



Report for Croydon Council on the Proposed Whitgift Centre Compulsory Purchase Order

28 March 2014

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1 Introduction and Instructions

- 1.1 We are instructed by the London Borough of Croydon (the “Council”) to report on various aspects of the preparatory work that has been carried out in advance of consideration by its Cabinet on whether or not to make a Compulsory Purchase Order (CPO) to facilitate the redevelopment of the Whitgift Centre and surrounding land by Croydon Limited Partnership (CLP), a joint venture between Westfield Shoppingtowns Limited (Westfield) and Hammerson UK Properties plc (Hammerson).
- 1.2 In particular, we are asked to advise on four subjects that are relevant to the Cabinet’s decision on whether or not to proceed. These are the:
 - (i) justification for the proposed boundary of the CPO and the acquisition of the land and rights;
 - (ii) steps that CLP has taken to acquire the required land and rights by agreement;
 - (iii) arrangements for the transfer of land from the Council to CLP, and compliance with the statutory provisions that govern such transfers; and
 - (iv) viability of the proposed scheme and the prospect of it being built if the CPO is confirmed.
- 1.3 This version of our report has been prepared on the basis that it is able to be referred to in an open session of the Cabinet meeting. Therefore it excludes consideration of the land transfer arrangements and the viability of the proposed scheme.
- 1.4 This report considers the remaining matters in turn.

2 The Boundary of the Proposed CPO

- 2.1 The boundary of the Compulsory Purchase Order has been drawn to create a site that is necessary for the construction and use of the retail led mixed use Scheme, while minimising the impact of land acquisition on existing owners and occupiers. We set out below a broad summary of the approach taken.
- 2.2 Deloitte and the Council have worked with CLP to identify the property interests required and the rights needed to enable the Scheme to be delivered. The CPO boundary has been drawn to reflect this exercise.
- 2.3 To arrive at the boundary, the starting point was to overlay the footprint of the Scheme on a map of the area. This enabled the properties that would be required in the completed Scheme to be identified. That also informs the boundary of the lease that is to be granted to CLP to undertake the development of the Scheme.
- 2.4 From that base position, the specific land requirements for constructing the scheme were then identified. Most construction work will take place within the initial boundary identified above, but where additional land was identified as being required, (primarily for construction purposes or future maintenance of the Scheme) the boundary was extended to incorporate this.
- 2.5 A land referencing exercise was undertaken by Persona Associates, who carried out research to establish in so far as is practicable the ownerships and occupations within the broad boundary of the land likely to be required. This work has been refreshed on a number of occasions to ensure that the data held is kept up to date, and to ensure that interests in all areas of land included with each revision of the Map are captured.
- 2.6 Having established the CPO boundary on the above basis, the specific land requirements for each individual plot was considered. The nature of the work affecting the remaining plots was then considered, as a cross-check to ensure that no properties required for the completed Scheme had been overlooked.
- 2.7 Most of the properties within the site are required to be acquired outright as they are needed for the completed Scheme. However, in some cases it is only necessary for rights to be acquired, either for the purposes of constructing (or future maintenance of) the Scheme or to enable certain rights to be re-provided to third party landowners whose existing rights are affected by the Scheme. Rights are also required to enable consequential modification works to be undertaken to those properties that will be affected by the Scheme.
- 2.8 Based on the above, a CPO Map and schedule of interests have been prepared by Persona, which has been the subject of ongoing review and refinement to arrive at the final version. In line with the government guidance, the Map is divided into numbered plots and the boundary is outlined in red. Land to be acquired is coloured pink, with land over which rights are to be acquired coloured blue. Individual interests are identified on the Schedule to the Order.
- 2.9 The Whitgift Foundation (the Foundation) holds freehold and leasehold interests in property within the CPO boundary. Interests in the majority of the Foundation land have been excluded from the schedule of interests, and thus the CPO, on the basis that the Foundation and CLP have entered into agreements that enable a long leasehold interest to be granted to CLP or a related entity. On this basis, it has been concluded that compulsory purchase of these interests is not necessary.

2.10 The boundary of the CPO and the extent of the powers proposed to be used have been carefully considered in order to ensure that the powers sought are restricted to that which is considered to be necessary to deliver the Scheme. If Cabinet decides to proceed to make a CPO, the necessity for all the land and rights sought will be kept under review as the CPO progresses.

3 Negotiations to Acquire the Site

Circular guidance

3.1 Circular No. 06/2004 (the Circular) sets out guidance to acquiring authorities in preparing to make a compulsory purchase order and when exercising such compulsory powers when they are confirmed.

3.2 At paragraph 24, the Circular states:

Before embarking on compulsory purchase and throughout the preparation and procedural stages, acquiring authorities should seek to acquire land by negotiation wherever practicable. The compulsory purchase of land is intended as a last resort in the event that attempts to acquire by agreement fail. Acquiring authorities should nevertheless consider at what point the land they are seeking to acquire will be needed and, as a contingency measure, should plan a compulsory purchase timetable at the same time as conducting negotiations. Given the amount of time which needs to be allowed to complete the compulsory purchase process, it may often be sensible for the acquiring authority to initiate the formal procedures in parallel with such negotiations. This will also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.

3.3 The Council has proceeded on that basis, with negotiations and engagement with third parties taking place in parallel with the preparatory work to make a CPO.

3.4 As is common practice in scheme's that involve a development partner (in this case CLP), the Council has required CLP to progress the discussions and negotiations with owners and occupiers, and to do so in such a way that the Circular guidance is complied with.

3.5 The principal means by which the Council has monitored progress and compliance with this approach is through (generally) weekly "Land Assembly Group" meetings, attended by representatives of CLP and the Council.

CLP's Approach

3.6 We understand that CLP has contacted all parties known to hold an interest in the site in order to open a dialogue with them, or at least attempt to do so.

3.7 CLP has undertaken negotiations with certain third parties themselves, led by representatives from either Westfield or Hammerson, depending on the particular party or the circumstances of the case. CLP has also appointed a team of advisors from CBRE, Savills, and Nigel Laing Associates, who have supported CLP in progressing negotiations. CLP has allocated a case manager to each case so that third parties have a dedicated initial point of contact to engage with.

3.8 Following initial contact, a range of responses have been received from third parties which has then influenced the nature of subsequent communications between the parties. Many have responded positively

and have been willing to begin preliminary discussions. Where that is the case, communications have continued and this has mainly consisted of establishing further information regarding the nature of the third party's interest; the terms of their occupation; details of the business operated from the property (where relevant); and exploring each parties' options and potential relocation solutions.

- 3.9 Through these early communications CLP has been able to inform third parties of their proposals; introduce CLP and the Council, explaining their respective roles in the project; establish contact details; and invite third parties to enter into negotiations to acquire interests by agreement. This has also enabled relationships to be developed, which we would expect to continue as negotiations progress.
- 3.10 CLP has also sought to assist certain occupiers, where possible, by helping to identify potential relocation opportunities to properties within their control, primarily in the neighbouring Centrale shopping centre.
- 3.11 During these negotiations the CLP team has sought to ensure that parties are kept up to date with the Scheme progress and approximate timetable.
- 3.12 Where third parties have not responded to CLP's initial communication then this has been followed up periodically, reminding parties of the Scheme proposals and CLP's intentions, and encouraging them to engage in negotiations.
- 3.13 Communications with most third parties commenced in summer 2013, although discussions had already commenced with a number of parties earlier than this. These are continuing.
- 3.14 Communications have variously been undertaken by letters, emails, telephone calls and meetings. We understand that records of all communications have been retained on the individual case files belonging to the relevant CLP representative or appointed advisor.
- 3.15 CLP have been encouraged to conduct communications on an 'open' basis wherever possible, and we understand that has been followed. Certain communications have also been held on a 'without prejudice' basis (which cannot therefore be disclosed) due to the nature of the matters discussed.

Reporting and monitoring

- 3.16 CLP have held regular (generally weekly) meetings of their team and advisors to review progress and agree the next steps with each third party. Deloitte has attended some of these on behalf of the Council.
- 3.17 CLP has compiled a monitoring schedule in order to track progress with each party and record and monitor the agreed actions to be taken. This has generally been circulated on a weekly basis to key people from both CLP and the Council and has also been discussed and reviewed at Land Assembly Group meetings.
- 3.18 Correspondence and records of communications have been gathered and stored electronically by CLP, with access now available to the Council team. Written records of all communications are being maintained by CLP as a back-up, and these are also available to the Council team.

Position reached and next steps

- 3.19 CLP has identified all parties that are understood to hold an interest in the site, whether owners or occupiers. We understand they have sought to initiate negotiations with all those parties, with varying levels of take-up or response. They have continued to pursue a dialogue with them where possible. Relocation options have been explored and potential solutions identified with some parties, and we understand that proposals for relocation have been sent to a number of them. This will be an ongoing process.
- 3.20 We understand that steps have been taken to trace unknown owners and occupiers through enquiries and by posting notices in close proximity to the land in question to try and obtain further information. Further notices will be placed if the CPO is made.
- 3.21 Looking ahead, if Cabinet decides to proceed, we expect negotiations to continue in tandem with the preparatory work to make a CPO. Consequently, we anticipate a number of acquisitions will have been completed and that agreed terms will be in place with many third parties by the time that a Public Inquiry into the CPO commences. We anticipate that negotiations will continue with any remaining parties to ensure that it will only be necessary to exercise compulsory powers as a last resort in the event that such negotiations fail.

Conclusions

- 3.22 Based on the information available to us, we conclude that the efforts that CLP has made to identify owners and occupiers and to engage with them with a view to progressing acquisition of their interest are satisfactory in the context of the Circular guidance.

Deloitte LLP
28 March 2014

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