

The London Borough of Merton (Eastfields No. 1) Compulsory Purchase Order 2022 (APP/PCU/CPOP/T5720/3303017)

The London Borough of Merton (High Path No. 1) Compulsory Purchase Order 2022 (APP/PCU/CPOP/T5720/3303018)

The London Borough of Merton (Ravensbury No. 1) Compulsory Purchase Order 2022 (APP/PCU/CPOP/T5720/3303020)

Summary Proof of Evidence Summary of Mark Kidd

dated 26 January 2024

CONTENTS:-

Page No.

1	INTRODUCTION.....	3
2	AY/DPR's ROLE IN THE ESTATES REGENERATION PROGRAMME	4
3	THE TECHNICAL ANALYSIS UNDERTAKEN IN ORDER TO ASSESS THE IMPACT OF THE CPOS ON RIGHTS OF LIGHT BOTH WITHIN AND (WHERE APPLICABLE) OUTSIDE OF EACH ESTATE	5
4	ATTEMPTS TO ACQUIRE RIGHTS TO LIGHT BY VOLUNTARY AGREEMENT	7

1 INTRODUCTION

1.1 I Mark Kidd, am a Partner for Delva Patman Redler (**DPR**). I have been in this role since October 2023.

1.2 DPR (as formerly at Avison Young), were commissioned by Clarion Housing Group to assist with rights of light considerations in 2019 in connection with the Eastfields, High Path and Ravensbury Estates.

1.3 My summary proof provides:

- (a) An explanation of my involvement and more broadly AY/DPR's involvement with the above-mentioned Estates.
- (b) An explanation of the technical analysis undertaken in order to assess the impact of the CPOs on rights of light, both within (where applicable) and outside of each Estate; and
- (c) An explanation of efforts to assist Savills in the negotiations with interest holders to voluntarily acquire rights of light in respect of each Estate, in so far as it relates to the relevant CPOs.

2 AY/DPR's ROLE IN THE ESTATES REGENERATION PROGRAMME

2.1 Order Land – the Eastfields CPO

2.1.1 AY received specific instructions from Clarion to evaluate the potential effects on light for those neighbouring properties affected by Eastfields Phase 1. Through this review, it was determined that none of the neighbouring properties outside of the wider Eastfields Estate would be materially affected by Eastfields Phase 1, being situated at least 125 meters away.

2.1.2 The Eastfields CPO included various properties within the wider Eastfields Estate which may be affected in terms of rights of light. However, legal due diligence and technical work served to indicate that it would not be necessary to acquire any rights of light.

2.2 Order Land – the High Path CPO

2.2.1 AY was commissioned to specifically evaluate the potential light effects for High Path Phases 2 and 3. This identified various properties where a material loss of light is possible. Concerning properties within the High Path Estate, slated for demolition as part of the later phases of the Scheme, legal due diligence established that, in the majority of cases, tenants did not hold the rights of light, as these rights were reserved for the freeholder (Clarion). While there were a small number of cases where rights of light may have been affected, subsequent technical analysis by AY determined no material loss of light.

2.3 Order Land – the Ravensbury CPO

2.3.1 Hollis Chartered Surveyors were commissioned by Clarion to assess neighbouring properties potentially affected by Ravensbury Phases 2, 3, and 4. AY were commissioned to review the Hollis assessment of properties outside of the Ravensbury Estate, and the properties within the Estate boundary that could be affected. However, further legal due diligence established that no rights of light were enjoyed by the tenants within the Ravensbury Estate.

3 THE TECHNICAL ANALYSIS UNDERTAKEN IN ORDER TO ASSESS THE IMPACT OF THE CPOS ON RIGHTS OF LIGHT BOTH WITHIN AND (WHERE APPLICABLE) OUTSIDE OF EACH ESTATE

3.1 Order Land – the Eastfields CPO

3.2 Regarding Eastfields Phase 1 only, the findings of the rights of light technical analysis were clear - the location of Eastfields Phase 1, situated to the south-west of the site and at a considerable distance from the relevant properties, would result in no adverse effects on their access to light.

3.3 Given the negligible or nil impact on neighbouring properties, it was deemed unnecessary to serve notices of the Eastfields CPO for rights of light matters to neighbours outside the Eastfields Estate boundary.

3.4 As previously mentioned, following legal investigations, it was determined by that no potentially relevant tenants had a right of light that could be materially affected by Eastfields Phase 1.

3.5 Consequently, there has been no need for further action or involvement in the process for these CPOs in relation to rights of light by AY and DPR.

3.6 Order Land – the High Path CPO

3.7 AY conducted a detailed review focused on the potential effects of High Path Phases 2 and 3. This resulted in the creation of an indicative High Path map pinpointing neighbouring properties where potential light impact might occur. AY adopted a highly cautious approach, possibly extending the spatial scope beyond what might be deemed as strictly necessary. However, this robust approach was taken to ensure that no neighbouring owner was overlooked in cases where there was a potential risk of light loss.

3.8 It was later determined that some of the neighbouring properties would not be materially affected by the redevelopment. Consequently, Clarion and the Council deemed it unnecessary to acquire rights of light from the relevant interests. As a result, the Council and Clarion sought to modify the High Path CPO, excluding any interests that do not require inclusion in the CPO, and has communicated this modification to the relevant property owners.

3.9 The aforementioned map also encompasses properties within the High Path Estate. These buildings were included in consideration of the potential impact of High Path Phases 2 and 3 on those within High Path Phase 3 to 7 areas within the wider High Path Estate, albeit on a temporary basis. However, subsequent to legal due diligence, it was determined that the vast majority of tenants within these areas do not possess rights of light over the freeholder, namely Clarion,

with the exception of one flat where subsequent technical assessments have confirmed that there would be no material impact on rights of light.

3.10 Order Land – the Ravensbury CPO

3.11 While Hollis did identify the potential for interference with light for a limited number of neighbouring properties, AY was subsequently engaged to review this assessment and determine the prudence of serving notices of the Ravensbury CPO on the affected properties. In exercising a cautious approach, AY provided guidance on potential light loss, leading to the creation of a Ravensbury CPO map which identified where it may be prudent to serve CPO Notices.

3.12 Properties within the Ravensbury Estate boundary were also considered due to the phased nature of development, with temporary effects on existing tenants who may enjoy rights of light. However, legal due diligence conducted by Trowers revealed that none of these tenants held rights of light over their freeholder, Clarion. Consequently, these interests were not included within the Ravensbury CPO.

3.13 Following the Ravensbury CPO being made, AY/DPR provided technical support to Savills to carry out further investigations and to assist with assessing claims from affected rights of light interest holders. It was established that some properties within Island House would not be materially affected by the Ravensbury CPO and consequently it was no longer necessary to acquire all of the rights of light interests scheduled within the Ravensbury CPO.

4 **ATTEMPTS TO ACQUIRE RIGHTS TO LIGHT BY VOLUNTARY AGREEMENT**

4.1 **Order Land – the High Path CPO**

4.2 Whilst Savills have led on these negotiations to acquire rights of light, given the technical nature of the rights to be acquired, AY/DPR was instructed to provide rights of light technical advice and analysis. This included liaising with the rights of light objectors and/or their appointed surveyors, where required, on-site measurements and technical pack completion. I understand that negotiations are ongoing and that the Council is hopeful that agreement will be reached with the relevant parties prior to the inquiry.

4.3 **Order Land – the Eastfields CPO**

4.4 There are no pertinent or materially affected interests related to rights of light for the Eastfields CPO, and consequently, there has been no need to address any issues in a rights of light capacity.

4.5 **Order Land – the Ravensbury CPO**

4.6 I understand that no party has objected to the Ravensbury CPO on the basis of rights to light, and therefore do not comment further.

4.7 **Other neighbouring interests**

4.8 AY/DPR, along with Savills, have also engaged with other neighbouring interests who have sought to negotiate the acquisition of their rights of light. These interest holders have expressed an interest in potentially detailed considerations. It is important to note that none of these interests have objected to the CPO notices.