Expert Landscape Consultancy on landscape and visual amenity matters **Appendix A.**
- A paper produced by Richard Hoggett of Richard Hoggett Heritage on heritage matters **Appendix B.**
- A paper produced by SNTS in relation to Short Road, Snailwell, in respect of which submissions were made at the hearing **Appendix C.**
- A paper produced by SNTS in relation to deer fencing on site, which was a matter which was discussed at the hearing **Appendix D.**

## Issue Specific Hearing 4

5. Much of our post-hearing submissions in respect of ISH4 are made in those notes appended to this submission provided by our experts. We do not repeat that content here. However, there are a number of further matters we address in this note.

### Policy

6. The application of national policy statements EN-1 and EN-3 was again a topic of oral submissions. SNTS has commented on this previously, most notably in its written representations **[REP2-240]** and post-hearing submissions following ISH2 **[REP4-121]**. The Councils have also commented on this at various points. SNTS associates itself with the interpretation of the policy adopted by the Councils, including that advanced at ISH4.
7. Commenting on the entire policies would be disproportionate here, not least as the Applicant may address the significant resistance advanced against its interpretation of the policy at the hearings in its post-hearing submissions. However, we do make a number of points to flesh out the position advanced at ISH4.
8. SNTS accepts and has always accepted the principle that policy supports energy generating infrastructure generally, and renewable energy generation infrastructure in particular. Paras 3.1.3-3.1.4 make the need case, and the weight to be given to contribution to satisfying that need, clear. We also accept that policy provides a starting presumption in favour of energy NSIPs. Our position has always been that the characteristics of the Sunnica scheme in particular mark it out as an energy NSIP which should not receive consent. Indeed, this marks it as distinct to the Little Crow, Cleve Hill, and proposed Longfield schemes (which are discussed more below).

### Good Design

9. Paras 4.5.1-4.5.3 of EN-1 are important as they deal with good design. The Applicant has relied on the proviso that *'the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of an area'*. Similar such provisos exist in other parts of the policy. However, this does not obviate the underlying policy imperative of good design. Those paragraphs provide (insofar as is relevant):

*Para 4.5.1: 'Applying "good design" to energy projects should produce sustainable infrastructure sensitive to place...'*

*Para 4.5.2: 'Good design is also a means by which many policy objectives in the NPS can be met, for example the impact sections show how good design, in terms of siting and use of appropriate technologies, can help mitigate adverse impacts such as noise.'*

*Para 4.5.3: 'Whilst the applicant may not have any or very limited choice in the physical appearance of some energy infrastructure, there may be opportunities for the applicant to demonstrate good design in terms of siting relative to existing landscape character, landform and vegetation'.*

10. SNTS has maintained throughout that a significant flaw of this scheme is its siting<sup>1</sup>. We have explored in our submissions and evidence the flawed approach to site selection. The importance of this is supported by EN-1; a key aspect of good design is appropriate siting decisions. Indeed, this is a way of avoiding some of the intrinsically harmful aspects of energy generating infrastructure which cannot be designed out (e.g. appearance per para 4.5.3). This is recognised in draft EN-3 at para 2.47.2 and 2.51.4 in respect of the same provisions in draft EN-1<sup>2</sup>:

*Para 2.47.2: 'Developers will be expected to consider the criteria for good design set out in EN1 Section 4.6 at an early stage when developing projects'.*

*Para 2.51.4: 'Applicants should follow the criteria for good design set out in Section 4.6 of EN-1 when developing projects and will be expected to direct considerable effort towards minimising the landscape/visual impact of solar PV arrays'.*

11. The relationship between good design, siting decisions, and avoidance of harm is important. Avoidance of harm as the first step in the mitigation hierarchy is key; this is a point that has been made by the Councils also. However, in this case avoidance should have happened even before the application was made, through such appropriate siting and good design. To achieve good design requires appropriate information and surveying; this is also something absent from the way the Applicant has advanced its case. Good design and siting must be informed by proper and sufficient surveying. SNTS has made submissions on the extensive problems with such surveying over a host of expert areas. Clearly this is impactful for good design and siting.
12. Also, this section of EN-1 on good design comments on '*functionality*'. It is telling that, while the policy supports NSIP-grade generation, functionality is left as a matter of good design. In our view this supports the position of the Councils that the policy does not indicate against appropriate removals of certain especially harmful parcels from the scheme. Solar is ultimately modular; an all or nothing approach maximising generation at all costs ignores this and does not find a place in policy.
13. Good design is also addressed in EN-3. Para 2.4.2 notes the importance of good design in landscape, visual amenity, noise and ecology terms:

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<sup>1</sup> Especially with its internal cumulative effect; to which see for example para 4.2.6 of NPS EN-1.

<sup>2</sup> This is in section 4.6 of draft EN-1 as the numbering has changed. While further additions have been made to that section, those quotes from section 4.5 of the current EN-1 remain.

14. *Proposals for renewable energy infrastructure should demonstrate good design in respect of landscape and visual amenity, and in the design of the project to mitigate impacts such as noise and effects on ecology.*
15. In SNTS's view this is not a redundant provision repeating the content of EN-1. It specifically highlights good design in respect of landscape and visual amenity. It provide important guidance which tempers some aspects of the description of good design and approach to these issues in EN-1. This provision remains in draft EN-3.
16. Considering the background to site selection in this case, these policy considerations are key. Further, policy considerations cannot be subordinated to landowner considerations. Siting and good design must be determined in policy and planning terms; it must subordinated to the matter of which landowners and land is involved in a scheme.

#### Sites or Designations of Regional and Local Value

17. Considering part 5 of EN-1, a provision relied upon by the Applicant in respect of sites or designations of regional and local value is that these designations should not '*in themselves*' be used to refuse development. This appears at para 5.3.13 on biodiversity and para 5.9.14 on landscape.
18. SNTS say it would be an error to say that, if a site or designation is regional or local (or non-designated) then no weight should be ascribed to that matter in the planning balance. This is incorrect and a misreading of the policy. The inclusion in both of these paragraphs of '*in themselves*' makes the point clear: these issues must be included in the broader planning balance but cannot be the only thing that determines the case against a scheme. Thus, the weight for such regional or local considerations can still be considerable, just it must not be the only determining factor.
19. There is no danger of this issue in the case of the Sunnica scheme. There are significant harms across a range of areas. Sites and designations of regional and local value must, thus, be given appropriate weight and not be disregarded on the basis of a misreading of this proviso.
20. The ExA will be aware of the generic impacts in part 5 and they will not all be gone through here. However, it is worth noting certain matters on landscape.

#### Landscape and Visual

21. Landscape is a key consideration in this case and in policy terms. It is a core aspect of site selection which SNTS maintain the Applicant erred in excluding from its considerations. This is something that Mr Jeffcock for SNTS has commented on in his expert evidence at length.

22. Key here is para 5.9.8 which is produced in full as the starting point on landscape impact. It highlights, among other things, the importance of siting to minimise harm to the landscape (emphasis supplied):

*Landscape effects depend on the existing character of the local landscape, its current quality, how highly it is valued and its capacity to accommodate change. All of these factors need to be considered in judging the impact of a project on landscape. Virtually all nationally significant energy infrastructure projects will have effects on the landscape. Projects need to be designed carefully, taking account of the potential impact on the landscape. Having regard to siting, operational and other relevant constraints the aim should be to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate.*

23. Then important are 5.9.14 to 5.9.17. The issue of local and regional designations has been addressed above. The issue of whether the scheme is temporary has been addressed in other submissions by SNTS. It is accepted that the test in 5.9.15 ‘so damaging that it is not offset by the benefits’ is not a low bar. However, SNTS maintains the landscape harms are very significant in this case. In any event, the scheme is not resisted on landscape considerations alone (which would necessitate the application of this bar). It is one of a number of considerations which come together in the planning balance to indicate against the scheme. That this bar is high should not lead to the weight of landscape and visual harms being undervalued in the overall planning analysis.
24. On the issue of good design and sighting, para 5.9.17 is also of importance:

*The IPC should consider whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other constraints, to minimise harm to the landscape, including by reasonable mitigation.*

25. It is worth also noting para 2.48.4 of draft EN-3 which identifies the significant zone of visual influence of a solar scheme as part of the site selection section. The draft explains ‘the two main impact issues that determine distances to sensitive receptors are therefore likely to be visual amenity and glint and glare’. Thus, such landscape and visual amenity considerations are specifically highlighted as important features of site selection in that new draft also.

#### Maximum Generation at All Costs

26. SNTS disagrees with an interpretation of this policy which drives for the maximisation of generation output at all costs. Planning harm is a key reason why the generating capacity of a scheme may be lower than what is technically possible on the land, or which excludes land as inappropriate altogether. The Applicant’s approach is one which fails to properly grapple with the real requirements for good design, proper siting decisions, appropriate avoidance of harms, and appropriate mitigation of harms (where the planning balance

does not outright require their avoidance). Policy does not excuse that failure to properly grapple with these issues.

27. As has already been noted, significant resistance to this aspect of the Applicant's interpretation of the policy was advanced at the hearings. It may be that the Applicant provide further comment on this in their post-hearing submissions. If they do so, SNTS may address this issue further.

## Other NSIP Solar Schemes

28. At ISH4 the matter of other NSIP solar schemes was again raised. That is a matter that SNTS has previously commented on in both its written representations ([REP2-240] in section 2 and appendix B), appeared in oral submissions made by Mr Daniel Kozelko at OFH1, and was also addressed in post-hearing submissions following OFH1 ([REP4-121] in section 3 and appendix A<sup>3</sup>).
29. The Little Crow, Cleve Hill, and Longfield schemes are three schemes which SNTS say are relevant to the ExA's examination of this case. These are schemes which are either already consented, or (in the case of Longfield) awaiting consent. They represent the precedent in this area, and must assist the ExA in considering what are acceptable harms in policy terms. They are cases where one can see the design aimed to ensure minimum impact on communities, landscape, heritage, biodiversity and internal cumulative impact in a way which is not done in the case of the Sunnica scheme.
30. One crucial aspect of all of them, which is distinct to the Sunnica scheme, is that they are all single large area solar farms. They do not have internal cumulative impact because they are not scattered into islands across the landscape. They are also considerably better positioned in the landscape so that they avoid landscape, visual and heritage harms. The Little Crow scheme, for example, is obscured by woods on one side and a steel works on the other.
31. The contrasts between these schemes and the Applicant's scheme are legion; SNTS say that these distinctions are very much part of the reason why the Applicant's scheme is poorly conceived and poorly designed. Most critically, as SNTS has maintained throughout, the site selection for the Applicant's scheme was not properly informed by landscape harm, visual harm, harm to communities, and a host of other considerations. These are the considerations which lead to the striking difference in the appearance of the Applicant's scheme when compared to Little Crow, Cleve Hill, and Longfield.

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<sup>3</sup> Appendix A provides a comparison of a number of solar farms, including Longfield, Cleve Hill and Little Crow. Maps of the order limits of these and other schemes are also provided.



32. The Applicant is incorrect to suggest these schemes are not relevant. Notwithstanding that they are smaller in size, Little Crow and Cleve Hill are significant NSIPs which reflect a more appropriate approach to positioning development in the landscape. They also align with the point that the national policy statements do not espouse an approach of maximising generation no matter the planning harm. Notwithstanding that it is not yet consented, important features of the Longfield scheme (most notably its location and shape) are critical in understanding how proper placement in the landscape and proper design can avoid harm. The ExA should give significant consideration to all three of these schemes and their differences to the Sunnica scheme.

## In Combination Effects

33. SNTS also associates itself with the submissions of the Councils at the hearing in respect of those parcels proposed by them to be removed<sup>4</sup> from the scheme (originally proposed in the LIRs **[REP1-024]**). In this regard SNTS also associates itself with the comment of Suffolk CC on the Applicant's answer to ExQ 2.0.11 question **[REP6-076]**.
34. It would appear the Applicant has made not real attempt to consider how removal of any of the parcels identified by the Councils might work within the scheme as proposed. This is notwithstanding the fact that removal of parcels from the scheme is clearly possible (Sunnica West B has been removed), and that the Applicant has had notice of these suggestions since Deadline 1 (as these removals were identified in the LIR **[REP1-024]**). It is for the Applicant to properly approach the advancing of its case, including any fallback case. Only the Applicant can provide viability evidence.
35. It is not open to the Applicant to make unevidenced assertions that the removal of these parcels (or, at least, the removal of PV works from these parcels) is not possible or desirable in planning terms. Evidence is necessary so that the ExA can weigh this in the planning balance. It is necessary to have such evidence so as to properly apply the policy considerations in the National Policy Statements. Little (if any) weight should be given to unevidenced assertions in the planning balance. Indeed, where there is no basic and convincing evidence demonstrating why the approaches suggested by the Councils are not viable, a negative inference should be drawn in respect of those aspects of the scheme.
36. Two further points bear making here. First, the Councils have proposed removal of various plots each because they have significant harms in planning terms which should be avoided. Even if Sunnica is correct that removal of all of these plots cannot be justified, this is not the end of the matter. A plot or plots might still be removed to overall improve the planning balance in favour of the scheme. To take one example, E13 has

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<sup>4</sup> This is used as shorthand to include the removal of PV development from certain plots.

a peak power rating of 14.7MW. In its response to ExQ 2.0.7 the Applicant said the loss of this would be a 'significant loss of function'. This is not explained. It represents 2.9% of the capacity at Burwell; that is a small figure. The Applicant must engage with the proposition that removal of individual parcels may be necessary in planning terms.

37. Second, the overall scheme capacity is 630MWp. The capacity at Burwell is 500MW. While 'overbadging' of schemes is common (not least due to losses incurred in the generation and transmission of power internal to the scheme), there is no explanation in evidence why a drop in peak generating capacity which still remains over the capacity at Burwell would cause significant difficulties for the scheme. Considering E13 again, removal of that plot would result in a 615.3MWp scheme. This peak generation is still 23% above the grid connection capacity at Burwell.
38. SNTS maintains that the entire scheme cannot be justified and should not be consented. However, it accepts that a scheme with those parcels identified by the Councils removed is better than a scheme with those parcels remaining. Sunnica must cease to rely on unevidenced assertion to justify not engaging with these proposals. The scheme cannot be presented as an inevitability when these reasonable alternatives have not been considered.

## Draft DCO

39. In respect of the draft DCO, SNTS maintains the following concerns that it has raised previously at ISH1:
40. The removal of the 'deemed consent' provisions in Schedule 13 to the DCO: para 38-40 **[REP1-047]**.
41. The necessity of any further limits on the BESS so as to ensure that it is associated development: para 12 *et seq* **[REP1-047]** and para 35 of **[REP6-074]**.
42. The sufficiency of provisions related to the decommissioning of the scheme (including a bond): para 34-36 **[REP1-047]**.
43. SNTS notes that the ExA will shortly produce its comments on the draft DCO. SNTS refrains from exploring the draft DCO further and will comment as necessary at Deadline 9.

# Compulsory Acquisition Hearing 1

44. SNTS remains of the view, set out at section 19 of its Written Representations **[REP2-240]**, that the Applicant has not complied with the applicable DCLG Guidance on funding statements (paras 17 and 18). Paragraph 17 of that guidance provides (emphasis supplied):

*This statement should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required.*

45. The obligation on the Applicant is to provide as much information as possible. This is so that the ExA (and, ultimately, the Secretary of State) can, among other things, conclude there is a reasonable prospect that the scheme can be funded and implemented. Doing so is an important part of reaching the conclusion (required in the legislation) that the necessary resources are likely to be available within a reasonable time-scale and that there is a reasonable prospect the scheme will proceed and be delivered.
46. SNTS maintains its view that the Applicant has not complied with the requirements of this guidance. This is notwithstanding the fact that, as was recognised at the hearing, the renewable energy market is buoyant. Indeed, that makes the absence of information provided in the funding statement all the more striking. SNTS maintain that the ExA (and the Secretary of State) cannot conclude that the level of satisfaction required to grant compulsory acquisition powers have been met.
47. The reports of Mr Alan Smith speak for themselves. This includes the original report at **[REP2-240j]**, but also the more recent report submitted at **[REP6-052]**. In our view the brevity with which critical matters of funding are dealt with in the funding statement **[REP5-005]** is also demonstrative of the lack of compliance.
48. First, in respect of funding the scheme, the cost estimate provided at para 2.2.1 is £600 million. This has not changed since the application was originally submitted notwithstanding that (among other things) the price of lithium carbonate has doubled since November 2021<sup>5</sup>, the war in Ukraine has commenced, and inflation rates have been in excess of 10% in 2022. In addition, no breakdown of this figure is provided such that an assessment of this calculation can be undertaken<sup>6</sup>. It is also unclear if the figure addresses all aspects of the scheme (for example decommissioning).
49. Second, in respect of the viability of the scheme, no information is provided at all. Demonstrating the viability of the scheme, or explaining how funding will be managed if the scheme is not proposed to be viable, is

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<sup>5</sup> This date is pertinent as rev 00 of the Funding Statement is dated 18 November 2021 **[APP-023]**.

<sup>6</sup> Although limited information about the compulsory acquisition funds were given orally at CAH1. SNTS's position is that this information should have been in the Funding Statement and the drip feeding of information in this manner is inappropriate (as we have previously noted).

crucial in securing CPO powers. The conclusions in the recent *Vicarage Field and surrounding lands* decision APP/PCU/CPOP/Z5060/3278231 is instructive in this regard **Appendix E**. That case concerned a significant development of 31,878 square meters of Barking town centre. CPO powers were refused as the inspector was not satisfied as to the viability of the scheme<sup>7</sup>. This is addressed in detail in para 131 to 178, although her conclusions are a useful summary at para 370 to 373:

*370. I am completely aware that failure to confirm the CPO would have an adverse consequence of losing the opportunity to comprehensively redevelop the site at this time. The Council has staked its reputation on the delivery of the scheme and its delivery is critical to achieve its ambitions.*

*371. I fully recognise much of the potential financial viability of the scheme is reliant upon the scheme itself and it is a complete 'catch 22' situation. The developer is confident the Scheme will be delivered. The funding intentions are clear, and I have no doubt that the developer has access to funds.*

*372. Nevertheless, there is fundamental lack of tangible and substantive evidence on viability. Given the gravity of the 2016 appraisal, and the lack of an updated appraisal, I cannot be certain that the scheme is financially viable despite all assurances from the AA. Other methods to present the evidence confidentially could have been explored and, if the scheme was viable, I do not understand why this evidence was not presented. Whilst the AA claims viability evidence from objectors has not been presented, it is for the AA to demonstrate substantive information as to the financial viability of the scheme. It has not done so in a way that convinces me.*

*373. Consequently, because I cannot conclude that the scheme is financially viable, I cannot be confident that there is a reasonable prospect that the scheme will proceed at this time, or that the necessary resources are likely to be made available within a reasonable time scale. This is because there is an expectation of return, and no developer or investor would pursue a scheme that is not economically viable or feasible. This is even if it has access to funds, sees a long term vision, or pools funds so that one scheme may perform better than another. The legal agreements also provide me with little comfort of delivery, despite the depreciating value of the lease.*

*374. This makes it difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest at this time, as detailed by CPO Guidance.*

50. Considering there is no statement of viability at all in this case, SNTS maintains that the same considerations apply in this case. This is surprising in the context of a buoyant renewable energy market where such

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<sup>7</sup> A 2016 evaluation had found the scheme not viable. The developer maintained that, due to changes in circumstance, the scheme was now viable although a new evaluation was not provided.

information should be freely available. The requirements of guidance are far from met. In the words of the inspector on the *Vicarage Field* case, there is a '*fundamental lack of tangible and substantive evidence on viability*'.

51. Third, the information concerning how financing will be obtained is limited at best. This is provided at para 2.3.5 and 2.3.6 of the Funding Statement **[REP5-005]**. Considering the buoyant nature of the market and the experience that it is said LDP has in this area, it is of note that the discussion of obtaining funding is very high level and perfunctory. There is no attempt to explain what information will be provided to investors, what about this investment is attractive (especially in the context of no information about the viability of the scheme), nor how funding will be structured. Again, this is clearly relevant information which Sunnica could currently provide which indicates a failure to comply with guidance.
52. Finally, as Mr Smith noted in his report, we are in the unusual situation where audited accounts for the four UK companies to be filed with Companies House have been delayed past the end of the examination (from 31 January 2023 to 30 April 2023)<sup>8</sup>. No reason has been provided for this. Clearly, the current financial position of the companies involved is relevant to the question of funding the scheme; it is relevant to the likelihood that money can be raised, the security that can be given, and the perception in the market of the viability of these companies. This information will assist the ExA in understanding the position. SNTS maintain this is important and relevant information which could be provided in draft or interim account form.
53. SNTS recognises Mr Kean's comment that '*obviously it's in the applicants interests to give full detail as to how, you know, that guidance is met to its fullest extent*'<sup>9</sup>. SNTS looks forward to full detail being provided by the Applicant of how it has met the guidance '*to the fullest extent*'.
54. Aside from issues of funding, the points that we have previously made in respect of those matters addressed at CAH1 remain. These are set out in our post-hearing submissions following the first half of CAH1 **[REP4-121]**.

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<sup>8</sup> Detailed further in **[REP6-052]**.

<sup>9</sup> Resumed CAH 1 transcript at line 1216.

## Appendix A



## ***Landscape Briefing Note 15***

*Project:* 1186 Sunnica PVD  
*Date:* 1<sup>st</sup> March 2023  
*Purpose:* ISH4 post-hearing submissions  
*Reference:* 1186 BN15 Sunnica PVD Post Hearing ISH4.docx  
*Author:* John Jeffcock CMLI

1. This note provides a summary of the points made during Issue Specific Hearing 4 (ISH4) on 16<sup>th</sup> February 2023 and related points (John Jeffcock on behalf of Say No to Sunnica).

**Agenda Item 2 (first bullet) Update from the Applicant on specific impacts on visual amenity around parcels E19, E20, E21 and E22 (south of Elms Road) and potential for mitigation**

2. The latest Environmental Masterplans were submitted at Deadline 5 [REP5-054] & [REP5-061 to REP5-064]. These show that in E20 alongside the travellers' site there would be an 'Environmental Fence' to provide screening of solar panels and to prevent access - we presume therefore that it would be close boarded fencing. Elsewhere, the scheme description in the applicant's ES states that temporary solid hoarding would be 2.5m high. It's not clear if this fencing would also feature 5m high CCTV poles.
3. Beyond the fence would be an approx. 10m wide buffer of new tree planting, then an 18m wide grassy area, and then the solar arrays. The solid hoarding itself would result in an adverse visual impact, and the proposals for a 10m wide strip of trees would only soften the impact but would not screen views of the development, particularly during winter months.
4. The applicant has stated that they intend to update the Environmental Masterplan again, including to increase the width of buffer planting alongside the eastern edge of field E20. In their LVIA Position Statement they say it will be increased to 15m. There are likely to be views through a 15m buffer but ultimately the degree of visibility will depend on the specification of plant species, quantities of plants, and their management. However, the planting itself would result in the loss of the outlook across the countryside and this is unlikely to be welcomed by residents.





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**Agenda Item 2 (second bullet) General impacts on the landscape of the area; potential for mitigation and impact of mitigation proposals on the landscape.**

5. In terms of general impacts and mitigation, there are 4 key points that go to the heart of the matter as to why the scheme is unacceptable in landscape and visual terms.
6. **Key Point 1 (Location).** Overarching National Policy Statement for Energy (EN-1) stresses the importance of minimising landscape harm through careful siting decisions (Paragraph 5.9.8). In many cases it's possible for the landscape and visual harm of PV and BESS development to be minimised when located carefully, taking into account the relative sensitivity of different landscape and visual receptors. However, in the case of the Sunnica Energy Farm, the landscape and visual harm has been exacerbated by the applicant's decisions on location, as their decisions ignored particularly sensitive landscape and visual receptors such as the landscape around Isleham and the Limekilns.
7. In various submissions the applicant states that their LVIA informed the design process, but crucially a LVIA did not inform the site selection process, which we and the Councils both conclude was flawed. Good design fundamentally relies on making sound decisions on location. This is because it is very difficult and, in some cases, impossible to adequately mitigate landscape harm that arises out of location.
8. Because of the location of the development, the landscape and visual harm of the scheme cannot be minimised. In particular, it is not possible to mitigate effects in those parts of the order limits that are inherently open in character (e.g., Sunnica East B), or are overlooked due to local landform and where there are also historically important views (e.g., Sunnica West Site A). Attempting to mitigate the impact on the open landscape, especially south and east of Isleham (Sunnica East B) with woodland or other types of screen planting would itself harm the openness of this landscape, which is an intrinsic characteristic and fundamental to local identity. In this regard the proposals conflict with the general objective in EN-1 for infrastructure to be 'sensitive to place' (Paragraph 4.5.1) and also with NPPF Para 174(b), as they fail to recognize the intrinsic character and beauty of the countryside.
9. **Key Point 2 (Scale and speed of transformation).** The scale of the changes proposed are such that the development would have a significant adverse impact on sense of place and local identity. The proposals would result in a transformation of the landscape at a landscape scale, from a rural productive landscape to a landscape defined by electrical development. At 630 hectares the combined development footprint of the solar PV developments and the BESS developments would dwarf surrounding rural villages whose

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identities are intrinsically linked to the productive countryside. This will be compounded by the speed of the changes which would not be gradual or incremental, but would be perceived to happen all at once, with construction over a single 24-month period.

10. The impacts of the proposals on sense of place relate to the scale, location, and speed of change, and these impacts cannot be mitigated by detailed design measures or planting.
11. **Key Point 3 (Dispersal of development sites).** Unusually this scheme will generate cumulative impacts with itself. This is because it is not a proposal for a single site but a proposal for six separate development sites. As a consequence of this dispersal, there will be a repeated awareness of electrical development for people travelling between different settlements and visiting different locations in the landscape. The impression of a landscape transformed by electrical development would not only be experienced on single journeys and visits within the landscape (e.g., driving between settlements), but would also build up across multiple visits over time (e.g., visiting different parts of the landscape on different days). This repeated awareness, in geographically discrete parts of the landscape cannot be mitigated by detailed design or planting.
12. **Key Point 4 (BESS development).** Each of the three separate BESS developments would be a substantial development in their own right (they are between 6.6ha - 16.2ha). Unlike the solar PV modules, which are height limited to 2.5m, infrastructure within the BESS compounds would be up to 10m in height (the BESS containers themselves would be 6m tall) and would therefore be more visually prominent in the landscape than the solar arrays. Mitigation planting intended to screen PV development will be less effective in screening the BESS development, particularly during the initial 15 years of operation. The BESS developments would exacerbate the industrial characteristics of the solar PVD development and add further clutter to parts of the landscape that are currently free from urbanising features, and which currently have a prevailing rural character.
13. In relation to Sunnica East A, the applicant claims in their reply to Rep2-240 (page 178) [REP3A-035] that siting the BESS next to Lee Farm will mean its massing and land uses are perceived in the context of existing infrastructure. Lee Farm is not 'infrastructure'. It is an isolated farm in the countryside. Its buildings are typical of a rural farm, in both scale and number. The presence of these buildings does not justify or mitigate the scale of development that is proposed. The farm buildings would be lost in the expanse and clutter of the neighbouring development. The BESS development would not be seen as a logical extension of the farm, but an incongruous development in the open countryside.

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14. In summary, our concerns relate to the fundamental issues of:

- Flawed site selection, which has meant substantial parts of the development cannot be integrated and mitigation itself would in places exacerbate the impacts.
- Size and speed of transformation which would fundamentally alter local sense of place.
- Dispersal and fragmented nature of proposals over 6 separate sites, generating cumulative impacts with itself.
- Additional impacts due to BESS and substation developments, which are more visually prominent than PV modules and would exacerbate the industrialisation of this otherwise rural landscape.

15. Detailed design and mitigation planting will not address issues arising out of a flawed site selection, the size and speed of transformation of the proposals, and the fragmented nature of the proposals.

End of Note.

## Appendix B

# ISH4: Say No To Sunnica Heritage Summary

Dr Richard Hoggett FSA MCIfA (Heritage Consultant, Richard Hoggett Heritage)

## 1. Introduction

1.1 During Issue Specific Hearing 4, held on Thursday 16<sup>th</sup> and Friday 17<sup>th</sup> February 2023, the Examining Authority raised a number of issues pertaining to the Historic Environment, on which Say No To Sunnica offer the follow representations. The discussions took place under a series of headings identified by the Examining Authority and these headings are used to structure this summary.

1.2 Many of the representations made draw upon and complement the Heritage Assessment prepared by me on behalf of Say No To Sunnica and submitted as Annex B to the Deadline 2 Written Representation [REP2-240c].

1.3.1 The heritage-related headings identified by the Examining Authority and followed here are:

- Item 3: Historic environment
  - The Avenue (Chippenham Park Registered Park & Garden)
  - Plane crash site, parcel E05
- Item 4: In-combination impacts

The ecology and biodiversity, historic environment, and landscape and visual impact on:

- Land parcels W01, W02 and EC04
- Land parcels W03, W04, W05, W06, W07, W08, W09, W10, W11, W12, W17 and EC05
- Land parcel E05
- Land parcels E12 and E13

## 2. Discussion Item 3: Historic Environment

### 2.1 The Avenue

2.1.1 Say No To Sunnica welcome the additional details about the felling of trees on the avenue having been removed from the proposed scheme, although some concerns still remain about directionally drilling near to the roots of these trees. We also note the submission of more details on the park and avenue, and have commented on these in our Deadline 6 submission [REP6-074 Appendix C].

2.1.2 Following the discussion at ISH4, we conclude that the applicant does not accord the avenue the significance it deserves as a landscape feature and undervalues the contribution which it makes to the significance of the RPG. As such, the harm to the avenue, which is identified by the applicant and which cannot be further mitigated, remains and, we contend, lies at the upper end of the 'less than substantial harm' scale.

2.1.3 In this, we are in accordance with the opinion of the joint Councils, who have collectively set out their stance on this in their Statement of Common Ground with Sunnica [REP6-039].

## 2.2 Plane Crash Site

2.2.1 We acknowledge that the applicant submitted information about this as part of the recent change request, and welcome their recognition that the centre of the crash site should not be developed [REP5-059].

2.2.2 As set out at ISH2, and in our post-hearing submission [REP4-121 Appendix D], we consider that the proposed 50m x 50m box is too small and that the 100m radius exclusion area should be a minimum protected area. This, and other factors, suggest that more or all of parcel E05 should be removed from the scheme.

2.2.3 At ISH4, we noted that the original 1940s crash report has not yet been put before the Examination, and the Applicant agreed to submit a copy of their licence application to the JCCC at the next deadline.

2.2.4 We note that a decision by the JCCC regarding a licence for the development of the crash site is outstanding with the Ministry of Defence. Again as set out at ISH2, we contend that, irrespective of the outcome of the MoD's deliberation, the development of the crash site (i.e. the larger exclusion area) is not appropriate on heritage grounds, nor on moral or ethical grounds.

## 3. Discussion Item 4: In-Combination Impacts

### 3.1 Land parcels W01, W02 and EC04

3.1.1 We welcome the fact that this site (Sunnica West Site B) has now been removed from the scheme and the heritage impacts identified on the Roman villa, associated settlement and fen-edge archaeological deposits are therefore no longer an issue.

### 3.2 Land parcels W03, W04, W05, W06, W07, W08, W09, W10, W11, W12, W17 & EC05

3.2.1 This site (Sunnica West Site A) is of the greatest heritage concern, as its development impacts upon the setting of Chippenham Park RPG, in particular its avenue, and the applicant concludes that this impact cannot be mitigated further. These arguments have been set out in full in previous submissions, and our position has not changed as a result of new information submitted.

3.2.2 Although part of W09 remains undeveloped due to the presence of Scheduled barrows, we maintain that the development of the area will impact upon the setting of the Scheduled barrows within and surrounding the site, together with other archaeological examples which belong to the same cemetery group. This will result in harm to their significance. There are also concerns surrounding what happens to these sites once the 40 years' operation of the site ends and the site reverts to agricultural land.

3.2.3 The development of the Sunnica West Site B will also have an impact upon the setting of the Limekilns Gallops, which are significant for a number of different reasons, but which we contend is also a non-designated heritage asset. The applicant argues that the heritage significance of the Limekilns is only derived from associations with Newmarket, but we content it is an important historical feature in its own right. The agricultural setting is a part of this significance, as are the historical connections to Chippenham Park and the wider estate, and the change in landscape character brought about by the scheme will result in harm to this NDHA.

### 3.3 Land parcel E05

3.3.1 This parcel contains the crash site, the arguments for which are set out under Item 3, above.

### 3.4 Land Parcels E12 and E13

- 3.4.1 These parcels lie either side of U6006, which is considered to be an NDHA. We follow and supported the approach taken by the Councils in ensuring that archaeological remains and upstanding features are dealt with in a consistent and appropriate manner.

## 4. Conclusion

- 4.1 Overall, the construction of the Sunnica Energy Farm will have a negative impact upon the significance of a number of designated and non-designated heritage assets, either directly or via changes to their settings. None of the material discussed at ISH4 alters this conclusion.
- 4.2 The Applicant's own assessment identifies that several of these impacts are of sufficient magnitude to be considered 'significant' and in many cases it is apparent that the Applicant's assessments understate the full extent of the impact. It is also apparent from the submitted documents that the Applicant does not consider their proposed landscape mitigation scheme will reduce the scale of this impact further.
- 4.3 The identified cultural heritage impacts affect numerous Scheduled Monuments, a Registered Park and Garden, several listed buildings, surrounding Conservation Areas and the historic Limekilns Gallops. The scheme will also have a considerable impact upon the extensive archaeological deposits which survive within the proposed development area.
- 4.4 Under existing planning legislation and policy it is required that this 'less than substantial harm' be weighed against the wider benefits of the DCO application. In doing so, 'great weight' should be given to the conservation of the heritage assets concerned, and the more important the assets, the greater that weight should be. Both the Applicant's own assessment and that undertaken for Say No To Sunnica conclude that the development will result in multiple instances of adverse heritage impact, which cannot be mitigated. As such, considerable benefits will need to be demonstrated in order to justify the approval of a DCO Application which will result in such high levels of harm to so many designated and non-designated heritage assets.

## Appendix C



1. At Deadline 5 the Applicant submitted an updated version of the Appendix 13C Framework Construction Traffic Management Plan and Travel Plan (REP5-016). This has been updated to take account of the removal of Sunnica West B (REP5-016 Para 1.1.1 and 1.1.2). Short Road, Snailwell was also referred to in ISH4 and in submissions by Cambridgeshire County Council at Deadline 6. SNTS is responding to these submissions and points made at ISH4.

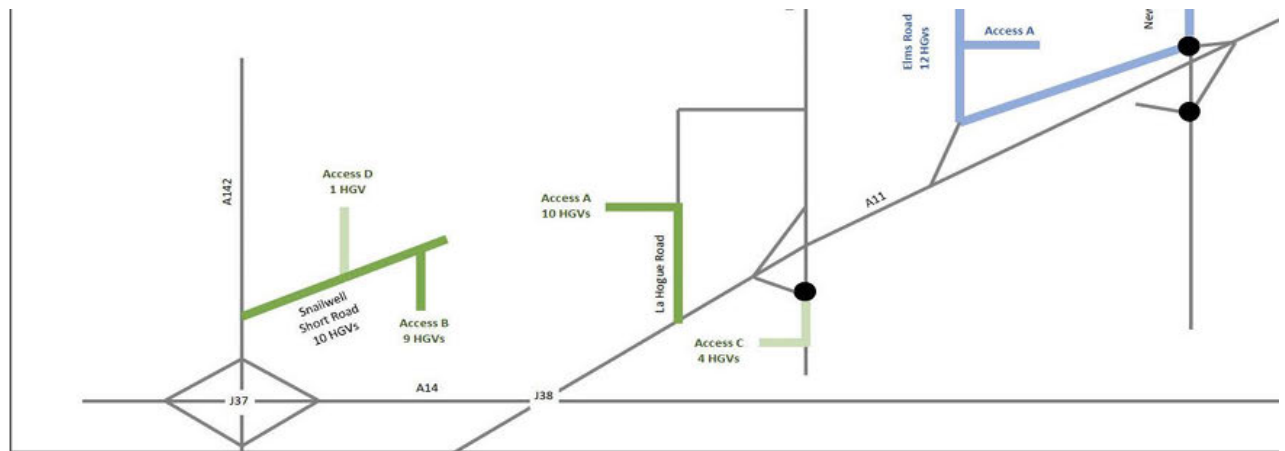
2. **REP5-016** Proposed Change 2 refers at 1.3.1 to

*Removal of the use of the Sunnica West Site B: Site Access D (SW-D) on Fordham Road, in both the construction and operational phases. It also removes the need for HGVs to travel through Snailwell.*

*Cable Route Site Access M on Chippenham Road will continue to be used as a construction access for the Cable Route, as is part of the current scheme proposals. It is unlikely that Cable Route Access M will be required during operation, as this will only be required if there is a fault along the cable corridor.*

3. Despite the removal of Sunnica West B there is no significant change in the Daily HGV forecast to access Sunnica West (**REP5-016** Table 2-1). At 2.3.4 (**REP5-016**) the Applicant refers to a “a small reduction in the number of HGV required for Sunnica West per month”. This is quantified as a reduction from 102 to 96 movements per day in month 3.
4. Despite the removal of Sunnica West B the Applicant still proposes the use of Short Road, Snailwell as a secondary access (**REP5-018** Figure 2 – Access B) as well as Access M (**REP5-018** Figure 11). The access route from the A142 is show on **REP5-018** Figure 5
5. It is not clear as to the nature of the changes to HGV traffic to Sunnica West as to if these constitute a reduction in traffic on Short Road and an increase in traffic on La Hogue Road or if the volume of traffic on Short Road in fact remains substantially unchanged.
6. SNTS set out in its written representation at Deadline 2 (**REP2-240**) reasons why Short Road and Snailwell village was unsuitable for HGV traffic. These included:
  - Width
  - Blind approach to the railway bridge
  - Conflict with vulnerable road users
  - Frontage of two Studs onto Short Road
7. This opinion remains unchanged and the case for needing a secondary access via this road must be considered to be significantly weakened by the removal of Sunnica West B. Alternatively this access is needed for the construction of Sunnica West A and should be regarded as a primary access not a secondary access.
8. **APP-117** (Transport Assessment) at Plate 3 shows a forecast average number of HGV across the construction period using Short Road of 10 (20 2-way) with 1 (2 2-way) going to West B and 9 (18

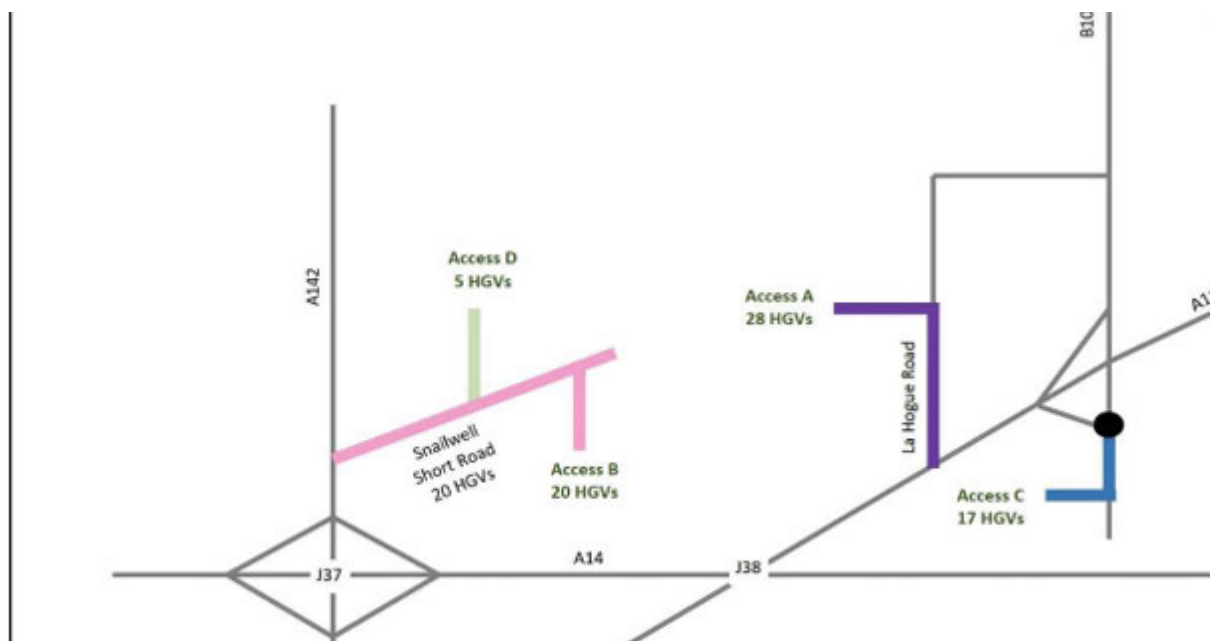
2-way) to West A. This should be compared with the equivalent forecast of 10 HGV (20 2-way) using Primary Access A.



**Plate 3: Forecast Average Daily HGVs (Single Direction) Across the Construction Period on the Local Roads**

**FIGURE 1 - EXTRACT FROM APP-117 PLATE 3**

9. **App-117** Plate 2 shows peak numbers of HGV as follows (numbers should be doubled to obtain observed HGV):



**Plate 2: Forecast Peak Daily HGV Movements (Single Direction)**

**FIGURE 2 - EXTRACT FROM APP-117 PLATE 2**

10. Given no significant change in traffic as a result of the removal of Sunnica West B it should be concluded that Access B is in fact a primary access to access the western part of West A and not the secondary access claimed.
11. There is no reason why access to the cable route cannot be obtained directly from the A142 north of Snailwell. Access to the whole of West A could be obtained from Access A.
12. It has since come to the attention of SNTS that the section of Short Road between Snailwell Stud and the railway bridge has protected verges (CCC Ref E6).
13. In a report to Cabinet dated 9th March 2021 (**Appendix 1**) it was stated that “The best examples of verge grassland are managed by the County Council through the PRV scheme, which covers approximately 80 km of verge across 67 locations”.
14. It was further stated that:

*2.2 A study of some of Cambridgeshire’s PRVs was undertaken in 2020 by Jonathan Shanklin and confirms that verges still make an “essential and valuable contribution to the County’s biodiversity”. However, the quality of the PRVs has deteriorated due to sub-optimal management, nutrient enrichment and in some cases, neglect. This corroborates the findings of PRV surveys commissioned by CCC that found only 7% in favourable condition, 24% in part favourable / unfavourable condition and 69% in unfavourable condition by 2012. This evidence demonstrates that the current management of PRVs by CCC is not sufficient to conserve their biodiversity value.*

*2.3 Priority must be given to managing the most biodiversity rich verges for their wildlife interest. The wildflowers of the majority of PRVs should recover if appropriate management is implemented.*

15. The citation (**Appendix 2**) for designating part of Short Road, Snailwell as Protected Verge is:

PRV ID	Name	Location	Grid Reference	Verges on both sides of road	Designation status*	Wildlife Interest	Management Regime**	Highway Division
E6	Snailwell (S of the stud to the railway)	Unclassified road	TL640 668 - TL642 671	Yes	PRV	Neutral/calcareous grassland, presence of a local red data book species	A	East Division

16. An increase in HGV traffic using a narrow road is almost certainly going to result in damage to the road edge and encroachment onto the protected verge. The section of protected verges is marked on site by a marker post and is shown in the following photographs.



**PHOTOGRAPH 1 - SHORT ROAD LOOKING WEST FROM SNAILWELL STUD – START OF PROTECTED VERGE MARKED**





**PHOTOGRAPH 2 - SHORT ROAD LOOKING TOWARDS SNAILWELL PROTECTED VERGES BOTH SIDES**

17. It can be seen that erosion of the road edge is already occurring with existing levels of traffic. This will increase with additional HGV destined for Sunnica West. The result will be a threat to biodiversity.
18. This road is not suitable for HGV traffic which will create a safety hazard for vulnerable users. The Highway Code now recommends a minimum of 1.5m clear distance when passing a cyclist and 2m passing a horse. This is impossible to achieve on a road of this width. The relevant rule is shown below.

### Rule 163

**Overtake only** when it is safe and legal to do so. You should

- not get too close to the vehicle you intend to overtake
- use your mirrors, signal when it is safe to do so, take a quick sideways glance if necessary into the blind spot area and then start to move out
- not assume that you can simply follow a vehicle ahead which is overtaking; there may only be enough room for one vehicle
- move quickly past the vehicle you are overtaking, once you have started to overtake. Allow plenty of room. Move back to the left as soon as you can but do not cut in
- take extra care at night and in poor visibility when it is harder to judge speed and distance
- give way to oncoming vehicles before passing parked vehicles or other obstructions on your side of the road
- only overtake on the left if the vehicle in front is signalling to turn right, and there is room to do so
- stay in your lane if traffic is moving slowly in queues. If the queue on your right is moving more slowly than you are, you may pass on the left. Cyclists may pass slower moving or stationary traffic on their right or left and should proceed with caution as the driver may not be able to see you. Be careful about doing so, particularly on the approach to junctions, and especially when deciding whether it is safe to pass lorries or other large vehicles.
- give motorcyclists, cyclists and horse riders and horse drawn vehicles at least as much room as you would when overtaking a car (see [Rules 211 to 215](#)). As a guide:
  - leave at least 1.5 metres when overtaking cyclists at speeds of up to 30mph, and give them more space when overtaking at higher speeds
  - pass horse riders and horse-drawn vehicles at speeds under 10 mph and allow at least 2 metres of space
  - allow at least 2 metres of space and keep to a low speed when passing a pedestrian who is walking in the road (for example, where there is no pavement)

19. It is not at all clear by what process this road has been assessed as being suitable for use by construction traffic. It is not mentioned in **REP5-016** and does not appear to have been surveyed. Alternative means of access exist and the use of Short Road, Snailwell is not essential to construction of Sunnica Energy Farm.
20. Considering how inappropriate the road is for use as a primary access, this is a significant harm indicating against the scheme.

21. In the same way that inadequate information has been produced concerning the environmental impact of traffic on Chippenham Road / Short Road at Snailwell, SNTS is of the view that Sunnica has not carried out a proper analysis on La Hogue Road, and consequently has failed to consider and carry out environmental mitigation in relation to the road (including suitable recommendations for movements of heavy goods vehicles at certain times as outlined in REP5-016 and impacts on NMUs which include cycling groups) because they do not know the full facts.
22. It is a case again of inadequate preparation and assimilation of the facts and matters relating to the base case against which the impact of the scheme must be considered. It is a further indication that the EIA is inadequate.
23. SNTS is aware that the councils have also raised concerns in relation to traffic assessments.

## Appendix 1



## Highways Verge Maintenance

To: Highways & Transport Committee

Meeting Date: 9<sup>th</sup> March 2021

From: Steve Cox – Executive Director, Place and Economy

Electoral division(s): All

Forward Plan ref: N/A

Key decision: No

Outcome: To apprise Members of the new approach to management of highway verges across Cambridgeshire following the launch of updated national guidance

Recommendation: Committee is asked to:

- a) To endorse the approach set out in the report for the management of highway verges across Cambridgeshire.
- b) To approve inclusion of the county's verge management approach in future iterations of the Highway Operational Standards.

### Officer contact:

Name: Jonathan Clarke

Post: Highways Maintenance Manager

Email: [REDACTED]

Tel: [REDACTED]

### Member contacts:

Names: Councillors Ian Bates & Mark Howell

Post: Chair/Vice-Chair

Email: [REDACTED]

Tel: [REDACTED]

# 1. Background

- 1.1 Cambridgeshire County Council has committed to bringing all our biodiversity assets into positive conservation management ([Climate Change and Environment Strategy 2020](#)), with the road network identified for better biodiversity management.
- 1.2 A workshop was held on 12<sup>th</sup> November 2020 to discuss a revised approach, drawing on expertise from a range of organisations. This included a presentation on verge management in Dorset, an area held up as a leader in this field. Workshop attendees were able to ask questions and seek clarification and guidance from the representatives of the organisations present. The outcome of the workshop has been used to inform the approach set out in this report.
- 1.3 Attendees at the workshop included: Plantlife, Butterfly Conservation Trust, On the verge, Chair & Vice Chair of the Highways & Transport Committee, County Councillors Harford and Harrison, Skanska Environmental Managers, Skanska Operation Managers, representatives from the County Council Biodiversity team and the County Council Highways Maintenance Manager.
- 1.4 The management of the road network has the potential to protect and restore the largest area of unimproved grassland in the county, including one City Wildlife Site, 37 County Wildlife Sites & two Sites of Special Scientific Interest. The verges also provide a valuable resource for animals and a wildlife corridor across a biodiversity poor landscape.

# 2. Outcome and recommendations

## Protected Road Verges (PRVs)

- 2.1 The best examples of verge grassland are managed by the County Council through the PRV scheme, which covers approximately 80 km of verge across 67 locations (appendix 1). For example, the species-rich grassland at Stocking Lane PRV supports Crested Cow-wheat, an important plant restricted to verges of Cambridgeshire, Suffolk and Essex.
- 2.2 A study of some of Cambridgeshire's PRVs was undertaken in 2020 by Jonathan Shanklin and confirms that verges still make an “essential and valuable contribution to the County’s biodiversity”. However, the quality of the PRVs has deteriorated due to sub-optimal management, nutrient enrichment and in some cases, neglect. This corroborates the findings of PRV surveys commissioned by CCC that found only 7% in favourable condition, 24% in part favourable / unfavourable condition and 69% in unfavourable condition by 2012. This evidence demonstrates that the current management of PRVs by CCC is not sufficient to conserve their biodiversity value.
- 2.3 Priority must be given to managing the most biodiversity rich verges for their wildlife interest. The wildflowers of the majority of PRVs should recover if appropriate management is implemented.
- 2.4 Currently, the PRVs receive two cuts per year, but grass cuttings are not removed, causing enrichment of the soils and wildflowers become smothered by rough grasses. It is essential that grass cuttings are removed to reduce soil fertility, so that wildflowers can thrive. In

addition, some PRVs are becoming dominated by scrub, which will require more invasive management (e.g. scrub removal and soil stripping). Up-to-date surveys are needed to prescribe the exact management needed for each PRV.

2.5 It is therefore proposed that the following management is implemented on the PRVs:

- Engage the Wildlife Trust to undertake surveys of all the PRVs, this being in keeping with other surveys CCC have had undertaken of the PRVs. The Wildlife Trust are best placed to identify any changes since their last survey work in 2007-2011 and any changes as a result of the proposed new cutting regime. Split the survey over two years, so that we have the baseline data as soon as possible.
- The Wildlife Trust are able to survey potential new CCC PRVs. We have none at this stage but expect there will be some new sites come forward as we develop work with the parishes and the county botanical recorder.
- Installation of any missing PRV way markers to demarcate length of PRV
- Undertake remedial work on any PRVs to restore areas back to grassland (e.g. scrub clearance)
- Implement optimal cutting regime of two cuts per year, with arisings collected.
- Cuts to be undertaken within the following 4-week windows (depending on flowering interest), either:
  - A) 1st cut in April & 2nd cut in mid-September to mid-October; or
  - B) 1st cut in late July & 2nd cut in mid-September to mid-October
- All cuttings to be collected and deposited either at rear of verge or in compost piles, outside of the PRV

2.6 Appendix 1 shows the location of the PRV's in Cambridgeshire. Details of the species in these and the criteria for a verge to be identified as a Protected Road Verge for inclusion in the scheme are contained in the source documents at the end of this report.

#### Rural Road Verge network

2.7 It is proposed that the wider network of verges is cut twice a year and that both of the cuts are full width of the available verge, thus reducing the build-up of scrub at the back of the verges.

2.8 The March/April cut is perfect for most of the county, apart from areas on the clay, which have different key flowering times. Appendix 2 shows the Highway zones. The timing of the cuts is:

South divisions & North divisions (excluding NE17)

A) March/April & late September/October

B) Priority of completing cutting during the optimal timings should be given to the verges in South Cambridgeshire and East Cambridgeshire (highlighted on the map) because they are more floristically rich than Fenland

West Division & Highways Zone NE17

C) Late July & late Sept/October (optimal)

D) If postponing the first full width cut until late July is not operationally possible, then the next best alternative is cutting in: March/April & late July/August (e.g. no autumn cut)

### Urban Road Verge (URV) network

- 2.9 The URV are those urban roads with speed limits under 30mph.
- 2.10 There are a number of different organisations that cut the verges in Cambridgeshire's urban areas on the county council's behalf. These include; Cambridge City Council, Huntingdonshire District Council, Huntingdon Town Council, St. Neots Town Council and 129 parishes (Appendix 3). They are paid what it would cost the county council to cut the grass based on a square metre area for three cuts, although a number of these organisations have asked that the amount paid is reviewed.
- 2.11 The remaining urban area is cut by the county council's Highway Services partner Skanska.
- 2.12 At the workshop, Dr Phil Stirling gave a presentation that included the work carried out at Lanford Forum Dorset, whereby a cut and collect management of the arisings has been introduced. It is proposed that an urban verge cut and collect trial is implemented in a small number of villages following the cutting regime for PRV network.
- 2.13 The proposal consists of
- Treat the trial as a separate programme.
  - The number of parishes/villages included in the trial will depend on the number of cut/collect machines used. To maximise the use of any cut/collect machines it is anticipated that 3-5 parishes would take part in the trial.
  - Parishes would be picked that are supportive of the trial. Although it may be better to focus on one district to minimise travel time/costs.
  - Suggested length of trial is 3 years to see the full benefit. Unlikely to see biodiversity benefits until second year.
  - Engage with parishes prior to starting the trial. It is possible that parishes will help find locations to dispose of arisings close to cutting sites. They may also be increased in monitoring.
  - Monitoring of biodiversity is important – monitor plant diversity throughout the length of the trial. Could use quadrat surveys and local volunteers. A monitoring programme will be developed in conjunction with the county council ecologist.
  - Monitoring of when cuts are needed could also be carried out by local volunteers.
  - First year will likely need the same number of cuts (with the addition of collecting) to reduce nutrients in verges. The aim is to get this to two cuts a year by the end of the trial, subject to monitoring.
  - Arisings are best left on site if possible (in nearby hedges/scrub).

### Road Safety

- 2.14 The county council places a very high importance on road safety and any changes to the verge management regime will not compromise safety. Therefore, all vision splays, bends and junctions have been identified, and a specification for the cut at these locations has been designed. Details of this are contained in the source documents at the end of this report.
- 2.15 The higher the speed limit of the road the greater the length of the vision splay required.
- 2.16 It is proposed that these are cut four times a year throughout the season, with an option to

attend to any locations following identification from either routine highway inspections or correspondence from local members and / or the public that there is further requirement to cut the vision splay, bend or junction.

### Community Verges

- 2.17 There has been increasing interest from Parish Councils, resident associations and individuals looking at options for managing their own local verges in a more biodiversity friendly management regime.
- 2.18 It is proposed that the county council supports this and work with communities to enable this to happen where appropriate. A page will be created on the county council website for all matters relating to road verges as a source of information for Parishes. This information will include species mix by soil type, volunteering and cutting regimes and frequently asked questions, advice and contacts for further guidance.
- 2.19 Volunteers can use the already existing Highways Volunteering forms and once risk assessments have been completed, enable them to be covered by CCC insurance whilst working on the public highway of which the verge forms part. Details of this are contained in the source documents at the end of this report. Local Highway Officers will be encouraged to promote this scheme through their meetings with Parish Councils, resident associations and individuals.
- 2.20 The current Licence to cultivate Section 142, can be seen as a barrier to communities and individuals and it is proposed that this is not promoted for the purpose of verge management but retained for the planting of shrubs outside an applicant's property. Details of this are contained in the source documents at the end of this report.

### Weed treatment

- 2.21 A programme was introduced in 2019 to proactively identify the locations and treat invasive weeds such as Japanese Knotweed, Giant Hogweed and Himalayan Balsam. Any weeds located on the public highway are inspected, risk assessed and then if required treated, this treatment will be twice a year for three years. Invasive Weed Identification workshops for the Highway Inspectors and Local Highway Officers are facilitated by the Biodiversity Team and the Highway Service Contractors supply chain and held every three years.

## **3. Alignment with corporate priorities**

- 3.1 A good quality of life for everyone  
The main objectives of the Council's verge management is to maintain and enhance the plant species in Cambridgeshire's verges whilst maintaining safety for road users. This approach will improve wildlife corridors across the county with particular improvement for pollinators such as bees. The proposed approach, which is in line with the national guidance, is intended to reduce the area of verge that is cut during each phase of the cutting programme.

Greater emphasis is based on safety with an increased frequency of cut at vision splays and bends. The Council will also work closely with the City Council, District Councils, Town

Councils and Parishes Councils to promote the Plantlife Good Verge Guide and these changes should benefit everyone.

- 3.2 Thriving places for people to live  
Allowing for the growth of wildflowers will provide a more aesthetic environment for people travelling and using the countryside for leisure activities.
- 3.3 The best start for Cambridgeshire's children  
There are no significant implications for this priority
- 3.4 Net zero carbon emissions for Cambridgeshire by 2050  
There are no significant implications for this priority

## 4. Significant Implications

- 4.1 Resource Implications  
Overall, the proposed approach is more resource intensive. Whilst the actual cutting of the grass and verges will be undertaken through the County Council's highway services contract, there is likely to be significant involvement required from Highways Officers at the front end, in terms of liaising with external partners, managing local community expectations and educating contractors on the new approach. At this stage it is not possible to quantify the amount of officer time over and above what is spent at present on verge maintenance, however it will be kept under review.
- 4.2 Procurement/Contractual/Council Contract Procedure Rules Implications  
The County Council's highway services contract is the current mechanism for carrying out verge maintenance on public highway. Subject to the arrangements put in place with local Parishes and the desire for them to cut grass work will be required to ensure that appropriate agreements are in place.
- 4.3 Statutory, Legal and Risk Implications  
There are no significant implications within this category. The biggest risk is associated with the cutting of vision splays and safety implications. However, the proposal recognises the importance of safety and the approach seeks to significantly mitigate the risks with cuts four times per year and flexibility to do more should the need arise.
- 4.4 Equality and Diversity Implications  
There are no significant implications within this category.
- 4.5 Engagement and Communications Implications  
The change in approach will need to be communicated and understood by local communities, particularly where responsibility rests with partners of the County Council. The Highways Service will work closely with Corporate Comms to develop some clear messaging on the new approach.
- 4.6 Localism and Local Member Involvement  
There are no significant implications within this category, other than ensuring local members are included in any communication that goes out to local communities.

- 4.7 Public Health Implications  
There are no significant implications within this category.

**Have the resource implications been cleared by Finance?** Yes  
Name of Financial Officer: Sarah Heywood

**Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement?** Yes  
Name of Officer: Gus de Silva

**Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or LGSS Law?** Yes  
Name of Legal Officer: Fiona McMillan

**Have the equality and diversity implications been cleared by your Service Contact?** Yes  
Name of Officer: Elsa Evans

**Have any engagement and communication implications been cleared by Communications?** Yes  
Name of Officer: Sarah Silk

**Have any localism and Local Member involvement issues been cleared by your Service Contact?** Yes  
Name of Officer: Richard Lumley

**Have any Public Health implications been cleared by Public Health?** No  
Name of Officer:

## Source documents

Plantlife. Good Verge Guide-Managing Grassland Road Verges: a best practice guide, technical guidance for Highway Authorities



Protected road verges  
[https://www.cambridgeshire.gov.uk/asset-library/imported-assets/PRV\\_list.pdf](https://www.cambridgeshire.gov.uk/asset-library/imported-assets/PRV_list.pdf)

[https://www.cambridgeshire.gov.uk/asset-library/imported-assets/PRV\\_selection\\_criteria.pdf](https://www.cambridgeshire.gov.uk/asset-library/imported-assets/PRV_selection_criteria.pdf)

Vision splay locations & vision splay specification  
<\\ccc.cambridgeshire.gov.uk\data\Et Shared\8 Highways\Highways Maintenance\GRASS MAINTENANCE\GRASS CUTTING Verge and Village Maps\Visibility Splays Update drawings 2020\Junctions bends footway cut information>



<\\ccc.cambridgeshire.gov.uk\data\Et Shared\8 Highways\Highways Maintenance\GRASS MAINTENANCE\GRASS CUTTING Verge and Village Maps\VisiBends>

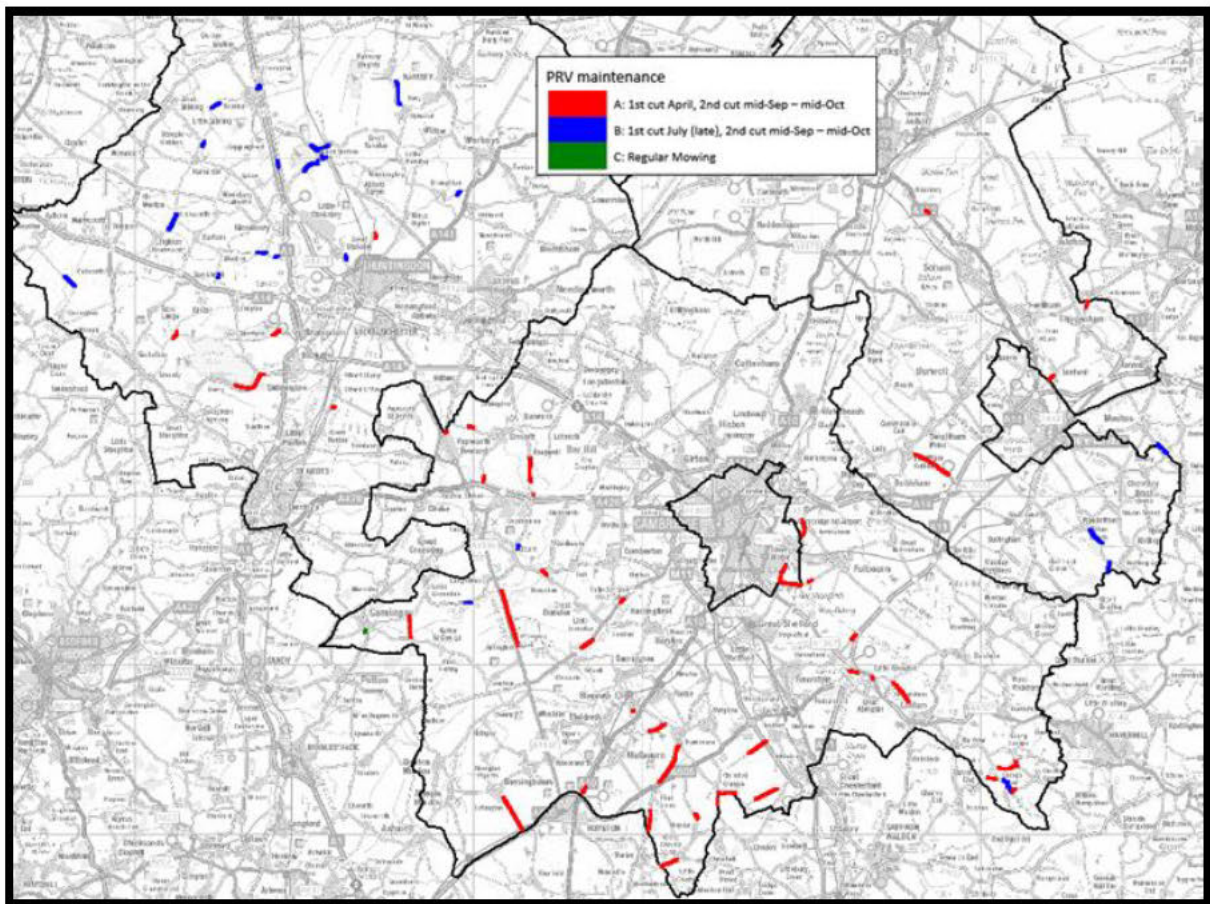
Highway Volunteer scheme

<https://www.cambridgeshire.gov.uk/asset-library/imported-assets/Community%20Highways%20Volunteering%20Scheme%20Information%20Pack%20-%20Cambridge%20City....pdf>

Licence to cultivate Section 142 Highway Act 1980

<https://www.legislation.gov.uk/ukpga/1980/66/section/142>

## **Appendix 1** - Location of Protected Road Verges in Cambridgeshire & prescribed grassland cuts

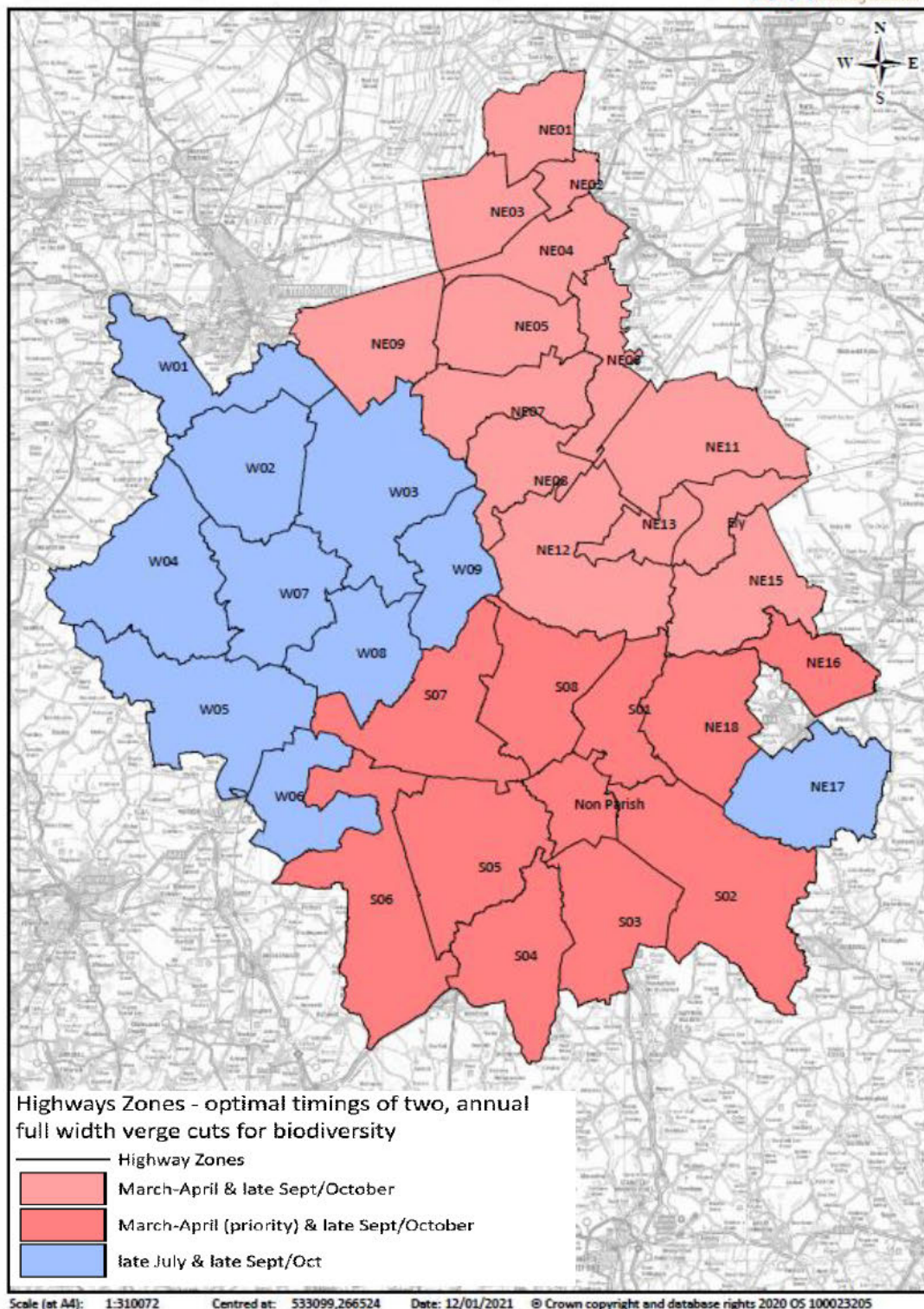


Shanklin, J. (2020). Cambridgeshire's Protected Road Verges. To be published in Nature in Cambridgeshire 2021 (draft available)



## Appendix 2

### Highways Zones - optimal timing of full width verge cuts for biodiversity



### Appendix 3 - List of who cuts verges on CCC behalf.

Abbots Ripton	Ely City	Longstanton	Thriplow
Alconbury	Farcet	Lt Abington	Tilbrook
Alconbury Weston	Fen Ditton	Lt Downham & Pymore	Toft
Alwalton	Fen Drayton	Lt Shelford	Water Newton
Ashley	Fenstanton	Lt Thetford	West Wrating
Balsham	Folksworth	Lt Wilbraham	Weston Colville
Bar Hill	Fordham	Manea	Whaddon
Barrington	Fowlmere	March & Westry	Whittlesford
Barton	Foxton	Melbourn	Wicken & Upware
Bassingbourn	Fulbourn	Meldreth	Wimblington & Stonea
Benwick	Gamlingay	Mepal	Wimpole
Bluntisham	Girton	Milton	Wisbech St Mary
Bottisham	Grantchester	Newton	Wistow
Bourn	Graveley	Offord Cluny	Witchford
Brampton	Gt Shelford	Offord Darcy	Yaxley
Brinkley	Gt. Paxton	Old Hurst	
Brington & Molesworth	Gt Wilbraham	Pampisford	
Broughton	Guilden Morden	Parson Drove	
Buckden	Haddenham	Perry	
Buckworth	Hail Weston	Prickwillow	
Burwell	Harston	Rampton	
Caldecote	Hauxton	Sawston	
Cambourne	Hildersham	Sawtry	
Carlton	Hinxton	Shepreth	
Catworth	Histon	Snailwell	
Caxton	Holme	Soham	
Cheveley	Huntingdon DC	Somersham	
Chippenham	Ickleton	Spaldwick	
Chishill (Gt & Lt)	Impington	Stapleford	
Colne	Isleham	Steeple Morden	
Comberton	Kennett	Stilton	
Coton	Kimbolton & Stonely	St Neots Town Council	
Croxton	Kingston	Stow Cum Quy	
Doddington	Kirtling & Upend	Stow Longa	
Dry Drayton	Knapwell	Stukeleys	
Duxford	Landbeach	Sutton	
Earith	Leighton Bromswold	Swaffham Bulbeck	
Easton	Linton	Swaffham Prior	
ECDC	Littleport	Swavesey	
Elton Parish & Fotheringay	Litlington	Tadlow	
Elsworth	Lode & Longmeadow	Teversham	

## Appendix 2

**Protected Road Verges (PRVs) found in Cambridgeshire  
- Listed by Parish**

Parish	PRV ID	PRV name
Abbots Ripton	W27	The Stukeleys
Abbots Ripton	W35	Bevils wood
Alconbury	W2	Alconbury
Alconbury	W3	Woolley Leys
Alconbury Weston	W35	Bevils wood
Arrington	S53	Arrington
Ashley	E1	Ashley
Babraham	S3	Babraham
Barrington	S28	Orwell
Bourn	S40	Alms Hill
Boxworth	S4	Boxworth
Brampton	W11	Brampton Wood, East
Brington and Molesworth	W43	Mickle Hill
Broughton	W9	Warboys
Buckden	W10	B661 Pumping Station
Buckden	W11	Brampton Wood, East
Bythorn and Keyston	W43	Mickle Hill
Cambridge City	C1	Cherry Hinton
Cambridge City	C2	Cherry Hinton
Cambridge City	C3	Cherry Hinton
Castle Camps	S30	Shudy Camps
Castle Camps	S32	Castle Camps
Castle Camps	S5	Castle Camps
Castle Camps	S6	Castle Camps
Castle Camps	S7	Castle Camps
Chippenham	E4	Chippenham
Covington	W43	Mickle Hill
Duxford	S41	Chrishall Grange
Duxford	S51	Duxford Grange
Ellington	W40	Woolley Hill
Elsworth	S54	Elsworth-Hilton Road RSV
Elsworth	S8	Elsworth (A428 to Common Farm)
Ely	E9	Ely
Fowlmere	S46	London Road
Fowlmere	S47	Mill Road
Fulbourn	S9	Fulbourn (near Bishops Farm)
Gamlingay	S11	Gamlingay Long Road
Great and Little Chishill	S15	Great Chishill
Great and Little Chishill	S37	Little Chishill
Great Shelford	C3	Cherry Hinton
Hamerton and Steeple Gidding	W25	Steeple Gidding
Harlton	S17	Harlton
Harlton	S28	Orwell
Heydon	S19	Heydon
Heydon	S49	Chrisall Grange
Hildersham	S21	Hildersham
Ickleton	S41	Chrishall Grange

**Protected Road Verges (PRVs) found in Cambridgeshire  
- Listed by Parish**

Parish	PRV ID	PRV name
Ickleton	S50	Ickleton Grange
Kimbolton	W16	Stocking Lane
Kingston	S43	Bourn Road (White Arch)
Kirtling	E5	Kirtling (Rd to Longacre Green Farm)
Knapwell	S23	Knapwell
Leighton	W17	Leighton
Linton	S21	Hildersham
Litlington	S44	Royston
Little Abington	S36	Little Abington
Little Abington	S52	Little Abington
Longstowe	S25	Longstowe
Longstowe	S53	Arrington
Melbourn	S26	Melbourn
Melbourn	S46	London Road
Morborne	W19	Morborne
Offord Cluny and Offord D'Arcy	W20	Offord D'Arcy
Orwell	S28	Orwell
Papworth Everard	S55	Papworth Everard
Perry	W10	B661 Pumping Station
Sawtry	W23	Sawtry
Sawtry	W24	Sawtry
Sawtry	W35	Bevils wood
Shepreth	S29	Shepreth
Shudy Camps	S30	Shudy Camps
Snailwell	E6	Snailwell (S of the stud to the railway)
Southoe & Midloe	W10	B661 Pumping Station
Spaldwick	W16	Stocking Lane
Swaffham Bulbeck	E7	Swaffham Bulbeck
Teversham	S38	Teversham
The Stukeleys	W26	The Stukeleys
The Stukeleys	W27	The Stukeleys
The Stukeleys	W29	Stangate Hill RSV
Upton and Coppingford	W29	Stangate Hill RSV
Upwood and the Raveleys	W30	Upwood
Warboys	W9	Warboys
Wimpole	S53	Arrington
Wood Walton	W34	Woodwalton
Wood Walton	W35	Bevils wood
Wood Walton	W36	Woodwalton
Wood Walton	W42	Woodwalton East
Woodditton	E8	Woodditton

## Protected Road Verge (PRV) Details 2011

PRV ID	Name	Location	Grid Reference	Verges on both sides of road	Designation status*	Wildlife Interest	Management Regime**	Highway Division
C1	Cherry Hinton	Lime Kiln Road	TL481 553	Yes	SSSI/PRV	Species rich calcareous grassland, presence of a local red data book species	A	Cambridge City Council
C2	Cherry Hinton	Lime Kiln Road	TL483 554 - TL484 559	Yes	SSSI/PRV	Species rich calcareous grassland, presence of a local red data book species	A	Cambridge City Council
C3	Cherry Hinton	Wort's Causeway	TL491 547	Yes	CWS/PRV	Species rich neutral/calcareous grassland	A	City Division
E1	Ashley	B1085	TL710 625 - TL709 425	No	CWS/PRV	Neutral grassland	A	East Division
E4	Chippenham	Unclassified road to Freckenham	TL662 713	Yes	CWS/PRV	Neutral grassland	A	East Division
E5	Kirtling (Rd to Longacre Green Farm)	Unclassified road	TL675 556	Yes	PRV	Neutral/calcareous grassland, presence of a nationally scarce species	B	East Division
E6	Snailwell (S of the stud to the railway)	Unclassified road	TL640 668 - TL642 671	Yes	PRV	Neutral/calcareous grassland, presence of a local red data book species	A	East Division

\* Some Protected Road Verges (PRVs) are also designated Sites of Special Scientific Interest (SSSIs) or County Wildlife Sites (CWSs)

\*\* 2 full-width grass cuts per year: 1st cut = April (A) or July (B); 2nd cut = mid-Sep – mid-Oct (A / B)

## Protected Road Verge (PRV) Details 2011

PRV ID	Name	Location	Grid Reference	Verges on both sides of road	Designation status*	Wildlife Interest	Management Regime**	Highway Division
E7	Swaffham Bulbeck	Heath Road	TL567 621 - TL580 613	No	PRV	Neutral/calcareous grassland, presence of a local red data book species	A	East Division
E8	Woodditton	Unclassified road	TL669 574	Yes	CWS/PRV	Neutral/calcareous grassland, presence of a nationally rare & local red data book species	B	East Division
E9	Ely	A142	TL568 768	No	SSSI/PRV	Presence of a nationally rare and critically endangered species	A	East Division
S11	Gamlingay Long Road	Unclassified road	TL262 516 - TL261 529	Yes	CWS/PRV	Neutral/calcareous grassland, presence of a local red data book species	B	South Division
S15	Great Chishill	B1368	TL403 404	Yes	CWS/PRV	Neutral/calcareous grassland	A	South Division
S17	Harlton	A603	TL388 538	No	PRV	Neutral/calcareous grassland	B	South Division
S19	Heydon	Unclassified road	TL432 409	Yes	CWS/PRV	Neutral/calcareous grassland	A	South Division

\* Some Protected Road Verges (PRVs) are also designated Sites of Special Scientific Interest (SSSIs) or County Wildlife Sites (CWSs)

\*\* 2 full-width grass cuts per year: 1st cut = April (A) or July (B); 2nd cut = mid-Sep – mid-Oct (A / B)

## Protected Road Verge (PRV) Details 2011

PRV ID	Name	Location	Grid Reference	Verges on both sides of road	Designation status*	Wildlife Interest	Management Regime**	Highway Division
S21	Hlldersham	Unclassified road	TL552 485 - TL550 487	Yes	CWS/PRV	Neutral/calcareous grassland, presence of a local red data book species	A	South Division
S23	Knapwell	Unclassified road	TL334 600 - TL332 622	Yes	CWS/PRV	Neutral/calcareous grassland, presence of a local red data book species	B	South Division
S25	Longstowe	B1046	TL295 537	No	PRV	Neutral/calcareous grassland	A	South Division
S26	Melbourn	A10	TL362 420	Yes	PRV	Neutral/calcareous grassland	A	South Division
S28	Orwell	A603	TL367 513	Yes	CWS/PRV	Neutral/calcareous grassland, presence of a local red data book species	A	South Division
S29	Shepreth	Unclassified road	TL394 473	No	CWS/PRV	Neutral/calcareous grassland, presence of 2 local red data book species	A	South Division
S3	Babraham	Unclassified road	TL521 512 - TL526 518	Yes	CWS/PRV	Neutral/calcareous grassland, presence of two local red data book species	A	South Division

\* Some Protected Road Verges (PRVs) are also designated Sites of Special Scientific Interest (SSSIs) or County Wildlife Sites (CWSs)

\*\* 2 full-width grass cuts per year: 1st cut = April (A) or July (B); 2nd cut = mid-Sep – mid-Oct (A / B)



## Protected Road Verge (PRV) Details 2011

PRV ID	Name	Location	Grid Reference	Verges on both sides of road	Designation status*	Wildlife Interest	Management Regime**	Highway Division
S30	Shudy Camps	Unclassified road	TL620 442	No	CWS/PRV	Neutral/calcareous grassland, presence of a local red data book species	A	South Division
S32	Castle Camps	Unclassified road	TL612 438	Yes	PRV	Neutral/calcareous grassland	A	South Division
S36	Little Abington	A1307 (formerly A604)	TL535 494	No	PRV	Neutral/calcareous grassland	A	South Division
S37	Little Chishill	Unclassified road	TL411 380	Yes	CWS/PRV	Neutral/calcareous grassland	A	South Division
S38	Teversham	Unclassified road Airport Way and Teversham Drift	TL495 579 - TL494 586	Yes	CWS/PRV	Neutral/calcareous grassland	A	South Division
S4	Boxworth	Unclassified road	TL332 642 - TL334 642	No	PRV	Neutral/calcareous grassland	B	South Division
S40	Alms Hill	Alms Hill	TL325 569	No	CWS/PRV	Neutral/calcareous grassland	B	South Division
S41	Chrisall Grange	Unclassified road	TL44409 42377, TL45406 42359, TL45247 42379, TL45402 42345	Yes	CWS/PRV	Neutral/calcareous grassland	A	South Division
S43	Bourn Road (White Arch)	Bourn Road	TL340 555 - TL342 553	Yes	CWS/PRV	Neutral/calcareous grassland	A	South Division

\* Some Protected Road Verges (PRVs) are also designated Sites of Special Scientific Interest (SSSIs) or County Wildlife Sites (CWSs)

\*\* 2 full-width grass cuts per year: 1st cut = April (A) or July (B); 2nd cut = mid-Sep – mid-Oct (A / B)

## Protected Road Verge (PRV) Details 2011

PRV ID	Name	Location	Grid Reference	Verges on both sides of road	Designation status*	Wildlife Interest	Management Regime**	Highway Division
S44	Royston	Royston Road	TL31634212, TL3281 4022, TL3169 4213, TL3283 4022	Yes	CWS/PRV	Neutral/calcareous grassland	A	South Division
S46	London Road	London Road	TL40825 42925, TL42050 45150, TL41250 43400, TL42025 45075	Yes	CWS/PRV	Neutral/calcareous grassland	A	South Division
S47	Mill Road	Mill Road, Fowlmere	TL40300 46050 - TL41275 46475, TL40625 46075 - TL41275 46450	Yes	PRV	Neutral/calcareous grassland	A	South Division
S49	Chrisall Grange	Unclassified road Heydon	TL4435 4204 - TL4440 4168	No	PRV	Neutral/calcareous grassland	A	South Division
S5	Castle Camps	Unclassified road	TL607 432	No	CWS/PRV	Neutral/calcareous grassland, presence of 2 local red data book species	A	South Division
S50	Ickleton Grange	Grange Road	TL4662 4200 - TL4791 4265, TL4662 4199 - TL4791 4264	Yes	PRV	Neutral/calcareous grassland	A	South Division
S51	Duxford Grange	Grange Road	TL46297 44772 - TL47263 45466, TL46223 44724 - TL47274 45451	Yes	PRV	Neutral/calcareous grassland	A	South Division

\* Some Protected Road Verges (PRVs) are also designated Sites of Special Scientific Interest (SSSIs) or County Wildlife Sites (CWSs)

\*\* 2 full-width grass cuts per year: 1st cut = April (A) or July (B); 2nd cut = mid-Sep – mid-Oct (A / B)

## Protected Road Verge (PRV) Details 2011

PRV ID	Name	Location	Grid Reference	Verges on both sides of road	Designation status*	Wildlife Interest	Management Regime**	Highway Division
S52	Little Abington	Bourn Bridge Road	TL522 495	Yes	PRV	Neutral/calcareous grassland	A	South Division
S53	Arrington	Ermine Street	TL320 527	yes	CWS/PRV	Neutral/calcareous grassland	B	South Division
S54	Elsworth-Hilton Road RSV	Elsworth-Hilton Road	TL2965 6410 - TL2980 6405	Yes	CWS/PRV	Neutral/calcareous grassland, presence of 2 nationally scarce species	A	South Division
S55	Papworth Everard	Off B1040	TL283 637	No	PRV	Neutral grassland	B	South Division
S6	Castle Camps	Unclassified road	TL613 432 - TL618 425	Yes	PRV	Neutral/calcareous grassland, presence of a local red data book species	B	South Division
S7	Castle Camps	Unclassified road Bolt's Hill	TL618 425	No	CWS/PRV	Neutral/calcareous grassland, presence of a local red data book species	A	South Division
S8	Elsworth (A428 to Common Farm)	Unclassified road	TL305 610	No	PRV	Neutral/calcareous grassland, presence of a local red data book species	B	South Division
S9	Fulbourn (near Bishops Farm)	Shelford Road	TL497 548	No	PRV	Neutral/calcareous grassland	A	South Division

\* Some Protected Road Verges (PRVs) are also designated Sites of Special Scientific Interest (SSSIs) or County Wildlife Sites (CWSs)

\*\* 2 full-width grass cuts per year: 1st cut = April (A) or July (B); 2nd cut = mid-Sep – mid-Oct (A / B)

## Protected Road Verge (PRV) Details 2011

PRV ID	Name	Location	Grid Reference	Verges on both sides of road	Designation status*	Wildlife Interest	Management Regime**	Highway Division
W10	B661 Pumping Station	The Perry Road out of Buckden, west of turn to Grafham	TL173 693	No	CWS/PRV	Neutral/calcareous grassland	B	West Division
W11	Brampton Wood, East	On the Grafham Rd, just West of Brampton Wood carpark	TL183 696	Yes	CWS/PRV	Neutral/calcareous grassland	A	West Division
W16	Stocking Lane	Easton-Stonely Road, south of old railway bridge	TL124 695	Yes	CWS/PRV	Neutral/calcareous grassland, presence of 2 local red data book species	B	West Division
W17	Leighton	Sheep Street, north of junction with Barham Road	TL123 764	No	PRV	Neutral/calcareous grassland	B	West Division
W19	Morborne	West side of Morborne Hill, running down to crossroads	TL121 913	Yes	CWS/PRV	Neutral/calcareous grassland	B	West Division
W2	Alconbury	Unclassified road	TL182 742 - TL184 742	No	PRV	Neutral/calcareous grassland	B	West Division
W20	Offord D'Arcy	Paxton Road south of Offord, just north Bullens Farm	TL217 653	Yes	PRV	Neutral/calcareous grassland, presence of a local red data book species	B	West Division

\* Some Protected Road Verges (PRVs) are also designated Sites of Special Scientific Interest (SSSIs) or County Wildlife Sites (CWSs)

\*\* 2 full-width grass cuts per year: 1st cut = April (A) or July (B); 2nd cut = mid-Sep – mid-Oct (A / B)

## Protected Road Verge (PRV) Details 2011

PRV ID	Name	Location	Grid Reference	Verges on both sides of road	Designation status*	Wildlife Interest	Management Regime**	Highway Division
W23	Sawtry	Unclassified road, Tort Hill	TL172 842	Yes	PRV	Neutral/calcareous grassland	B	West Division
W24	Sawtry	On the Gidding Road 2km out of Sawtry	TL147 832	No	PRV	Neutral/calcareous grassland	B	West Division
W25	Steeple Gidding	On the Hamerton-Sawtry Road just south of the Steeple Gidding turn	TL139 808	Yes	CWS/PRV	Neutral/calcareous grassland	B	West Division
W26	The Stukeleys	B1043	TL224 741	No	PRV	Neutral/calcareous grassland	B	West Division
W27	The Stukeleys	Abbots Ripton Road, 1km north of supermarket	TL242 754	No	PRV	Neutral/calcareous grassland, presence of a local red data book species	B	West Division
W29	Stangate Hill RSV	Stangate Hill	TL183 196	No	CWS/PRV	Neutral/calcareous grassland, presence of a local red data book species	B	West Division
W3	Woolley Leys	West of junction with Globe Lane on Road to Woolley	TL175 744	No	CWS/PRV	Neutral/calcareous grassland	B	West Division

\* Some Protected Road Verges (PRVs) are also designated Sites of Special Scientific Interest (SSSIs) or County Wildlife Sites (CWSs)

\*\* 2 full-width grass cuts per year: 1st cut = April (A) or July (B); 2nd cut = mid-Sep – mid-Oct (A / B)

## Protected Road Verge (PRV) Details 2011

PRV ID	Name	Location	Grid Reference	Verges on both sides of road	Designation status*	Wildlife Interest	Management Regime**	Highway Division
W30	Upwood	On Longholme Road out of Upwood	TL254 839	Yes	PRV	Neutral/calcareous grassland	B	West Division
W34	Woodwalton	Bottom of Walton Hill at junction with Bridge Street	TL206 805	Yes	CWS/PRV	Neutral/calcareous grassland	B	West Division
W35	Bevils wood	Both sides of road between Bevils and Monks Wood	TL203 796	Yes	CWS/PRV	Neutral/calcareous grassland	B	West Division
W36	Woodwalton	Top of Walton Hill on all sides of T junction	TL210 800	Yes	CWS/PRV	Neutral/calcareous grassland, presence of a local red data book species	B	West Division
W40	Woolley Hill	Minor road from Woolley to A14	TL1485 7314 - TL1479 7294	No	CWS/PRV	Neutral/calcareous grassland, presence of a local red data book species	B	West Division
W42	Woodwalton East	Bridge Street	TL2110 8064 - TL2136 8075	No	PRV	Neutral/calcareous grassland	B	West Division
W43	Mickle Hill	Unclassified road, Tort Hill	TL0572 7300 - TL0631 7245, TL0571 7299 - TL0572 7299	Yes	CWS/PRV	Neutral/calcareous grassland	B	West Division

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\*\* 2 full-width grass cuts per year: 1st cut = April (A) or July (B); 2nd cut = mid-Sep – mid-Oct (A / B)

## Protected Road Verge (PRV) Details 2011

PRV ID	Name	Location	Grid Reference	Verges on both sides of road	Designation status*	Wildlife Interest	Management Regime**	Highway Division
W9	Warboys	Unclassified road	TL291 780	Yes	PRV	Neutral/calcareous grassland	B	West Division

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\*\* 2 full-width grass cuts per year: 1st cut = April (A) or July (B); 2nd cut = mid-Sep – mid-Oct (A / B)

## Appendix D



## **SNTS Deadline 7 Post Hearing Submission – Fencing**

1. On fencing, the Scheme Description provides (REP2-023 Scheme Description, Paragraph 3.5.44), “A security fence will enclose the operational areas of the Sunnica East Site A, Sunnica East Site B, Sunnica West Site A, and Sunnica West Site B. The fence will be a ‘deer fence’, up to 2.5m in height.”
2. The intention to use ‘deer fencing’ was reaffirmed by Mr Turney at ISH4 (ISH4 Part 1, 16th February 2023, at approximately 44 mins)
3. SNTS has concerns about the likelihood of this being achievable.
4. Increasing reports of crime (including theft and criminal damage) at solar farms have led to a number of Designing Out Crime Officers (DOCOs) advising solar farm developers to avoid the use of deer fencing, preferring instead that a robust industrial-standard welded mesh fence is utilised (see Appendices 1-3 for examples).
5. This is also noted by crime and security specialist Detertech, who recently held a ‘Solar Crime Open Day’ (Appendix 4), and who state that “Solar crime is on the rise in the UK, particularly over the past six months, and the cost incurred by victims is increasing exponentially”
6. In addition to more secure fencing types, DOCOs have also commented on security camera requirements along perimeters for solar farm applications, advising the need for motion sensors and ideally audio interactivity, which should be monitored 24/hrs.
7. National Planning Policy considers crime prevention and security a material consideration when determining planning applications. See, for example, part 8 of NPPF.
8. According to advice guides on crime prevention by Suffolk police, developers should negotiate with the DOCO to ensure that the principles of Crime Prevention Through Environmental Design (CPTED) are applied (see as an example the “Designing Out Crime Residential Guide,” available at [REDACTED]).
9. SNTS is aware of a solar farm development in mid-Suffolk where the applicant applied to use deer fencing as part of their scheme design, but made a post consent change request to install industrial security fencing instead to “increase the security around the site” (Appendix 5, planning ref: DC/22/05018, Babergh District Council and Mid Suffolk District Council).
10. SNTS is not currently aware as to whether the Applicant has engaged with Suffolk and Cambridgeshire DOCOs on these issues and their proposed safety measures and, if so, what advice has been received. This is a matter that requires to be clarified.
11. It is clear that the potential use of increased security measures would not only have a significant impact from a landscape and visual perspective, but would also impact on the amenity of PROW and other routes by non motorised and motorised users, especially those routes that are in close proximity to the scheme.
12. It would also impact on access to the solar sites for small animals.
13. The choice of fencing and security would also need to be compatible with the Applicant’s intention to graze sheep beneath the panels. Clarification is therefore sought from the Applicant how they plan to graze sheep within the scheme area. It would be helpful to know, for example, where the sheep would likely come from (noting that Newmarket area is not noted for sheep rearing), who would manage the sheep and how would this be achieved. Information on the infrastructure the Applicant intends to put in place to accommodate sheep and how grazing would be compatible with the required security measures is also sought.

## **Appendix 1**

Cambridgeshire Constabulary response to a solar farm planning application

**From:** DARBYSHIRE, Clare [REDACTED]  
**Sent:** 21 July 2022 14:33  
**To:** DevelopmentControl  
**Cc:** CPDT (Cams)  
**Subject:** 22/00668/FUL - Land North East Of Bates Lodge Peterborough  
Road Haddon

Good afternoon,

**Our reference:** CPDT/411/2022

**Your reference:** 22/00668/FUL

**Proposal:** Installation of a solar park to export up to 22 MW (AC) electricity, comprising up to 65,000 photovoltaic panels, 10 inverter/transformer cabins, a single control building and associated works

**Location:** Land North East Of Bates Lodge Peterborough Road Haddon

Thank you for the opportunity to comment on this application. I have viewed the documents in relation to crime, disorder, and the fear of crime, I have completed a search of the Constabulary crime and incident systems and have spoken to our Rural Crime Team. We have seen some cable & panel thefts from similar locations across Cambridgeshire, and with the cost of metal on the increase, it makes these types of developments vulnerable.

**Fencing** - I note that you have proposed security fencing, our recommendation is that a security rated weldmesh fencing/gating to meet LPS1175 SR2 is installed.

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**CCTV** - The Design and Access statement (page 3) suggests that the CCTV may be continuously monitored. Our recommendation is that it is monitored, and any recordings are stored should they be required for evidential purposes.

**Lighting** - I would like a lighting plan when available. Our recommendation is that a fully qualified lighting engineer is assigned as they will be able to design in the safety and security element as well as having the ecology and wildlife in mind.

I have no further comment at this stage.

Regards

Clare

Designing Out Crime Officer (formerly ALO/CPDA)  
Crime Prevention Design Team (Estates)

Office Email: [REDACTED]

Cambridgeshire Constabulary  
Police Headquarters.  
Hinchbrook Park.  
HUNTINGDON  
PE29 3BN

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## **Appendix 2**



Designing Out Crime Officer  
Angie Pearson

Essex Police Headquarters,  
PO Box 2, Springfield,  
Chelmsford,  
Essex. CM2 6DN

15<sup>th</sup> September 2022

**Construction and operation of a solar photovoltaic (PV) farm and associated infrastructure, including batteries, inverters, security cameras, fencing, access tracks and landscaping and cable run.**

Land to the north west of, Hardys Green, Birch Colchester

Dear Sir

Thank you for the opportunity to comment on planning application 222151

Crime risk

It should be noted that there has been an exponential rise in crime in relation to solar farms since 2020. Nationally in 2021 there were 30 incidences of theft from solar farms reported, however in the first 4 months of 2022 there has been 21 reported incidences of solar farm crime with further offences expected in the summer months due to dryer weather conditions. Whilst Essex thus far has not experienced a rise in this specific crime, Essex Police are aware that there has been a substantial increase in the numbers of metal thefts from other locations.

There is real potential for thefts from solar farms to occur within the County of Essex.

Current Home Office research suggests that the thefts are fuelled by the rising metal prices especially that of copper being at a 10-year high; with everything from solar panels to cabling, batteries and ancillary equipment being targeted.

As a consequence, the Solar Trade Association have consulted with the National Metal Crime Working Group, which comprises of National Police organisations, metal trade and recycling bodies, infrastructure organisations and other allied stakeholders, with a view to seeking risk commensurate options for security measures at solar farms.

Essex police are appreciative of the desire to preserve open site lines across the countryside wherever possible and on balance, accept the proposed 'deer fencing' boundary however, due to the potential increased crime risk, it is strongly recommended that consideration is given to installing welded mesh or high security palisade fencing that complies with LPS 1175: B3 (SR2) security rating. The introduction of a black or green powder coated weld-mesh fence has been shown to be less obtrusive, sustainable and robust. Essex Police considers that it is important that the boundary of this site is appropriate to protect the high-value assets and sensitive locations within it, as well as deterring unauthorised incursion whether for theft or anti-social behaviour.

The applicant has stated in the Design and access statement "*The perimeter of the Site would be protected by a system of CCTV cameras and/or infra-red cameras, which would provide full 24-hour surveillance around the entire perimeter. An intelligent sensor management system would manage the cameras.*" Essex Police would strongly recommend that all CCTV has Perimeter Intrusion Detection System (PIDS), that provides a 24hour response with movement reactive / audio interactivity connected to an Alarm Receiving Centre (ARC) compliant with BS 8584:2015. Supported by judicious defensive planting, this combination may provide a compromise solution to mitigate crime.

Essex Police request that crime is deemed a material consideration throughout all aspects of the design and during the planning process. It is therefore requested that a planning condition be considered to promote further dialog and engagement to assist the developers to mitigate crime and manage the security risks for the development both during and after construction.

Yours faithfully



Designing Out Crime Officer  
Essex Police



### **Appendix 3**

Nottinghamshire police response to solar farm planning application. Rushcliffe Borough Council Ref 22/00319/FUL





NOTTINGHAMSHIRE POLICE  
DESIGNING OUT CRIME OFFICER  
PLANNING CONSULTATION RESPONSE

Application number	22/00319/FUL
Proposal	Installation of renewable energy generating solar farm comprising ground-mounted photovoltaic solar arrays, together with substation, inverter stations, security measures, site access, internal access tracks and other ancillary infrastructure, including landscaping and biodiversity enhancements
Address	Land To The West Of Wood Lane And Stocking Lane Kingston Estate Gotham Nottinghamshire [REDACTED]
Consultee	Neil Bellamy   Designing Out Crime Officer [REDACTED] Nottinghamshire Police Mansfield Police Station, Great Central Road, Mansfield NG18 2HQ

Dear Sir / Madam

Thank you for providing the opportunity to comment on this application.

The responsibility of the Designing Out Crime Officer is to consider the, "built environment" within the planning aspect of any development.

This does not, however, preclude subsequent recommendations from other specialist departments within Nottinghamshire Police if required.

Nottinghamshire Police have **no holding objections** with regard to this application, however, consideration of the areas referred to below is advised and recommended.

I have also considered this application in the context of the legislation at the conclusion of this document.



Nottinghamshire has small, medium, and large solar parks / farms which have over the past 10 years been subject to theft, criminal damage and other crime types, and these have included the theft of solar panels, and removal of cabling and infrastructure which has proved costly to the various developers and management companies that operate such facilities.

The security and safety of the sites should therefore be an important feature of the planning and design of them.

I would make the following comments and recommendations in broad terms in relation to this application.

Solar Farms or Solar Parks have in recent years been subject of some significant thefts of the installed solar panels with replacement costs in excess of £50,000.

This combined with the continuing rise in the costs of metals typically used in the provision of sites such as this, and which is saleable by the criminal as scrap metal, has seen a consistent increase in the number of solar sites being targeted.

I would strongly advise to **avoid the use of** what is described as '**Deer Fencing**', which is referred to in the DAS on this planning submission, as this does not provide any difficulty or deterrent to the criminal.

This combined with the remote and permeable nature of this particular site could increase the vulnerability of the facility to criminal focus.

#### **Fencing and Boundary Treatment**

Land selected should aim to avoid affecting the visual aspect of landscapes, maintain the natural beauty and should be predominantly flat, well screened by hedges, tree lines, etc. and not cause undue impact to nearby domestic properties or roads. (BRE. Planning guidance for the large-scale ground mounted solar PV systems)

I would recommend that the boundary fence is to a minimum of LPS 1175 level 3 and to a height of 2.4 metres or to the current UK Government standard, SEAP (Security Equipment Approval Panel) class 1-3.

The use of 2.4 metre welded mesh fencing (in green) would be the most unobtrusive method of providing a secure perimeter border.

All gated entrances should be secured with appropriate access systems.

The NFU Mutual recommends good perimeter security fencing for all solar installations along with CCTV, motion sensors and infrared beams, depending on location.

It also recommends solar panels are secured to frames with unique fastenings, requiring special tools – much like alloy wheel bolts?

## Monitored CCTV System

Whilst considering the often isolated locations that Solar Farms are to be established the installation of a remotely monitored, with motion detection, CCTV system is an effective deterrent and is most likely to provide effective evidence should a crime occur.

Installers of remotely monitored detector activated CCTV systems will comply with all the following standards and guidelines:

- NPCC Security Systems Policy
- BS 8418 Installation and remote monitoring of detector activated CCTV systems – Code of Practice
- BS EN 50132-7: CCTV Application guidelines

RVRs monitoring detector activated CCTV systems will conform to all the following standards:

- BS 5979 (Cat II):
- BS 8418: Installation and remote monitoring of detector activated CCTV systems – Code of Practice

There will probably be little reward in deploying CCTV or other defence unless it is monitored in some way or can provide an instant alert in some form.

## Physical security of panels

It has been identified that individual panels can be easily removed from the aluminium frames which are usually secured by a small bracket which is in turn secured by an alum key. Whilst aluminium can itself be easily forced the use of an additional security bracket may help reduce the ease by which panels can be removed adding to the time that a criminal would need to remove panels increasing the risk to offenders.

Whilst not intending to draw attention to a solar farm the effective use of signage to act as an informative deterrent may also be considered.

I would ask that the applicant considers a perimeter alarm system now we are aware that these sites are attracting criminal interest.

There have been several instances where offenders have been able to access sites quite easily with large vehicles enabling the large-scale removal of panels and equipment.

Due to the poor planning and design (particularly across fields and tracks in dry weather) they spent some considerable time undetected.

There have also seen several incidents where crimes have been committed on power transmission sites with some offenders risking their lives after targeting live cabling.

### **Use of Defensive Ditches and Berms (Bunds)**

Landscaping techniques such as ditches and berms (bunds) may also be appropriate in some instances. To be effective in stopping vehicles these need to be designed carefully.

### **Use of Natural Features and Vegetation**

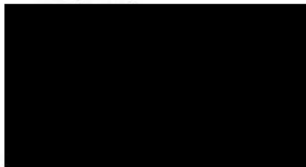
The development will need to have regard in both its design layout, and future maintenance plans for the retention of growth of vegetation on these important boundaries, including the opportunity for trees within the boundaries to grow on to maturity.

The use of natural vegetation as a feature should not compromise the benefit of clear and unobstructed natural and formal (CCTV System) surveillance.

Existing hedges and established vegetation, including mature trees, should be retained wherever possible.

Crime prevention advice is given free without the intention of creating a contract. Neither the Home Office nor the Police Service takes any legal responsibility for the advice given. However, if the advice is implemented it will reduce the opportunity for crimes to be committed.

Regards,



**Neil Bellamy**  
Designing Out Crime Officer 17691  
Nottinghamshire Police

### **Legislation/Guidance.**

**Section 17** of the 'Crime and Disorder Act 1998' places a duty on each local authority: 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area to include anti-social behaviour, substance misuse and behaviour which adversely affects the environment'.

Despite the whole raft of other legislation/guidance surrounding the planning process, there is no exemption from the requirement of Section 17 as above as all departments within a Local Authority fall under the umbrella of the 'responsible authority' status.

PINS 953 confirms the requirement of the Planning Officer to consider the requirements of Section 17, and this requirement has again been reinforced by way of letter from the Chief Planning Officer (issued 12th July 2017).

Planning Policy now places safety and security at the heart of the planning process.





Specific areas that are relevant to this application under the **National Planning Policy Framework 2** includes;

Section 8 states "Planning policies and decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion..."

Section 8 also declares "Planning policies and decisions should promote public safety and take into account wider security and defence requirements by anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security."

Section 12 reinforces Section 8 content by adding "Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

Additional guidance can be found in the companion guide to the NPPF, the **National Planning Practice Guidance** document (PPG).

**Paragraphs 9, 10 and 11** of the PPG all allude to the requirement of designing out crime. Indeed, paragraph 10 reinforces the need to consider Section 17 of the Crime and Disorder Act as a necessary requirement within the Planning Officers 'everyday businesses.

## Appendix 4

### Detertech solar crime event

# Solar Crime Open Day



📅 28 February 2023 - 28 February 2023

🖥️ [Visit website](#)

[Register now »](#)

Solar crime is on the rise in the UK, particularly over the past six months, and the cost incurred by victims is increasing exponentially.

To tackle this issue, **DeterTech** and **Schroders Greencoat** are convening a meeting of Police, industry, and solar operators to discuss solar crime trends and find tactical solutions.

Special guest speakers, Detective Superintendent and Head of OPAL (the national intelligence unit) James Taylor, & Richie Iwanoff - Senior Intelligence Lead, BT and founding member of the National Infrastructure Crime Reduction Partnership, will be in attendance to answer questions and provide insight into crime trends affecting the solar industry.

Businesses and investors with operations in the solar industry are invited to attend in order to gain a deeper understanding of solar crime trends and activities to reduce them. Attendees can also discuss their concerns with the police and other industry professionals, and receive practical advice on improving their security.

Schroders Greencoat will share the steps that they have taken to reduce crime on their estate, while DeterTech will discuss their ongoing work with the Police to predict, deter and detect solar crime.

## Appendix 5

Post consent application - amendment to use increased security fencing. Planning ref: DC/22/05018, Babergh District Council and Mid Suffolk District Council

Planning Portal Reference: [REDACTED]

Date of decision

04/06/2019

What was the original application type?

Full planning permission

For the purpose of calculating fees, which of the following best describes the original development type?

- ☐ **Householder development:** Development to an existing dwelling-house or development within its curtilage
- ☒ **Other:** Anything not covered by the above category

### Non-Material Amendment(s) Sought

Please describe the non-material amendment(s) you are seeking to make

An amendment to the fence type

Please state why you wish to make this amendment

Increase the security around the site

Are you intending to substitute amended plans or drawings?

- ☒ Yes
- ☐ No

If yes, please complete the following details

Old plan/drawing numbers

M002255\_10 Fence Detail\_RevA

New plan/drawing numbers

M002255\_10 Fence Details\_RevB

## Appendix E



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## Compulsory Purchase Order decision

Inquiry opened on 20 April 2022 and closed on 1 July 2022

Site visit made on 22 April 2022

**by Katie McDonald MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4<sup>th</sup> October 2022**

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**Case Ref: APP/PCU/CPOP/Z5060/3278231**

**The London Borough of Barking and Dagenham Council (Vicarage Field and surrounding land) Compulsory Purchase Order 2021**

- The Compulsory Purchase Order was made under Section 226(1)(a) of The Town and Country Planning Act 1990, Section 13 of The Local Government (Miscellaneous Provisions) Act 1976 and the Acquisition of Land Act 1981 by the London Borough of Barking and Dagenham Council (the Acquiring Authority).
- The purpose of the Order is:
  - a) to facilitate the carrying out of development, redevelopment or improvement on or in relation to the land comprising the demolition of existing buildings and the erection of new buildings and structures to provide a comprehensive mixed use development including a mix of uses including residential dwellings, commercial, retail, offices, a primary school, healthcare facilities, leisure uses, and other complementary and / or ancillary uses, new and improved car parking and associated servicing and infrastructure and new and improved public realm, which is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the acquiring authority's area; and
  - b) executing works to facilitate the development and / or use of the land.
- The main grounds of objection were:
  - No compelling case for the scheme
  - Impediments to delivery of the scheme
  - Funding and viability of the scheme
  - Inadequate attempts to acquire by negotiations
  - Inadequate justification for inclusion of sites
  - Lack of alternative options demonstrated
  - Planning related objections
  - Loss of family home
  - Equalities
  - Human rights
  - Transport highways and servicing
  - Heritage and conservation
  - Loss of business premises and/or relocation
  - Business concerns due to construction work
  - Rights of light
  - Compensation
- When the inquiry opened, there were 67 remaining objectors.
- At the close of the inquiry, there was 65 remaining objectors.

## **DECISION**

1. The Compulsory Purchase Order is not confirmed.

## **PROCEDURAL MATTERS AND STATUTORY FORMALITIES**

2. On 7 October 2021 the Secretary of State confirmed that the decision had been delegated to an appointed Inspector.
3. The inquiry sat on 20-22 and 26-29 April, 4-6 and 10-12 May, 22 and 30 June, and 1 July 2022, and an accompanied site visit was carried out on 22 April 2022.
4. The Acquiring Authority (AA) is the London Borough of Barking and Dagenham Council. At the inquiry, it confirmed that it had complied with the statutory formalities. The Compulsory Purchase Order (CPO) was made by the AA on 14 June 2021.
5. The inquiry was adjourned on 12 May until 22 June 2022 because additional evidence was provided to the National Health Service Property Services (NHS PS) by the AA, after it had presented its evidence. In my view this evidence required a response and testing. Thus, the inquiry was adjourned to ensure adequate time for the preparation of a statement of case from the NHS PS and additional proofs of evidence from both the AA and NHS PS.
6. The objection from James Leigh Limited, relating to Unit 31 Vicarage Field (CPO Plot 1), was withdrawn shortly after the inquiry had closed. I have not considered this objection any further.

## **THE ORDER LAND AND SURROUNDINGS**

7. The CPO comprises approximately 31,878 square metres (sqm) of land in Barking town centre. Land to be acquired by the AA takes in Vicarage Field Shopping Centre (VFSC) and car park, St Awdry's Walk<sup>1</sup>, 24-38 (even) Station Parade, 13-23 (odd) Ripple Road and the former Vicarage Field Health Centre. Additional properties included in the CPO are 2-18 (even) Station Parade and 1-5 (odd) Ripple Road, for which new rights to execute works to facilitate the development are to be acquired (crane oversailing). Appendix 1 of this decision contains the Order Map.
8. The CPO lands are close to Barking railway station with the north eastern boundary adjoining the railway lines alongside St Awdry's Walk, an adopted public highway used as a pedestrian and cycle route. To the south east, surrounding the site are residential dwellings on St Awdry's Road and Sunningdale Avenue; and Vicarage Drive, with the Grade II listed Cosco House (former St Margaret's Vicarage) bordering the site. To the south west is Ripple Road and to the north west is Station Parade.
9. The AA is the freehold owner of VFSC and St Awdry's Walk, which accounts for around 86% of the Order Lands, excluding land where rights are to be acquired. The developer (Lagmar (Barking) Limited) holds the long leasehold interest to VFSC, the freehold of 21-23 Ripple Road and the leasehold interest of 21a Ripple Road. The inclusion of VFSC into the CPO is to ensure that any unknown 3rd party interests can be acquired and clean title to the land can be secured.

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<sup>1</sup> For which a separate Stopping Up Order is required.

10. The shopping centre opened in the early 1990s, following a previous CPO to enable it to be built in the late 1980s. It is of a plain, outdated and uninteresting architectural style, covered and inwardly facing, with a retail focus, split over 3 levels. It has a limited street frontage and little natural fenestration, with a gloomy, dated interior and steep internal ramps. Overall, it detracts from the town centre and together with 36-38 Station Parade, does not create a welcoming or attractive entrance to the town centre from the railway station.
11. VFSC also contains a surface and rooftop car park, accessed from both Station Parade and Vicarage Drive. Service yards are accessed from entrances on Station Parade and Ripple Road, which result in heavy goods vehicles crossing pedestrian priority zones, creating conflict between vehicular traffic and pedestrians. Additionally, the car park access on Station Parade also results in vehicles travelling near the front of the railway station, causing conflict between a high flow of pedestrians and vehicles.
12. St Awdry's Walk is enclosed on both sides by tall boundary treatments. There is a lack of natural surveillance, and it is an unwelcoming and unattractive route, particularly at night. It contains steps from Station Parade down to the path, and whilst there is a gully for bicycle wheels, it is not accessible for anyone who requires ramped access, such as wheelchair or pram users.
13. The pedestrian experience in the area is unsatisfactory, because of the condition of St Awdry's Walk, the conflict associated with the servicing and car park access points, the layout of VFSC and its closure outside daytime hours.
14. 24-38 (even) Station Parade are 3 storey commercial properties, comprising a variety of uses and businesses, including a hotel, post centre, hair salon, nail salon, betting shop, travel agents, and grocers. 24-34 Station Parade are constructed in red brick, with vertical emphasis windows, overhanging eaves and pitched roofs with intervening parapet walls and chimneys, typical of mid 1900s construction. The properties have a tired and cluttered appearance from various poorly designed alterations to the shop fronts and unsympathetic rear extensions, and there is a proliferation of poorly placed advertisements. However, except for advertisements, the upper floors and roof retain a traditional character. 36-38 Station Parade is a similar design to the shopping centre, and has little merit or character in the street scene.
15. 13-23 Ripple Road are also 3 storey properties, containing commercial uses on the ground floor, such as retail, pharmacy, bank and hairdressers and a range of upper floor uses, including residential flats. They are constructed from red brick with upper floor bays, mansard roofs and dormers, typical of mid 1900's architecture. The adjoining row, from 25 Ripple Road upwards, reflects a similar row design.
16. The existing shops on Ripple Road and Station Parade contain many successful businesses, catering for an ethnically diverse mix of independent and small scale retailing and services.
17. Vicarage Field Health Centre is a single storey brick building dating from the 1930s with a car park to the side. It has been extended over time and contains a vast London Plane tree to the front, which is protected by a Tree Preservation Order. The health centre has been vacant for over 2 years.



18. The Ripple Road properties and Vicarage Field Health Centre are located within the Abbey and Barking Town Centre Conservation Area (CA). The Abbey and Barking Town Centre Conservation Area Appraisal<sup>2</sup> identified the buildings as positive contributors (with the extension to the health centre being neutral contributor).
19. The site has superb access to public transport, with the highest public transport accessibility level possible at 6B for most of the site, being located diagonally opposite Barking railway station. The station is well connected to central London, being on the underground services, overground and rail. The c2c line provides around a 16 minute journey time from Barking to Fenchurch Street station in central London.
20. Barking is undergoing significant change, with a high number of tall residential buildings being erected in the town centre and at the riverside.

## **CONSIDERATIONS**

21. The Department for Levelling Up, Housing & Communities Guidance on Compulsory purchase process and The Crichel Down Rules (2019) (the CPO Guidance) refers to factors which may be considered in deciding whether to confirm a CPO, and I have used these as the structure for the remainder of this decision. I have also considered other matters raised by objectors, but the CPO process is not an opportunity to revisit the merits of the planning permission which has been granted for the Scheme, nor whether sufficient monetary valuations or compensation have been presented by the AA.

## **National Planning Policy Framework**

22. The purpose of the planning system is to achieve sustainable development, meeting the 3 overarching objectives, economic, social and environmental. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
23. Local planning authorities should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, using the full range of powers available to them. This should include identifying opportunities to facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs.
24. The Framework also seeks to significantly boost the supply of homes to support strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. It also sets out that significant weight should be placed on the need to support economic growth and productivity. This is to help build a strong, responsive and competitive economy.

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<sup>2</sup> NHSPS-4(b) page 48



## **Regional planning policy**

### ***London Plan (March 2021)<sup>3</sup> (LP)***

25. Policy GG2 seeks to create successful sustainable mixed-use places by making the best use of land, enabling the development of brownfield land, particularly in Opportunity Areas. It also proactively explores the potential to intensify the use of land to support additional homes and workspaces, promoting higher density development, particularly in locations that are well-connected to jobs, services, infrastructure and amenities by public transport, walking and cycling. It also requires an understanding of what is valued about existing places, using this as a catalyst for growth, renewal and place-making, strengthening London's distinct and varied character.
26. London Riverside, of which Barking Town Centre is part, is identified as an Opportunity Area (Policy SD1) in the LP. Opportunity Areas are locations with significant development capacity to accommodate new housing, commercial development and infrastructure. London Riverside has an indicative capacity of 44,000 new homes and 29,000 new jobs over the next 20-25 years. The LP also sets ten-year targets for net housing completions, which for the Council is 19,440 new homes between 2019/20 and 2028/29. Barking town centre has also been identified as a Housing Zone with the potential to deliver around 2,300 new homes.
27. Policy SD6 seeks to promote the vitality and viability of London's town centres by encouraging strong, resilient, accessible and inclusive hubs with a diverse range of uses that meet the needs of Londoners, including main town centre uses, night-time economy, civic, community, social and residential uses; and identifying locations for mixed-use or housing-led intensification to optimise residential growth potential, securing a high-quality environment and complementing local character and heritage assets.
28. Barking town centre is identified in Table A1.1 as a Major town centre, with a night-time economy classification of more than local significance, medium commercial growth potential and high residential growth potential, and as a strategic area for regeneration.
29. Policy SD7 promotes a town centre first approach, supporting the development, intensification and enhancement of each centre. It also states that development plans should identify sites suitable for higher density mixed-use residential intensification capitalising on the availability of services within walking and cycling distance and current and future public transport provision.
30. Policy SD8 sets out that Major town centres should be the focus for the majority of higher order comparison goods retailing, whilst securing opportunities for higher density employment, leisure and residential development in a high quality environment. Policies E1 and E2 seek to ensure that improvements to the quality, flexibility and adaptability of office space should be supported by new office provision, refurbishment and mixed-use development.
31. Policies S1 and S2 seek to develop London's social infrastructure, ensuring the needs of London's diverse communities are met, and that boroughs work with Clinical Commissioning Groups and other NHS and community organisations

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<sup>3</sup> CDD.4

to identify and address local health and social care needs. Development proposals that support the provision of high-quality new and enhanced health and social care facilities to meet identified need and new models of care should be supported.

32. Policy D3 seeks to optimise site capacity through the design-led approach and sets out that all development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. Policy D9 sets out requirements for tall buildings.
33. Policy T1 sets out that developments should facilitate the delivery of the Mayor's strategic target of 80% of all trips in London to be made by foot, cycle or public transport by 2041. It also requires development to make the most effective use of land, reflecting its connectivity and accessibility by existing and future public transport, walking and cycling routes.

***London Riverside Opportunity Area Planning Framework (September 2015)<sup>4</sup>***

34. This document focuses on regenerating and improving a large area of around 3,000 hectares across Barking and Dagenham and Havering. It refers to Barking Town Centre as a key development area, being suitable for high rise and high density, residential led mixed use developments. Strengthening Barking Town Centre's functions is paramount to the success of London Riverside as a whole and its regeneration is key to the level of growth in new homes and new jobs in London Riverside.
35. The document recognises that to achieve the regeneration of the town centre, it is necessary to rebalance its community, as there is a predominance of social rent tenants. Through new residential-led development, the Council and the Greater London Authority (GLA) are keen to introduce other forms of tenure to the town centre such as shared ownership and private rental sector.

**Local planning policy**

***Core Strategy (July 2010)<sup>5</sup>***

36. The Core Strategy (CS) outlines 13 strategic objectives, one of which promotes Barking town centre as a vibrant place which offers a mix of uses including "retail, leisure, culture, entertainment, housing community facilities and food and drink, and making sure residents throughout the Borough and beyond have access to them." Barking town centre is identified as a Key Regeneration Area, where Policy CM1 seeks to focus residential higher density development. Policy CM2 sets a housing target, which although superseded by the LP, expects delivery will be residential development in the key regeneration areas.
37. Policy CM5 identifies Barking town centre as the largest and only 'Major Centre' in the borough. Policy CE1 states that Barking town centre will be enhanced and its status as a Major Centre will be promoted and strengthened. Policy CE2 categorises Barking town centre as the first option for new office development.

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<sup>4</sup> CDD.5

<sup>5</sup> CDD.2

38. Policy CP1 encourages the provision of a diverse range of cultural facilities including leisure and art, especially within town centres. This is to foster a vibrant cultural and tourism scene. It sets out the Council will encourage cultural facilities as part of mixed use development schemes including other uses such as retail, community facilities and housing. It also seeks to encourage additional tourist attractions in town centres, as well as appropriate tourist infrastructure such as hotel accommodation, public transport, improved walking and cycling routes, signposting, information centres and food and drink uses.
39. Policy CC2 seeks to maintain and improve community wellbeing by supporting proposals and activities that lead to the provision of sustainable and accessible community facilities.

***Barking Town Centre Area Action Plan 2011 Development Plan Document (February 2011)<sup>6</sup> (AAP)***

40. This document highlights current issues in the town centre, including a lack of investment in shopping floorspace, poor provision of hotels, poor leisure and entertainment provision and a very limited restaurant offer and community facilities. Its vision is for Barking town centre to become a vibrant, environmentally sustainable, prosperous and well designed destination. In relation to the Barking Station Grouping, it states "there is the opportunity to create higher density development including a grouping of tall buildings to reflect the status of this area as the main arrival point into Barking Town Centre. The area is currently characterised by physical and visual clutter and low quality building stock".
41. The AAP allocates VFSC site as proposals site BTCSSA10 (Vicarage Field) and identifies the proposed use of additional shopping floor space and some 250 new homes. However, this allocation covered only VFSC and car parks, and not the wider land subject to the CPO, which is expected to deliver up to 855 homes. There are objections to the CPO related to the fact that the CPO Scheme includes land outside the allocation. I address this later when considering the CPO scheme.
42. Policy BTC3 encourages the provision of additional commercial offices. Policy BTC5 encourages the provision of commercial leisure uses within the town centre and regards their inclusion as part of a mixed use development around Barking Station as particularly appropriate, especially those that will stimulate and sustain a vibrant evening economy. Policy BTC6 seeks to develop and promote Barking as a recognised visitor destination.
43. Policy BTC15 commits the Council to working with other public bodies (such as NHS Barking and Dagenham) to enable the provision of a suitable range of health, educational and community facilities to meet demand. Policy BTC16 expects all developments to be high standard and contribute to a dramatic improvement in the physical environment of the area. BTC17 identifies land around Barking Station as 'sensitive' but potentially suitable for tall buildings.

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<sup>6</sup> CDD.1

### ***Emerging Local Plan 2037***

44. The emerging Local Plan (eLP)<sup>7</sup> has been submitted for examination, however, it is at an early stage and is of only moderate weight. Nevertheless, Policy SPDG1 sets out that extensive and larger scale development will be focused primarily in Transformation Areas<sup>8</sup>, which includes Barking town centre and covers the CPO Lands.
45. Policy SPP1 (Barking and the River Roding Area) refers to an indicative capacity for 16,175 new homes in the plan period in this area, setting out that the Council is committed to the transformation of Barking town centre into a great place for its people. It also proposed to allocate the whole CPO site for a comprehensive mixed use redevelopment in the Proposed Site Allocations<sup>9</sup>.
46. Policy SPP1 then goes onto detail that at Vicarage Field, any development should transform the site as an important gateway opposite Barking railway station, enhancing the immediate environment and create new housing and employment opportunities. Development should also deliver comprehensive redevelopment of the Vicarage Field as a high-quality and high-density mixed-use development, which responds to the existing built form, contributes to the vitality of the centre, reinstating it as a natural part of the pedestrian network with new routes connecting with existing streets and movement patterns. It also states that proposals for piecemeal development which may undermine the delivery or viability of the comprehensive and co-ordinated redevelopment of these areas will not be supported. Other policies, such as DME3, DMD3, SP4, SP5 and DMT1 support the delivery of the CPO scheme.

### **Other background documents**

#### ***Barking Town Centre Regeneration Strategy 2020-2030 (October 2020)***<sup>10</sup>

47. The town centre is identified as a key growth area and its success is stated to be vital for wider Borough regeneration plans. It recognises the challenges and opportunities for this town centre and focuses on ensuring adaptability and resilience to create a vibrant, successful, mixed-use town centre. The Strategy has a specific focus on the CPO site, recognising it as the highest profile development opportunity in the town centre, which should act as a catalyst for wider change and further investment.
48. It notes that the diversity of the commercial activities and offer is limited in the town centre, and states there will be a specific focus on the night time economy. It also recognises the importance of the site's location, with 2 of the 3 key strategic interventions to achieve this transformational change are to:
  - improve the poor first impression the station gives of Barking into a welcoming key gateway, and
  - intervene to take forward the first phase of Vicarage Field redevelopment as a key catalyst for high quality change.
49. Core Documents CDE2-6 also provide further background reading that supports redevelopment of the town centre.

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<sup>7</sup> CDD.3

<sup>8</sup> Defined as locations that are likely to be subject to more extensive growth and development.

<sup>9</sup> CDD.6

<sup>10</sup> CDE.1

## **Conclusion**

50. There is national policy support, a regional policy drive and strong local policy that promotes the regeneration of Barking town centre, in particular Vicarage Field, along with sufficient evidence to demonstrate that it requires transformative change and regeneration to level it up with other London boroughs.
51. The redevelopment of the site has long been, and continues to be, an important Council priority and is seen as the key catalyst for change. VFSC is allocated for redevelopment within the AAP, and the CPO lands are a proposed site allocation in the eLP.
52. The scheme underpinning the CPO complies with all relevant planning policies. Indeed, the Local Planning Authority (LPA) has granted outline planning permission for the CPO scheme in 2017, finding it compliant with the relevant policies at the time. This decision was unchallenged and is extant until April 2023.
53. Since its permission, the CPO scheme now has greater policy support, with the LP and Framework promoting densification, tall buildings, and mixed use developments in highly accessible locations. Furthermore, the AA has only delivered 66% of its housing target<sup>11</sup>, and there is a critical housing need.

## **The need to redevelop and improve Barking town centre**

### *Borough statistics*

54. Barking town centre has trade and manufacturing roots, historically home to the largest fishing fleet in the world and more recently, a manufacturing base at Ford cars, which at its peak employed 45,000 people. However, Ford now have fewer than 4,500 employees and the Borough has suffered from the socio-economic impacts of deindustrialisation with many high quality, well paid jobs being lost. This has led to associated problems in terms of low life expectancy, low healthy life expectancy and healthy weight.<sup>12</sup>
55. The report of the Barking and Dagenham Independent Growth Commission<sup>13</sup> recognised "The Borough is working class. There is a perception of crisis", and the "doing nothing is not an option". Nearly half of the Borough's employed population are in 'Standard Occupation Classification Groups 6-9' compared to around 20% for London as a whole, which is reflected in household incomes being substantially below the London average.<sup>14</sup>
56. The Borough suffers from several poor socio-economic indicators, and reflecting the level of need, it is in Priority Category 1 of the Government's Levelling Up Fund. It is ranked 13th lowest (worst) average rank in the whole country for the 10 indicators of poverty and has the worst rank in London.<sup>15</sup>
57. Data for the 12 months to September 2021 shows the borough has the highest rate of unemployment in the country (9.1%), and the unemployment rate has consistently been significantly higher than the London average. The

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<sup>11</sup> AA/DM/1 7.3

<sup>12</sup> AA/DH/1, 3.4

<sup>13</sup> CDE.5

<sup>14</sup> AA/DH/1, 3.5

<sup>15</sup> AA/DH/1, 3.6

impact of the Covid-19 pandemic has particularly hit the sectors in which many residents are employed.<sup>16</sup>

58. The Borough also has the highest proportion of 0-19 year olds in the country.<sup>17</sup> This puts significant pressure on the Council to deliver new school places and provide better outcomes and employment opportunities for the next generation, particularly given that educational attainment continues to be an area of underperformance.
59. It also has one of the fastest growing populations and is one of the most diverse Boroughs, and between 2001 and 2011, the non-white population increased from 14.6% to 41.7%<sup>18</sup>. Job density figures are low (29th out of 33 in London) reflecting large industrial areas with limited jobs compared to more employment generating (per square foot) town centre employment uses.<sup>19</sup>
60. The Abbey Ward, where the CPO lands are, has even poorer socio-economic statistics than the rest of the Borough. It has the highest unemployment rate, highest percentage of Universal Credit claimants, highest crime rate and highest domestic abuse rate. Median household income in Abbey Ward is around £27,000 per annum – the Borough average is slightly higher, but the lowest of any London Borough.<sup>20</sup>
61. The Borough also suffers from more crime and fear of crime relative to the rest of London. Safety, particularly perceptions of safety, is an issue for the town centre, with Abbey Ward having 171.5 crimes per 1,000 people.<sup>21</sup>

#### *State of the town centre*

62. The Retail and Town Centre Study Update Report<sup>22</sup> sets out the strengths and weaknesses of the town centre. The strengths relate to existing market trade adding vibrancy, low vacancy rates, compact and good accessibility, high footfall and a reasonable number of convenience and comparison retail units. However, its weaknesses include:
  - Below average proportion of multiple operators. There is no high-profile department/variety store operator to anchor the centre. There are gaps in the clothing sector i.e. limited middle/mass market level shops and no upper market/luxury level shops.
  - Dissatisfaction with the choice and quality of non-food shops, with the offer being considered "too down market".
  - Failure to meet the needs of all customers, mainly more affluent households, such that there is a significant amount of comparison goods expenditure leaks to competing centres.
  - Gaps in provision, such as restaurants/bars.
  - Under-represented leisure and entertainment facilities for the evening economy.

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<sup>16</sup> AA/DH/1, 3.6

<sup>17</sup> AA/DH/1, 3.6

<sup>18</sup> CDE.5

<sup>19</sup> AA/DH/1, 3.6

<sup>20</sup> AA/DH/1, 3.7

<sup>21</sup> AA/DH/1, 3.8

<sup>22</sup> CDE.4



- The interior of VFSC is relatively dated which detracts from the overall shopping environment.
- Relatively heavy traffic flows on Station Parade act as a barrier to pedestrian access and reduce safety for other road users.

63. It also notes that competing centres will inevitably improve in the future, and if Barking does not, it will not maintain its position in the hierarchy. The high level of comparison goods expenditure leakage will increase.

### *Conclusion*

64. Change is happening in Barking. The town centre timeline<sup>23</sup> demonstrates this, and I saw evidence of this when in Barking. However, the weaknesses of the town centre and the stark statistics presented by the AA demonstrate that there is an obvious and desperate need to continue this comprehensive regeneration of the town centre.
65. Indeed, the AA set up the independent Growth Commission in 2015, which identified that Barking town centre should be the initial priority for growth and should be used as an exemplar for the AA's new approach to its urban areas. This includes the town centre becoming a more urban centre, with an active, interesting street life, a broad range of commercial uses, restaurants and places of employment. Be First, a Council-owned company was also set up to manage the delivery of the Borough's regeneration agenda.

## **The Scheme**

### ***Planning history***

66. The first planning permission granted in 2011 included only VFSC. This was for a mixed use, partial redevelopment comprising 225 residential units and 1,333 sqm of retail floorspace. However, this permission lapsed and outline planning permission<sup>24</sup> for the CPO scheme was granted in April 2017, taking in additional land. The outline planning permission comprises demolition of all properties on the CPO lands to create a mixed use development including commercial, leisure, business and services floorspace, up to 855 dwellings, a 150 bed hotel, a 3-form entry primary school, healthcare facilities and public spaces.
67. A non-material amendment application<sup>25</sup> was granted in August 2019, which allowed an increase in the building parameter height for Block B4. A second non-material amendment application<sup>26</sup> was granted in October 2021, which updated the approved Development Specification to align with the 2020 amendments to the Use Classes Order. The minimum and maximum floorspace for each Use Class were also updated to enable increased flexibility in the type of uses that can be delivered in the scheme. The description of development was also amended.
68. Reserved matters for Block B4 were granted permission<sup>27</sup> in December 2019. This scheme incorporates 24-38 Station Parade and proposes an 8-storey

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<sup>23</sup> CDE.1, page 33

<sup>24</sup> CDC.1

<sup>25</sup> CDC.6

<sup>26</sup> CDC.7

<sup>27</sup> CDC.9

building to provide 26 dwellings, 666 sqm of commercial spaces and 1,000 sqm of leisure space.

69. The planning obligation<sup>28</sup> attached to the outline planning permission requires the payment of financial obligations towards tree compensation (from the loss of the London Plane tree at Vicarage Field Health Centre), car club, carbon offsetting and highways re-instatement. It also requires 10% affordable housing (with a review clause for potential increases), marketing strategy for the cinema and music venue (using reasonable endeavours for 24 months to achieve occupation after practical completion), provision of health centre and affordable workspace, amongst other things.

### ***Iterations of the scheme***

70. There have been various iterations prior to the CPO scheme. Initially, the scheme included only VFSC reflecting the 2011 permission, and this was the first iteration presented to the LPA during pre-application discussions.
71. However, during these discussions, it was suggested by the LPA that the area for redevelopment should be expanded to include several properties along Station Parade, Ripple Road and Vicarage Drive. Within the feedback<sup>29</sup>, the LPA advised that "the proposed development must incorporate all properties fronting Station Parade which sit between the railway and the existing service yard. Otherwise, this is an opportunity lost and there would be a very odd juxtaposition of your development and these properties. It is unthinkable that you would invest so much in an exemplar scheme and leave these properties in-situ as they will simply detract from the impact of your development and work against providing a fitting entrance from Station Parade. We would also support the inclusion of the Health Centre to the rear of Vicarage Field."
72. Thus, all the buildings along Station Parade and Ripple Road that surround the shopping centre were considered, including the buildings directly opposite the railway station on Station Parade.
73. The buildings on the corner of Ripple Road and Station Parade and 10 Station Parade were discounted as these are locally listed and positive contributors to the CA. Focal House was also discounted, which although of very low quality, the site capacity within the wider scheme plan did not increase through the inclusion of this site. There was also a requirement to maintain servicing access to the rear of the retained properties and this limited the future arrangement. The buildings directly opposite the station were also not included because their location over the railway lines would have limited the height and capacity of redevelopment due to existing structural constraints.
74. Thus, the final iteration subject to the CPO scheme included 24-38 Station Parade, 13-23 Ripple Road, St Awdry's Walk and Vicarage Field Health Centre.

### ***Final scheme***

75. The final scheme is an ambitious and large scale redevelopment, to be delivered by the AA's development partner, PineBridge Benson Elliott (PBBE), the owner of Lagmar (Barking) Limited, VFSC's leaseholder. The site's vision<sup>30</sup>

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<sup>28</sup> CDC.2

<sup>29</sup> CDG.6

<sup>30</sup> AA/DW/1 - 3.6



is to deliver a scheme of exemplar quality, supporting the Council's bold vision for growing prosperity and employment, stimulating housing delivery, commercial vitality, place making, arts and culture.

76. The Design and Access Statement<sup>31</sup> illustrates 5 clustered residential towers of varying heights, the tallest being 36 storeys. These would provide apartments and a hotel. At ground and first floor, a range of commercial Class E uses are proposed. Commercial frontages are maintained on Station Parade and Ripple Road, and within the centre of the development. Pedestrian routes are proposed through the site to create permeability, running from Station Parade to Vicarage Drive, to be known as Station Walk. A pedestrian route from Ripple Road to Station Walk is also proposed. Twenty-four hour accessible public open space through the site would be available and a public square would be created in the centre.
77. The leisure uses include a 6-8 screen cinema and a 300 person capacity music venue. New affordable workspace is also proposed. Community uses are proposed along Vicarage Drive with a health centre, cycle hub and 3-form entry primary school. The second floor is illustrated to contain a 'field level' podium of communal open space, landscaping and cycle parking for residents.
78. The site has been split into blocks to facilitate phasing, and aids with identification. Block B4 would be built out first, and PBBE propose to start in early 2023. Phase 2 is Block A, Phase 3 is Block B1/3 and Phase 4 is Block C. The primary school would be delivered separately by the Council.
79. The access would be reconfigured so that most servicing and vehicle access will be taken from Vicarage Drive, which would also be realigned and widened, leading to 2 separate parallel access points to basements, one for servicing and deliveries, the other for visitor and residential car parking. Some servicing would continue to take place from Station Parade, but this would be primarily to serve the existing remaining units to the west on the corner of Station Parade and Ripple Road.
80. The CPO Scheme would also remove the vehicular access ramp to the existing shopping centre from Station Parade. This would result in fewer cars entering the pedestrianised area, and consequently greater pedestrian connectivity between the station and the site, a fundamental principle of the scheme. Additionally, other benefits derived from including this land are an increase in size of the 'field' podium for the new residents, modern commercial floor space, leisure facilities and new homes.
81. The scheme has evolved over time, and from late last year, Block 4 is now set to contain a Food Hub having been identified as the preferred location, taking up around 45% of the footprint. Food Hubs<sup>32</sup> are an emerging commercial use, that includes a mix of food-type schemes. These can include retail sales of fresh produce, food and beverage hospitality, pop-up and seasonal retail and educational events, shared development kitchens and workspaces, dark kitchens for delivery only businesses, and start-up incubator space for new local enterprises. The Food Hub would be the public face of the markets of the London wholesale markets (Billingsgate, Smithfield and New Spitalfields), who are moving to Dagenham Docks.

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<sup>31</sup> CDC.4

<sup>32</sup> AA/PC/2 - Appendix 9

### ***Justification for the acquisition***

82. The inclusion of 24-38 Station Parade is essential because they would provide a significant contribution to the transformative 'gateway' experience when leaving the railway station, that would enhance the immediate environment. This relates not only to the height of the buildings, but also the expanse and width of the frontage. The existing VFSC frontage is narrow and including 24-38 Station Parade would enable a wider, prominent and welcoming entrance to the development, shouldered by tall and high quality commercial frontages.
83. The inclusion of Vicarage Field Health Centre is critical to forming the main access to the site, for both servicing and users. It would remove vehicles from Station Parade and service vehicles from both roads. It would also enable the widening of Vicarage Road, which is necessary to achieve a wider footway for pedestrians accessing the primary school. It is the only location for the access point. It is also a site of very low density and currently an inefficient use of land in this town centre location. The largest building footprint (Block C) in the Scheme would also be partially located on the site, which would contain the cinema and music venue, and the layout of the towers could be optimised.
84. The demolition of 21-23 Ripple Road would be critical to providing a wider access point for larger vehicles by straightening Vicarage Drive. The relocation of the access also removes much of the servicing traffic, prioritising pedestrians.
85. The existing residential properties at 13-23 Ripple Road would be a constraint on the layout and scale of proposals adjacent to the boundary. The orientation and proximity of the existing windows to the boundary of Vicarage Field Health Centre and VFSC would create issues around privacy and overlooking, as well as limitations to the potential height and massing of new neighbouring development. The inclusion would enable taller development on the neighbouring sites to the rear. Furthermore, it would also enable the entrance to the site to be moved centrally opposite the pedestrian desire lines from the Abbey grounds and riverside to the railway station.
86. The AA also consider that the quality of the properties on Ripple Road do little to add to the character of the town centre and are of a low contribution to the CA. I disagree and find them to be of positive benefit, but I understand the proposal would create a strong and striking edge building to Ripple Road in lieu of these properties. The inclusion also enables a larger floor plate to accommodate the cinema, taller blocks within the site and is set to be the location for the health centre.

### ***Heritage and conservation***

87. The loss of buildings within the CA is unfortunate and harmful, and this is recognised by the AA. Historic England objected to the outline planning application and assigned a significant level of harm to the loss of buildings which contribute positively to the character of the CA. They also considered the scale of the replacement buildings along Ripple Road to be at odds with the prevailing 3-4 storey building heights in this part of the CA. The loss of the terrace along 13-23 Ripple Road and the health centre on Vicarage Drive and the overall scale of the proposed development, particularly in views along East Street and Ripple Road, would neither preserve or enhance the character

of Abbey and Barking Town Centre and would cause a great level of harm to its significance which they considered has not been justified<sup>33</sup>.

88. However, in its assessment of the planning application, the LPA concluded that the proposal would result in less than substantial harm. They detailed that the public benefits of the scheme were substantial, outweighing the harm to the CA.
89. Some of these benefits have changed as the scheme has evolved, but despite objections on these grounds, this CPO decision is not a re-run of the assessment of the planning application, and any changes to the uses still falls within the remit of the planning permission. Further heritage assessments would also be necessary for any reserved matters applications. That said, there is heritage harm, and this would be an adverse effect of the CPO scheme.

### ***Benefits of the scheme***

#### *Social wellbeing*

90. Overall, the CPO Scheme would deliver much needed regeneration of the town centre, providing an attractive development that would widen Barking's catchment area to create a more balanced and diverse community. The CPO scheme would provide a range of different uses including up to 855 new homes, in a mix of types and sizes, with a minimum 10% being affordable. Given the critical shortage of housing in the borough, the provision of this number of homes would, without doubt, contribute to social wellbeing.
91. The primary school would have a noticeably positive impact upon social wellbeing by providing modern and fit for purpose educational facilities for around 630 children, in a borough that has the highest proportion of 0-19 year olds in the whole country.
92. The health and wellbeing facility, now likely to take up around half of Block C would be much larger than originally anticipated (around 2.5 times what is required in the planning obligation), although I note no agreement is in place. Nevertheless, there is an obligation to provide a health facility, and this would have a positive impact upon social wellbeing, accommodating the healthcare and wellbeing needs of the borough's residents, of which modelling by North East London Clinical Commissioning Group (CCG) suggests there to be significant need for new community services<sup>34</sup>. The health care, school and workspace use along Vicarage Drive and Ripple Road would create a valuable community cluster.
93. The mix of business floorspace, retail floorspace, leisure and cultural uses would contribute positively to the social wellbeing of the area. There would also be a significant increase in the range and amount of uses currently available, diversifying the town centre offer for existing and new residents.
94. The public square would be multipurpose open space in the centre of the site, along with a sequence of public spaces throughout and enhanced public toilet facilities. This would be of benefit to the social wellbeing of residents, create permeability to provide for community interaction and high quality facilities.

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<sup>33</sup> CDC.3 page 31

<sup>34</sup> AA/PC/1 – 5.51

95. The new pedestrian streets would have 24 hour access, compared to the restricted daytime access at the shopping centre. The pedestrian streets would also replace St Awdry's Walk. This would be a significant positive benefit given the unsafe and partially inaccessible nature of the right of way. The pedestrian walkways would also provide a direct route from the Abbey grounds through to the railway station. This would considerably improve connectivity and legibility through the whole town centre.
96. A significant number of vehicles would be removed from both Station Parade and Ripple Road, and there would be an improved public realm on Vicarage Drive, with wider footways and pedestrianised sections. This would be a benefit to pedestrians in the town centre and those accessing the school.
97. The CPO scheme includes a minimum of 1,000 sqm of affordable workspace. This workspace would support local start-up businesses providing accessible workspace and access to jobs, promoting social wellbeing. Additionally, the Use Class E proposals would include a variety of retail, cafes or restaurants, in flexible configurations, such that they could attract independent retailers, specialist traders or multiple national brands. If it was successful in attracting independent or specialist traders, such as those in Station Parade and Ripple Road now, this would add vitality and interest to the scheme.
98. The Food Hub is likely to be located within Block B, providing access to a variety of food type schemes and businesses. These are likely to be independent, small scale and local operators, and brings a raft of community and social benefits, based upon the research document – *"crucially, while these venues will be centred on food, they will also have the flexibility to respond to local demand for other uses, for example: arts, cultural, sporting or educational"*<sup>35</sup>.
99. The cinema, music venue, bars and restaurants would provide leisure and evening uses, which would promote all day use. This would boost the town centre offer considerably, particularly in the evening. It could improve the image of the town centre, adding vibrancy and making it a destination.

#### *Environmental wellbeing*

100. The superb public transport accessibility, and the significant increase in homes and the provision of new jobs within the commercial element would enable more people to live, work, shop and socialise in the town centre, reducing the need to travel, aligning with the AA's aspiration of a '15 minute city' concept<sup>36</sup>.
101. The scheme also uses previously developed land in a denser, more efficient way. There would be a reduction in the number of car parking spaces compared to the existing arrangement, and this would reduce vehicular trips, on street congestion and improve air quality.
102. The access arrangements would reduce the number of vehicles on Station Parade and within the pedestrianised area of Ripple Road. This would have a positive impact on the environmental wellbeing of the area given the high footfall, and provide significant improvements to the public realm, actively encouraging cycling and walking.

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<sup>35</sup> AA/PC/2 - Appendix 9

<sup>36</sup> CDE.1

103. The scheme is well-designed, and this would add value to the overall environmental wellbeing of the town centre, removing the outdated shopping centre. It would be constructed efficiently, to achieve a minimum of 35% carbon emission savings. Furthermore, there is an intention to connect it to the Barking Town Centre District Heating Network, which would provide low carbon sources of heat.
104. The second floor 'field level' and extensive landscaping would provide gardens, new habitats, water attenuation, evapotranspiration cooling of the microclimate and a natural means of air filtration. It would also provide growing spaces, planting and green roofs and a high quality communal amenity space. However, this is only accessible to the residents and would provide only environmental benefits.

#### *Economic wellbeing*

105. The daytime and evening commercial uses, along with the affordable workspace, would provide a range of employment opportunities and boost the evening economy. This would have a positive impact on economic wellbeing. The increase in commercial uses is also likely to reduce the spending leak to other areas and could attract spending from outside the borough.
106. It is anticipated that the CPO scheme would deliver over 1,339 full time employees (FTE) upon completion, equivalent to an additional 358 FTE. This is expected to deliver around £133 million in net economic benefits and estimates that the development could result in about £45 million net economic benefits associated with the delivery of private and affordable housing and £4 million in amenity benefits<sup>37</sup>.
107. The CPO scheme would contribute towards reducing the level of deprivation in the borough through the provision of new jobs during and post construction. This is envisaged to be around 260 full time equivalent posts over a construction period ranging from 2023-2029<sup>38</sup>, seeking to maximise local workers through the planning obligation.
108. Furthermore, the increased amount of people living in the town centre is highly likely to lead to a greater spending power. There is likely to be an increased demand for local shopping and consumer services facilities which would boost the local economy and have a positive impact on economic wellbeing of the wider area, rebalancing the existing population.
109. Lastly, the proposal is likely to act as a catalyst for further economic investment in the Borough, because of the regenerative effect, unlocking other regeneration projects and creating further additional jobs and training opportunities.

#### ***Criticisms of the scheme***

110. Whilst the whole CPO lands are not allocated, planning policies support the delivery of the CPO scheme. The AAP does not become breached or conflicted if a scheme is proposed outside the allocation, and there are no policies that prohibit development outside the allocation. The wider site boundary would meet the aspirations of the AAP, which is to encourage high quality

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<sup>37</sup> AA/DM/1 - 7.11

<sup>38</sup> AA/PC/1 - 5.6

redevelopment of new homes and modern commercial units. In fact, it goes beyond that, by including other social uses that would promote activity within the town centre, such as the cinema, restaurants and health centre.

111. Additionally, the land outside the shopping centre is also allocated as an Opportunity Area, Key Regeneration Area and Housing Zone. Planning policies at all levels support redevelopment and densification within highly accessible areas for well-designed new homes and commercial development. Therefore, the lack of an allocation covering the whole CPO lands does not result in the scheme being contrary to policy.
112. Objectors have also made various criticisms of the overall scheme and the reserved matters approval on Station Parade. The assessment of the planning applications is a matter for the LPA. The reserved matters approval has been granted and will be subject to other controls, such as fire and building regulations. If amendments are necessary to the internal layout, this would be considered by the LPA. Assertions that it is an illogical design, has servicing issues, or not suited to modern methods of construction, are not matters that are material to my decision on the CPO.
113. Objections are also raised that because the scheme relies on an increase in land values, the people of Barking will not be able to afford the dwellings within the scheme, given the scale of deprivation, average wages and unemployment rates. This would be counter to the Council's tag line of "no one left behind"<sup>39</sup> within the Economic Prospectus for Barking and Dagenham.
114. However, the document sets out how Be First/the Council will unlock inclusive growth to ensure residents, especially the young, fully benefit from growth by having the skills required to access higher paid employment that will be available in the Borough. The AA also detailed that there would be a marketing strategy for the site, and the Council itself is delivering a high amount of affordable housing. Additionally, the dwellings would be more affordable than most of London in any event<sup>40</sup> and the transport infrastructure is already in place.
115. Therefore, whilst there is a risk the scheme could become a commuter dormitory, this would be a risk with any scheme that seeks to provide residential dwellings in an area requiring regeneration with superb public transport access to central London. The key difference here is that the AA is invested in ensuring young residents benefit from growth to enable access to higher paid jobs.

## **Conclusion**

116. The CPO scheme, as illustrated and envisaged, would create a comprehensive, transformative change to the town centre. It would provide a significantly improved entrance to Barking and improved pedestrian experience. The truly mixed use scheme would promote vibrancy and activity for the community, blending retail, leisure, workspace, public space, health and educational uses together with town centre living, boosting the evening economy and positively regenerating the town centre.

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<sup>39</sup> CDE.2

<sup>40</sup> XX Mr Harley by Mr Elvin KC



117. It is seen as the cornerstone to the town centre regeneration and there would be substantial public benefits that would contribute to the improvement of the economic, social and environmental wellbeing of the area. Notably, very few objectors had objections to the principle of the scheme and most recognised the regeneration to be positive.
118. Given the obvious need to redevelop the site and regenerate the town centre, and the substantial benefits in the public interest, there is an extremely compelling case for the acquisition of the Order Lands.

### **Availability of resources and deliverability**

119. The CPO scheme is to be delivered by Lagmar (Barking) Ltd, *a wholly owned, specific purpose development vehicle*<sup>41</sup> of PBBE. The shares in Lagmar (Barking) Ltd were acquired from the Irish government's "bad bank" work-out vehicle, NAMA, by property fund manager Benson Elliot (BE). Evidence details that the recommended business plan was to pursue a redevelopment<sup>42</sup>, and it is Lagmar (Barking) Ltd who own the leasehold of the shopping centre. PBBE was formed through the acquisition of BE by PineBridge Investments in December 2020. PineBridge is a private, global fund manager. BE raises long term equity funds (e.g. pension funds) that invests into development or real estate projects.
120. In June 2021, PBBE acquired Sigma Capital plc, a build to rent development company already operating in Barking. Mr Cornforth, director of PBBE, explains that the acquisition offered<sup>43</sup> PBBE an insight into the new build rental market, specifically in Barking, along with a ready-made management platform for the completed residential blocks in the CPO scheme, should some of them be retained as long-term income investment rather than sold to owner/occupiers.
121. Mr Cornforth outlines in his evidence that BE has a track record of raising funds, the most recent equity fund raise in 2019 provided €836m of investment funds, and the 2 prior to that totalled €1.14bn<sup>44</sup>. PineBridge had approximately \$148bn worth of assets under its management at the end of 2021<sup>45</sup>.
122. He sets out that between 2010 and 2020, BE became a highly effective and well-established specialist real estate fund and asset manager, known for investing in town centre and urban revitalisation and regeneration programmes across Europe, and highly competent at bringing together the financial backing and operational capabilities to deliver complex property projects<sup>46</sup>.
123. Owing to the merger of BE and PineBridge, PBBE appears to be a successful global financial services company with access to funds. However, it is Lagmar (Barking) Ltd, the leaseholder for the shopping centre, who is the proposed

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<sup>41</sup> AA/PC/1 - 3.1

<sup>42</sup> AA/PC/1 - 4.11

<sup>43</sup> AA/PC/1 - 3.12

<sup>44</sup> AA/PC/1 - 3.6

<sup>45</sup> AA/PC/1 - 3.10

<sup>46</sup> AA/PC/1 - 3.7

developer of the CPO Scheme and party to the section 106 Agreement<sup>47</sup>, Agreement for the grant of leases<sup>48</sup> (AGL) and Deed of Indemnity<sup>49</sup> (DI).

124. Funding for the CPO Scheme falls under 2 parts, one is the funding to acquire the land and third-party interests, and the other is the funding to implement the CPO Scheme for which the land is required.

***Funding available for acquiring the land***

125. To date, over £40 million has been spent in cash<sup>50</sup>, and the developer expects another £20 million will be necessary prior to the commencement of development. This is a significant financial commitment, and one which not many investors could undertake because of the scale of upfront costs. The developer has also sought to engage in community collaboration and is a non-executive director of the Barking Enterprise Centre. The AA claims that this shows intent and belief in delivery from the developer.
126. The developer has also agreed to underwrite the AA's costs of obtaining vacant possession and the DI indemnifies the AA against costs incurred in promoting, making and securing the compulsory acquisition of the Order Lands and the compensation payments arising from acquisitions. Being debt free provides freedom for the developer in terms of negotiating leases and I understand this is designed to facilitate redevelopment. Furthermore, the developer has sought to renegotiate leases in the shopping centre prior to the CPO, which shows their intention to redevelop VFSC.
127. The developer's retained consultants, Avison Young (AY) and GCW maintain an estimate of acquisition costs for acquiring the land, which is regularly reviewed to reflect market circumstances and as more detail becomes available on individual interests. These were not presented to the inquiry, and many objectors claim that the financial offers to date have been below market value.
128. The AA also conceded that no budget has been built in for business extinguishment costs. Ms Squires (negotiations witness) explained that it would be unusual to include them at this stage, and they would be built in when the extinguishments were confirmed. This would be from the contingency funds.
129. Yet, given the high level of occupancy in the town centre, the number of outstanding objections and difficulties with relocations, it is likely that several businesses could be extinguished if the CPO were confirmed. The business extinguishment costs could be very expensive, and the fact that they have not been included, even as estimations, concerns me.
130. Nevertheless, given the significant amount that has already been spent in cash, and that £20 million more has been allocated, if the scheme is viable, I am satisfied that there would be a likelihood of funds available to acquire the land. However, the increases from any business extinguishment costs could affect the overall funds.

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<sup>47</sup> CDC.2

<sup>48</sup> CDG.2

<sup>49</sup> CDG.3

<sup>50</sup> AA/PC/1 - 5.17



***Funding available for implementing the scheme for which the land is required***

*The viability assessment*

131. In the developer's opinion, the CPO Scheme is viable<sup>51</sup> and meets the "criteria for acceptable returns<sup>52</sup>". Mr Cornforth claimed that on the latest appraisals<sup>53</sup>, there would be a 14.8% profit achieved from the development against a target of 15%. Mr Cornforth states that the appraisals are underpinned by independent advice from the development team chosen for their track records, experience and expertise in projects of complexity. However, no recent viability appraisal or evidence was presented to validate these assertions.
132. For a CPO to be confirmed, I must consider the potential financial viability of the scheme for which the land is being acquired. Whilst a general indication of funding intentions will usually suffice to support a reasonable prospect that a scheme will proceed, the viability appraisal review for the outline planning application found the scheme to be "substantially unviable"<sup>54</sup>. The outline planning application was determined in full knowledge of this, and the AA and developer were fully aware of these conclusions, although the evidence was only added to the inquiry documents at the request of an objector.
133. Because of this, I consider it unusual that an updated viability appraisal was not presented. This is principally because if a scheme is unviable, it is highly unlikely to proceed for obvious reasons.
134. Whilst the AA claim that objections on the grounds of viability were not raised until at the inquiry, and thus had no fair notice, it is the AA's responsibility to provide substantive information as to the financial viability of the scheme in light of the CPO Guidance, and to be able to defend this.
135. The only substantive evidence of viability I have is the September 2016 Financial Viability Assessment<sup>55</sup> (FVA) prepared by DS2 and the Financial Viability Review carried out by GVA<sup>56</sup> (December 2016). Both conclude the scheme to be unviable at that time, with GVA's review concluding that "both DS2's and GVA's calculations find the scheme to be substantially unviable"<sup>57</sup>. The FVA detailed that "delivery of the scheme will rely upon the growth of residential and commercial values in Barking Town Centre. In respect of residential, this anticipated growth will allow more alignment with comparable, but still affordable, locations in east London...Barking is currently undervalued... It is therefore strongly expected to experience value growth over the next few years through the delivery of new high quality development"<sup>58</sup>. However, GVA had significant concerns about the deliverability and fundability and questioned why the developer would be pursuing a scheme of this nature.

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<sup>51</sup> AA/PC/1 - 5.5

<sup>52</sup> AA/PC/1 - 5.43

<sup>53</sup> Quarter 1 of 2022

<sup>54</sup> CDC.11

<sup>55</sup> CDC.12

<sup>56</sup> CDC.11

<sup>57</sup> CDC.11 - 13.6

<sup>58</sup> CDC.12 page 9

136. The GVA Review also set out that “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. To generate a residual land value of £49m, which equates to the benchmark land value, sales would need to increase to £770 per square foot. This is 62% growth on current [2016] values”.
137. The CPO Guidance states, “The greater the uncertainty about the financial viability of the scheme, the more compelling the other grounds for undertaking the compulsory purchase will need to be<sup>59</sup>”.
138. In this case, the viability evidence from 2016 concludes that the scheme was substantially unviable. There was no uncertainty about this. This was not disputed by the AA. Mr Cornforth agreed that it was substantially unviable based on that process and did not dispute the findings. He also explained that in 2016, when the viability appraisal was carried out, the scheme was marginal, and they would not have gone ahead at that point.
139. In the Financial Viability Review, GVA also detailed that over 30 properties were held under 3rd party ownership, and to enable the scheme to be brought forward, successful negotiations would need to take place. Parenthetically, few successful negotiations have taken place, with only 2 objections to the CPO being withdrawn prior to the closure of the inquiry. Notably, none of the withdrawn objections relate to land which the AA is seeking to acquire. Only 21-23 Ripple Road has been acquired from all interests. GVA set out that the negotiations may become protracted and costly, which would further impact on the viability of this scheme.
140. GLA’s comments<sup>60</sup> detailed that the viability assessments identify a negative value derived from the scheme, a significant deficit compared with the target profit, and that the scheme is only likely to be viable in the longer term.
141. This 2016 viability appraisal is, perhaps unsurprisingly, not relied upon by the AA.
142. During the inquiry, Mr Cornforth explained that the approach of PBBE to assessing viability is very different to a conventional ‘RICS Red Book’ viability assessment using standard models, such as ARGUS. Mr Cornforth explained that his company’s method produces a more ‘granular’ list, which seeks a long term return. However, he provided limited explanation as to what was the difference in their viability assessment as opposed to industry standard models.
143. It was also argued that the 2016 viability appraisal was prepared for the purposes of calculating affordable housing numbers. Nonetheless, it was a viability appraisal that was produced in support of the outline planning application, the purpose of which was to robustly test the maximum reasonable amount of affordable housing and other financial obligations that the proposals can viably support. I do understand how a viability appraisal for scheme delivery would be significantly different to one produced for a planning application, because the outcome of a viability appraisal is to conclude whether the value generated by a development is more or less than the cost of developing it.

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<sup>59</sup> Tier 2, Section 1, Paragraph 106

<sup>60</sup> CDC.15

144. The reason for not providing an updated viability appraisal is said to be linked to commercial confidentiality. To share the information at this stage could, I am advised, hamper the deliverability of the scheme by releasing sensitive information to the open market. Whilst I understand the sensitivities to sharing this type of information, I am left in a position whereby the only independent evidence of viability presented concludes the CPO scheme to be substantially unviable 6 years ago.
145. An updated appraisal could have been redacted, or even, as suggested by Mr Elvin KC (representing the 24-34 Station Parade), subjected to a 'data room' exercise, carried out by an independent expert under a non-disclosure agreement. This would have reviewed the appraisal and provided an independent peer review that the scheme was viable.
146. The AA claim that this would have taken me nowhere, as this evidence could not have been tested. I disagree. It would have provided an independent and clear indication that the scheme was viable when assessed by an expert in the field. At the very least, it would have provided some comfort as to the likelihood of the potential financial viability, given the gravity of the conclusions in the viability appraisal that I do have.

*Information presented to demonstrate viability in the absence of a viability appraisal*

147. In 2016, it was acknowledged that the delivery of the scheme would rely upon growth in primarily residential and commercial land values in Barking town centre. These were expected to come about through the regeneration of the town centre, of which this proposal would be a key part. The convergence effect from the 2012 Olympics was slowly making its way east and planning policies were directing development eastwards, such that for the AA and developer, it was not a question of 'if' the development would come forward, but 'when'.
148. Mr Cornforth set out that the company pursues opportunities where unrecognised growth potential resides, are ahead of the market, and this is how they came to acquire VFSC. Investing funds into this type of real estate, Mr Cornforth explained, there would be a negative before a positive. His judgement was that in due course, the development would become viable as the alternative uses became more commercially attractive than the existing uses. The developer is seeking to invest longer term in change and their assessment of financial returns requires them to consider the development within the context of future transformation brought about by existing and emerging trends as well as the scheme itself. The proposal was not viable in 2016, but Mr Cornforth considers that it has now become viable due to a combination of expected market changes that were built into the business plan.
149. The quality of the scheme is also said to be critical in achieving the step change in values in the town centre, along with the value added by including creative spaces, such as the inclusion of affordable workspace. I agree that a higher quality scheme is likely to attract higher values and create a superior transformational change in the town centre. However, a higher quality scheme attracts a higher price to develop, and it is common knowledge that build costs have soared in recent years.

150. I accept that market dynamics and economic circumstances in Barking have changed in the past 5 years. In the December 2021-2022, Barking's annual price change in average residential values was 7.7%<sup>61</sup>, compared to London at 5.5%<sup>62</sup>. CBRE<sup>63</sup> also forecasts 22% price growth and 16% rental growth in the property market in Barking over the next 5 years, with comparable figures of 19% and 14% for London.
151. Other trends which are driving the viability of the scheme are said to comprise of population growth that will ensure sustained demand for housing, affordability<sup>64</sup> and the regeneration effect<sup>65</sup>. Vicarage Field values are forecast to rise by 26.5% by the end of 2025 (assumed construction start in 2022) on account of the Scheme's regeneration effect<sup>66</sup>.
152. However, even accounting for the population growth, affordability factor and the regeneration effect, the increase in land value and projected increases in land value is unlikely to reflect a 62% growth in values from 2016<sup>67</sup>, which took no account of unforeseen economic effects, such as the pandemic, the war in Ukraine and the steep rising costs of materials and energy. Even Mr Cornforth admitted that whilst some investments perform better than others in a portfolio of investments, there would still be an expectation of some return.
153. Extensive research has been carried out to demonstrate that land values are rising, and this is said to make the scheme financially viable. 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.
154. Nevertheless, there is a fundamental lack of substantive, factual evidence to demonstrate that the scheme is financially viable. I accept that the CPO Guidance does not impose this as a requirement. However, given the conclusions in 2016, and the absence of an updated situation, I cannot be certain as to the potential financial viability of the scheme for which the land is being acquired.
155. Given the developer's confidence that the scheme is viable, backed up by its team of professional consultants, I simply do not understand why an up to date appraisal was not presented, even if this was redacted or subject to an independent review.

### *The legal agreements*

156. The AGL and a DI were entered into between Lagmar (Barking) Ltd (as developer) and the AA in March 2021. The redacted version of the DI details that, if the CPO is confirmed, it is for the developer to decide if the CPO is acceptable (with no definition of what may be acceptable). There is no obligation for it to trigger implementation of the CPO. There is also no obligation to require all the land in the CPO lands to be included in the vesting, and this remains at the discretion of the developer.

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<sup>61</sup> AA/PC/2 - Appendix 11

<sup>62</sup> AA/PC/2 - Appendix 16

<sup>63</sup> AA/PC/2 - Appendix 20

<sup>64</sup> AA/PC/1 - 5.37.3 - LBBB was in the top 3 most affordable areas in Greater London for 1<sup>st</sup> time buyers

<sup>65</sup> AA/PC/2 - Appendix 22 and 23

<sup>66</sup> AA/PC/2 - Appendix 23

<sup>67</sup> As indicated in the GVA Review (CDC.11)

157. The AGL, also redacted, contains clauses that require the General Conditions to be met. These include the acceptability of the CPO to the developer and the developer's own reasonable opinion of viability, and phase conditions (for phase 1 only). It is for the developer to decide if the CPO Scheme progresses and this decision could be made by the Developer's Nominee, which the AA has no control over the appointment of. There is also provision for a redesign of the scheme if the developer decides it is not viable or sufficiently profitable. Furthermore, there is little to stop PBBE selling the shares of Lagmar (Barking) Ltd, akin to how it acquired the company.
158. The legal agreements provide a high amount of control for the developer, and little control for the AA to get the scheme implemented or, importantly, completed. I accept the leasehold held by the developer on VFSC expires in 2115 and it is a depreciating asset. The AGL would enable the developer to commence new leases with the drawdown of each phase and it was asserted that there is a strong incentive to move the project forward. This is because the value of the asset would be increased through the drawdown of the leases, but this would only occur if the General Conditions were met.
159. Mr Cornforth also considers the development contains several aspects that ensure it would be resilient to mitigate for change to risk profile and the market. These include the permeable footprint, the block based format that separates the commercial and residential uses, flexibility in occupation. The mixed uses would protect against financial risk; yet as over 80% would be residential, this would underpin financial returns. It is also asserted that the scheme is suitably future proofed, meeting the 10 future-proofing characteristics of the 2021 National Design Guide<sup>68</sup>.
160. However, no matter how flexible a scheme is, future operators will need to know what footprint they are going to occupy, and what price they are paying. The scheme will need to be presented as detailed plans for reserved matters and the apparent flexibility provides me with little confidence that the General Conditions will be adhered to, particularly the viability conditions. Moreover, whilst the residential development would underpin the scheme and provides some degree of financial resilience, if the land values have not significantly increased, it would remain unviable.
161. Mr Cornforth states that in the hypothetical event that if one of the General Conditions was not satisfied, there would be a strong impetus in favour of completing the project rather than allowing the fact that a particular condition had not been fully satisfied to bring it to a halt. Full account would be taken of the very substantial sums that would by then have been spent on progressing the project, and the ongoing depreciation in value of the existing asset in the face of its impending obsolescence were the development to pause<sup>69</sup>.
162. However, despite all assurances from Mr Cornforth, I do not understand why the developer would waive a legal agreement's conditions to proceed with a scheme if it was not acceptable to them. To my mind, it is unlikely that a developer, with investors who want to see returns, would continue to fund a project if it does not satisfy its General Conditions, principally that of viability.

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<sup>68</sup> AA/PC/2 - Appendix 7

<sup>69</sup> AA/PC/1 - 5.14

### *Future financing*

163. Mr Cornforth details that PBBE has funds and access to funds to ensure that there are no financial impediments to the scheme being developed<sup>70</sup>. I have been provided with no reason to doubt that PBBE has access to funds. Indeed, this is illustrated by the fact that to date over £40 million has been spent.
164. Future financing would be drawn from PBBE funds or through a bespoke equity stream. PBBE's normal practice is to use a bespoke financing advisory firm to assist in arranging any external debt in construction lending. Mr Cornforth explained at the inquiry that funds are raised through PBBE by investors investing their money into ideas or a theme, rather than a specific project. It is a longer term strategy and the expectation to deliver returns from a fund rather than a project enables PBBE to insulate against a project that may not be working out, focusing on long term rather than profit from a viability perspective.
165. Nevertheless, it would be reasonable to assume that investors would seek to see a return on investment, and I fail to see why money would be invested into a project if it were not considered to be viable at the outset, despite this asserted longer term strategy. Furthermore, the CPO Guidance refers to necessary resources being likely to be available within a reasonable time scale.

### *Future occupancy*

166. Mr Cornforth was positive and confident that the type of negotiations currently engaged with are consistent with the commercial attractiveness of the scheme. However, negotiations are ongoing, and only speculative, notional information has been provided.
167. I am advised that around 50% of Block A's commercial area, allocated for co-working, affordable and creative workspaces is under negotiations. Block C is subject to active occupier negotiation, with the cinema space and adjoining unit reserved by a national operator, looking to deliver a family leisure destination, but no further details were provided and no final agreement had been reached.
168. Block C is also reserved for the Health Centre, and from discussions between the CCG and Mr Cornforth, the amount of space for the Health Centre is anticipated to be 2.5 times greater than the amount of space required in the section 106 agreement. However, again, no details were provided or agreements finalised.
169. Block B would be split between the Food Hub and a branded food convenience store. The developer has established strong levels of interest from operators of the food store, but the operator would not commit until non-conditional timelines could be offered and agreed.
170. The Food Hub has support and is a policy priority of the AA and the City of London Corporation to ensure delivery. I accept that the Food Hub's preferred location is in the CPO Scheme, and the location would occupy a large proportion of Block B. Thus, it may de-risk this element of commercial space.

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<sup>70</sup> AA/PC/1 - 5.25



171. Mr Cornforth also claims that the economic and business changes apparent since the Covid pandemic are strongly supportive of a mixed-use commercial offer the Scheme can deliver, basing this upon AY's non-residential uses analysis<sup>71</sup>, which provides various conclusions, such as:
- scope to attract small and medium enterprises to the town centre as workspaces in competing centres are fairly poor;
  - growth in demand for leisure uses and an absence in local competing centres;
  - existing and growing residential population in the town centre, which will underpin demand for leisure uses, food and beverage and workspaces;
  - significant investment in film, media and TV with the studios at Dagenham East, the largest studios in London.
172. The findings in this report were unchallenged, and I agree that the scheme is strongly supportive of a mixed use commercial offer.
173. Nevertheless, there is a lack of any real certainty as to who specifically might occupy the Scheme, nor any agreements with commercial operators that have agreed to occupy space, even if these were redacted or provide a general indication of intent. I accept commercial confidentiality is required, but the lack of anything other than Mr Cornforth's expectations does not persuade me that future commercial occupancy would be certain.

### **Conclusion**

174. If the CPO scheme was delivered, it would act as a catalyst for the regeneration of the town centre. This is likely to increase land values based on the evidence before me and there is an intention to deliver the development.
175. However, no financial viability appraisals or substantive information has been presented to demonstrate that the scheme is financially viable, and despite assurances from the AA, I am concerned that the increases in land value since 2016 may not be as significant as necessary to secure the scheme's delivery.
176. Accounting for the spend to date, it is clear that PBBE has funds and would have access to funds. But no developer or financial services company would invest in a product that was not going to make a return. It would not make financial sense, no matter how invested they are in the scheme, and whilst they have underwritten the costs of the CPO process, there is no commitment to build out the scheme. Furthermore, the costs associated with acquiring the land may be considerably more than anticipated when business extinguishment costs are factored in. Additionally, no concrete evidence has been presented in relation to future occupation.
177. Thus, when considering the potential financial viability of the scheme for which the land is being acquired, there is simply insufficient substantive information presented to convince or reassure me that the scheme is financially viable.
178. Consequently, I cannot be certain that the necessary resources are likely to be available within a reasonable time-scale and I am unable to conclude that

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<sup>71</sup> AA/PC/2 - Appendix 26

there is a reasonable prospect that the scheme will proceed and would be delivered.

## **Alternative proposals and whether regeneration is more likely by the CPO**

### *24-34 Station Parade proposals*

179. A pre-application scheme<sup>72</sup> was submitted to the LPA in 2018 by Mr Ali Kadhodayi-Kholgi (Mr Ali) and his wife, Mrs Jahanpanah (Mrs Ali), as owners of 24, 26, 28 and 34 Station Parade. It also included 30 and 32 Station Parade, which is owned by the personal representatives of Paula Mary Baker (deceased). The owners of 30 and 32 Station Parade are supporting and adopting the case that was presented by Mr and Mrs Ali<sup>73</sup>, however it is Mr and Mrs Ali who would be pursuing the alternative proposals. I shall refer to both parties as 24-34 Station Parade properties (SPP).
180. The pre-application proposal included retail units at ground floor with a hotel development to the upper floors. Negative feedback<sup>74</sup> was given by the LPA, specifically that the proposal was for an 8 storey building and the outline permission for the CPO Scheme was for 7 storeys with a stepped typology. The scheme was not considered to be acceptable, and advice states that the scale, massing and design would be incompatible with and inhibit the delivery of the outline planning permission for the CPO Scheme.
181. It also detailed that a standalone scheme would be assessed within the existing context and a proposal would need to provide detailed justification for the height, scale and massing in relation to existing surrounding properties and the nearby heritage assets.
182. However, the following year, the LPA approved a non-material amendment application at 24-38 Station Parade to increase the parameter height of Block B4 in the outline permission, from a 7 to 8 storey building. This is wholly inconsistent with the advice given to SPP and given the negative outcome of the pre-application advice, a planning application was not pursued by Mr and Mrs Ali.
183. It should have been clear to the AA that SPP were seeking to propose an alternative scheme on the site, but the AA did not seek to engage with SPP to facilitate this. That said, the CPO Guidance requires the AA to negotiate to acquire the land, not consider alternative proposals.
184. Mr Ali has willing tenants that he advised would be happy to relocate while he carried out works to his other premises. I also heard several of them detail this at the inquiry. He would also pay them compensation for re-location. He is confident the owners of 30 and 32 Station Parade would cooperate with the re-development since they have already signed up to a Collaboration Agreement<sup>75</sup>.
185. Three alternative development options are proposed by SPP in evidence<sup>76</sup>. First, the pre-application discussion proposal. The pre-application proposal would comply with the current parameters, and the elevation shows 6 regular

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<sup>72</sup> AAKK-6

<sup>73</sup> PMBD/1

<sup>74</sup> AAKK-5

<sup>75</sup> INQ14.1

<sup>76</sup> AAKK/IR/1



levels above the 'field' podium. This is the same number of floors as the reserved matters application. It could be an appropriate alternative proposal, however, the pre-application documents contain very limited information or detailed elevations, and has not been pursued any further.

186. Second, a refurbishment of the existing site. This would retain the existing building, but redevelop and reconfigure the site, with roof extensions. Prof. Ritchie, appearing for Mr and Mrs Ali describes<sup>77</sup> the benefits of this as enabling the hotel to continue to serve the community, ensuring the early 20th century 'high street' architecture fits with Station Parade. He also claims that with a new roof and new dormer windows, refurbished brickwork, a reconstructed new retail façade, it would have a fresh and acceptable appearance.
187. However, this option would not achieve the transformative change to the area or create the gateway to the CPO Scheme. It would, at best, improve the appearance of the properties. However, the width of the shopping centre, together with 24-38 Station Parade, are necessary to achieve the 'gateway' development and notable change when arriving in Barking. There could also be potential complications to the side return, and how this would be treated with the rest of the CPO scheme. Therefore, I do not consider it to be an appropriate alternative proposal that could achieve the purposes for which the AA is seeking to acquire the land.
188. The third scheme proposes an 8 storey, 155 bedroom hotel with ground floor retail units. This is described as "integrated" with the CPO scheme and could potentially contribute to the creation of a transformative entrance to the rest of the site and could be compliant with the Design Code that will be employed in the reserved matters applications. I acknowledge some amendments would be needed for 36-38 Station Parade, and there could also be delays to the wider scheme and construction issues, yet there is the possibility that a suitably designed scheme could be presented.
189. Furthermore, the uses within Block B4 could be provided elsewhere in the CPO Scheme. A 155 bedroom hotel would enable one of the 5 towers to be re-purposed to residential, creating a greater number of dwellings in the rest of the scheme. The leisure use could also be provided elsewhere given the flexibility of the design and commercial floorspace would be provided at ground floor in both the reserved matters and alternative proposal. Therefore, the 'integrated' scheme presents an appropriate alternative proposal that merits investigation.
190. Nevertheless, SPP did not pursue any proposals after the pre-application submission. Whilst their objections to the CPO were clear in that they wished to pursue their own development, no planning applications were submitted to the LPA, nor any Certificate of Appropriate Alternative Development (CAAD). It also does not appear to form part of the ongoing negotiations running up to the inquiry. The only plans before me are sketches from Prof. Ritchie's proof of evidence. The Collaboration Agreement was also drawn up recently, dated 19 April 2022, the day before the inquiry opened. All the above suggests to me that these alternative developments are proposed in an attempt to remove the SPP land from the CPO, not with a real intention to pursue the

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<sup>77</sup> AAKK/IR/1 - 5.3.2

alternatives in order to deliver the purposes for which the AA is proposing to acquire the land.

191. Mr Ali also explained that he had recently renovated the hotel over the past few years and spent "quite a lot". It was also clear to me that Mr and Mrs Ali are happy with their existing hotel, and quite rightly proud of the services it provides. Therefore, save for the threat of a CPO, I do not understand why Mr and Mrs Ali would pursue a scheme to demolish the building.
192. The Collaboration Agreement also does not include several arrangements that are likely to be necessary if realistically pursuing a planning application. These include any agreement as to the form and content of a planning application, any timetable for pursuing a planning application, any agreement for making land available for development, funding the development or shares of profits. Notably, it does not deal with land ownership.
193. Therefore, whilst there is a Collaboration Agreement and the personal representatives support Mr and Mrs Ali and are on good terms, there is very little to secure land ownership consent to re-develop the whole 24-34 Station Parade site. This is a significant obstacle in presenting an appropriate alternative proposal that would have a likelihood of delivery.
194. Furthermore, whilst some tenants may be willing to re-locate, there could be problems with some leases. For example, evidence<sup>78</sup> was given that details Mr and Mrs Ali have entered a lease with Coral bookmakers in January 2022 for 12 years, with no landlord break clause. Mr Ali was confident that a deal could be done because Coral has been acquired by Ladbrokes, and there is no asserted need for 2 betting shops in the town centre. However, I have no tangible evidence that this would occur. HMD also recently renewed their lease until 2039.
195. Mr Ali was very confident that he had the means to develop the alternative scheme. He claimed in evidence he was "pretty well off"<sup>79</sup>, with over 90% of his income derived from the hotel. He intends to finance the scheme entirely himself<sup>80</sup>, by mortgaging existing properties he owns. The evidence<sup>81</sup> presented shows indicative terms of borrowing £6 million, with the potential to increase to £10 million if planning permission was secured for a hotel with 150 rooms. However, these calculations show combined interest provision per month of nearly £92,000 if borrowing just under £10 million, and around £63,000 if borrowing about £6.8 million<sup>82</sup>.
196. Whilst Mr Ali and Mrs Ali may have savings, given that over 90% of their income is derived from Barking Hotel, there would be no substantial income source as of the commencement of the development. There would also be no income stream from the numerous tenants. Even with their other rental properties, I simply do not understand how the repayments could be paid.
197. Additionally, even though a development partnership has been mooted with Lindhill Properties Ltd<sup>83</sup>, no agreements are in place between the parties to

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<sup>78</sup> Ms Squires XC in response to 24-34SP's case

<sup>79</sup> Mr Ali XX by Mr Pereira KC

<sup>80</sup> Mr Ali XX by Mr Pereira KC

<sup>81</sup> INQ 14.2

<sup>82</sup> If combining 3 loan offers for *total net day one advance* sums of £2,674,905, £2,160,550 and £2,008,701 to loan £6,844,156 from INQ 14.2.

<sup>83</sup> AA/KK/BB1

fund or redevelop the site. The untested written evidence<sup>84</sup> of Mr Brunson details that "the intention is to explore potential joint venture structures or (if funded directly) to act as Development Manager for the development and delivery of the project." Additionally, Mr Brunson anticipates a build cost of £15.5m for the 155 bed hotel. This is significantly more than the £6 million or £10 million indicative terms.

198. Therefore, I am not persuaded that Mr and Mrs Ali would have the ability to repay funds that would enable them to proceed with the alternative development.
199. Moreover, the reserved matters permission also facilitates a sub-station relocation which serves a wider part of the site, along with connections to the future Barking Town Centre District Heating Network. Alternative proposals would also impact on the phasing, particularly sequencing demolition of the shopping centre, along with cycle storage being in this block, but designed to carry the load for later phases. The field level podium also connects to the wider site which provides the shared amenity space. These would be compromised if alternative proposals were brought forward.
200. Consequently, although the 'integrated' third scheme presents an alternative proposal, I am unconvinced that there is a realistic proposition of it being delivered if 24-34 Station Parade were removed from the CPO. Furthermore, there are comprehensive benefits associated with developing Block B4 as approved with the rest of the scheme. As a result, it does not represent an appropriate alternative development.

#### *NHS PS proposals*

201. Both the AA and the NHS PS have presented draft proposals for the former Vicarage Field Health Centre, with the intention to attempt to agree a land valuation prior to the inquiry. The health centre is surplus to requirements and the NHS PS has repeatedly stated that it is a willing seller.
202. Most of these schemes relate to a 'no scheme principle' and were not proposed as alternatives when considering whether the purpose for which the AA is proposing to acquire the land could be achieved by any other means<sup>85</sup>. Therefore, I will address the implications of these other appraisals in the Outstanding Objections section.
203. Notwithstanding this, alternative proposals were presented by the NHS PS in its evidence<sup>86</sup> to the inquiry. The purpose of these proposals was said to demonstrate alternatives, however Prof. Ritchie conceded under cross examination that the purpose of the alternatives in his evidence was to inform valuation and compensation. He had no instructions to design a scheme that would be submitted for planning permission and none of them had been produced with a view to pursuing a planning application. The alternatives in his evidence were to demonstrate capacity and volume of the site, to inform negotiations between the AA and the NHS PS.

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<sup>84</sup> He was unable to appear at the inquiry.

<sup>85</sup> Tier 2, Section 1, Paragraph 106 of the CPO Guidance

<sup>86</sup> NHSPS/IR/1

204. Nevertheless, for completeness, I have considered Study 2 “Integrated” and Study 3<sup>87</sup>. Study 2 “Integrated” shows a scheme that could be built before, during or after the CPO Scheme, although the construction of the ramp to the servicing area would require careful engineering and construction, and would need further refinement<sup>88</sup>. Study 3 is a standalone orthogonal building for residential development, showing a range of heights, with retention of the London Plane tree.
205. Study 2 “Integrated” could theoretically be delivered with the CPO scheme and may deliver a higher number of homes than the existing tower could do. However, it would considerably reduce the floorplate of Block C and detrimentally impact upon the cinema use proposed, and other uses above, such as the podium field level. I heard evidence that, despite the flexible design, the only realistic location for the cinema is in this position. Block B could accommodate it, but this would impact upon the delivery of the Food Hub. Furthermore, the design approach to the tower design in Professor Ritchie’s scheme does not relate to the CPO Scheme. It looks like a bulge to the slender ‘lozenge’ towers, and I am concerned that the overall design quality of the scheme could be compromised, despite it having the potential to be of standalone high quality. Lastly, there could be implications on the quality of accommodation proposed for the future residents, such as single aspect homes.
206. Study 3 has little relationship with the CPO Scheme and, even though it may deliver a high number of homes, would detrimentally impact on the delivery of the uses in Block C. Also, it is unlikely that the London Plane tree could be retained due to the proximity of development and the root spread. There would also be a high proportion of single aspect dwellings. Lastly, whilst it is presumed the access point could still be delivered, I am uncertain that it could be delivered in the same way the CPO scheme proposes with the realignment of Vicarage Drive to access the school and the public realm enhancements.
207. Particularly in the case of Study 3, given this is a standalone scheme, and it is in the CA and close to a listed building, there may be harm to the heritage assets, and a heritage balance would need to be undertaken. The public benefits may not outweigh the heritage harm as the scheme would deliver fewer comprehensive benefits than the CPO Scheme. This could be an impediment. However, I accept there is a theoretical possibility that a scheme could possibly be designed to ensure there was no heritage harm.
208. If Study 2 “integrated” were proposed as amendments to the CPO Scheme, a new heritage balance would be undertaken (given the CPO Scheme undertook one) and the outcome of this would not be certain given the changes to the tower designs and alterations to the uses proposed.
209. Overall, the comprehensive redevelopment of the scheme is likely to be the best means by which the large scale benefits of the scheme could be realised. Furthermore, the improvements to Vicarage Drive, and the public realm along it, are location specific. The cinema, music venue and health centre have limited potential to be located elsewhere without the larger floor plate in Block C, which is gained from the acquisition of Vicarage Field Health Centre and

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<sup>87</sup> Study 1 and Study 2 are ‘no scheme principle’ proposals

<sup>88</sup> XX Professor Ritchie by Mr Pereira KC

13-23 Ripple Road. These are significant and fundamental parts of the development.

210. Moreover, whilst the NHS PS claim that the AA should have worked with them to pursue alternative proposals, they entered discussions as a willing seller looking to dispose of an asset. Very few suggestions were put forward until nearing the inquiry that the NHS PS wanted to develop a scheme with the AA. Indeed, the NHS PS's consultant Montague Evans were appointed with the intent to dispose of the site as a 'solus transaction'<sup>89</sup>, which is where a disposal involves a negotiated sale, without testing the market, to a selected purchaser – for example a charity or a local authority<sup>90</sup>. Furthermore, the correspondence<sup>91</sup> on behalf of the NHS PS discusses putting the site on the market if a deal cannot be done with the AA.
211. Therefore, whilst I have no doubt that the NHS PS has developed sites and would look to whatever means possible to seek the best possible return for the public purse, I am not persuaded that it would develop the alternative schemes if I were to remove Plot 22 from the CPO. Thus, I do not consider them to be suitable alternative proposals.

#### *36-38 Station Parade proposals*

212. Mr Deane suggested in his objection (Acutus Construction Limited) that he was in the process of submitting a plan for approval to the LPA for a 40 room hotel. He also presented other sites for the affordable housing. During the inquiry, Mr Deane said that he always had proposals and referred to several different options such as retaining the retail unit and adding more homes. However, Mr Deane has not sought pre-application advice or submitted a planning application.
213. Therefore, the suggestion that there is an alternative to the CPO Scheme in respect of his land has little substance and I do not consider there to be any suitable alternative proposals. The other sites presented in his statement<sup>92</sup> for housing would not achieve the same benefits as the comprehensive CPO scheme.

#### *The suitability of any alternative locations*

214. For completeness, the acquisition of 21-23 Ripple Road is critical to deliver road widening and the access along Vicarage Drive. 13-19 Ripple Road contains land use proposals that could not be located elsewhere in the scheme, that are critical to the success of it being truly mixed use and achieving the wider benefits.

#### *Conclusion*

215. Current and emerging planning policy points towards the delivery of comprehensive redevelopment on this site. The whole Order Lands are required to deliver this scale of change necessary in Barking to realise the regeneration effects and reduce the levels of deprivation, and there are no alternatives proposals that would achieve the same purposes for which the AA is proposing to acquire the land.

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<sup>89</sup> INQ34 Mr Williams Proof of Evidence 2.2

<sup>90</sup> NHSPS-2 Estate Code 4.126

<sup>91</sup> NHSPS-5

<sup>92</sup> DAB/1

## **Other potential impediments**

### *Delays in preparation of reserved matters applications*

216. There has been a notable delay in the preparation and submission of reserved matters applications by the developer. The outline planning permission will expire on 19 April 2023<sup>93</sup> and from what I heard, very little work on the detailed plans for the reserved matters applications for the later phases had been carried out up to the inquiry. There has been no pre-application discussions and the LPA has not seen any of the detailed plans for the reserved matters. Conditions which require the submission of phasing plans have not been discharged either. There has been a notable absence of specific phasing information, and this was also redacted from the DI and AGL.
217. The scheme is extremely large and all remaining reserved matters applications, except for the primary school site, need to be submitted. This is a momentous amount of work to be carried out prior to April 2023.
218. Whilst the AA claims it has been awaiting the outcome of this CPO decision, and the witnesses appeared confident that these timescales could be met, it is likely to be extremely tight. Given the CPO was served over a year ago, it concerns me greatly that no detailed plans have yet been worked up and this could represent an impediment to the delivery.

### *The COVID-19 Pandemic*

219. Many objectors refer to the impact of the pandemic upon the scheme, and its resilience and deliverability given the impact that it had upon many commercial sectors and the increase in home working. The AA considers that the economic and business changes apparent since the Covid pandemic are strongly supportive of the mixed-use commercial offer the Scheme would deliver<sup>94</sup>. I agree with the AA.
220. The CPO scheme, as outlined above, aligns with the AA's aspiration of a '15 minute city' concept set out in the Barking Town Centre Regeneration Strategy<sup>95</sup>. It would deliver a flexible town centre scheme that should be resilient to market and commercial fluctuations, moving away from the enclosed retail centre which currently exists.
221. Additionally, AY's Non-Residential Use Analysis<sup>96</sup> analyses the changes since the pandemic, which is strongly supportive of a mixed-use commercial offer, e.g. hybrid working with employees returning to the office on a flexible basis to improve their wellbeing and to interact with colleagues.
222. Mr Cornforth<sup>97</sup> also details that the London Local Enterprise Action Partnership states "Remote working gives rise to the viability of 'hub and spoke' flexible workspace hubs across the city. Outer London's high streets can benefit from this latent demand, with the end of line stations being able to serve their residential neighbourhoods, as well as their wider commuter catchments".

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<sup>93</sup> 6 years from the date the outline planning permission was granted

<sup>94</sup> AA/PC/1 Paragraph 5.38

<sup>95</sup> CDE.1

<sup>96</sup> AA/PC/2 – Appendix 7

<sup>97</sup> AA/PC/6 Paragraph 3.9-3.10



223. Consequently, given that Barking has convenient and excellent public transport access into London, it will benefit considerably from this shift in demand. This represents an opportunity for Barking town centre to attract residential and commercial offers and would not be an impediment to delivery.

#### *Stopping up Order*

224. The objection to the Stopping Up Order for St Awdry's Walk has been withdrawn and this no longer represents an impediment.

### **THE OUTSTANDING OBJECTIONS**

225. The CPO Guidance sets out that acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted<sup>98</sup>. Paragraph 19<sup>99</sup> details what acquiring authorities should consider when negotiating. The AA must demonstrate that it has taken reasonable steps to acquire all the land and rights in the Order by agreement. Compulsory purchase is intended as a last resort.
226. At the time the CPO was made, there were 63 qualifying objections and 3 non-statutory objectors. There was also a Section 16 representation from Network Rail, which has since been withdrawn. One more objection was also withdrawn, relating to new rights to be acquired at Focal House, 12-18 Station Parade (CPO Plot 39), leaving 65 remaining objectors. Despite Ms Blackman's attempts to explain why there has been so few withdrawals<sup>100</sup>, I still consider there to be an unusually high number of remaining objectors, given that only 3 objections have been withdrawn in total and none of these relate to any land which is to be acquired.
227. However, I acknowledge the developer has re-negotiated terms with nearly all units in the shopping centre to secure vacant possession when necessary. They have also successfully achieved high occupancy through concessionary rents and use by community enterprises. I also acknowledge that many objectors are tenants and have followed their landlord's objections to the scheme.
228. On the last day of the inquiry, the AA provided me with an updated Schedule of Objections<sup>101</sup> (SoO). This set out the negotiation position of the AA with each objector to the CPO.

### **Overall approach to negotiations**

#### *Providing full information at the outset*

229. The AA appears to have tried to engage with landowners, tenants, occupiers and leaseholders in the Order Lands over several years, primarily through letters and emails. All those with an interest in the land were sent letters from as early as 2015 seeking to acquire the land by private treaty. Another letter was sent to all registered interests in January 2018<sup>102</sup> to seek to acquire each third party interest by agreement. The letter identified phone numbers and email

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<sup>98</sup> Tier 1, Stage 3, Paragraph 17

<sup>99</sup> Tier 1, Stage 3

<sup>100</sup> INQ33

<sup>101</sup> INQ41

<sup>102</sup> AA/AS/2d

addresses and outlined the scheme. It provided information that construction was planned to begin in spring/summer 2019. However, this letter did not mention compulsory purchase, never mind provide full information from the outset about what the compulsory purchase process involves, and the rights and duties of those affected.

230. I understand that a dedicated scheme website was set up to make information readily available for those needing support, along with a website for those with a property interest, hosted by the Programme Officer. However, it is unclear when these websites were set up. Furthermore, objectors would have to seek out this information, and were not provided with website information in January 2018.
231. Notwithstanding this, I recognise that other letters were sent, and indeed, a letter<sup>103</sup> to Mr Ali in April 2018 set out that the Council had agreed in principle to use CPO powers to acquire land, and that the AA would pay reasonable fees for a surveyor to negotiate.
232. However, based on the evidence before me, only 10 days before the CPO was made<sup>104</sup>, was a letter<sup>105</sup> sent from the Council to all those with a land interest detailing that CPO powers would be used and an indicative date of when the CPO would be made, along with outlining the scheme. At the same time, letters<sup>106</sup> were sent from GCW, making financial offers to acquire properties by private treaty and detailed that works would commence Summer 2022. They also set out that the AA would pay reasonable fees for a surveyor to negotiate.
233. Whilst the AA appear to have attempted to provide information, I am unable to conclude that full information was provided at the outset of this process, particularly relating to what the compulsory purchase process involves, and notably the rights and duties of those affected. The batch letters sent 10 days before making the CPO was tardy, and even these letters contain limited information about what the compulsory purchase process involves, and the rights and duties of those affected.
234. Furthermore, despite letters being sent to the parties subject to the CPO, few meetings between interested parties and the AA have taken place. The AA has offered to arrange meetings, but there has been little engagement from many parties, with many of the objectors ignoring the letters or disengaging from the process. Assertions are made from various objectors<sup>107</sup> about the methods of negotiations, particularly in the earlier years, including dismissive, condescending or threatening behaviour, being only interested in 'bricks and mortar' and not wanting to work with existing landowners. The prospect of a CPO is already very stressful to those directly affected, and if this was how objectors felt, it is hardly surprising that they disengaged.

*Appointing a specified case manager during the preparatory stage*

235. The AA and developer have appointed numerous case managers, such as Gowling WLG (UK) LLP, Savills, Londonewcastle, GCW, Lambert Smith

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<sup>103</sup> AA/AS/4 Appendix 1

<sup>104</sup> 14 June 2021

<sup>105</sup> AA/AS/2e

<sup>106</sup> AA/AS/2g

<sup>107</sup> Mr and Mrs Ali, and Mr Sahota and Ms Khanda



Hampton, Savills and Currell Estate Agents (now Savills Estate Agents) and AY. AY have been the lead negotiators since April 2017, but have also used GCW and Lambert Smith Hampton.

236. GCW are specialist commercial agents carrying out the negotiations within the shopping centre and the street properties. AY are specialist compulsory purchase surveyors, working with GCW on negotiations and carrying out negotiations with NHS PS. AY also carried out initial negotiations prior to the making of the Order with Network Rail. Some early negotiations with some of the residential units was also carried out by Currell Estate Agents (now Savills).
237. The shopping centre manager and the developer's development managers Londonewcastle, and Mr Cornforth directly on behalf of the developer, have also been involved in some of the negotiations. Mr Harley, on behalf of Be First and the Council, has also been involved.
238. There have been numerous points of contact that have changed over the years. Objectors appear to have contacted different people at different times and it could not be said that there has been a specified case manager involved who provided a single point of contact to whom those with concerns about the proposed acquisition could have easy and direct access to.

*Keeping any delay to a minimum*

239. The scheme has taken an unusually long time to progress. Nearly 7 years in total from the pre-application discussions to the consideration of this CPO at inquiry. Objectors have been living in limbo since 2015, not knowing what would happen, thwarted by the threat of a CPO. The CPO Guidance<sup>108</sup> advises that as a CPO will inevitably lead to a period of uncertainty and anxiety for the owners and occupiers of the affected land, acquiring authorities should consider keeping any delay to a minimum by completing the statutory process as quickly as possible.
240. Whilst the Council's Cabinet resolved to utilise CPO powers in March<sup>109</sup> and July<sup>110</sup> 2018, the CPO was only made on 14 June 2021. The AA comments that the 3 years in between Cabinet approval and making the Order were taken up with preparing the site, including land referencing work, negotiations to acquire land by private treaty, amending the Order to ensure no land take from Network Rail and progressing the reserved matters. There was also the matter of drawing up the AGL and DI legal agreements. BE were also acquired by PineBridge during this time.
241. The July 2018 Cabinet Report refers to the intent for construction to start in early 2020, but the AA claim that this was based on conditions being addressed quickly. These were not addressed quickly, and other matters, such as drawing up the legal agreement, took longer than they anticipated. This is said to be due to BE being acquired by PineBridge, which concluded on 31 December 2020. The legal agreements between the developer and the AA were signed in March 2021.

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<sup>108</sup> Tier 1, Stage 3, paragraph 19.

<sup>109</sup> CDA.1

<sup>110</sup> CDA.2

242. However, negotiations to acquire land by private treaty occur alongside a CPO, and are not a reason to hold it up. The Network Rail objection and resolution occurred after the CPO was made. Only Phase 1 of the reserved matters has been progressed, this is a small part of the site, approved in December 2019. Land referencing work does not take 3 years, even with a pandemic, and I heard evidence from Mr Sahota that very short timescales were given to landowners to provide this information.
243. Mr Cornforth<sup>111</sup> explained that the delays were to ensure the scheme is viable, waiting for the values in the town centre to increase. It was also reflective of high street changes over the last few years and the pandemic. However, Mr Messenger<sup>112</sup> said that the pandemic had not had a material bearing on the progression. Therefore, I can only assume that the delay has been due to viability, and I am unable to conclude that the CPO was progressed as quickly as possible.

*Offering to alleviate concerns about future compensation entitlement*

244. The financial offer letters<sup>113</sup> show offers were made up of current market value and allowances for other non-market heads of claims the interested parties could be entitled to under the CPO Guidance. However, no evidence is provided that the AA offered owners and occupiers any agreements about the minimum level of compensation which would be payable if the acquisition went ahead, and no objections were withdrawn by any owners/occupiers.

*Offering advice and assistance to affected occupiers in respect of their relocation*

245. The CPO Guidance<sup>114</sup> advises that 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.
246. The March 2018 Cabinet Report<sup>115</sup>, which sought approval to use CPO powers set out that “the developer, Be First and the Council will work together on a strategy to support business relocations wherever possible to other town centre locations or other locations within the Borough. It is acknowledged vacancy rates in the Borough are relatively low and that the Council’s own stock of premises is limited”.
247. However, this strategy<sup>116</sup> was not produced until earlier this year, being submitted after the inquiry had opened. It has not been published by the AA and the first time objectors would have seen it was when it was submitted as an inquiry document. The strategy does very little to support relocations and was not produced early in the process.
248. It provides contact details for the AA, sets out how to seek business support, offering a free initial advice session with Barking Enterprise Centre, and provides 5 options for relocations. These include contacting local estate agents for vacant properties, using Roycraft House for businesses not reliant on passing trade, businesses becoming street market traders, moving to Dagenham or the possibility of relocating into the CPO Scheme. It gives

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<sup>111</sup> XX by Mr Elvin KC

<sup>112</sup> XX by Mr Elvin KC

<sup>113</sup> AA/AS/2g

<sup>114</sup> Tier 1, General Overview, Paragraph 3

<sup>115</sup> CDA.1

<sup>116</sup> INQ3

advice on claiming disturbance compensation and provides some information weblinks.

249. Providing contacts for local estate agents 'passes the buck' and while they may be well placed for knowledge on vacancies, it is the AA who is meant to offer advice and assistance. Roycraft House would not suit many of the existing businesses who occupy buildings in the CPO lands as they rely on passing trade. Suggesting the businesses become market traders is marginally impertinent. Relocation to Dagenham is likely to be unsuitable for many because it is a lower tier shopping centre and less accessible than Barking.
250. The possibility of re-locating into the CPO Scheme is perhaps the most favourable option for many businesses, yet I heard very few businesses<sup>117</sup> have been offered this, and none have committed. Aside from Thomas Pharmacy, they are all national traders and not the independent locals most affected. There is also little in place to facilitate this relocation and for some it would simply be impossible, i.e. those affected by the first phase.
251. The Council assert it is doing what it can to support local businesses, and it is looking to offer a bespoke approach, holding a series of drop in sessions where occupiers can discuss their relocation needs nearer to the time. However, very little advice and assistance to affected occupiers in respect of their relocation has been provided to date. Indeed Mr Harley<sup>118</sup> details that support available to date has focussed around broader help for the sectors badly hit by the pandemic rather than relocation to those affected by the CPO.
252. Condition 61 of the planning permission<sup>119</sup> requires a development implementation strategy which shall include details of any phasing, measures to mitigate the impact of the development on the vitality and viability of Barking Town Centre during the demolition and construction phase including meanwhile uses<sup>120</sup>, and details of consultation undertaken with the local Commissioner for NHS Community Pharmacy Services to confirm any reasonable mitigation measures required to ensure adequate provision of local pharmacy services during construction.
253. The reason for this condition is to ensure that existing businesses are supported in their desire to relocate and to ensure a similar level of function, vitality and viability of the town centre as is currently experienced throughout the construction period of the development. Satisfaction of the condition would help businesses to relocate. Yet, this is a condition of the planning permission and it has not been discharged, and does little to support the AA's claim that it has been offering advice and assistance to affected occupiers in respect of their relocation during the consideration of the CPO.
254. Objectors presented the Shepherds Bush CPO decision<sup>121</sup> as justification for their objections to the lack of relocation support. However, this is very different because there is no policy requirement to preserve existing businesses.

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<sup>117</sup> 5 in total

<sup>118</sup> AA/DH/1

<sup>119</sup> CDC.1

<sup>120</sup> Temporary commercial uses of empty property and land, for example, pop-up cafés or shops.

<sup>121</sup> INQ10

255. It is also very different to the Elephant and Castle Shopping Centre redevelopment<sup>122</sup>, which was presented by the Barking and Dagenham Heritage Conservation Group. This is because the Order Lands do not provide a distinctive shopping destination and area for a particular ethnic group. The Equalities Impact Assessment<sup>123</sup> details that the businesses are reflective of other types of business within the town centre and consequently there are no businesses identified as providing a service or range of products specifically serving any protected characteristics group which is not available elsewhere in the town centre.
256. Nevertheless, there are a significant number of businesses, many independent long term traders, that would be affected by the CPO scheme. Whilst the developer states that a key aspect of the tenant mix strategy is to enhance and embrace the opportunity to accommodate independent traders<sup>124</sup>, providing affordable rents, the CPO Scheme will not be able to accommodate all existing businesses.
257. Mr Harley was clear that the Council's ambition is to maximize opportunities for existing businesses to be relocated within the CPO Scheme, town centre or the Borough, and that the relocation support would increase if the CPO were confirmed. Many relocations would not take place until the CPO was confirmed because the AA would want to ensure vitality in the street scene. However, there is little evidence to demonstrate that the AA has been offering advice and assistance to affected occupiers in respect of their relocation during the CPO process.

*Providing a 'not before' date*

258. There is no evidence that the AA provided a 'not before' date, confirming that acquisition would not take place before a certain time. Quite the opposite, the letters detail different timescales and expectations, the first letter from 2018 suggested construction is planned to start in spring/summer 2019, with this changing over time.
259. Accurate phasing information would have provided many occupiers with certainty, and would have enabled certain objectors, such as Mr Sahota and Mrs Kanda, to proceed with their business plans in the intervening period from 2015 to now. Indeed, for some on Ripple Road, it could be over 4 years before their properties are required based on Mr Cornforth's estimations, yet I have no precise phasing information. This is a poor way to treat those subjected to the CPO.

*Funding landowners' reasonable costs of negotiation*

260. The AA has offered to pay reasonable costs for each objector to appoint an independent professional to work on their behalf. However, many did not take up this option, with several claiming that the AA were not willing to pay the costs when estimates were provided. The AA deny this claim.
261. 24-34 Station Parade (CPO Plots 2-10) – Mr Ali Kadhodayi-Kholgi, Mrs Jahanpanah, HungerBurger Ltd and personal representatives of Paula Mary Baker (deceased) – the objectors assert that the AA refused to pay their

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<sup>122</sup> INQ31

<sup>123</sup> CDA.8

<sup>124</sup> AA/DK/4

consultants costs, even though they received letters advising them in April 2018<sup>125</sup> that the developer would pay the reasonable costs of appointing a surveyor. Mr McCafferty, acting for the objectors raised the question of fee repayments in summer 2019.

262. The developer agreed to pay the reasonable fees for Mr McCafferty to assist the owners with negotiations. Mr McCafferty put forward a suggested fee proposal, which the AA considered to be onerous for the initial negotiations. Mr McCafferty is based in Scotland and wanted reimbursement of fees for travelling to London to meet in person as well as up to 20 hours' worth of time. AY offered to pay an initial fee cap of £500 (equal to 3 hours)<sup>126</sup> to have an initial meeting by conference call in August 2019.
263. AY chased Mr McCafferty several times over the next few months to arrange the meeting. In January 2020, Mr McCafferty explained that Mr Ali would like to meet in person. AY sent a follow up email<sup>127</sup>, confirming that this could be arranged when Mr McCafferty was next in London. This meeting never took place and in February 2020, Mr McCafferty<sup>128</sup> advised AY to contact Mr Ali directly going forward and provided his phone number. Mr Ali asserts no one called him.
264. Mr Ali wanted to use Mr McCafferty, as he had advised him on Mr Ali's first CPO, when his property was compulsorily acquired to develop VFSC. Yet, the expectation that the AA would pay for travel costs from Scotland is unreasonable and the fee cap of £500 for the initial meeting appears reasonable, given that Mr McCafferty was often in London for other matters. Therefore, the AA's offer to pay the fee for an initial meeting was reasonable.
265. *Mr Sahota and Mrs Kanda (17-19 Ripple Road)* – the objectors refer to the developer refusing to pay reasonable costs associated with a surveyor. The AA strongly refute the accusations and there is evidence in both the objectors' and AA's correspondence that offers were made to pay reasonable fees. Therefore, there is no tangible evidence before me that the AA refused to pay Mr Sahota and Mrs Kanda's surveyor fees.

### **Conclusion**

266. Based on the evidence before me, and having regard to the CPO Guidance, I am not persuaded that the AA has genuinely attempted to negotiate with the affected parties in line with the CPO Guidance in relation to providing full information at the outset, appointing a specified case manager, keeping any delay to a minimum, offering advice and assistance to affected occupiers about relocations and providing a 'not before' date.

### **Outstanding objections – Freeholders**

*Objections – 24-34 Station Parade (CPO Plots 2-10) – Mr Ali Kadhodayi-Kholgi, Mrs Jahanpanah, HungerBurger Ltd and personal representatives of Paula Mary Baker (deceased)*

267. Evidence was presented by Mr Ali, along with professional witnesses on the topics of planning, negotiations and design. Objections were also raised in

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<sup>125</sup> AA/AS/4 – Appendix 1

<sup>126</sup> XX – Ms Squires by Mr Elvin KC

<sup>127</sup> AA/AS/4 – Appendix 2

<sup>128</sup> INQ18

relation to viability, which I have considered earlier. I have also considered the alternative proposals above and the planning implications of the objections. I will address the outstanding objection to negotiations below.

268. Negotiations – negotiations between the objectors and the AA started in 2015, with letters sent in November and December 2015 and June 2016. Letters were also sent in January and April 2018<sup>129</sup> seeking to acquire Mr and Mrs Ali's interests. No response was received.
269. Mr and Mrs Ali attended the July 2018 Cabinet meeting where the decision to make the CPO was taken. Mr Ali raised his concerns and requested that the Cabinet allowed him to carry out his own redevelopment. This approach was not accepted by the Council who resolved to make the CPO.
270. Mr Ali claims that he spoke to Mr Gooch of GCW following the letter in April 2018. Mr Ali explained that Mr Gooch was only interested in acquiring the properties, and was dismissive about Mr Ali's suggestions of relocation or alignment to the regeneration ambitions, whilst retaining ownership. Mr Gooch was not present at the inquiry and I have only Mr Ali's distressed story to rely upon. However, I have no reason to doubt his recollection.
271. The AA did not receive any contact from or on behalf of the objectors until February 2019, when Andrew McCafferty Associates sent a letter to DP9 (the developer's planning consultants). As the matters of the letter related to negotiations to acquire 3<sup>rd</sup> party interests, Ms Squires, acting for AY, replied in May 2019, setting out her role in site assembly and offered to meet.
272. Emails were exchanged between Ms Squires, Mr Ali and Mr McCafferty, and attempts to arrange a meeting took place between May 2019 - February 2020. However, as detailed above, no meeting ever occurred.
273. GCW contacted Mr Ali in January 2021 to try to further negotiations. Mr Kite had a phone call with Mr Ali in February 2021 and asked for clarification of the tenancy information within his ownerships on Station Parade. He followed this up with an email<sup>130</sup> on 12 February 2021. No response was received.
274. Prior to making the CPO in June 2021, as detailed above 2 letters<sup>131</sup> were sent providing an update on the Order, a link to the website, an offer to meet in person or virtually and a reminder that reasonable fees would be paid by the Developer for a surveyor to negotiate. The letter detailed that the developer would continue to negotiate to acquire the interests by private treaty and made financial offers for the various ownerships. Mr Ali claims that the offer was a shameful and inadequate amount, but the AA claim the developer was basing the offer upon very limited information about tenancies and leaseholds. The letter also asked the owners to clarify if any of the tenancy or property information was incorrect so that the developer could potentially make an improved financial offer. No response was received.
275. The developer wrote to all objectors in October 2021, offering to meet. Mr Ali replied to this letter to inform the AA that Mr McCafferty no longer represented him, and he had instructed Mr Lakhani. In the interim, Mr Lewis of Russell Lewis Property Consultants contacted the AA to inform them that

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<sup>129</sup> AA/AS/4 – Appendix 1

<sup>130</sup> AA/AS/4 – Appendix 3

<sup>131</sup> AA/AS/4 – Appendix 4 and AA/AS/2e



- they were instructed, and asked to meet. Emails were exchanged. Yet after this Mr Ali told the AA that only Mr Lakhani was instructed on his behalf.
276. On the 8 February 2022, the developer met with Mr and Mrs Ali, their 2 sons, Mr Lakhani and Mr Lewis. Despite Mr Ali informing the AA that Mr Lewis was not instructed, he was present at the meeting. However, after the meeting, Mr Ali informed the AA again that Mr Lewis was no longer acting for him and that the AA should not communicate with him.
277. During the meeting<sup>132</sup>, the objections, potential acquisitions, timing and progress of the CPO, the financial offer, excluding Mr and Mrs Ali's interests, the difficulties of relocating Barking Hotel, and the pre-application submission were discussed. Negotiations have continued by email since this meeting on the financial offer. The AA have maintained that they will review the financial offer if further information on the leases and tenancies can be provided.
278. Relocation properties were also looked at by the developer, after 2 sites were suggested by Mr Lewis. A response<sup>133</sup> from the AA was sent in March 2020 explaining that they were not able to offer them as suitable relocations as they were both privately owned.
279. The SoO details that the developer has appointed a specialist hotel valuer within AY to review whether a higher financial offer can be made to acquire Mr and Mrs Ali's interests. Representatives from AY were due to meet with Mr Ali and Mr Lakhani on 18 May 2022 to carry out a site inspection, but Mr Ali cancelled the inspection because he was poorly. An inspection was set up for 15 July 2022, but given that the inquiry is closed, I do not know the outcome of this.
280. With regards to Paula Baker/The Personal Representatives of Paula Baker at 30-32 Station Parade, a letter was sent in January 2018 and April 2018. A letter from GCW was sent in July 2020, setting out that the developer would like to make a financial offer, but needed tenancy information to make it credible. GCW also sent a follow up letter in September 2020, suggesting a telephone call to discuss the project and CPO process. No response was received to any of these letters.
281. In October 2020, the AA became aware that Paula Baker had died and in April 2021, Mr Shindler of Londonewcastle, drove to the registered address of Paula Baker to make contact. Mr Shindler met with family members. He explained the CPO process and scheme and set out that the developer would like to acquire the properties by private treaty, but needed to understand the tenancies. There was limited email correspondence following this meeting and nothing further on the tenancies.
282. GCW also sent an offer letter<sup>134</sup> to the personal representatives in early June 2021, akin to that sent to Mr and Mrs Ali. Their response to the AA was that they had already been offered significantly more by one of their neighbours and so they were not inclined to take matters further. Mr Kite responded to this information asking for tenancy information and copies of leases/licenses to see if this might enable the Developer to make an improved offer. No reply was received.

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<sup>132</sup> AA/AS/4 – Appendix 6

<sup>133</sup> AA/AS/4 – Appendix 7

<sup>134</sup> AA/AS/4 – Appendix 5

283. The SoO details that the AA have offered to meet with the Personal Representatives of Paula Baker (deceased), but there has been no response.
284. *Conclusion on negotiations* – There have been changes in the objectors’ consultants, and the AA were not always aware who it should be contacting, and if they were representing just Mr and Mrs Ali or additionally the personal representatives, although it became clear at the inquiry that the personal representatives supported Mr and Mrs Ali’s case. On the other hand, there have also been changes to the AA’s contacts over time.
285. The AA has sought to acquire the properties by private treaty, but from first contact in 2015, it took until February 2020 before a meeting took place with Mr and Mrs Ali. This has been similar for the personal representatives, with a meeting taking place in June 2021 and no further contact.
286. However, Mr Ali’s call with Mr Gooch left him sad and disappointed, and his lack of engagement is likely a result of this, along with the negative response to his pre-application proposals, and the knowledge that the LPA then granted a scheme taller than what he had proposed so soon afterwards.
287. There has been an absence of information provided by the objectors to enable the AA to provide a proper valuation. That said, the financial offers proposed are said to be a shameful and inadequate amount and there are also large periods of time where there has been no contact from the AA.
288. The AA has not negotiated frequently with the objectors, and this follows a similar trend to the delays processing the CPO overall. Limited information was provided at the outset, there has been limited consideration of relocation, and the gaps in communication are unlikely to encourage landowners to negotiate.
289. *Other objections* – This is the second CPO that Mr and Mrs Ali have been subjected to. This is truly unfortunate, particularly given that the first CPO was made to facilitate the development of the shopping centre, which is now being demolished to pursue this CPO scheme. It would be unusual to be subjected to one CPO in a lifetime, but to be subjected to 2 is enormously stressful. I have a great deal of empathy for Mr and Mrs Ali.
290. Mr and Mrs Ali were relocated from 44 Station Parade to 24 Station Parade, where they began to rebuild their businesses, expanding their property portfolio and created Barking Hotel, a family run business. The Alis spend long hours working at the hotel, they have a core team of 10 local employees, and Mr Ali considers that the local community knows them as a key cultural and social institution<sup>135</sup>. Mr and Mrs Ali explicitly wish to stay in Barking town centre so that they can continue to operate the hotel business.
291. As well as providing accommodation in the normal sense that a hotel would, Mr and Mrs Ali also provide emergency accommodation<sup>136</sup> for both homeless people, women and children affected by domestic violence, and those affected by flood, fire or emergency evacuations. They have provided services for the Council in the past, and it is also used by other local authorities and charities. They played an important role during the pandemic, housing key workers. The

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<sup>135</sup> AAKK/1 Paragraph 3.5

<sup>136</sup> AAKK-10



CPO scheme would not replace this service, and I have addressed this in the Human Rights and Equalities section.

292. The CPO Scheme includes the provision of a hotel, which the objectors claim is not guaranteed to come forward. I agree. There is no requirement within the planning obligation for the hotel to be delivered, and the minimum area in the parameters for this use is 0 sqm, meaning it could be removed from the scheme. Mr Ali has also not been offered the opportunity to relocate his hotel into the new hotel space. Given the lack of alternatives within the town centre for relocation of the Barking Hotel, I am surprised that this has not been considered to ensure that growth is inclusive and no-one is left behind, which the Economic Prospectus<sup>137</sup> for the Borough encourages. However, if relocation is not possible, Barking Hotel would be forced to close. This would result in the loss of jobs, which is an adverse effect of the CPO.

*Objection – 36-38 Station Parade (CPO Plots 11, 12 and 13) – Siraj Deane and Jennifer Beecroft (Post Centre Limited, Deane & Brothers and Acutus Construction Ltd)*

293. Mr Deane represented himself at the inquiry and he informed me that his wife runs the Post Centre. I have assessed his proposals for alternative schemes above and considered his objections within other parts of the decision.

*Objection – Vicarage Field Health Centre (CPO Plot 22) – National Health Service Property Services*

294. The NHS PS presented evidence on planning and negotiations, heritage and design and I have already considered its alternative proposals above. Objections were also raised in relation to viability, which I have considered earlier.
295. The NHS PS's principal argument is that it does not believe that the AA has negotiated reasonably by failing to recognise that the 2 parties could have worked together, offering a fair price for the land and failing to share information in order to understand the land value offered by the AA.
296. Both parties fundamentally disagree with each other's assumptions of the quantum of development and, to a lesser extent, the amount of affordable housing that would be necessary in a 'no scheme principle'. The 'no scheme principle' is the amount which the land might be expected to realise if sold on the open market by a willing seller, disregarding any effect on value of the CPO Scheme.
297. The site is critical to the CPO Scheme, given it provides the main access to the whole site and contains around half a residential tower block and part of the cinema. Although the NHS PS assert that this was not explained until the inquiry, it is clear that the access point for the whole site takes up most of Plot 22. There are no other access options, because access was considered and approved as part of the outline planning application.
298. Negotiations – there has been ongoing negotiations since 2016, when I understand that the developer approached the occupiers of the health centre directly.

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<sup>137</sup> CDE.2

299. However, negotiations with professional representatives began with NHS PS in January 2018, when initial contact was made by the developer's agents GCW. AY took over negotiations in September 2018, with a meeting taking place<sup>138</sup>. There have been fits and starts of communication from 2018 until 2022, which is set out between the NHS PS<sup>139</sup> evidence and that of Ms Squires<sup>140</sup>.
300. In December 2018, a meeting took place and email correspondence<sup>141</sup> and meeting notes reference a development appraisal for redevelopment of the site for a 20 storey tower with 125 residential units proposed by the NHS PS. AY requested that electronic copies of the development proposals, planning explanation and development appraisal were provided. These were sent by the NHS PS to the AA 3 months<sup>142</sup> later in early March 2019 and detail a 21 storey and a 15 storey scheme.
301. No contact is recorded in evidence until 7 months later in October 2019, when an initial valuation of the land was produced by AY based on its feasibility study<sup>143</sup>, which assumed a 4-6 storey development of 27 residential units and replacement clinic. It was produced by SEW (the CPO scheme designers). The AA have never moved away from this assumption of development.
302. It was asserted by the NHS PS in the last week of the inquiry that there are errors in relation to the calculations of area and capacity in the feasibility study, and this has impacted on the land valuation by the AA. However, the errors relate to land valuation, which is not a matter before me, and in any event, are unlikely to have made a significant difference.
303. The correspondence<sup>144</sup> over October-December 2019 essentially goes in circles. The NHS PS were shocked by the valuation arrived at by the AA and asked the AA to look at land comparable transactions, along with reviewing its assumptions and valuation and present a more appropriate land value. The AA detailed that a discussion on site capacity would be more useful because they considered that the quantum of development would heavily influence the analysis. The NHS PS asked the AA to review land comparable evidence again and review its offer, stating there was no point in meeting until that had been done, and if the AA wanted to meet and progress matters, a 7 figure offer was needed. The AA replied with an increased offer of £800,000. When the non-market value elements of CPO compensation were added, this amounted to a 7 figure sum. The NHS PS disagreed with the sum offered, because it did not refer to any land comparable evidence. A land comparable transaction was provided by the NHS PS for the Thames View Clinic site sold to the AA in 2018. This site was in a lower value and lower density part of the borough and was sold for £1.85m. Despite chasing, no reply was received from the AA.
304. The next bout of correspondence was 3 months later in March 2020 when the NHS PS presented another scheme<sup>145</sup> for 77 homes across 5 to 15 storeys and 221 sqm of office space. This package also included Heads of Terms<sup>146</sup> and a

<sup>138</sup> AA/AS/9 Appendix 1

<sup>139</sup> NHSPS-5

<sup>140</sup> AA/AS/9

<sup>141</sup> AA/AS/9 Appendix 3

<sup>142</sup> AA/AS/9 Appendix 4

<sup>143</sup> NHSPS-5 pages 3-16

<sup>144</sup> NHSPS-5 pages 20-38

<sup>145</sup> NHSPS-5 pages 39-57

<sup>146</sup> NHSPS-5 pages 58-68

note on development capacity<sup>147</sup>. Significant concerns<sup>148</sup> were raised by the AA, and it put forward a total purchase consideration of £1million, which was explained as £800,000 for the land and £200,000 for the non-market value elements of CPO compensation. No written justification was provided to explain the AA's planning assumptions for its feasibility study, despite repeated requests from NHS PS over several months. Direct contact between employees of the NHS PS and AA took place over June-August 2020, when the AA advised that the NHS PS should submit a CAAD.

305. In October 2020, some 7 months after the NHS PS scheme and 12 months after its own feasibility study, AY produced a planning review briefing note<sup>149</sup> for the site, which repeated much of their prior assumptions that a 4-6 storey building was the maximum possible quantum of development. It also introduced heritage as a consideration, and again suggested that the NHS PS pursue a CAAD. The NHS PS replied with questions, including querying whose planning advice the AA was relying upon, commentary on the land comparable values and the lack of contact<sup>150</sup>. The AA explained<sup>151</sup> that the note brought together the responses from the developer's planning team to the NHS PS's scheme of March 2020. The AA advised, again, that it would not be beneficial to review land comparable evidence until there was agreement over the quantum of development. The NHS PS<sup>152</sup> then invited the AA to consider if there was an alternative to the compulsory acquisition, including the acquisition of land adjacent to the highway to facilitate access to the scheme. No response was received on this matter.
306. There is then another gap in correspondence for 7 months until May 2021, when the AA<sup>153</sup> provided an update on the CPO and reiterated its offer of £1 million total consideration to acquire the site. NHS PS<sup>154</sup> responded again with the same concerns relating to the lack of planning advice for the AA's assumptions, alternative acquisition of land, and why the land is required.
307. A meeting took place in June 2021, after the CPO had been made, and the AA increased its total consideration to £1.1 million<sup>155</sup>. The reply from the NHS PS<sup>156</sup> set out the offer represented a significant under valuation, highlighted its concerns over sporadic correspondence in the past 2 years, along with many other issues. The NHS PS requested the AA to agree with its site valuation of £2-2.5 million.
308. At the end of August 2021, following chase up emails from the NHS PS, the AA explained that the site was necessary to deliver the full benefits of the CPO Scheme, and that alternatives have been properly considered, but the CPO Scheme was the most appropriate to ensure the regeneration benefits were delivered. The £1.1 million offer remained the same.

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<sup>147</sup> NHSPS-5 pages 69-74

<sup>148</sup> NHSPS-5 pages 75-76 and AA/AS/9 Appendix 6

<sup>149</sup> NHSPS-5 pages 88-91

<sup>150</sup> NHSPS-5 page 92

<sup>151</sup> NHSPS-5 page 97

<sup>152</sup> NHSPS-5 pages 98-100

<sup>153</sup> NHSPS-5 page 101

<sup>154</sup> NHSPS-5 pages 102-103

<sup>155</sup> NHSPS-5 page 116

<sup>156</sup> NHSPS-5 pages 119-120

309. The NHS PS replied<sup>157</sup> in September 2021 outlining several issues and objections, much of which had already been mentioned in earlier correspondence. During September, Mr Harley on behalf of Be First provided the NHS PS with Council land sale transactions<sup>158</sup>. In November 2021, the NHS PS presented comparable land values and asked the AA to review, along with another set of Heads of Terms for the land sale<sup>159</sup>.
310. In December 2021, the AA provided a response that the comparable land values did not support the NHS PS's assumption of a higher land value<sup>160</sup> and asked a question about Waking Road. No response is said to have been received from the NHS PS.
311. The reply<sup>161</sup> to the AA from NHS PS sets out that it had proposed a market value based on land comparable evidence, and whilst the AA disagreed, they had provided no counter evidence. The NHS PS also detailed that both parties had discussed seeking a potential third party opinion (i.e. to act as an independent broker between the 2 parties) to try to reach a position where they could agree density and height. No response is made to this point, with the AA's reply<sup>162</sup> setting out that the key issue remaining was the quantum of development in a 'no scheme principle' to inform the valuation of the site, but they were looking to make a higher financial offer. This was chased up<sup>163</sup> 4 times by the NHS PS in January 2022, and a revised offer<sup>164</sup> of £1.2 million was made by the AA in February 2022.
312. NHS PS replied<sup>165</sup> in March 2022, setting out that the offer was made up of £800,000 for the land and £400,000 for additional costs. The NHS PS could not transact for anything less than market value due its Health Building Note 00-08 Estate Code<sup>166</sup>, which they considered to be £2-2.5 million. The NHS PS asserted that the AA had produced no compelling comparable evidence to underpin the value, despite the NHS PS presenting evidence of comparable land sales. The AA replied that the parties had very different views of value<sup>167</sup>.
313. In the SoO, it sets out that following the cross examination of Ms Squires, where the sharing of comparable land transactions was discussed, she sent a copy of the AA's comparables to the NHS PS. I will discuss this below.
314. Similar to other objectors, the correspondence has been patchy and sporadic from the AA, with large gaps between communication and numerous chase up requests from the NHS PS. There have been delays and periods where no communication between parties has taken place, and there is a notable absence of reply to the request for the planning advice that underpins the AA's assumption of the quantum of development.
315. Certificate of Appropriate Alternative Development – All alternative schemes have not been pursued by the NHS PS to a pre-application discussion or submitted a planning application. The NHS PS has also chosen not to submit a

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<sup>157</sup> NHSPS-5 pages 128-129

<sup>158</sup> NHSPS-5 pages 131-142

<sup>159</sup> NHSPS-5 pages 144-156

<sup>160</sup> NHSPS-5 page 161

<sup>161</sup> NHSPS-5 page 163

<sup>162</sup> NHSPS-5 page 164

<sup>163</sup> NHSPS-5 pages 165-170

<sup>164</sup> NHSPS-5 page 171

<sup>165</sup> NHSPS-5 page 173

<sup>166</sup> NHSPS-2

<sup>167</sup> NHSPS-5 page 174

CAAD to the LPA, despite stating that it would be pursuing this<sup>168</sup> in September 2021. The CPO Guidance sets out that it is appropriate to apply for a CAAD if the amount of development which would be allowed is uncertain. It seems to me to be an entirely appropriate approach in this instance.

316. The NHS PS explained that because the developer concluded that only 4-6 storeys would be acceptable, and they are working closely with the LPA, it had no confidence that any other conclusion would be reached if it applied for a CAAD. An appeal to the Upper Tribunal (Lands Chamber) would take a significant amount of time, incapable of being resolved prior to this decision being made. Therefore, it could have put them in a worse position, with a CAAD that likely agreed with the AA's assumptions.
317. I sympathise with the NHS PS's reluctance to apply for a CAAD. The consultants acting on behalf of the AA have been resolute in their opinion of the quantum of development, and I am unsure that a CAAD application would have reached a different conclusion. This is also somewhat substantiated by Mr Harley's reply<sup>169</sup> to Mr Hotson which set out that there was a difference on the quantum of development.
318. Furthermore, the right of appeal takes time. The AA presented examples of CAAD timescales<sup>170</sup> and these showed that it took between 14 and 24 months from submission of the CAAD to a tribunal decision. The indication that the NHS PS was going to apply was mooted in September 2021, and it is very unlikely that a decision from the Lands Chamber would have been issued before the inquiry.
319. I accept that the AA<sup>171</sup> suggested in August 2020 that the NHS PS should submit a CAAD if it did not agree with the assumptions over the quantum of development. However, the NHS PS<sup>172</sup> detailed that it would be an inappropriate use of its resources, because despite asking, the NHS PS had still not seen the planning advice to explain the AA's position on the quantum of development, and without this it would begin the application process at a disadvantage.
320. The pursuit of a CAAD may have helped if it had been submitted earlier in the process, but I understand why the NHS PS chose not to submit one.
321. Differences on quantum of development – the AA has never provided written evidence of its planning assumptions for the quantum of development on the site. It states that they were arrived at through discussions with the developer's planning consultants, DP9, and whilst there is no record of DP9 providing planning advice to AY, under cross examination, Mr Messenger confirmed that his views were contained in the AY note<sup>173</sup>. Nevertheless, it is unusual that there is no written record of this advice, particularly considering that a feasibility study was developed on the back of it.
322. The alternative proposals put forward by the NHS PS all assume taller development than the AA assumes in a 'no scheme principle'. Whilst the planning policies promote densification and taller buildings in town centres,

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<sup>168</sup> NHSPS-5 page 128

<sup>169</sup> NHSPS-5 page 79-80

<sup>170</sup> INQ46a

<sup>171</sup> NHSPS-5 page 83

<sup>172</sup> NHSPS-5 page 99

<sup>173</sup> NHSPS-5 pages 88-91



this site is located off the main throughfare and behind a terrace row of 2 storey 1930's properties, opposite a listed building in a conservation area. Taller buildings on the site could appear incongruous set in this back land location, and consideration of any heritage balance, including loss of the London Plane tree could be different than that for the whole CPO Scheme. It may also impact upon the living conditions of the occupiers of the residential flats on Ripple Road.

323. Notwithstanding, I am apprehensive whether the AA's asserted maximum height of 4-6 storeys would be entirely valid. This apprehension is borne out of the proliferation of taller buildings across Barking town centre adjacent to conservation areas and heritage assets and the fact that the residential tower proposed to occupy around half the NHS PS's site in the CPO Scheme has an indicative stepped height of up to 19 storeys. The AA's feasibility study also retained the replacement clinic, despite it being surplus to requirements.
324. However, in any event, it is not my place to determine the quantum of development that could be delivered on site. The place to resolve this dispute is through a CAAD or the Upper Tribunal (Lands Chamber).
325. Comparable land transactions - The AA's evidence submitted during the inquiry contained several errors, relied on sites where no transaction had taken place and included sites not used or proposed for residential development. The NHS PS highlighted these and made corrections in its evidence, and I sympathise with the NHS PS's frustrations. The AA should have presented accurate information and I do not agree that this is a normal part of the process as promoted by Ms Blackman.
326. The NHS PS's strong views are that comparable land transactions are at the heart of real estate valuation and are the best way to achieve a land valuation. I disagree. This is because there is an exception to the use of comparable land transactions as the best way to achieve a land valuation, and this is when valuing 'real estate with development potential'. This is supported by RICS guidance<sup>174</sup>, which states when valuing real estate with development potential, "the value of a development site is particularly sensitive to small changes in valuation inputs such as the amount and density (my emphasis) of the permitted development, the assumed value of the completed development, ground conditions, development costs and allowance for risk. Straightforward comparison on a price per unit area of the site is therefore often not valid (my emphasis). Comparison on a price per buildable area basis may be possible but a more detailed analysis is often required, usually involving residual valuation or cashflow techniques". Appendix B: Factors affecting value and comparability by sector also sets out that for property with development potential, a "direct comparison between sites on a rate per unit area basis will only be possible if all [these] key factors align. If not, individual comparable elements will need to be incorporated into a residual or cash-flow valuation."
327. It refers the reader to the RICS Guidance on the Valuation of development property 1st edition, October 2019<sup>175</sup>, which details that "an accurate assessment should be made of the form and extent of physical development that can be accommodated on the site (my emphasis). This assessment

<sup>174</sup> INQ34c - RICS guidance note Comparable evidence in property valuation (1st edition) October 2019

<sup>175</sup> INQ33a Appendix A

should consider the characteristics of the site and the surrounding area, supply and demand constraints and the likelihood of obtaining permission. In more complex cases, it is recommended that this assessment be undertaken in consultation with appointed project advisers, such as architects, quantity surveyors and environmental, planning and energy consultants.”

328. Furthermore, Mr Williams conceded<sup>176</sup> that the NHS PS has advanced its own valuations based on residual appraisals with comparables as a sense check. This is the same approach that the AA is said to have carried out.
329. Therefore, the price paid per hectare/acre of land is incomparable when considering different scheme densities, such as CPO Plot 22. It is a crude measurement of value and I understand the AA’s reluctance to use comparable land valuations until the quantum of development conflict was resolved. Once common ground was reached, comparables could be used to sense check. This is a reasonable approach and the AA did not fail to negotiate by not providing its comparable land transactions.
330. Nevertheless, if considering comparables, a more reasonable comparison would be to look at the price per unit (ppu) achieved in other land comparable transactions, given the driver of value would be the residential sales. It is featured in the comparable evidence provided by both parties, and whilst corrections to the AA’s evidence were necessary, it provides a ‘yardstick’ against which one can compare sites without considering density or the development potential. It was also used by the NHS PS<sup>177</sup>.
331. On the AA’s comparable evidence of town centre sites, Barking 360 and Barking Wharf (with the corrections on ppu provided by the NHS PS for Barking 360), the ppu is on average around £34,400. On the NHS PS’s comparable evidence, which includes all sites in the town centre, the ppu is around £34,600. There is about £200 per unit difference. This is extremely marginal and proves that the fundamental difference is the assumptions about the density and quantum of development.
332. Furthermore, as a specific example, the land transaction for Thames View, which the NHS PS sold to the AA in 2018 for £1.85 million has repeatedly cropped up throughout correspondence. Evidence details the site had planning permission for community use at ground floor and 54 flats above<sup>178</sup> at the time of the sale. There have been new planning permissions, but the ppu at the time of the sale was around £34,000. Whilst the NHS PS claim this should validate a higher value for CPO Plot 22, as it is outside the town centre, the ppu is only marginally lower than its own town centre comparables.
333. Therefore, the sharing of the comparable evidence wholly demonstrates that the disagreement between land value directly relates to the quantum of development at the site.
334. Conclusion –The AA has stuck to its position on the quantum and scale of development on site. Whilst it says it has reviewed it, it still considers this to be a true representation of what could be built on the site in a ‘no scheme principle’. This is its professional opinion and it attempted to negotiate, albeit with irregular communication, on that basis.

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<sup>176</sup> XX by Mr Pereira KC

<sup>177</sup> NHPS-10

<sup>178</sup> INQ34 Table 7.2

335. Furthermore, the NHS PS has not sought to secure valuation advice from another suitably qualified valuer, as required in its Estate Code<sup>179</sup>, and its own assumptions on value could be incorrect. Also, whilst the NHS PS assert that the AA did not consider joint working, the AA is required to negotiate to acquire the land.
336. Fundamentally, the dispute on the quantum and scale of development that could be achieved at the site in a 'no scheme principle' remains. Sharing the comparable evidence earlier would have made little difference. No resolution is likely to be reached given both parties' stance, and for this reason, the CPO is a last resort. These matters of dispute are for debate in the Upper Tribunal (Lands Chamber) and not for me to determine. The same goes for the NHS PS's threat of a ransom strip.

*Objection – 17-19 Ripple Road (CPO Plots 27, 28 and 29) – Amerdeep Sahota and Reena Kanda (Ambareen Estates Ltd, Ambareen Limited trading as Thomas Pharmacy and Ambareen Estates Limited & Ambareen Construction)*

337. This objection relates to the freehold of 17-19 Ripple Road, owned by Mr Amerdeep Sahota and his wife Mrs Reena Kanda. They own the freehold under the following companies outlined above and run Thomas Pharmacy. They both presented evidence at the inquiry.
338. Thomas Pharmacy delivers a community wellbeing hub, providing services that go above and beyond a regular dispensing pharmacy, and deliver a wide variety of clinical services, such as smoking cessation, HIV testing, STI screening and sexual health services. They deliberately employ staff members who speak foreign languages to be accessible for all members of this diverse community and "are the pharmacy of choice for residents of the borough but also healthcare practitioners due to their tenacity and dedication to tackling health inequalities"<sup>180</sup>. They have been recognised nationally for the services they provide. Their key issue is to maintain continuity of trade for the pharmacy and be relocated in a similar position on Ripple Road.
339. Furthermore, the objectors bought 17 Ripple Road with the intention to create a wellbeing centre and enhance their residential offer. They have been unable to pursue these plans because of the uncertainty of the CPO and any timings associated with it, the lack of phasing information and a 'not before' date. This has unreasonably thwarted their business plans and caused long term stress to the objectors and their family.
340. Negotiations – the objectors state that the negotiations have not been meaningful. Financial offers to acquire their property were made in 2015 and again in 2021. Mr Sahota and Mrs Kanda had a meeting in September 2015 with Savills and Mr Cornforth. They detail that Mr Cornforth was only interested in property acquisition, and that if they didn't trade BE had ties to their mortgage provider and would use the CPO as developer's tools to get what they wanted. Whilst Mr Cornforth strongly refutes this assertion, the objectors were left feeling intimidated and threatened.
341. Between December 2015 and February 2016, various financial offers were made and rejected by the objectors. They say they were way below market value, and they had made clear that relocation of the pharmacy must be a

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<sup>179</sup> NHSPS-2 – 4.128

<sup>180</sup> ASTP/1b



part of the offers. They instructed Christie & Co to act on behalf of them, but when their fees were outlined to Savills, they claim no response was received. In January 2017, the objectors say they instructed DWD, who attempted to contact representatives from the AA, but gave up in March 2017 following a failure to contact anyone.

342. In June 2017, Mr Gooch from GCW met with the objectors. They discussed relocation within the CPO Scheme, and were told it was not possible. They outlined that they wanted to relocate sooner as they wanted to expand the pharmacy with the wellbeing centre. GCW advised they would speak to Mr Cornforth, but nothing came of this, despite chase up emails from Mr Sahota. There are other accusations about the conduct of Mr Gooch at the meeting<sup>181</sup>.
343. The standard letter was sent in January 2018<sup>182</sup> by the AA and in April 2018, land referencing was requested by Londonewcastle. This was sent to the objectors and Mr Gurney of Handelsbanken, with a 2 week deadline to reply. They tried to contact Londonewcastle numerous times to explain it was unrealistic to expect a response, but at considerable expense and stress, met the deadline. Mr Gooch from GCW then contacted the objector's bank. This was said to be in response to the messages left at Londonewcastle<sup>183</sup>. However, from the email<sup>184</sup> I have seen, the call was unsolicited and out of the blue and Mr Gooch appeared to suggest that Mr Sahota was not maintaining a dialogue, when in fact he was waiting for a response on relocations from June 2017. The tone and method of this communication was unnecessary, and it was distressing for the objectors.
344. In July 2018, Mr Sahota and Mrs Kanda met with Mr Harley of Be First. He explained the CPO process, what happens once Cabinet approve the use of compulsory purchase powers, and explained the roles and relationships of the various parties involved on behalf of the Council and the Developer. He also explained the decision making process and that Mr Sahota had the opportunity to attend Cabinet to speak. Mr Sahota subsequently attended and spoke at the Cabinet meeting against the making of the Order. Mr Sahota's account of the meeting with Mr Harley is different, stating that Mr Harley confirmed there was no commercial units available for relocation and he left feeling like the meeting was simply 'lip service'.
345. There was no communication about the CPO or acquisition until December 2020<sup>185</sup>, a period of 17 months, when Mr Kite (GCW) offered to meet following Mr Gooch's retirement. Mr Sahota agreed to meet on the condition that it would be a meaningful meeting and Mr Kite provided an agenda, that included relocation of the pharmacy into Phase 1. I assume no meeting took place, but it was confirmed at the inquiry and in evidence that the relocation of the pharmacy into Phase 1 would be 'commercial suicide' because they would be directly amongst competitors. Furthermore, the Mr Sahota and Mrs Kanda need their pharmacy to be relocated in a similar position to where it is now due to license constraints.

<sup>181</sup> ASTP/1j

<sup>182</sup> AA/AS/2d

<sup>183</sup> AA/AS/6 Appendix 3

<sup>184</sup> ASTP/1k page 25

<sup>185</sup> ASTP/1k page 44

346. Financial offers were made by letter<sup>186</sup> in June 2021, 10 days before the CPO was made, along with the Council's letter<sup>187</sup> being sent on the same day. The offers were said to be lower than the original offers in 2015, 'laughable' and 'absurd', and left the objectors feeling misled. At no point were the objectors asked for a valuation of the business, or comparable of other property in the immediate vicinity, to form an accurate picture of the financial offer. There are also email exchanges with Mr Harley seeking information about phasing and leases in June 2021.
347. Standard letters were sent to all CPO objectors in October 2021<sup>188</sup>, offering to meet, and the next set of correspondence was in January 2022, with a letter<sup>189</sup> sent from AY offering a meeting, which took place in February 2022. Mr Sahota and Mrs Kanda were informed that the developers were willing to relocate the pharmacy into Block C, which is where they wanted to be relocated, because this would be a similar position to their existing site on Ripple Road. However, there would be no swap out of their residential units and a 25 year lease at market rate would be offered for the relocated pharmacy.
348. Further communication between the parties was ongoing up to the inquiry, and indeed at the pre-inquiry meeting, I was advised that the objection was likely to be withdrawn as a relocation package was being drawn up. The developer sent across a headline proposal in March 2022. Emails have been exchanged and another meeting took place in April with the objector's representatives. The AA are waiting on a response from Mr Sahota about their size requirements, but the objectors confirmed on 4 May 2022 that they were putting correspondence on hold during the inquiry.
349. Mr Sahota and Mrs Kanda have been forthcoming in negotiations and attempted to engage. However, despite the developer saying they are willing to work with them to facilitate this, nothing has been agreed in writing regarding phasing, timing, relocation, or even temporary relocation solutions. I do not understand why an agreement had not been reached before the inquiry.

*Objection – 13-15 Ripple Road (CPO Plot 30) – Samriti Marwaha*

350. This objection relates to the freehold of 13-15 Ripple Road, owned by Mrs Marwaha who was represented by her son and a planning witness at the inquiry. Mrs Marwaha rents out the building in various forms for residential and commercial tenants. There are 7 flats and a double fronted commercial unit occupied by a budget retail store. They have happy tenants and believe she has been a good landlord. She thinks the development should be confined to the shopping centre only and 13-23 Ripple Road is well suited to local independent traders. I have addressed the objections above within the scope of other parts of the decision.

**Other objections**

351. In addition to the concerns raised by freehold objectors, other objections have also been raised by leaseholders, tenants and occupiers, along with objections

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<sup>186</sup> ASTP/1k pages 48-49, 51-52

<sup>187</sup> ASTP/1k pages 55-56

<sup>188</sup> AA/AS/6 Appendix 6

<sup>189</sup> AA/AS/2h

from properties where rights are to be acquired, and other non-statutory objections. I have already considered many of the concerns raised in the main body of the decision, however, other matters are dealt with below.

*Concerns on loss of business due to construction work including crane oversailing and general construction impact<sup>190</sup>*

352. Evaluation of demolition/construction phase noise and vibration were provided as part of the outline planning application. The planning conditions include a requirement for a Construction Environmental Management Plan (to ensure that the proposed demolition and construction work does not cause nuisance and disturbance to neighbouring occupiers) and a Construction Logistics Plan. The latter is designed to minimise the impact of construction on the free flow of traffic on the local highway network. Demolition and construction work and associated activities are also to be carried out in accordance with the recommendations contained within British Standard 5228:2009, "Code of practice for noise and vibration control on construction and open sites".
353. In relation to crane oversailing, rights are only being sought for the ability to enter airspace with a jib of a crane. The crane itself would be positioned within the site and the use of the crane will not impact on the businesses over which any crane over sails. There would be no need for business closures even temporarily.

*Rights of light<sup>191</sup>*

354. The AA detail that the Environmental Statement that accompanied the planning application assessed the potential likely significant effects of the maximum parameter development as a worst-case in terms of daylight and sunlight amenity to the residential properties which surround the site, overshadowing to amenity areas and open space around the site.
355. It concluded that the maximum parameter scheme would have a negligible to moderate adverse impact on daylight and a negligible to minor adverse impact on sunlight to some existing adjacent residents. However, to optimise the development of the site in accordance with the planning policy, the Scheme will inevitably have consequences in terms of the daylight and sunlight potential of surrounding premises. In practice the maximum parameter scheme could not be fully built out, as it would fail to satisfy the requirements of the Design Code.
356. A detailed sunlight/daylight report would accompany each reserved matters application and to the extent that there is interference with legal easements comprising rights of light, there would be an entitlement to seek compensation for injurious affection.

*Loss of home<sup>192</sup>*

357. The CPO scheme will require residential relocations, but the residential occupiers affected rent their homes in the private market and their relationship is with their landlord. There are alternative housing options within

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<sup>190</sup> Objection made by: Superdrug, Gold Coin Accountants, Mohammad Imran Hossain Mazumder & Kamruzzaman Shakil (Radial House); K Shakil Accountants; Briton College Limited; Mortgage Pioneers Ltd

<sup>191</sup> Objection made by: Savers, Awais Iqbal, Mr Mohammed Iqbal, Mrs Balkees Akhter Iqbal; Mr Furkhan Iqba

<sup>192</sup> Objection made by: Abdul Ahad & Seleha Sumi; Sohail Chowdhury & Rubina Chowdhury Salah Bhuiyan and Yaquter Nessa Sweetey; Santa Miza & Shamsun Nahar Shemu; Nabaz Jamal Omar and Samriti Marwaha

Barking town centre and the Scheme would deliver new homes including affordable dwellings. This would justify the displacement of these residents.

358. Furthermore, the Council are actively building their own affordable homes, and Barking and Dagenham Reside manage the letting process for all affordable rented homes built by/for the Council. There are several existing schemes in Barking town centre and the Borough with a significant number of new schemes becoming available over the next 6 months.

#### *Compensation*<sup>193</sup>

359. The amount of compensation that should be payable, if not agreed, is a matter for the Upper Tribunal (Lands Chamber).

### **HUMAN RIGHTS AND EQUALITIES**

360. Article 1 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998 and, in the case of the dwellings, Article 8 of the Convention apply in the consideration of this CPO. The CPO Guidance<sup>194</sup> sets out when confirming an order, authorising authorities should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. As addressed above, there is a compelling case in the public interest for acquisition of the properties subject to the CPO. The comprehensive benefits of the CPO Scheme could not be achieved without acquisition of the land and interfering with the individual's rights.
361. Therefore, given the significant public benefits that would be provided, this represents a compelling case to justify interfering with Article 1 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998 and, Article 8 of the Convention.

#### *Public Sector Equality Duty*

362. I am also bound by the Public Sector Equality Duty (PSED) set out in s149 of the Equality Act 2010, and as a public authority I must comply with the PSED. It is my duty personally to have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
363. The AA has carried out an Equalities Impact Assessment<sup>195</sup> (EIA) in June 2021, and previous assessments have been undertaken as part of setting the planning policy framework for the Borough. The planning application for the development also assessed any impact on equalities and social cohesion. The conclusion reached was that the impact was neutral.

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<sup>193</sup> Objection made by: Mr Mohammed Iqbal, Mrs Balkees Akhter Iqbal and Mr Furkhan Iqbal; Sports Bookmakers Limited trading as Coral and Done Brothers (Cash Betting) Limited trading as Betfred Limited

<sup>194</sup> Tier 1, Stage 1, Paragraph 2

<sup>195</sup> CDA.8

364. The EIA concludes that the CPO scheme is aligned with all relevant planning policies. The long term benefits of the proposal would result in employment, housing, primary school places and health facilities, all of which are of major benefit to the area. The assessment identifies some mitigation measures would be necessary to signpost alternative facilities elsewhere while the public toilets are temporarily closed for the works. Be First are looking to provide a new postal centre elsewhere in the town centre, and the closure of St Awdry's Walk is mitigated by a temporary route during construction and the proposed new footpaths through the site, which would be accessible for all.
365. In terms of the businesses affected by the Order, the businesses are reflective of other types of business within the town centre and therefore there are no businesses identified as providing a service or range of products specifically serving any protected characteristics group which is not available elsewhere in the town centre.
366. However, there could be an adverse effect upon people who are temporarily accommodated at Barking Hotel for emergency reasons as they may have protected characteristics. Yet, any local authorities, whether this be the London Borough of Barking and Dagenham, or surrounding ones, are responsible to provide assistance as and when the need arises. The removal of Barking Hotel as a possible accommodation solution would not affect those local authorities' responsibilities for discharging their statutory duties at another location. Furthermore, the scheme's positive effects upon the social wellbeing of the area are compelling, and in favour of confirming the CPO.
367. Thus, having due regard to the 3 requirements above, I conclude that the CPO would have a neutral effect.

## **CONCLUSION**

368. The scheme underpinning the CPO is wholly in accordance with the development plan and has the benefit of outline planning permission. There is an extremely compelling case in the public interest for the development, in meeting economic, environmental and social needs. This would considerably outweigh the heritage harm and loss of existing jobs.
369. The shopping centre and town centre overall needs redevelopment, it is the lowest ranking Borough in London for poverty, and this scheme is the catalyst that would spark further regeneration. There are also no realistic alternative proposals that would achieve the purpose for which the AA is proposing to acquire the land.
370. I am completely aware that failure to confirm the CPO would have an adverse consequence of losing the opportunity to comprehensively redevelop the site at this time. The Council has staked its reputation on the delivery of the scheme and its delivery is critical to achieve its ambitions.
371. I fully recognise much of the potential financial viability of the scheme is reliant upon the scheme itself and it is a complete 'catch 22' situation. The developer is confident the Scheme will be delivered. The funding intentions are clear, and I have no doubt that the developer has access to funds.
372. Nevertheless, there is fundamental lack of tangible and substantive evidence on viability. Given the gravity of the 2016 appraisal, and the lack of an updated appraisal, I cannot be certain that the scheme is financially viable

despite all assurances from the AA. Other methods to present the evidence confidentially could have been explored and, if the scheme was viable, I do not understand why this evidence was not presented. Whilst the AA claims viability evidence from objectors has not been presented, it is for the AA to demonstrate substantive information as to the financial viability of the scheme. It has not done so in a way that convinces me.

373. Consequently, because I cannot conclude that the scheme is financially viable, I cannot be confident that there is a reasonable prospect that the scheme will proceed at this time, or that the necessary resources are likely to be made available within a reasonable time scale. This is because there is an expectation of return, and no developer or investor would pursue a scheme that is not economically viable or feasible. This is even if it has access to funds, sees a long term vision, or pools funds so that one scheme may perform better than another. The legal agreements also provide me with little comfort of delivery, despite the depreciating value of the lease.
374. This makes it difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest at this time, as detailed by CPO Guidance<sup>196</sup>.
375. Added to this are my concerns that inadequate negotiations have taken place, when considering the CPO Guidance. It could not be said that delays have been kept to a minimum. The lag from Cabinet approving the making of the CPO to making the CPO was 3 years. There has been a significant delay in the submission of reserved matters applications, and the outline permission expires in April 2023.
376. The efforts to acquire the CPO lands by private treaty have also been largely ineffective. Claims are made by objectors that the financial offers have not been market value, and it is the shopping centre that has failed, not the surrounding businesses on Ripple Road and Station Parade. There have also been limited efforts to relocate those affected by the CPO to date. A 'not before' date has been absent and this has resulted in those subjected to the CPO unable to fulfil business plans, living in limbo for a long period of time. Full information was also not provided at the outset and there was no clearly specified case manager.
377. Consequently, whilst I acknowledge the pressing need for redevelopment and the extremely compelling case for the CPO, for the above reasons, I cannot confirm that the compulsory acquisition of the land included in this Order is proportionate or justified in the public interest.
378. Thus, the London Borough of Barking and Dagenham Council (Vicarage Field and surrounding land Compulsory Purchase Order) 2021 is not confirmed.

*Katie McDonald*

INSPECTOR

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<sup>196</sup> Tier 1, Stage 2, Paragraph 13



**APPEARANCES**

<b>For the acquiring authority:</b>		
James Pereira KC and Caroline Daly, of Counsel		Instructed by Vicky Fowler, Gowling WLG (UK) LLP, on behalf of The London Borough of Barking and Dagenham Council
They called		
	David Harley CTP MRTPI BA(Hons) MA	Head of Regeneration, Be First
	David West BA(Hons) MTP MAUD	Director, Studio Egret West
	Don Messenger BA(Hons) MSc MRTPI	Director, DP9
	Stuart Davies BSc(Hons) MCIHT	Director, TTP Consulting
	Alison Squires BA(Hons) MSc MA MRICS MRTPI	Director, Avison Young
	Peter Cornforth MRICS BSc	Director, PineBridge Benson Elliot
	Virginia Blackman BSc (Hons) MRICS APC	Principal, Avison Young
<b>For the NHS Property Services (CPO Plot 22):</b>		
Christopher Young KC		Instructed by NHS Property Services
He called		
	Professor Ian Ritchie CBE RA Dip (Dist) PCL ARB RIBA MIASBE FRSA FSFE FSHARE Hon FRAM Hon MCSA Hon MSC Pdim Hon D Litt	Director, Ritchie Studio
	Ignus Froneman B.Arch. Stud ACIFA IHBC	Director, Cogent Heritage
	Paul Burley MRTPI	Partner, Montagu Evans LLP
	Howard Williams MA MRICS	Partner, Montagu Evans LLP
<b>For 24-34 Station Parade (CPO Plots 2-10):</b>		
David Elvin KC		Instructed by Paul Burley, Montagu Evans on behalf of Ali Asghar Kadkhodayi-Kholghi and Parisa Jahanpanah (freehold owners 24, 26 28 and 34 Station Parade) and the personal representatives of Paula Mary Baker (deceased) (freehold owners of 30 and 32 Station Parade)
He called		
	Professor Ian Ritchie	Director, Ritchie Studio



	CBE RA Dip (Dist) PCL ARB RIBA MIASBE FRSA FSFE FSHARE Hon FRAM Hon MCSA Hon MSC Pdim Hon D Litt	
	Paul Burley MRTPI	Partner, Montagu Evans LLP
	Ali Asghar Kadkhodayi- Kholghi (Barking Hotel)	Freehold owner
<b>For 13-15 Ripple Road (CPO Plot 30):</b>		
	Richard Moules, of Counsel	Instructed by Richard Farr, Sanderson Weatherall LLP on behalf of Samriti Marwaha (freehold owner)
	He called	
	Adam Pyrke MRTPI	Director, Planning RPS
	Matesh Marwaha	Son of Samriti Marwaha
<b>For 17, 17A, 17B and 19, 19A, 19B Ripple Road (CPO Plots 27,28 and 29):</b>		
	Paul Burley	
	He called	
	Amerdeep Sahota	Freehold owner
	Reena Kanda	Freehold owner
<b>For 32 Station Parade (CPO Plot 7):</b>		
	Muzaffar Ali Shah (Barking Traders Ltd)	Leaseholder
	Wahed Khan Mohammed (Click Dot Sales)	Sub-lessee of Mr Shah
	Muhammad Taqi (3T Travel & Tourism Ltd)	Sub-lessee of Mr Shah
<b>For 34 Station Parade (CPO Plot 10):</b>		
	Hamid Riazi Pachinari (HMD Unisex Hair and Beauty Salon)	Leaseholder
<b>For 34B Station Parade (CPO Plot 10):</b>		
	Alireza Hamidein (Port of Knowledge Ltd)	Tenant
<b>For 36-38 Station Parade (CPO Plots 11 and 12):</b>		
	Siraj Deane	Freehold owner
	Zahoor Ahmad, supported by Ms Kumuyi (Al-Madina Hajj and Umrah Services)	Leaseholder
<b>For the Barking and Dagenham Heritage Conservation Group</b>		
	Paul Scott	Chair

**INQUIRY DOCUMENTS** *(submitted during the inquiry)*

INQ1	Opening Statement on behalf of the Acquiring Authority, 20 April 2022
INQ2	Slide Presentation, 20 April 2022
INQ3	Vicarage Field Business Relocation Strategy. Submitted 20 April 2022.
INQ4	London Borough of Barking and Dagenham (Vicarage Field and surrounding land) Compulsory Purchase Order 2021 (the "Order" and "Order Schedule") Word version of the CPO with modifications. Submitted 21 April 2022.
INQ5	Plans Pack (CDH.1) Corrected version submitted 21 April 2022
INQ6	Site Visit Itinerary. Submitted 21 April 2022.
INQ7	Opening Statement on behalf of NHS Property Services, 22 April 2022
INQ8	Note on s.106 Agreement provisions re Private for Sale Marketing Strategy purpose built private sector rental units. Submitted 22 April 2022.
INQ9	Plans and Drawings Errata, submitted 25 April 2022
INQ10	Shepherds Bush Market CPO and Court of Appeal Judgment, submitted 25 April 2022 on behalf of 24-34 Station Parade
INQ11	Petition submitted 25 April 2022, on behalf of Barking and Dagenham Heritage Conservation Group
INQ12	The Acquiring Authority's response note to Mrs Marwaha's evidence in relation to 13-15 Ripple Road, submitted 26 April 2022
INQ13	Mr Davies's response to part of the evidence of Mr Dimbylow in relation to 13-15 Ripple Road, submitted 26 April 2022
INQ14.1	Collaboration Agreement between the freeholders of 24-34 Station Parade, submitted 27 April 2022
INQ14.2	Funding Letters / Bank Letters of Intent, submitted 27 April 2022
INQ14.3	Evidence that LBBD are still using Barking Hotel for emergency temporary accommodation, submitted 27 April 2022
INQ14.4a	Ms Squires' Summary Meeting Notes, 8 February 2022 in Barking Hotel
INQ14.4b	Barking Hotel Layout, supplied to Ms Squires at the meeting on 8 February 2022 in Barking Hotel, submitted 27 April 2022
INQ14.4c	Last 10 years finance, supplied to Ms Squires at the meeting on 8 February 2022 in Barking Hotel, submitted 27 April 2022
INQ14.5	Signed paper petitions in support of Mr Ali's case against the CPO, submitted 27 April 2022
INQ14.6	List of all local restaurants, food-chains and cafes as well as coffee shops within a 5-minute walking distance from Barking Station, submitted 27 April 2022

INQ15	Opening Statement on behalf of the Property Owners of 24-34 Station Parade (Plots 2-10), 29 April 2022
INQ16	Withdrawal of objection on behalf of Capite (Focal) Limited, in respect of their freehold interest at Focal House, 12-18 Station Parade, Barking, 29 April 2022
INQ17	Acquiring Authority's Response to Objectors not Appearing, submitted 29 April 2022
INQ18	Email exchange regarding Barking Hotel submitted 5 May 2022
INQ19	Delivery and Servicing Plan, August 2016 (part of the Transport Assessment for the outline planning application) submitted 5 May 2022
INQ20	Statement of Truth and Declaration of Adam Pyrke, submitted 6 May 2022
INQ21	Statement of Truth and Declaration of Ian Dimbylow, submitted 6 May 2022
INQ22	Email of support for the scheme by Ryan Edwards, local resident, submitted 9 May 2022
INQ23	Email response by Mr Sahota to AY, submitted 10 May 2022
INQ24	Withdrawal of objection by Network Rail Infrastructure Limited, 11 May 2022
INQ25	Memorandum of Agreement – 13-15 Ripple Road, submitted 23 May 2022
INQ26	Comparables – Former Health Centre, submitted 24 May 2022
INQ27	Letter dated 6 May 2022 from Alison Squires, AY to Paul Burley, regarding the Former Health Centre, submitted 24 May 2022
INQ28	Email objecting to the scheme by Joan Rawlinson, submitted 25 May 2022
INQ29	Statement of Case – Valuation / 'Comparables' on behalf of NHS Property Services, submitted 27 May 2022
INQ30	Letter dated 27 May on behalf of the Acquiring Authority to the Inspector, regarding the Statement of Case submitted on behalf of NHS Property Services
INQ31	Supporting Migrant and Ethnic Economies through Regeneration in London, submitted by Barking and Dagenham Heritage Conservation Group on 28 May 2022
INQ32	Supplementary Statement of Case – Valuation / 'Comparables' on behalf of NHS Property Services, submitted 31 May 2022
INQ33	Proof of Evidence of Virginia Blackman, Negotiations and Valuation Comparables
INQ33a	Appendices to Proof of Evidence of Virginia Blackman, Negotiations and Valuation Comparables
INQ33b	Summary Proof of Evidence of Virginia Blackman, Negotiations and Valuation Comparables
INQ34	Proof of Evidence of Howard Williams, Valuations/Comparables
INQ34a	NHSPS-12 Email from Alison Squires dated 6 May 2022

INQ34b	NHSPS-13 Email dated 3 December 2021 and spreadsheet 'AY Review of ME Land Value Comps 021221'
INQ34c	NHSPS-14 Comparable Evidence in real Estate Valuation, First Edition, October 2019
INQ34d	NHSPS-15 Barking 360 Planning Application Form
INQ34e	NHSPS-16 Barking 360 Land Registry Information
INQ34f	NHSPS-17 LBBD Cabinet Report November 2015
INQ34g	NHSPS-18 LBBD Cabinet Report Appendix 1 November 2015
INQ34h	NHSPS-19 LBBD Cabinet Minutes November 2015
INQ34i	NHSPS-20 Welbeck Wharf Land Registry Information
INQ34j	NHSPS-21 LBBD Cabinet Report December 2018
INQ34k	NHSPS-22 LBBD Committee Report December 2020
INQ34l	NHSPS-23 125 River Road Land Registry Information
INQ34m	NHSPS-24 Thames View Land Registry Information
INQ34n	NHSPS-25 Orion Park Land Registry Information
INQ34o	NHSPS-26 King Edward's Land Registry Information
INQ34p	NHSPS-27 Barking Wharf Land Registry Information
INQ34q	NHSPS-28 Aylesbury Estate Inspector's Report (NPCU/CPO/A5840/74092 dated 29 January 2016) and Decision Letter
INQ35	Surveyors advising in respect of compulsory purchase and statutory compensation, 1st edition, April 2017, submitted 21 June 2022
INQ36	Response by the Acquiring Authority to the further submission by Barking and Dagenham Heritage Conservation Group (INQ31), submitted 22 June 2022
INQ37	Response by Barking and Dagenham Heritage Conservation Group to the response by the Acquiring Authority (INQ36), submitted 23 June 2022
INQ38a	Redetermined 2018 Aylesbury Estate Decision Letter, 14 November 2018; submitted on behalf of NHS Property Services 30 June 2022
INQ38b	Redetermined 2018 Aylesbury Estate Inspector's Report, 13 June 2018; submitted on behalf of NHS Property Services 30 June 2022
INQ38c	Aylesbury Estate Consent Order, 3 May 2017; submitted on behalf of NHS Property Services 29 June 2022
INQ39	Additional Note from NHS PS, submitted 30 June 2022
INQ40	Withdrawal of objection by UKPN to the Stopping-up Order, 30 June 2022
INQ41	Schedule of Objections, 1 July 2022
INQ42	Closing submissions on behalf of Mrs Marwaha, submitted 29 June 2022
INQ43	Closing submissions on behalf of 24-34 Station Parade, Barking

INQ43a	Chesterfield Properties Plc v Secretary of State for the Environment (1997)
INQ43b	R. (on the application of Argos Ltd) v Birmingham City Council and Network Rail Infrastructure Ltd: compulsory purchase order - general vesting declaration
INQ44	Closing submissions on behalf of 17-19 Ripple Road, Barking
INQ45	Closing submissions on behalf of NHS Property Trust
INQ45a	Transport for London (formerly London Underground Ltd) v Spirerose Ltd (in administration) (2009)
INQ45b	R. (on the application of Argos Ltd) v Birmingham City Council and Network Rail Infrastructure Ltd: compulsory purchase order - general vesting declaration (2012)
INQ45c	Secretary of State for Transport v Curzon Park Ltd and others (2021)
INQ46	Closing submissions on behalf of the Acquiring Authority
INQ46a	Appendix 1 - CAAD Timescales
INQ46b	Appendix 2 - The Proper Approach to the Public Sector Equality Duty in Decision-Making
INQ46c	Objectors who appeared at the inquiry, not otherwise covered in closing submissions



