

Our Ref: IG/RH/83617.1

Your Ref:

Secretary of State for Housing,
Communities and Local Government
Planning Casework Unit
23 Stephenson Street
Birmingham
B2 4BH
BY EMAIL ONLY
(PCU@communities.gov.uk)

12 September 2025

Dear Secretary of State

**The Borough Council of Sandwell (Cranford Street, Smethwick) Compulsory
Purchase Order 2025
Acquisition of Land Act 1981
Town and Country Planning Act 1990 (as amended)
STATUTORY OBJECTION by Portal Construction Limited**

1. Introduction

- 1.1 We act for Portal Construction Limited, being the freehold owner of around 4.5 acres of land off Cranford Street, Smethwick ("the Site"). The Site is registered at the Land Registry under title number WM379676.
- 1.2 The Site forms the majority part of land ("the Order Land"), which is the subject of the above-referenced compulsory purchase order ("the Order").
- 1.3 The Order was made by Sandwell Metropolitan Borough Council ("the Acquiring Authority") on 13 August 2025. The Acquiring Authority is also the relevant local planning authority.
- 1.4 By letter dated 21 August 2025, the Acquiring Authority served on our client:
 - 1.4.1 notice of making the Order dated 15 August 2025;
 - 1.4.2 Statement of Reasons (undated) ("SoR"); and
 - 1.4.3 a copy of the Order map.

- 1.5 The same letter advised our client that any objection to the Order should be sent to the Planning Casework Unit (on behalf of the Secretary of State) before close of business on 12 September 2025¹.
- 1.6 Please accept this letter as our client's **OBJECTION** to the Order pursuant to section 13(6) of the Acquisition of Land Act 1981.
- 1.7 The basis of our client's objection is set out in this letter (and we reserve our client's position to augment this objection in due course) but, by way of summary only, the Acquiring Authority has clearly failed to:
 - 1.7.1 demonstrate that there is a compelling case in the public interest to acquire the Site;
 - 1.7.2 demonstrate that the purpose for which it intends to acquire the Site cannot be achieved by alternative means (including via the private sector such as our client);
 - 1.7.3 take appropriate and proportionate steps to seek to acquire the Site by private treaty including a period of around 2 years (following a resolution to make the Order) when it seemingly took no meaningful action at all; and
 - 1.7.4 demonstrate (to the satisfaction of the Secretary of State) that there are sufficiently compelling reasons for the Site to be acquired compulsorily at this time.
- 1.8 As such, the intention of the Acquiring Authority to acquire the Site by compulsion is unnecessary, wholly disproportionate and flies in the face of well-established Government guidance (see further below).
- 1.9 Given the fundamental nature of our client's objection it is imperative that it is fully and properly considered at a public local inquiry. Our client, therefore, respectfully requests that all necessary arrangements are put in place to convene a public local inquiry in due course.

2. **The Site**

- 2.1 The Site is located to the immediate south of Cranford Street, which is a busy through route between Smethwick and Birmingham. The Site benefits from excellent connectivity and is around a mile to the north-east of Birmingham city centre. To the south of the Site is the Midland Metropolitan University Hospital ("the Hospital").
- 2.2 The Site is previously developed land and is in an established urban location. It was previously in employment use but it is presently vacant. There are existing buildings and structures on the Site. Our client has granted a lease ("the Lease") of the Site to the Sandwell and West Birmingham NHS Hospitals Trust ("the Trust") for its temporary use as car parking, compound and office facilities in connection with construction of the Hospital. As is clear from the plan appended to the Order, the Order Land bisects some temporary office

¹ The Acquiring Authority has since advised us that, in fact, 23 September 2025 is the deadline for the receipt of objections.

buildings that have been erected by the Trust on the Site. Those buildings will be removed by the Trust from the Site upon determination of the Lease.

- 2.3 The Lease is granted for a term expiring on 24 December 2025. Given that construction of the Hospital has now been completed, our client anticipates recovering control of the Site before the end of this calendar year. For so long as the Lease has been in place our client has not been able to deal with the Site nor actively progress its proposals in respect of it (as to which please see further below).

3. Background

- 3.1 The making of the Order has been long in gestation. As long ago as November 2022, the Acquiring Authority's Cabinet resolved to make a compulsory purchase order to include the Site. This resolution was made in accordance with a recommendation from officers that was set out in a report ("the 2022 Report"). At that time, Members were referred to the availability of funding from the Towns Fund (managed by the Secretary of State) in the sum of £4.35m² to secure the acquisition and remediation of the Site (including the demolition of existing buildings). At that time, the timetable was described as '*tight*' with the relevant funding having to be spent by 2025/26³.
- 3.2 We note from the 2022 Report that Members of the Cabinet were also advised as to the following matters;
- 3.2.1 the Site is adjacent to the Hospital and is being used as a compound for the Hospital build;
- 3.2.2 the Site is in single ownership and is likely to become vacant once the Hospital development is complete;
- 3.2.3 the Acquiring Authority's bid for the Towns Fund indicated that approximately 145 homes (including 25% affordable homes) and one commercial unit could be provided on the Site;
- 3.2.4 failure to secure the Site would result in a clawback of £4.35m to the Secretary of State;
- 3.2.5 the Acquiring Authority has not been able to agree with our client a price for the Site, advising that '*despite negotiations taking place over several months, the landowners are not willing to accept the council's independent valuation of their site and have intimated that further engagement with the council is not welcome*'. It is worth noting that the 2022 Report fails to mention: (i) the Acquiring Authority did not provide our client with a copy of their independent valuation; and (ii) the Acquiring Authority were not willing to accept our client's valuation (based on what was reasonably considered could be achieved through a market sale).

² This is part of a £3.6bn fund made available by the Government (MHCLG) to invest in towns of part of its previously announced plan to level up regions.

³ We understand this deadline has since been extended.

3.2.6 the benefits of the proposed scheme are:

'almost 2 hectares of remediated land (which is currently significantly contaminated), at least 145 new homes (of which 25% will be affordable), improved environment, and access to the wider area and green spaces. This will considerably improve the economic, social and environmental wellbeing of the area in the wider public interest. This is primarily through the removal of the long-term public eyesore, created by the current vacant industrial units fronting Cranford Street, and the remaining units on site adjacent to the new hospital development';

3.2.7 the alternative options are:

- (a) not progress with a compulsory purchase order and not deliver the Towns Fund project leading to clawback of £4.35m to the Secretary of State; or
- (b) identify another site that could achieve the Towns Fund project and submit another change request but it was noted that *'there are no other sites in the area that could be considered at this stage given the timescales for the funding to be spent'*.

3.3 There then followed some limited exchanges between the Acquiring Authority and our client regarding possible acquisition but, inexplicably, for the best part of 2 years virtually nothing happened (as to which please see further below).

3.4 The matter was then subject to a further officer's report ("the 2025 Report"), which was considered at a meeting of the Acquiring Authority's Cabinet on 25 June 2025.

3.5 We would highlight the following points arising out of the 2025 Report:

3.5.1 the Site is allocated for housing in the existing and emerging Local Plan and is included in the Grove Lane Masterplan that was approved by Cabinet on 9 February 2022 (paragraph 3.2);

3.5.2 funding from the Towns Fund would enable acquisition and remediation of the Site (including the demolition of existing buildings) (paragraph 3.3);

3.5.3 negotiations with our client have been unsuccessful so far (paragraph 3.3);

3.5.4 whilst the Site has an allocation in the Local Plan and the benefit of an approved masterplan, having an approved planning application for a residential scheme would be of benefit and demonstrate to a planning inspector at an inquiry that there was likelihood a housing scheme could be delivered thereby justifying the Order and making a more robust case for acquisition (paragraph 3.6);

- 3.5.5 whilst the Site was initially considered capable of delivering in the region of 145 new homes, it has since become apparent (following more detailed design work) that a scheme of approximately 100 new homes would be more acceptable (paragraph 3.7); and
- 3.5.6 the change of housing numbers from 145 to (up to) 100 will need to be reported to the Secretary of State as part of the Towns Fund monitoring process which will be undertaken in due course (paragraph 5.3).
- 3.6 We note from the 2022 Report that Members of the Cabinet were also advised as follows:

7. Legal and Governance Implications

7.1 S.226 of the Town and Country Planning Act 1990 (TCPA 1990) authorises local authorities to compulsorily purchase land if the authority thinks that the acquisition will facilitate the development, redevelopment or improvement of land, or acquisition is required to achieve the proper planning of an area. Before a CPO can be implemented, the acquiring authority will have to justify it to the Secretary of State. The local authority must be able to demonstrate, in respect of the CPO, that:

- *It is authorised by statute to purchase land compulsorily for a particular purpose and the CPO is necessary to achieve this purpose.*
- *There is a compelling case in the public interest that sufficiently justifies interfering with the rights of those with an interest in the land affected. In this case that the scheme will improve the economic, social or environmental wellbeing of the area.*
- *Adequate resources are (likely to be) available to implement both the CPO and the CPO scheme, within a reasonable time frame. (This would include any financial contributions from other bodies, including the private sector).*
- *There is a reasonable prospect of the CPO scheme going ahead. For example, the scheme is unlikely to be blocked by the programming of any infrastructure or remedial work that may be required or the need for planning permission or other consent or licence.*
- *There is no alternative site or alternative means of bringing about the objective of the CPO.*
- *The CPO is a measure of last resort and that negotiations for acquisition by agreement have been pursued but have proved fruitless.*

7.2 The above consideration factors have been tested and applied through this report and previous decisions of Cabinet relating to this proposed acquisition. Legal Services, in conjunction with external advisers, will continue to monitor the progress of the CPO to ensure compliance with

legislation and that the Council is on track to achieve a successful acquisition via CPO powers' [our emphasis]

3.7 Notably, the '*alternative options considered*' only included the option not to progress with the Order i.e. not to deliver the Towns Fund project leading to a clawback of funds to the Secretary of State. The other alternative option, as referenced in the 2022 Report i.e. to identify another site to deliver the Towns Fund project (which was discounted given the timescales for the funding to be spent), was not included in the 2025 Report notwithstanding that we understand the Secretary of State has since extended the deadline for using monies from the Towns Fund to March 2027.

3.8 We note that the Cabinet accepted the officer's recommendation and resolved (amongst other things) to:

3.8.1 note the changes in the *scheme* from the 2022 Report (as above);

3.8.2 pursue the making of the Order based upon the revised housing numbers for the Site;

3.8.3 use the Acquiring Authority's compulsory purchase powers to acquire land and property required for the Grove Lane Towns Fund project at Cranford Street; and

3.8.4 take all necessary action to secure the making, confirmation and implementation of the Order and, if objections are received, to make arrangements for a public inquiry.

3.9 We also note that the Cabinet authorised:

'the Executive Director Place to continue negotiations and to acquire land and property within the proposed Order lands, on terms to be agreed, in advance of confirmation of the Compulsory Purchase Order by the Secretary of State, and subject to the availability of finances'

4. **The Order Scheme**

4.1 The purpose for which the Acquiring Authority is purporting compulsorily to acquire the Site is identified at paragraph 2.6 of the SoR in the following terms:

'...demolition of buildings on Site, and the remediation of the land to create a cleared site, and construction of a primarily residential development, comprising approximately 100 homes (of which 25% are intended to be affordable) together with commercial floorspace' ("the Order Scheme")

4.2 This objection is predicated accordingly.

5. **Statement of Reasons**

5.1 We have been provided with a copy of the SoR as served on our client. For present purposes, we simply note the following points arising out of it:

- 5.1.1 it is acknowledged that the Site is currently in temporary use as a car park and compound in association with construction of the Hospital and reference is made to the Lease in this respect (paragraph 3.2);
- 5.1.2 the Acquiring Authority will be seeking a development partner to deliver the Order Scheme in line with an anticipated planning approval (it is programmed to have a clear and remediated site ready for development by March 2027 subject to acquiring the Order Land within this timescale) (paragraph 3.5);
- 5.1.3 reference is made to '*several years*' of unsuccessful attempts to engage with our client (paragraph 5.2);
- 5.1.4 given the current condition of the Site, the extent of remediation required and the prolonged period of vacancy, it was deemed unlikely that development would proceed without public sector intervention (paragraph 5.2);
- 5.1.5 there is currently insufficient land in the Borough to cater for the housing need and there is a '*shortfall in sites for 15,916 homes*' (paragraph 6.3);
- 5.1.6 the Acquiring Authority intends to submit a planning application for the Order Scheme '*in Summer 2025*' (paragraph 7.20);
- 5.1.7 the Acquiring Authority made a final offer to acquire the Site in February 2022, which was rejected by our client, and resumed contact with our client in June 2024⁵ but no agreement has been reached (section 8);
- 5.1.8 the Acquiring Authority is aware that there is developer interest in the Grove Lane area and is confident that the right developer could be secured to lead on the new development in line with the planning application secured (paragraph 11.1);
- 5.1.9 once acquisition is obtained, the most efficient route to deliver new houses on the Site would be disposal to a developer subject to a planning permission i.e. the Site would be delivered via a joint venture with a procured partner (paragraph 11.4);
- 5.1.10 funding of the CPO and the remediation of the Site following demolition of structures, and any associated reports or surveys will be met from the allocated Towns Fund of £4.35m and, related to this, demolition and remediation costs have been estimated to be '*approximately £1.4m based upon a high-level assumption with regards ground conditions*' (paragraph 11.5)⁶; and

⁴ So far as our client is aware, no such planning application has yet been submitted and there is no evidence of an application on the planning portal as at 12 September 2025.

⁵ Our client's records indicate the Acquiring Authority resumed contact in August 2024.

⁶ The Acquiring Authority refers to '*reluctance*' on our client's part to allow access to the Site to undertake intrusive surveys (per paragraph 11.5 of the SoR). This is disingenuous: for obvious reasons (i.e. the existing of the Lease) our client was (and is) simply not in a position to grant rights of access to the Acquiring Authority.

5.1.11 without the granting of compulsory acquisition powers, the Acquiring Authority considers that it will not be possible to construct the Order Scheme or realise the public benefits arising from it (paragraph 16.6).

6. Relevant Regulatory Framework

6.1 We note that the Order was made pursuant to section 226 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act"), which provides as follows (insofar as is material):

'226. – Compulsory acquisition of land for development and other planning purposes

(1) A local authority to whom this section applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area [which]—

[(a) if the authority think that the acquisition will facilitate the carrying out of development/re-development or improvement on or in relation to the land] or

(b) [which] is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

[(1A) But a local authority must not exercise the power under paragraph (a) of subsection (1) unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects—

(a) the promotion or improvement of the economic well-being of their area;

(b) the promotion or improvement of the social well-being of their area;

(c) the promotion or improvement of the environmental well-being of their area."']'

6.2 We note that the Acquiring Authority relies upon sub-paragraph (a), namely that they consider that acquisition of the Site would facilitate its redevelopment etc.⁷

6.3 In addition, the Secretary of State has published '*Guidance on the Compulsory Purchase Process*' ("the Guidance"), the most recent iteration of which was published in January 2025. Our client relies generally upon the Guidance in support of its objection but we set out in this letter particular passages that our client wishes to emphasise.

6.4 Section 2 (General Overview) of the Guidance includes important commentary as to when compulsory purchase powers should be used. It provides as follows:

'2.1 Acquiring authorities should use compulsory purchase powers where it is expedient to do so and where there is a compelling case in the public interest to make a compulsory purchase order.

2.2 The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to:

- understand the impact of the exercise of the compulsory purchase powers included in the compulsory purchase order and the acquisition of a person's*

⁷ For the purposes of this objection, our client agrees that the existing and emerging planning policy framework supports a residential-led redevelopment of the Site.

interest in the land on those persons, for example affected owners and occupiers, through direct engagement with those parties

- attempt the acquisition of all of the land and rights included in the compulsory purchase order by agreement

...

2.8 Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects...

...

2.10 When making and confirming a compulsory purchase order, acquiring authorities and confirming authorities (see Who will take the decision to confirm or not a compulsory purchase order? for a definition of 'confirming authority') should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected... [our emphasis]

6.5 Stage 2 (Tier 1) of the Guidance is concerned with justifying a compulsory purchase order and includes the following advice:

'12.4 *An acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected...*'

...

'13.2 *The confirming authority will consider each case on its own merits and this guidance is not intended to imply that the confirming authority will require any particular degree of justification for any specific order. It is not essential to show that land is required immediately to secure the purpose for which it is to be acquired. However, a confirming authority will need to understand, and the acquiring authority be able to demonstrate, that there are sufficiently compelling reasons for the powers to be sought at this time.*'

6.6 Our client also relies upon that part of the Guidance, which refers specifically to compulsory purchase orders (like the Order) that are made pursuant to section 226 of the 1990 Act. We note, in particular, the following guidance:

'109. What factors will the confirming authority take into account in deciding whether to confirm a compulsory purchase order under section 226(1)(a)?

109.1 *Any decision about whether to confirm an order made under section 226(1)(a) will be made on its own merits, but the factors which the confirming authority can be expected to consider include:*

...

- whether the purpose for which the local authority is proposing to acquire the land could be achieved by any other means. This may include considering the appropriateness of any alternative proposals put forward by

the owners of the land, or any other persons, for its reuse (see below). It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired

...

110. What does the confirming authority have to consider where there are other proposals for the use of land contained within a compulsory purchase order?

110.1 Where the owners of land or other parties have their own proposals for the use or development of land contained within a compulsory purchase order, considerations for the confirming authority will include whether the alternative proposals fit with the objectives of the local authority or deliver better outcomes when judged against the relevant purposes set out in section 226 of the Town and Country Planning Act 1990.

110.2 Another consideration could be whether the alternative proposals are capable of being or likely to be implemented in a timely manner, taking into account other relevant factors including:

- *the land's ownership and the ability for the current ownership to bring forward the relevant proposal*
- *any previous attempts to bring forward development, redevelopment or improvement (which includes regeneration) on the land*
- *the condition of the relevant land*

However, there may be circumstances where, despite there being a reasonable alternative proposal, acquisition by the local authority is appropriate and in the public interest to best achieve the objectives of the local authority.' [our emphasis]

7. Grounds of Objection

Ground 1: the Acquiring Authority has failed to demonstrate there is a compelling case in the public interest to acquire the Site

7.1 This represents a fundamental (and fatal) flaw in the case put forward by the Acquiring Authority.

7.2 The Acquiring Authority rightly accepts that it must demonstrate to the Secretary of State that there is a compelling case in the public interest compulsorily to acquire the Site from our client: this is at the heart of Government policy (per the Guidance).

7.3 This is a very high bar, which is entirely consistent with compulsory acquisition representing a means of *last resort*. Unfortunately, the Acquiring Authority has come nowhere close to clearing this bar. To the contrary, the entire premise of making the Order – to facilitate the delivery of much-needed

housing (including affordable housing) on the Site - is undermined by our client's own ambition to facilitate exactly this.

- 7.4 Moreover, our client's intention in this respect should have been known to the Acquiring Authority for some time. As long ago as August 2022 our client submitted to the Acquiring Authority a pre-application request (reference number PA/22/00618) about the potential to bring forward residential development on the Site. Our client has not been in a position practically to do so of late given the existence of the Lease but, as the Acquiring Authority itself identifies, our client anticipates recovering control of the Site in fairly short order and certainly before the end of this calendar year.
- 7.5 Our client's own proposals for the Site – to facilitate residential development (including an appropriate level of affordable housing) – are aligned with the Order Scheme. In these circumstances, it would be inappropriate (and contrary to the Guidance) to permit the Acquiring Authority to interfere with our client's proprietary interests in the Site. Nowhere is this critical concern addressed properly in the SoR: the Acquiring Authority has omitted meaningfully to engage with our client's intentions in this respect.
- 7.6 This is a fundamental flaw in the Acquiring Authority's purported justification for making the Order. On any basis, it cannot reasonably be said to be in the public interest to compulsorily acquire land for housing purposes when our client has expressly (and repeatedly) informed the Acquiring Authority of its intention to dispose of the Site for residential development, less still is there a *compelling need* in the public interest to do so.
- 7.7 The intention of the Acquiring Authority to dispose of the Site (if acquired) to a (private sector) developer is also telling and further undermines the case for the Order. Specifically, the Acquiring Authority omits to offer any (or any proper) explanation as to why a residential scheme built-out by a developer to whom our client has disposed of the Site is any less likely to come forward than a scheme built-out by a developer to whom the Acquiring Authority has disposed of the Site.
- 7.8 It defies logic – and is clearly contrary to the Guidance – for the Acquiring Authority to deny our client the opportunity to dispose of the Site for residential development simply in order for the Acquiring Authority to seek to achieve the same overall outcome. Such an approach would represent an improper use of the Acquiring Authority's compulsory purchase powers and reinforces our client's concern that that there is no case compulsorily to acquire the Site from our client, less still a compelling case in the public interest to do so.
- 7.9 On this basis alone, we invite the Secretary of State to refuse to confirm the Order.
- Ground 2: the purpose for which the Site is proposed to be acquired by the Acquiring Authority can (and would) be delivered by alternative means**
- 7.10 This is related to the first ground of objection.

- 7.11 The SoR makes clear that the Acquiring Authority seeks to acquire the Site in order to deliver new homes (including affordable homes) and a commercial unit i.e. the Order Scheme.
- 7.12 What the SoR fails to make clear, however is that our client is committed to achieving the same overall outcome. This is a surprising omission because the Acquiring Authority ought to be well aware of our client's oft-stated intention to facilitate the bringing forward of residential development on the Site just as soon as the Lease has determined and our client has regained exclusive possession of the Site. As above, our client anticipates this to be secured by the end of this calendar year.
- 7.13 In practice, this is no different to the Acquiring Authority's intended approach. It is revealing in this respect that the Acquiring Authority does not intend to develop the Site itself; rather, housing delivery on the Site is entirely dependent upon the emergence of a private sector developer (see, for example, paragraphs 11.4-11.6 of the SoR). It is quite wrong for the Acquiring Authority to seek to interfere with our client's interests in these circumstances. As the Acquiring Authority itself concedes, the private sector will be responsible for achieving the Order Scheme (or equivalent).
- 7.14 Moreover, we note the Acquiring Authority is '*confident*' about securing the '*right developer*' to deliver residential development on the Site (per paragraph 11.1 of the SoR). In these circumstances, our client should not be denied the opportunity to facilitate bringing forward such development simply as a result of the Acquiring Authority's precipitous action.
- 7.15 In addition, our client strongly refutes the Acquiring Authority's assertion (not before trailed with our client) that the Order Scheme would not come forward without public sector intervention (see, for example, paragraph 5.2 of the SoR). Conspicuous by its absence from the SoR is any evidence to support this proposition. Instead, the Acquiring Authority glibly refers to: the current condition of the Site; the extent of remediation required for the Site; and the prolonged period of vacancy of the Site as factors militating in support of the need for public sector intervention. This is a misconceived approach and betrays a fundamental misunderstanding of the relevant context.
- 7.16 For the avoidance of any doubt:
- 7.16.1 since October 2021 our client has promoted and continues to promote the Site for residential development in relation to the then draft Grove Lane Masterplan, draft Smethwick to Birmingham Corridor Framework Document and emerging development plan and has submitted representations in respect of each of them. This is, of course, entirely consistent both with its own long-held ambition to secure new homes on the Site and that such ambition would have been known to the Acquiring Authority;
- 7.16.2 consistent with the above, our client has previously submitted a pre-application request (reference number PA/22/00618) to the Acquiring Authority. The Acquiring Authority's pre-application response indicated an acceptable scheme would comprise 87 new homes (including 25% affordable homes), which is further evidence of the

Acquiring Authority's knowledge of our client's intention (put at its lowest);

- 7.16.3 our client is aware of real market interest now in bringing forward the Site for residential development and will be pursuing such interest in earnest now it has greater clarity regarding termination of the Trust's interest in the Site; and
- 7.16.4 our client is entirely satisfied that a residential-led development can viably be delivered on the Site by the market⁸.
- 7.17 Given this, our client is at a loss to understand why the Acquiring Authority has seemingly omitted to consider an alternative site for use of the Towns Fund: instead, it seems to have progressed on the basis that the sum of £4.35m must either be invested in acquisition, remediation etc. of the Site or returned in full to the Secretary of State. We would respectfully suggest that, in the light of our client's oft-stated intentions (as repeated in this letter for the avoidance of any doubt), the Acquiring Authority's further pursuit of implementing the Order Scheme would not represent the optimum use of the Towns Fund.
- 7.18 We assume the Acquiring Authority has made the Secretary of State aware of our client's position in this respect but we reserve our client's position to make separate enquiries.
- 7.19 In all the circumstances, the market is perfectly capable of delivering new homes on the Site without the Acquiring Authority having recourse to inappropriate compulsory purchase powers.
- 7.20 This is a further basis upon which we invite the Secretary of State to refuse to confirm the Order.

Ground 3: the Acquiring Authority has failed to take appropriate and proportionate steps to seek to acquire the Site from our client by private treaty

- 7.21 As above, it is trite that compulsory purchase should be used as a last resort to secure the assembly of all the land needed for the implementation of projects (see paragraph 2.8 (General) of the Guidance).
- 7.22 In this context, our client is disappointed about the comparative lack of meaningful engagement by the Acquiring Authority, contrary to the Guidance.
- 7.23 In summary only:
- 7.23.1 the Acquiring Authority commenced discussions with our client back in November 2021, albeit at that time the Acquiring Authority was focused on employment use(s) and, as a result, such an approach was unacceptable to our client because it failed to optimise the

⁸ This position reflects expert valuation advice that our client has obtained from Avison Young and will be developed further in evidence, as necessary.

development potential of the Site (as later conceded by the Acquiring Authority);

- 7.23.2 between May 2022 and August 2024 – a period of around 2 years during which the Acquiring Authority palpably failed to act at all upon the original Cabinet resolution in 2022 (as above) - there was no further contact (to a meaningful extent) by the Acquiring Authority to seek to acquire the Site by private treaty;
- 7.23.3 discussions were belatedly re-commenced in August 2024 pursuant to which our client informed the Acquiring Authority of its intention to market the Site for residential development (subject to the Lease being determined) and later offered the Acquiring Authority the opportunity to bid for it (including a direct approach to the Acquiring Authority's Chief Executive on 7 July 2025), but the Acquiring Authority did not respond to this offer;
- 7.23.4 no further (genuine) attempt to acquire the Site has been made by the Acquiring Authority since this time despite our client's suggestion that discussions take place directly between our client's retained surveyor and the Acquiring Authority's surveyor; and
- 7.23.5 instead, the Acquiring Authority opted to make the Order.
- 7.24 The Acquiring Authority's reference to '*several years*' of unsuccessful attempts to engage with our client⁹ is, therefore, disingenuous when considered in proper context. Similarly, our client rejects that it has ever '*intimated*' (or otherwise articulated) to the Acquiring Authority that further engagement with the Acquiring Authority '*is not welcome*' (contrary to the reference in the 2022 Report).
- 7.25 The Guidance is clear: compulsory purchase is intended as a last resort for the Acquiring Authority to secure land that is needed for the implementation of an identified project. Notwithstanding this clear exhortation, instead of taking up our client's offer to join a bidding process for the Site, the Acquiring Authority has elected to make the Order. Such an approach is unreasonable and contrary to the Guidance.
- 7.26 We reserve our client's position to produce evidence in support of this ground of objection at an inquiry.¹⁰
- 7.27 Overall, the Acquiring Authority's conduct (including a complete absence of meaningful engagement for around 2 years) reveals a failure to engage properly and reasonably with our client and to take reasonable steps to acquire the Site by agreement. This is contrary to good practice and the Guidance.

⁹ Per paragraph 5.2 of the SoR.

¹⁰ In this objection, we have intentionally steered clear of any complaint about the quantum of compensation but we do record, for the avoidance of any doubt, our client's concern that the Acquiring Authority's offers to date have been unrealistic, unsubstantiated and unreasonable.

7.28 This is a further basis upon which we invite the Secretary of State to refuse to confirm the Order.

Ground 4: the Acquiring Authority is unable to demonstrate (to the satisfaction of the Secretary of State) that there are sufficiently compelling reasons for the Site to be acquired compulsorily at this time

7.29 In line with the Guidance, it is acknowledged that it is not essential to show that the Site is required immediately to secure the Order Scheme. However, it is incumbent on the Acquiring Authority to demonstrate (to the satisfaction of the Secretary of State) that there are sufficiently compelling reasons for the Order to be confirmed 'at this time' (per paragraph 13.2 of the Guidance, as above).

7.30 Consistent with our client's other grounds of objection, we would respectfully submit that the Acquiring Authority has come nowhere close to doing so. In summary:

7.30.1 the Order Scheme does not have the benefit of any planning permission nor, in fact, has the Acquiring Authority even applied for any such permission despite advising that this would be forthcoming in Summer 2025 (per paragraph 7.20 of the SoR);

7.30.2 the Acquiring Authority has no development partner despite emphasising that the Order Scheme would be '*delivered by a joint venture with a procured partner*' (see paragraph 11.4 of the SoR); and

7.30.3 the Acquiring Authority's demolition and remediation costs are '*based upon a high-level assumption with regards ground conditions*' (see paragraph 11.5 of the SoR).

7.31 This is not a coherent basis for acquisition of the Site by compulsion. To the contrary, it is unduly speculative and uncertain.

7.32 This represents a further basis upon which we invite the Secretary of State to refuse to confirm the Order.

8. Summary of Objection

8.1 For the reasons set out above, the Acquiring Authority has demonstrably failed to meet the statutory purpose for which the Order has been made, as follows:

'Acquiring authorities should use compulsory purchase powers where it is expedient to do so and where there is a compelling case in the public interest to make a compulsory purchase order.'

8.2 Not only is this test at the heart of Government policy (per the Guidance), it is also fundamental to our client's objection. The Acquiring Authority's failure to demonstrate that there is a compelling case in the public interest for the Order to be confirmed is further exacerbated by its separate failure to:

- 8.2.1 make reasonable efforts to negotiate with our client the purchase of the Site;
 - 8.2.2 demonstrate that the purpose for which it intends to acquire the Site cannot be achieved by alternative means; and
 - 8.2.3 demonstrate that there are compelling reasons for the Site to be acquired compulsorily at this time.
- 8.3 Our client, therefore, invites the Secretary of State to refuse to confirm the Order.

9. **Next Steps**

- 9.1 We respectfully request the Secretary of State to direct that a public local inquiry be held and for our client's objections to the Order to be heard by an independent inspector appointed by the Secretary of State.

Yours faithfully

Mishcon de Reya LLP

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