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**For the attention of David Morgan and Peter Widd**

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**Your ref** TR010023  
**Our ref** NIN/JORC/CAP/043917.00025

**Post and Email**

Dear Sirs

**Application by Suffolk County Council (the "Promoter") for an Order Granting Development  
Consent for the Lake Lothing Third Crossing (the "Project")  
Interested Party: B.S. Pension Fund Trustee Limited  
Land: Plot 1-04**

We write on behalf of the Interested Party following their submission of a Relevant Representation on 20<sup>th</sup> September 2018 (the "**Relevant Representation**") and receipt of the Rule 6 letter on 6th November 2018.

**1. PRELIMINARY HEARING**

- 1.1 The Interested Party confirms that [a representative] from CMS shall do the following on its behalf:
- 1.1.1 attend the Preliminary Meeting (no special requirements)
  - 1.1.2 speak at the Preliminary Meeting on Item 3 and Item 5 on the Agenda with specific regard to the following:
    - (a) item 3(5)(i) Compulsory Acquisition and Other Land matters on whether all of the land and rights proposed to be compulsorily acquired satisfies the conditions set out in sections 122(2) and 122(3) of the Planning Act 2008; and
    - (b) The reasons why the lead members of the Examining Authority must schedule a Compulsory Acquisition Hearing to understand the impacts of the Scheme

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on the Interested Party in the context of the Promoter's conduct and management of the compulsory acquisition Interested Parties' Land to date.

## **2. COMPULSORY ACQUISITION OF THE LAND**

- 2.1 The Interested Party owns the freehold of the Land and the retail site in its immediate vicinity is let to and occupied by Wickes Building Supplies Limited (“Wickes”).
- 2.2 One of key concerns is to ensure that the value of BSPF's asset is properly protected in respect of potential impact from the construction and operation of the Project. From a review of the application material provided, the Project has the potential to adversely affect:
  - 2.2.1 access to the unit let to Wickes by customers on foot and in vehicles;
  - 2.2.2 delivery and other service access to the unit currently let to Wickes by small and large vehicles; and
  - 2.2.3 the amenity enjoyed by the Interested Party's current and potential future tenants as a result of noise, odour, dust and traffic disruption caused during the implementation of the proposed development consent order (“DCO”).
- 2.3 The Interested Party is prepared to enter into in to a voluntary agreement with the Promoter to enable the Land to be acquired to facilitate the Project subject to the agreement of appropriate terms. The Interested Party's costs of engaging with the Promoter on this agreement and the CPO process must be comprehensively covered to protect the interests of the subscribers to the pension fund.
- 2.4 Such an agreement must also regulate the time at which the land will be acquired to provide certainty for the Interested Party on the future of this important asset. It will also address the amenity, operational and value issues raised at paragraphs 2.2.1-3 above.
- 2.5 The Interested Party has engaged with the Promoter in relation to agreeing an undertaking for its CPO adviser's fees and has received heads of terms for a Land and Works Agreement. However the Promoter was slow to progress these documents in a timely manner, engage in negotiations with the Interested Party, or respond to the initial points raised by the Interested Party on these documents despite many months having elapsed and the submission of the Relevant Representation setting out the Interested Party's concerns.
- 2.6 The Interested Party notes that Promoter is under a duty to take reasonable steps to acquire a property by agreement before doing so by compulsion (para 2 DCLG 2015 Circular). It shall object to the acquisition of the Land by compulsion unless the Promoter is willing to engage in through, timely and comprehensive negotiations.

## **3. A COMPULSORY ACQUISITION HEARING**

- 3.1 The Interested Party hereby notifies the lead member of the Examining Authority that it wishes to be heard at a Compulsory Acquisition hearing in accordance with Section 92 Planning Act 2008 2008 (as amended) (“PA 2008”).
- 3.2 A Compulsory Acquisition hearing is vital in the context of the concerns raised by the Interested Party at paragraph 2 regarding the Promoter's failure to progress the documents necessary to reach

an agreement with the Interested Party to acquire the Land, and the Promoter's duty to take reasonable steps to do so before acquiring the land by compulsion.

- 3.3 The right to exercise compulsory acquisition powers can only be granted if the Secretary of State is satisfied that the conditions set out in s122 and s123 of the PA 2008 are met. A Compulsory Acquisition Hearing will ensure adequate examination of the provisions set out within the DCO seeking to authorise the compulsory acquisition of the Land. It will enable the assessment of whether the conditions relating to the Land being acquired for the Project are met and whether there is a compelling case in the public interest for the Land to be acquired compulsorily.

If it would be helpful to discuss these issues please contact Nicola Insley on 0207 524 6018 or Nicola.insley@cms-cmno.com on behalf of the Interested Party at any time.

Yours faithfully



**For and on behalf of CMS Cameron McKenna Nabarro Olswang LLP**

cc. National Infrastructure Planning Case Team (LakeLothing@pins.gsi.gov.uk)  
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