



Subject:

FW: M25 J28 - Gardens of Peace

Date:

19 February 2021 14:39:43

Attachments:

[image022.png](#)

Dear Sir / Madam

Further to our submission of the Written Representation submitted on 28 January 2021 on behalf of our client, Gardens of Peace, we email to request the below supplementary information is taken into consideration as part of the original submission.

By way of courtesy, and at the same time of submitting the representation to the Examining Authority, we also provided a copy to the Valuation Office Agency (as Agent on behalf of Highways England). The purpose of submitting a copy of the representation to the Valuation Office was also to encourage engagement ahead of the hearings on the concerns our client continues to have with the Highways England scheme, which we outlined within the representation.

Subsequent to a copy of the representation being submitted to the Valuation Office Agency, the only engagement Savills or Gardens of Peace have received thus far, is the below email dated 3 February 2021 from Allan Chester of the Valuation Office Agency (representing Highways England), which only refers to Section 7 of the representation, regarding engagement with the Valuation Office Agency. Our responding email, dated 15 February (also below), has not been acknowledged or responded to.

As we state in the below email and reiterate to the Examining Authority, our concern is not a compensation matter, but an issue concerning the impact of the tactics used by Highways England's representative (intentional or otherwise) to restrict our client's "access to justice" by refusing to agree to or pay any professional fees incurred by Gardens of Peace. This is contrary to Highways England's Consultation Report (specifically paragraphs 8.3.2 and 9.12.1) and Highways England Response to Relevant Representation (RR-024-6 (REP1-002)) which refers to Highway England's engagement with the Trustees of Gardens of Peace, stating that Highways England was actively engaging with the Trustees of Gardens of Peace. This was a critical time (between September 2020 and January 2021), where Gardens of Peace needed significant input from its professional representatives.

The result is that Gardens of Peace was prevented from properly engaging with Acquiring Authority. We therefore ask that the application for compulsory purchase powers be rejected and the applicant resubmit its application for a Development Consent Order, to allow our client fair and proper engagement with the applicant.

Yours faithfully

Gwyn

**Gwyn Church BSc (Hons) MRICS FAAV
Associate**

Compulsory Purchase

Savills, 33 Margaret Street, London W1G 0JD

Email : [REDACTED]
Website : <http://www.savills.co.uk>

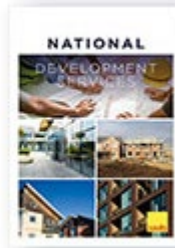


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From: Gwyn Church

Sent: 15 February 2021 17:00

Subject: M25 J28 - Gardens of Peace

Dear Allan

Thank you for your below email dated 3rd February 2021, in which you highlight your concerns with the written representation Savills submitted to the Examining Authority on behalf of Gardens of Peace. Your concerns specifically relate to Section 7 of the representation, which referred to the lack of engagement with VOA. We take this opportunity to respond to your comments to further support the assertions within the written representation.

Prior to responding to each specific point of your email, we first set out a summary of historic emails between you (VOA) and Savills on the matter of our client's fees for obtaining professional advice.

1. Summary of historic emails on fees

- **11th September 2020** – You stated “we are not able to agree to a fee budget as such, but I would suggest that a **fee cap of £[REDACTED]** would be appropriate to **inspect, research, value and negotiate with the VOA to an agreement and include an initial site meeting with your client and Highways England.**”
- **21st September** – We responded “As you will appreciate, our client's property is a complex property and **£[REDACTED]** **will simply not cover our time “to inspect, research, value and negotiate with the VOA to an agreement and include an initial site meeting with your client and Highways England”**”
- **8th October** - You stated that you were not able to accept **£[REDACTED]** for recommendation to your client. However, you were content to consider Savills fee claims on an overall basis, without prejudice to the hourly rate. You required detailed timesheets with dates, times and activities carried out for you to make a recommendation to Highways England.
- **9th October** - We emailed stating that we thought you were to seek approval for an initial fee budget for our time, with this being revisited as and when necessary to reflect ongoing work.
- **16th November** – In your responding email, under a heading of “**Fees incurred in early engagement work**”, your understanding was that Savills had incurred time representing Gardens of Peace in early engagement with Highways England and have outstanding fees of **£[REDACTED]** to date. Your client had asked you to consider whether these fees are acceptable

for payment. To enable you to consider the fees, you asked us to provide detailed timesheets, showing the date and amount of time spent on each element, and the hourly rate charged, that have contributed to the overall outstanding fee.

- **24th November** - We emailed you with all our time to date being presented in both invoices (which had already been sent to the client), timesheets to support the invoices and an outstanding time report. We referred to how the time incurred to date in Early Engagement matters is more than we had initially anticipated, but this reflected the complex nature of the work. We provided Savills fee budget, for **Early Engagement work of [REDACTED]**
- **30th November** – You emailed setting out the position for land agents fee reimbursement for advance acquisition and for early engagement. Under the heading of Early Engagement, you stated Highways England is prepared to reimburse some reasonable costs that a landowner may incur in employing a land agent for services **related to early engagement matters**, which are not directly related to advanced acquisition. Highways England are willing to contribute to reasonable land agent fees to: **attend meetings they have instigated to help landowners engage with them to develop scheme proposals; identify and consider potential scheme design changes (including alternatives), to deliver a scheme that best meets its objectives (eg. reduce congestion at a junction or deliver safety improvements) or delivers better value; identify and reduce scheme impacts; agree a statement of common ground or a position statement with the landowner; exchange information needed or beneficial for the scheme, reducing the risk of delays or extra work; and negotiating access for surveys.** Within the same email, you raised some queries on Savills time to date that was incurred in submitting a representation to PINS.
- **1st December** - We clarified your queries surrounding what time incurred to date was in submitting a representation to PINS.
- **18th December** - You respond seeking confirmation of the total time being claimed for was [REDACTED] (which we subsequently corrected in our responding email dated 4th January 2021 as being [REDACTED]). Within your email you stated ***“This appears to be a very significant amount of fees to advise your client on the impact of temporary occupation of a relatively small area of land and the acquisition of an easement over a smaller portion of that land.”*** You also went on to state ***“as things stand, I am not able to make a recommendation at a figure close to that currently claimed.”***

2. Response to points within your email

Taking the above points from historic emails into account, we now respond to the points you raise in your below email. For ease of reference, we have numbered the key paragraphs within your email (below of the 3 February 2021) and respond to the respective numbered paragraphs below;

1. As is evident within the summary of emails above, this has never been made clear to us – the original [REDACTED] fee cap was in reference to “inspect, research, value and negotiate with the VOA to an agreement and include an initial site meeting with your client and Highways England”. The conversation then merged onto Early Engagement. There has never been any clear separation or clarification from you on this point.
2. This stage of works is what you have referred to in the past as “Advance Acquisition” and “acquisition by agreement work”. We agree, we can’t move onto this until we know the definitive area subject to permanent rights acquisition etc. but for the time being, this is irrelevant as it is not the point we are needing to agree here.
3. Again, this has never been made clear to us. As you will note in our summary of emails above, the email conversation has merged from the fee cap of [REDACTED] to works falling under the “early engagement” heading. There has been no clarification from the VOA between the two stages
4. We strongly disagree with this statement. In your email dated 18th December, you stated that on the basis we were claiming [REDACTED] (which we corrected to be [REDACTED] +VAT) for all our time incurred to date (at that point in time being 24th November 2020) and excluding time to submit a representation to the Planning Inspectorate, that you were ***“not able to make a recommendation at a figure close to that currently claimed”***. As of today, no agreement has been reached, we therefore reiterate that there has been and continues to be a reluctance to agree to reimburse our client for the reasonable costs they have incurred.

3. Evidence of hourly Rates

In an email you sent subsequent to your email below, you make reference to the hourly rate of

Director grade being capped at [REDACTED]. For ease, and in light of the context of this email, we respond on this point within this email.

The hourly rates charged by Savills' CPO team have been accepted on numerous occasions throughout the UK by various acquiring authorities. We take this opportunity to highlight examples where such hourly rates have been accepted and deemed reasonable. There are many more if requested:

- i. Our client was reimbursed [REDACTED] for the time of a Director by Highways England (represented by the Valuation Office Agency). This was in relation to a garden centre affected by junction 10a scheme on the M20, Kent. The fees were reimbursed in 2016. The fee rates were charged at the lower rate of [REDACTED] due an ongoing relationship with the client with jobs charged at the same low rate dating back to the early 2000s.
- ii. Our client was reimbursed [REDACTED] for the time of a Director and [REDACTED] for an Associate Director by the Warwickshire County Council (represented by the Valuation Office Agency). This was in relation the land needed for the A46 Link Road. The acquisition and associated compensation was agreed and paid in July 2020.
- iii. Savills received direct payments of [REDACTED] for the time of a Director by Derbyshire County Council, in relation to land impacted by a road scheme (bypass) being constructed by DCC. The scheme impacted the client's access in to its business premises. The compensation was settled in January 2021.
- iv. Director, Savills. Hourly Rate of [REDACTED] for Director was agreed by the Acquiring Authority, Reading Borough Council, in relation to the construction of a new school. The case involved the compulsory acquisition of an industrial premises. The compensation was settled in 2016.
- v. Director, Savills. Hourly rate of [REDACTED] for Director agreed by the Acquiring Authority, Transport for London representing the Secretary of State for Transport, in relation to numerous of Crossrail compensation claims, the majority of which were settled between 2009 and 2016.
- vi. Director, Savills. Hourly rate of [REDACTED] for Director was agreed by the Acquiring Authority, London Borough of Southwark, in regards to Peckham Rye Station CPO. The case involved commercial property with B1 / D1 use above.
- vii. Director, Savills. Hourly rate of [REDACTED] for Director was agreed by the Acquiring Authority, London Borough of Barnet, in regards to the Brent Cross Regeneration Scheme. The case involved the sale of a rail freight waste transfer site.
- viii. Associate Director, Savills. Hourly rate of [REDACTED] for Associate Director was agreed by the Acquiring Authority, London Borough of Hounslow, in relation to the Hounslow High Street quarter Scheme. The case involved a residential property and was settle in 2019.
- ix. In other situations where we have been acting on behalf of claimants on other schemes such as HS2, its professional advisors Deloitte and CBRE have accepted our fee rates of [REDACTED] per hour for Directors as reasonable.
- x. Director, Savills. Hourly rate of [REDACTED] for a Director and was agreed by the Acquiring Authority, East Cheshire Borough Council. Case involved the construction of a relief road.
- xi. Director, Savills. Hourly rate of [REDACTED] for a Director was agreed by the Acquiring Authority, TfL. Ongoing case involving the road widening of Armoury Way.
- xii. Director, Savills. Hourly rate of [REDACTED] for a Director was agreed by the Acquiring Authority, Thames Water. Case involved a new sewer.
- xiii. Director, Savills. Hourly Rate of [REDACTED] for a Director was agreed by the Acquiring Authority, TfL. Case involved an extension to the DLR.
- xiv. Director, Savills. Hourly Rate of [REDACTED] for a Director was agreed by the acquiring authority, Network Rail. Case is ongoing and involved compulsory acquisition of clients property to undertake Oxford train station upgrade.

Furthermore, as we have previously stated, our fees are in line (and lower in some circumstances) with other specialist property consultancy advice given by the various specialist teams, such as Rights of Light, Neighbourly Matters, Capital Allowances, Hotels and Licenced Leisure, together with the various specialist consultancy advice in sectors such as Healthcare, Student Housing, Rating etc. - all of which require in depth technical knowledge of specialist areas of the law and property. The fee rates we quote are what the market is prepared to pay for such specialist advice.

As we understand it, your argument is that any party impacted by the scheme must seek to instruct

the cheapest firm available to advise them and that Highways England will not pay more than other firms that are acting for other impacted parties, local or otherwise. Our response is that firstly it was not possible, in the time available, for our client to undertake a market review of the all the firms across the UK and the fees that they charge. Secondly, without you providing the full circumstances of each case it is impossible to determine whether the cases and advisors charging lesser fee rates are providing comparable expertise.

Our client chose Savills after being provided with a recommendation from a nearby Local Authority (the London Borough of Enfield). We note that your client, Highways England, has instructed BDB Pitmans, a top tier central London based firm of Lawyers to represent them throughout the CPO/DCO process. Could you also please confirm whether a barrister has been instructed to act for Highways England and if so who. You should note that as a Charity, our client does not have the financial means to instruct a legal team to ensure they are on an even footing in this regard. Their access to justice is clearly impaired and this is compounded by Highways England and the Valuation Office Agency imposing further hurdles in the way of them obtaining the professional advice of experienced surveyors.

We intend to ensure the Examining Officer is very clear that this is NOT a compensation issue. Whilst Highways England Consultation Report (specifically paragraphs 8.3.2 and 9.12.1) and Highways England Response to Relevant Representation (RR-024-6 (REP1-002)) refers to Highways England's engagement with the Trustees of Gardens of Peace and actively engaging with the Trustees of Gardens of Peace, it was at the critical time (between September 2020 and January 2021) our client needed significant input from its professional representatives. Highways England, through its representatives, refused to agree or pay any contribution to the professional fees incurred, even when presented with the invoices on 18th December 2020. Whilst it is true that you offered to pay a lesser, capped amount, that offer was subject to Savills agreeing to work on a reduced hourly rate. In essence, you sought to ransom any payment of fees for an agreement that we would reduce our fee rate which there is no doubt you would seek to use on other schemes, regardless of the evidence that are fees are considered fair by acquiring authorities across the country, as set out above.

Your actions have resulted in restricting the amount of professional advice our client could receive at a critical period of the procedure. Those actions prevented our client from properly and fully engaging with Highways England prior to the representations being submitted.

We will therefore be asking that the application for compulsory purchase powers be rejected and the applicant resubmit its application for a Development Consent Order, to allow our client fair and proper engagement with the applicant.

In terms of next steps, could you please:

- a. Confirm Savills hourly rates are agreed (including Director rate of £[REDACTED] / hour)
- b. Arrange for immediate reimbursement of professional fees previously provided on 1st December 2020, which totalled £[REDACTED] + VAT (whether invoiced or outstanding). Of this amount, we accepted £[REDACTED] + VAT was in relation to a representation and other PINS matters.
- c. Arrange a further meeting with our clients and your client's respective teams to discuss how we can resolve the outstanding issues.

For completeness a copy of this email will be provided to the Examining Officers in the coming days.

Kind regards

Gwyn

Gwyn Church BSc (Hons) MRICS FAAV
Associate
Compulsory Purchase

Savills, 33 Margaret Street, London W1G 0JD

[REDACTED]

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Sent: 03 February 2021 14:09

To: Gwyn Church

Subject: RE: Gardens of Peace - Written Representation - [Filed 09 Feb 2021 10:21]

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Gwyn

Thank you for the email and copy of the representation.

The wider Highways England project team will provide response on the main content in due course.

As we discussed over the phone this morning, I must comment on the contents of Section 7 "VOA Engagement".

The second paragraph states.

The Valuation Office has proposed a total fee cap of £[REDACTED] plus VAT for the above mentioned work i.e. to inspect the site, attend numerous meetings, review the Garden of Peace development proposals, review the DCO documents, understand and report on potential issues and options as well as liaise and negotiate with the VOA to resolve matters and mitigate the impact of the Scheme. This budget offer was also subject hourly rates being capped at Savills Associate level rate, even for Director input which is substantially lower rate than has been accepted by Acquiring Authorities throughout the UK, on a variety of projects. This allows for under 15 hours work in total to complete the above work which is unrealistic.

1. This statement is incorrect. We have suggested a fee cap of £[REDACTED] plus VAT for work only directly related to early acquisition of rights over your clients land. This being an easement/ restrictive covenant over the land associated with the works to the gas pipe. It is envisaged that activities such as preparing a valuation and negotiation on behalf of your clients on the matter of the easement/restrictive covenant would be included within this fee element. Attached are 2 emails, dated 11th September 2020 and 16th November 2020 from VOA to Savills stating to what work the suggested fee cap refers.
2. As you are aware, you and I are agreed that discussion on value will remain on standby

until the precise area of land that will be affected by the easement/restrictive covenant is determined.

3. This element of Savills fees is separate to any fees that are reimbursable for accepted activities related to early engagement with the acquiring authority, such as discussions with Highways England and their contractors and representatives on potential design changes of the Scheme etc.

It is noted that on Page 25 of your representation the 4th bullet point reads :

“Highways England has been reluctant to agree to reasonable professional fees to Garden of Peace's professional advisors, therefore restricting advice and potential for meaningful engagement with Highways England.”

4. Highways England are not reluctant to agree to reasonable professional fees. You are aware that discussions have taken place, and are ongoing, regarding Savills fees for early engagement activity to date. I accept that we have not been able to finalise agreement on these fees to date, but you and I are continuing to work on this and I am hopeful that a solution can be reached soon.

I am sure that you, and Savills appreciate that Section 7 and the bullet point above casts the Valuation Office in a bad light and has potential knock on effect to Highways England and to the M25 J28 Scheme as a whole, which is very unfair given that it is based on erroneous information.

It is very strongly requested that Savills submit an amendment/addendum to the Planning Inspectorate clarifying the correct information and ensuring that the erroneous information contained within Section 7, and the wider representation, is redacted/withdrawn and is not permitted to enter the public domain.

I trust this matter will be attended to urgently and look forward to continuing our work on this Scheme.

Please confirm receipt of this email.

Kind regards

Allan

Allan Chester BSc (Hons) MRICS | RICS Registered Valuer | Senior Surveyor | DVS | Valuation Office Agency

Colchester Valuation Office | 1st Floor | The Octagon | 27 Middleborough | Colchester | CO1 1TG |



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