

M25 JUNCTION 10/A3 WISLEY INTERCHANGE IMPROVEMENT SCHEME

**APPLICATION BY HIGHWAYS ENGLAND FOR AN ORDER GRANTING
DEVELOPMENT CONSENT**

**DEADLINE 12 (10TH JULY 2020) SUBMISSION ON BEHALF OF TAYLOR WIMPEY
UK LIMITED (AS OWNER OF WISLEY PROPERTY INVESTMENT LIMITED (WPIL))**

AFFECTED PERSONS NUMBER M25J10-AP002

**WPIL RESPONSE TO ACTION POINT 1 FROM SESSION 2 OF COMPULSORY
ACQUISITION HEARING 1:**

***'EITHER TO NOTIFY THE EXA OF THE COMPLETION OF THE INTENDED LAND
AND WORKS AGREEMENT; OR***

***IF SUCH AGREEMENT HAS NOT BEEN REACHED THEN BOTH PARTIES TO SET
OUT THEIR FINAL POSITIONS REGARDING THE MATTERS TO BE COVERED
WITHIN THE LAND AND WORKS AGREEMENT.'***

1. WPIL (Taylor Wimpey) regrets to report that as of 10th July the Land and Works Agreement has still not been completed. Following the Compulsory Acquisition Hearing (CAH), there was a positive meeting with both parties' advisors on 26th June 2020, which reflected The Applicant's stated intention at the CAH to conclude the agreement by the close of Examination:

'MC [Mark Challis, BDB Pitmans] confirmed the Applicant's intention is to conclude the agreement before the end of the examination, however the Applicant will provide an update to the ExA in any event.'

(Written submission of Applicant's case put orally at the Compulsory Acquisition Hearings held on 16, 17 and 18 June - **REP11-006**).

2. However, since the meeting on 26th June, progress has again stalled, if not retreated.
3. The Applicant's solicitors cancelled a meeting that was arranged to review the documents on 3rd July, and then the updated draft document that had been issued by WPIL's lawyers was passed to another solicitor (at the same firm) acting on behalf of The Applicant who had not been involved in the negotiations to date. With the parties' lawyers having discussed overarching principals of the Land and Works Agreement via telephone on 7th July, WPIL now understands that The Applicant is seeking to re-define the agreement, from a Land and Works Agreement that would provide contractual certainty over how the DCO Scheme would be delivered alongside the development of the Airfield, to a 'Collaboration Agreement.' WPIL is pleased that The Applicant has said that it intends to collaborate with WPIL, but WPIL is still

awaiting the draft document to be returned and there is considerable concern that it is Highways England's intention to use powers without restraint or consultation with WPIL, with WPIL being expected to rely on the compensation provisions. This presents a risk to WPIL as they will not be able to bring forward a development in a timely fashion in accordance with the housing trajectory of the Guildford Local Plan that could at any time be stalled, and it is unacceptable to increase unnecessarily the compensation liability that would ultimately rest with the taxpayer. Not only does the conclusion of an agreement mitigate the risks to WPIL and The Applicant (and thus reduce the compensation liability), in accordance with Paragraph 25 of the Guidance¹, Highways England is required to seek agreement and only use compulsory purchase powers as a last resort:

'Applicants should seek to acquire land by negotiation wherever practicable. As a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail.'

4. WPIL is still waiting for the re-drafted agreement to be returned from The Applicant's newly instructed solicitor, and therefore the concerns that WPIL has may indeed be addressed. However, at present, the outstanding issues remain:
 - i. Temporary and permanent access to Wisley Airfield for development of the site with the assurance that continued and/or extended severance of the access will be limited to prescribed reasonable periods;
 - ii. Ensuring that Highways England's infrastructure considers, and doesn't stymie, the future development of the Airfield;
 - iii. That the construction compound is vacated as soon as possible to ensure the establishment of the Suitable Alternative Natural Greenspace (SANG), likely to be a condition for any planning consent secured;
 - iv. That the development avoids where possible any (biodiversity) severance;
 - v. Agreement over the future management on behalf of Highways England of environmental mitigation land, and treatment of biodiversity generally;
 - vi. Use of powers – a commitment to use temporary powers for all Order land and only 'vest' land once the infrastructure has been completed with the extent of either the form of GVD, transfer and/or deed of easement substantially being known as at the date of the agreement

5. Given the outstanding concerns WPIL again requests that compulsory acquisition powers are not granted over WPIL's land as a private treaty

agreement should continue to be pursued. It is The Applicant's position, as set out by Michael Humphries QC at the CAH, that WPIL needs the Highways England scheme for the development of the Airfield:

'WPIL's development actually relies on the Applicant's scheme.'

(Written submission of Applicant's case put orally at the Compulsory Acquisition Hearings held on 16, 17 and 18 June - **REP11-006**).

6. WPIL disputes this position as there is an access to the Airfield both via an implemented consent for an In-Vessel Composter facility and the existing Elm Lane access, and mitigation measures to the Airfield Scheme impacts could in theory be delivered in the absence of the DCO works. However, WPIL acknowledges the advantage of the proposed DCO Scheme (one its objectives being the promotion of economic growth including the Local Plan and accordingly the Wisley Airfield development) and in particular if the proposed new Wisley Lane is constructed WPIL would prefer to access the Airfield from an access off the new Wisley Lane. As such, there is a strong incentive for WPIL to co-operate and work with Highways England to ensure both schemes can be delivered. WPIL has stated on record that it is not seeking any commercial advantage, and that the provisions of the compensation code would apply for the land required for the Scheme. However, the position at the close of Examination is that the development of the Airfield is severely prejudiced in the absence of a contractual agreement. The country requires infrastructure *and* housing, and it should not be the case that the former jeopardises rather than acts as catalyst to the latter.
7. A summary of the engagement on the agreement following the CAH is provided below:
 - Gateley Legal on behalf of WPIL provided revised LWA draft on 22 June
 - BDB Pitmans on behalf of HE provided revised LWA draft on 25 June
 - All party call at 1300 on 26 June to discuss revised LWA
 - Gateley Legal on behalf of WPIL provided redraft of LWA on 1 July at 2232
 - Scheduled all party meeting on 3 July cancelled by HE
 - Email from a new BDB Pitmans solicitor on 6 July at 1828 changing purpose of LWA to a collaboration agreement
 - Gateley responded to HE's solicitors' email on 7 July at 0851
 - Call between new HE solicitor and Gateley Legal on 7 July at 1900
 - Awaiting revised draft of LWA from BDB Pitmans – 10 July
8. WPIL reiterates its long standing public support for the DCO scheme, and remains committed to reaching an agreement with The Applicant and will apply the required resources to ensure that terms can be documented in a legally enforceable contract that will ensure that both proposed developments can be delivered successfully through collaborative management of the interface between the two schemes.

WPIL RESPONSE TO ACTION POINT 2 FROM SESSION 2 OF COMPULSORY ACQUISITION HEARING 1:

'SUBMIT A NOTE (EITHER TO BE AGREED JOINTLY, OR SEPARATELY BY EACH PARTY IF SUCH AGREEMENT CANNOT BE REACHED) SETTING OUT THE ENVISAGED KEY TIMETABLING DATES FOR BOTH THE PROPOSED DEVELOPMENT AND THE AIRFIELD REDEVELOPMENT PROJECT.'

9. WPIL has liaised with The Applicant and The Applicant has submitted a joint response on behalf of both parties.