

THE LONDON BOROUGH OF MERTON (EASTFIELDS NO.1) COMPULSORY PURCHASE ORDER 2022

THE LONDON BOROUGH OF MERTON (HIGH PATH NO.1) COMPULSORY PURCHASE ORDER 2022

THE LONDON BOROUGH OF MERTON (RAVENSBURY NO.1) COMPULSORY PURCHASE ORDER 2022

OPENING SUBMISSIONS OF THE ACQUIRING AUTHORITY

Preliminary

1. The purpose of this public inquiry (**'the Inquiry'**) is to consider objections to the above named compulsory purchase orders, (**'the Orders'**). The acquiring authority is the London Borough of Merton (**'the Council'/'the Authority'**), which made the Orders pursuant to its powers under Section 226 of the Town and Country Planning Act 1990.
2. The purpose of the Orders is to enable the regeneration of three housing estates within the Council's administrative area, being the Eastfields, High Path and Ravensbury Estates (together, **'the Estates'**). As discussed further below, such regeneration is urgently required and is a long-standing objective of the Council, as set out in the Estates Local Plan. The scheme as a whole is referred to as the Merton Estates Regeneration Programme (**'the MERP'/'the Scheme'**). Not only will implementation of the MERP see the replacement of aging, damp and energy-inefficient homes with modern, dry and well-laid out accommodation, it will also see the delivery of a substantial increase in the number of homes across the three Estates, thereby helping to address issues of overcrowding and housing need in this part of London. As such, there will be both qualitative, and quantitative, improvement in provision.
3. Such is the scale of the MERP, that it is necessarily being delivered on a phased basis. Some phases of regeneration have in fact already been commenced. These include the 'kickstart' phases at both Ravensbury and High Path, which have been completed, together with a preliminary 'Phase 1A' at Eastfields which has recently been commenced. The Orders will,

respectively, deliver Phase 1 of the Eastfields regeneration (with subsequent Phases 2 and 3 to follow), deliver Phases 2 and 3 of the High Path regeneration (with the later Phases 4 – 7 to come), and complete the regeneration proposed on Ravensbury Estate. As such, it is right for the Inquiry to note that the Orders will not themselves realise the entirety of the benefits which the MERP will deliver. However, what the Inquiry can also note, is that the Orders will themselves provide for substantial regeneration benefits in their own right, as well as also serving to enable delivery of the further benefits that will come forward with later phases of the Scheme.

4. The Council is promoting the Orders, and indeed seeking the regeneration of the Estates, in partnership with the Clarion Housing Group (**'Clarion'**). The bona fides of Clarion are summarised later in these submissions (and addressed more substantively in the evidence of Mr Brian Ham, the Project Director for Clarion on the MERP). However, at this stage it is sufficient to note that Clarion are the largest affordable housing landlord in the country, with unmatched resources and experience in affordable housing delivery/management. Further, and perhaps most pertinently, following a Stock Transfer Agreement in March 2010 (**'the STA'**), Clarion took possession of all the Council's social housing stock – some 14,000 homes – including those located within the three Estates.
5. Of course, in order for compulsory purchase powers to be authorised, it is necessary that the Council demonstrate that there is a compelling case in the public interest to justify the confirmation of the Orders. The purpose of these submissions is to provide a brief overview of that compelling case. However, before doing so, the Council first summarises the position in respect of the outstanding objections to the Orders (**'the Objections'**), since this both provides the context for the Inquiry (in which the Objections fall to be considered) and also serves to illustrate the very significant care taken by the Council and Clarion in pursuing the Estates' regeneration.

The Objections

6. In seeking to deliver those phases of the MERP which are the subject of the Orders, it was necessary that the Council acquire some 180+ freehold and leasehold interests. Given the sensitivities involved in pursuing an estates regeneration programme of this type, and given

also that the Council is pursuing regeneration of not one but three residential estates, the Authority respectfully submits that the small number of Objections maintained as at the opening of the Inquiry, is extremely telling.

7. Indeed, as of yesterday, it is notable that *not one* Objection is maintained in respect of the either the Eastfields Order or the Ravensbury Order. Even as regards High Path, in terms of the freehold/leasehold interests to be acquired, the position is that only one single property maintains an outstanding statutory Objection (that being 18 Gilbert Close, in respect of which property 3 Objections are maintained). Further, there are only 7 additional Objections to the High Path Order (with these relating essentially to Rights of Light¹).
8. Also significant in this respect, is the fact that when the Inspectorate sought confirmation from objecting parties as to whether or not they intended to participate at the Inquiry, only three parties indicated such intention, and none of those parties have sought to submit evidence. Indeed, two of them have since agreed terms with the Council, and are on the point of withdrawing their Objections altogether.
9. The substance of the few remaining Objections will be addressed in the evidence of the various witnesses whom the Council intends to call in making out its case for confirmation of compulsory purchase powers. However, at this stage, the Inquiry can and should note the very limited extent of opposition to the Orders, since it is respectfully submitted that this goes directly to the strength of the Council's case.
10. These submissions now turn to summarise that case

The Compelling Case

¹ In respect of Rights of Light, the Inspector will have noted that when preparing the Orders the Council erred on the side of caution, with a view to ensuring that no relevant right of light was omitted. However, further analysis has shown that in fact there is no need to acquire rights from some of those properties included within the Schedules to the Orders, and on that basis both the interested parties and PINS have been notified that the Council is seeking to modify the Orders so as to exclude those interests.

The Housing Position

11. The central thrust of the Council's 'compelling case' is, unsurprisingly for compulsory purchase orders of this type, concerned with the provision of housing. It is provision of housing, and the social and environmental benefits associated with that housing, that are the central benefits which the Orders would deliver. In this regard, there are both qualitative and quantitative issues to consider.

Qualitative Issues

12. Turning first to qualitative matters, the Inquiry will have noted that the condition of the existing accommodation across the three Estates is addressed in the evidence of both Mr Ham and also Mr Michael Robbins (both of Clarion). Their evidence recounts how, following the STA, Clarion has undertaken extensive survey work to assess the fabric of the existing housing stock with a view to understanding how best to deliver a high standard of accommodation in the longer term, whilst also expending significant monies to ensure that the dwellings remained safe and habitable in the short term.

13. Unfortunately, the reality is that much of that existing housing stock is now life-expired. This should not be surprising; some properties date to the 1950s/1960s, whilst even those constructed in the 1970s or 1980s were built long before modern standards/practices were adopted in respect of issues such as energy efficiency.

14. The Inquiry will hear that across parts of the Estates there are problems with damp and mould, since flat roofs, guttering and window fittings/casements are now no longer fit for purpose. Similarly, almost all the accommodation is inefficient in terms of heat retention; there are problems with cold bridging as well as those caused by the failing windows. This is extremely significant; not only is such inefficiency undesirable in environmental terms, it means that the existing properties are expensive to heat. In the current economic climate that is a matter of real concern. Indeed, the standard of certain of the accommodation is not simply poor, it is positively defective; the Orlit Housing at the Ravensbury Estate is legally classified as such, by virtue of the Housing Defects Act 1984.

15. In addition, it is not simply the 'skin' of the accommodation that is problematic. Not only is it the case that many of the existing properties on the Estates are neither sound nor watertight, internal fabric is also worn out and past its terminal expiry; for example as regards kitchens. In addition, in many cases room sizes are small and below Nationally Described Space Standards, resulting in cramped conditions, whilst provision of outside space is often deficient or even lacking altogether. Further, the footprint of the Estates (or at least parts of them) are poorly designed, giving rise to problems of legibility and accessibility.
16. Given this adverse situation, it is a matter of major significance that the Orders will provide for delivery of accommodation that is well laid out, that is dry, that is spacious so as to comply with current standards, and which occupants can better afford to keep warm (all accommodation will have Energy Efficiency Ratings of B or better, as compared to the current ratings of C, D or even E).
17. The qualitative improvement will be definitive.

Quantitative Issues

18. In common with other parts of London, there is a pressing need for housing in the London Borough of Merton. The evidence of Ms Tara Butler, the head of 'Future Merton' with the Council, will explain the nature and extent of that need; both in terms of the new accommodation that policy requires the Council to deliver, and also in terms of the overcrowding currently experienced across the three estates.
19. On any view, the position is acute, and requires significant steps to address it.
20. Looked at simply in terms of housing numbers, the position is that the MERP will deliver up to 3,272 dwellings across the three Estates, in place of the 1,175 which currently exist – an increase of 2,097 – with the majority of the new provision located at High Path, which has excellent public transport links. Further, the quantitative issue is not simply a question of housing numbers, it is also a matter of bedroom provision. Notably, in this regard the Scheme will provide for approximately 5,900 bedrooms in place of 2,500 as existing – an increase of approximately 3,400. Of course, not all this provision will be delivered by the Orders; much will come forward in later phases. However the Orders themselves will see delivery of 201

new dwellings at Eastfields, 487 at High Path, and the final 179 homes at Ravensbury. That is a very substantial numerical provision.

Further Remarks as to Housing

21. The only further matter the Council notes in this context is that, as the Inquiry will be well aware, the provision of housing is not an arid, academic question relating simply to whether or not local planning authorities are able to discharge obligations imposed by national planning policy. Rather, it is a 'real' issue, with fundamental implications for the social and economic health of a local area, and for families which live (or want/need to live) there. The chance to live in a dry, warm, affordable home, with enough room for all members of a household, and with all the security and the indirect benefits which that opportunity brings (in terms of matters such as children's education, and health) is incalculable. As such, the benefits which provision of these new dwellings will bring, are genuine and substantial.

Delivery

22. Turning aside from the 'benefits' of the MERP Scheme which the Orders will deliver, it is also appropriate to consider matters relating to 'delivery' of those benefits.

Clarion

23. In this regard, these submissions have already noted that the Scheme is to be delivered by Clarion. In terms of the question of delivery, the Inquiry should draw real reassurance from the fact that Clarion is the pre-eminent affordable housing landlord in Britain. In this respect, Clarion currently owns some 125,000 units of affordable housing, providing accommodation to some 350,000 residents; in the last year alone it constructed some 2,032 units (78% of which were affordable), and has another 21,000 new homes in the pipeline.

24. Mr Ham recounts various substantial projects with which Clarion has recently been, or is currently involved. He also points to the financial resources of Clarion, noting that in the last financial year its turnover was £1billion, and that it invested some £605million in existing housing stock.

25. In this context, the Inquiry should note that both the Council and Clarion recognise fully that the MERP is not 'viable' in the strict sense of 'turning a profit'. Indeed, delivery of the Scheme

will be achieved at significant financial loss to Clarion; it is only the High Path Estate where the Scheme will generate a profit, and that profit will be used to (partially) subsidise the regenerations of Ravensbury and Eastfields. However, Mr Ham's evidence confirms not only that this financial position is understood and acknowledged by Clarion, but also that Clarion is fully committed to delivering the MERP in its entirety (including of course, those phases of the Scheme which are the subject of the Orders), consistent with its contractual obligations under the STA. In this regard Mr Ham will note a very recent board resolution from Clarion confirming this position and a letter confirming the resolution has been circulated to the Inspector.

26. No Objection to the Orders contends that Clarion is not appropriately resourced, experienced or committed to delivering the development which is the subject of the Orders.

Planning

27. Planning matters are dealt with in the evidence of Ms Butler. Her proof of evidence goes into matters in considerable detail, reflecting her longstanding involvement with the detailed design and planning processes which have informed the Scheme. The proof also notes the longstanding policy commitment to delivery of the Estates' regeneration, and the adoption of the Estates Local Plan as part of the Council's development plan in February 2018.
28. However, for present purposes, it is sufficient to note that her evidence will confirm that not only has planning permission been granted in outline for the totality of the MERP, but that reserved matters approval has all but been granted for those phases of development which are the subject of the Orders. In this regard, such reserved matters approval has been granted in respect of Phase 1 of the Eastfields, Phases 2-4 of Ravensbury, and Phase 2 of High Path. It is right to say that approval has not been granted in respect of Phases 3B & C of High Path (albeit it has been granted in respect of Phase 3A), but that is because the application is pending, awaiting final confirmation of the government's second staircase regulations for tall buildings. There is no suggestion that once those requirements have been published, approval will not be forthcoming.
29. As such, the question of planning policy & permission does not pose any obstacle to delivery of the Scheme. On the contrary, the Scheme is consistent with both national policy (in

particular the NPPF) and also local policy (in the form of the development plan). Further, it benefits from planning permission. No Objection in opposition to the Orders queries the fact that the proposed development benefits from planning permission, or asserts that it is contrary to policy.

Conclusions

30. Having regard to the matters outlined above, the Council will show that once the Orders have been confirmed, those phases of the Scheme which the Orders will facilitate will be delivered. Consistent with guidance set out in national policy, there is no impediment to that delivery, such that the Inspector/Secretary of State can be confident that once the Orders are made, development will proceed.

Engagement

31. The last issue which the Council addresses in the context of summarising its compelling case in support of the Orders, is the efforts to which it and Clarion have gone to engage with affected owners/occupiers of the Estates. This matter is addressed in the evidence of Mr Clarke Vallance (of Savills) and Ms Iona McConnell (of Clarion).

32. As the Inquiry will understand, it is a requirement of national policy that an acquiring authority be able to show that it has taken reasonable steps to acquire interests by agreement. That policy also emphasises the need for authorities to engage meaningfully with affected parties, to ensure that they have an early understanding of the authorities' proposals for an area, and how those proposals will affect residents and landowners.

33. In the case of the Scheme, the Council maintains that the policy of engagement pursued with affected parties represents the absolute gold standard in terms of what it means to promote the regeneration of a residential estate. From the outset, the Council/Clarion have sought to keep communities apprised of their intentions, consulting occupiers/landowners as to what was envisaged. Thereafter, in 2015 the Council published the 'Ten Commitments', through which it sought to ensure that regeneration of the Estates was not achieved at the expense of the rights of individuals. Mr Vallance will speak to this matter in more detail, but in due course the Council will submit that its/Clarion's approach – ensuring as it does that those who are

resident on the Estates can remain resident on the Estates – is the very model of how such regeneration should be pursued.

34. Ultimately however, perhaps the best illustration of the efforts made by the Council/Clarion to engage with affected parties, and to acquire interests by agreement, is the lack of Objections to the Order, and the lack of active participation at the Inquiry by those few remaining Objectors. Given the ambitious extent of the regeneration proposed, such minimal opposition to the Orders is remarkable.

Concluding Remarks

35. It is on this basis, and having regard to these considerations, that the Council will in due course contend that there is a compelling case in the public interest to justify compulsory purchase powers, so that the Orders should be confirmed.

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