

North Finchley Land Assembly and Site Assembly Legal Summary

Prepared for The London Borough of Barnet

North Finchley Town Centre



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1. INTRODUCTION AND TRANSACTION BACKGROUND

- 1.1 This Report is prepared for The London Borough of Barnet (the "Council" the "Seller" or "you") in connection with the sale and development of Council Land and Third Party Property at North Finchley Town Centre, London.
- 1.2 Subject to the matters outlined in this Report, we confirm that to the best of our knowledge and belief the Transaction Documents reflect the Council's instructions to us.
- 1.3 It is very important you read the Transaction Documents in their entirety and this Report should not be used as a substitute for doing so. We have taken the Council's instructions on the Transaction Documents throughout negotiations, but you must alert us immediately if there is anything in the Transaction Documents that do not accord with the Council's wishes.
- 1.4 Our conclusions are based on, and qualified by, the following matters:-
- 1.4.1 we are English lawyers having English legal expertise and we do not purport to be experts in other fields or in the law of any other country;
 - 1.4.2 we express no opinion on any financial, valuation, business, investment strategy, financial planning, statistical, accounting, tax, taxation or information technology issues;
 - 1.4.3 our observations are made only to the extent that we are aware of relevant facts and a law firm, having the role described above, could reasonably be expected to have identified the implications of those facts; and
 - 1.4.4 any statements made in this Report in relation to matters of fact (as distinct from matters of law) are provided to the actual knowledge of those partners and solicitors directly engaged in acting on the transaction. Those statements are strictly limited to the matters addressed and do not apply by implication to other matters. Only those partners and solicitors directly engaged in acting on the transaction have any knowledge in relation to the matters addressed in this Report.
- 1.5 **Transaction background**
- 1.5.1 The Council and the Buyer have identified the Site, which is the land and buildings at and near North Finchley High Street, shown approximately edged red on Plan 2. This excludes any Non-SPD Land (unless the Council and the Buyer agree otherwise).
 - 1.5.2 The Site comprises Council Land (which is property owned by the Council) and Third Party Property (which is property owned by third parties).
 - 1.5.3 The Council does not own the Third Party Property, but the Buyer has agreed to use reasonable endeavours to negotiate terms with the owners of the Third Party Property and to acquire the Third Party Property with the Council's assistance. This may include acquisition by compulsory purchase order.
 - 1.5.4 Subject to satisfaction of conditions, the Council has agreed to sell and the Buyer has agreed to buy the Council Land and Third Party Property in Phases or Sub-Phases for development.
 - 1.5.5 Phase 1 will be divided into six Sub-Phases as shown indicatively on Plan 3. Phase 2 and Phase 3 are each intended to comprise no more than six Sub-Phases.
 - 1.5.1 Before selling any Council Land or Third Party Property, the Buyer must first satisfy conditions, including the grant of a satisfactory planning permission for the development of the Site. The conditions are summarised in SECTION 1.
 - 1.5.2 Once the conditions have been satisfied the Council has agreed to:-
 - (a) sell the Council Land to the Buyer in phases or sub-phases by the grant of a 250 year lease; and

(b) sell the Third Party Property to the Buyer in phases or sub-phases by a freehold sale.

1.5.3 The Buyer has agreed to pay a purchase price for the Council Land based on its Open Market Value excluding VAT.

1.5.4 The Buyer is entitled to develop the land it acquires from the Council. If it fails to do so or otherwise defaults, the Council has the benefit of a Call Option to re-acquire the land at the Call Option Price.

1.6 Outline of core Transaction documentation

On exchange the parties will enter into:-

1.6.1 the Land Agreement, which provides for the Buyer's conditional acquisition of the Council Land and the Third Party Property, the Buyer's development obligations if it develops the Site and the Council's buy-back option if the Buyer fails to proceed with the development; and

1.6.2 the Site Assembly Agreement, which provides for the arrangements between the Council and the Buyer in connection with the acquisition of Third Party Property, the making of a CPO and the Buyer's indemnity to the Council to pay for the CPO Costs.

the "Transaction Documents".

Subject to changes to some commercial terms the Transaction Documents are substantially the same as the Land Agreement and Site Assembly Agreement entered into between (1) the Council (2) Future High Street (North Finchley) Limited and (3) U and I (Projects) Limited on 11 June 2019 which will be terminated before the Transaction Documents are entered into. We have assumed that the Council remains content with the terms of those agreements as a basis for the Transaction Documents.

You should read the whole of this Report before deciding whether to proceed with the Transaction.

2. RELIANCE

This Report may be relied upon by the Council but this Report may not be relied upon by any other party, nor may a copy of this Report be provided to any other party (except the professional advisors of the Council) without the written permission of this firm.

3. CONTENTS OF THIS REPORT

In this Report, we deal with the following areas:-

SECTION 1 – Land Agreement

SECTION 2 – Site Assembly Agreement

SECTION 3 – Notes to this Report

4. DEFINITIONS

In this Report, the following terms have the following meanings:-

"Council Land" means the land owned by the Council which is:

Phase 1 Property:

- Lodge Lane Car Park (shown approximately edged red and labelled A on Plan 1)
- Woodhouse Road Car Park (shown approximately edged red and labelled B on Plan 1)

- North Finchley Library, Ravensdale Avenue (shown approximately edged red and labelled G on Plan 1)
- Strips of land in front of proposed site 32 (shown approximately edged red and labelled D and E on Plan 1), site 34 (shown approximately edged red and labelled C on Plan 1) and site 8 (shown approximately edged red and labelled F on Plan 1).
- Arts Depot (shown approximately edged red and labelled L on Plan 1)

Phase 2 Property, Phase 3 Property, Further Phase Property:

All Council-owned land that is within the town centre masterplan/SPD and not in Parcel 1 which includes:

- Stanhope Road North/Main Car Park (shown approximately edged red and labelled H on Plan 1)
- Stanhope Road South West Car Park (shown approximately edged red and labelled I on Plan 1)
- Robson Court, Dale Grove, (shown approximately edged red and labelled J on Plan 1)
- Norbury Court, 897 High Road (shown approximately edged red and labelled K on Plan 1)

"Funder"

means Regal Holdco Ltd (Company number 10695267) whose registered office is at 4-5 Coleridge Gardens, London NW6 3QH

"Buyer"

means Regal JP North Finchley Limited (Company Number 13414384) whose registered office is at 4-5 Coleridge Gardens, London NW6 3QH

"Site"

means the land and buildings at and near to North Finchley High Street, shown approximately edged red on Plan 2 (excluding any land which does not relate to the supplementary planning document adopted as supplementary planning guidance by the Council on 13 February 2018 which is shown edged with a black broken line on Plan 4).

Pinsent Masons LLP

29 July 2021

SECTION 1

LAND AGREEMENT

1. OVERVIEW

- 1.1 The Land Agreement is a contract to be entered into between the Council, the Buyer and the Funder. It sets out the terms upon which the Buyer will seek to satisfy the Conditions (including the grant of planning permission) to acquire Council Land and Third Party Property in Phases or Sub-Phases for which it will pay the Open Market Value for the Council Land.
- 1.2 Upon the sale of each Phase or Sub-Phase to the Buyer, the Buyer commits to development obligations when it starts works on site. If the Buyer fails to carry out the development in accordance with the Land Agreement ultimately the Council may exercise a call option to require the Buyer to return the Council Land for the Call Option Price.
- 1.3 The Council has a right of pre-emption to acquire residential units from the Buyer at their market value.

2. PHASES AND SUB-PHASES

- 2.1 The Council and the Buyer have agreed to divide the Site into Phases and Sub-Phases. The Phases are Phase 1, Phase 2, Phase 3 and up to two Further Phases. Sub-Phases are part of a Phase.
- 2.2 The Buyer has agreed to acquire Phase 1 in Sub-Phases. Future Phases may be acquired by the Buyer in whole or in Sub-Phases.
- 2.3 The Phase 1 Property comprises no more than six Sub-Phases as shown indicatively on Plan 3.
- 2.4 The Phase 2 Property and the Phase 3 Property each comprise no more than six Sub-Phases.
- 2.5 The Buyer is entitled to draw down the whole of Phase 2, Phase 3 of Further Phases, but we understand it is more likely that the Buyer will acquire any future land in Sub-Phases. Accordingly, the remainder of this section assumes the delivery of land by Sub-Phases.
- 2.6 Any increased number of Sub-Phases, any changes to the extent of the Phase or the order of commencement of the Sub-Phases in each Phase requires the Council's approval.

3. CONDITIONS

- 3.1 The Buyer must satisfy the following conditions before the Buyer can acquire any Sub-Phase:-
 - 3.1.1 For the first Sub-Phase within Phase 1, the satisfaction of the **Planning Condition** which is the grant of a satisfactory detailed, outline or hybrid made by the Buyer to carry out the Development of the Site. The Buyer is responsible for the content of the planning application and the Council must approve the planning application before its submission. We understand that the Buyer is likely to apply for a hybrid planning permission (outline for the Site and detailed for the Lodge Lane car park site). A planning permission will not be satisfactory if the Council or the Buyer considers that the Development is unlikely to be Financially Viable or if the Buyer considers that it would not sustain a case for a CPO or would restrict the Buyer from delivering the Development in accordance with the SPD, the emerging draft Local Plan 2020 and the London Plan 2021.
 - 3.1.2 For the first Sub-Phase of each Phase, The **Residential Unit Lease Condition** which is the Buyer and the Council agreeing the form of residential lease to be granted to the Council if the Council exercises its right of pre-emption to acquire residential units.
 - 3.1.3 Except for the first Sub-Phase within Phase 1, which we understood to be the Lodge Lane car park, the Council has made a **resolution to make a Compulsory Purchase Order** in respect of Phase 1.
 - 3.1.4 The **Sub-Phase Planning Condition** which is the grant of reserved matters approval to allow for the implementation of the planning permission for the relevant Sub-Phase.

- 3.1.5 The **Vacant Possession Condition** for the Sub-Phase which is the obtaining of vacant possession, involving the making of a compulsory purchase order by the Secretary of State or the surrender or termination of all leases and other interests affecting the relevant Sub-Phase.
- 3.1.6 The agreement of a revised **Programme** as relates to the relevant Sub-Phase.
- 3.1.7 The Buyer obtaining the **Necessary Consents** to allow the carrying out of the development of the relevant Sub-Phase.
- 3.1.8 The **Funding and Viability Condition** in relation to the Sub-Phase which requires the Buyer to demonstrate to the Council that it has sufficient funding for the relevant Phase and the Phase is Financially Viable (meaning that receipts for the Phase will exceed Development Costs and will deliver a developer's return of at least █% of Development Costs).
- 3.1.9 The **Title Condition** in relation to the Sub-Phase which is the Buyer demonstrating that it has acquired all additional land required to deliver the Sub-Phase.
- 3.1.10 If the Sub-Phase Property is used as a public car park, the making of a **Traffic Management Order** authorising its closure.
- 3.1.11 Agreement or determination of the **Sub-Phase Consideration** which is the purchase price for the relevant Sub-Phase.
- 3.1.12 In respect of the Council Land obtaining the necessary **Council Committee's authority** to dispose of the Council Land.
- 3.1.13 The Buyer completing its **title due diligence** in respect of the Council Land.
- 3.1.14 The **Long-term Management and Maintenance Condition** relating to the relevant part of the Sub-Phase Property which is the Council being satisfied that suitable arrangements are in place for the long term management and maintenance of common parts and public realm after completion of the development.
- 3.1.15 The **Transfer Condition** which is the Council and the Buyer agreeing the form of transfer of the Third Party Property (if any) relating to the relevant Sub-Phase.
- 3.1.16 The Buyer cannot proceed to the next Phase without having acquired all of the Sub-Phases within the previous Phase.

4. PURCHASE PRICE

- 4.1 The consideration payable for the Council Land forming part of each Sub-Phase is agreed between the parties or determined by an independent professional valuer.
 - 4.2 The Council will instruct an independent chartered surveyor to provide an Open Market Valuation of the Council Land. An Open Market Valuation is to be carried out in accordance with the RICS Valuation Standards and is to be the best consideration reasonably obtainable for the Council Land in accordance with section 123 of the Local Government Act 1972. The valuation must also take into account any overage which might reasonably be expected to be agreed for the sale of the land.
 - 4.3 If the Buyer does not approve the valuation then either party may refer the matter to a second independent chartered surveyor whose decision will be binding on the parties.
 - 4.4 The Council has agreed an indicative non-binding overage calculation which the independent valuer will be instructed to take into account. This is a percentage of any excess development profit that would become payable to the Council by reference to the rate of return where it exceeds █% profit on costs on a ratchet:-
- 4.4.1 █% where the rate of return is between █% and █%;
 - 4.4.2 █% where the rate of return is between █% and █%;

- 4.4.3 []% where the rate of return is above []%.
- 4.5 Once the valuation has been agreed or determined the Council will seek committee approval to dispose of the Sub-Phase.
- 4.6 Where completion will take place more than three months after the Conditions have been satisfied, the Buyer must pay a deposit of 5% of the price which will be held by the Council's solicitors as stakeholder and will be released to the Council on completion.
- 4.7 The consideration payable for any Third Party Property acquired in the name of the Council but paid for by the Buyer as CPO Costs is £20.00.

5. ACCESS BEFORE COMPLETION

The Buyer is entitled to inspect the Council Land and carry out pre-acquisition site investigations upon reasonable terms agreed with the Council.

6. COMPLETION

- 6.1 Completion of the first Sub-Phase within Phase 1 will take place one month after the satisfaction of the Conditions. The sale will be by a 250 year lease of the Council Land and a freehold sale of any Third Party Property, in return for the purchase price.
- 6.2 If completion of any Council Land does not take place within 12 months of the date of the independent valuer's valuation, the Council Land will be re-valued but will not be any lower than the previous valuation.
- 6.3 The Buyer is entitled to request the Council to lease the Council Land and transfer the Third Party Property to:-
- 6.3.1 a wholly owned subsidiary of the Buyer if the Council is satisfied that the subsidiary and the Funder have sufficient financial standing and relevant experience to comply with its obligations, the Buyer ensures that it retains a []% shareholding in the subsidiary until completion of the works and the subsidiary gives the Council a deed of covenant to comply with the terms of the Land Agreement; or
 - 6.3.2 a funding partner if the Council has approved the identity of the funding partner and the funding partner gives the Council a deed of covenant to comply with the terms of the Land Agreement.

7. DEVELOPMENT

- 7.1 The Buyer is not obliged to carry out development but if the Buyer commences works it will not carry out the works except in accordance with the planning permission, all necessary consents and the Buyer's development obligations.
- 7.2 The development obligations are set out in Schedule 6 to the Land Agreement and given space constraints they are not summarised in full in this Report.
- 7.3 The Buyer must use reasonable endeavours to procure the carrying out and completion of the works by three years after completion of the sale to the Buyer (subject to justifiable extensions of time) and no later than five years after completion of the sale to the Buyer.
- 7.4 The Buyer must seek the Council's approval (which must be given within 10 working days otherwise consent is deemed to have been given) to:-
- 7.4.1 the construction drawings and documents before the start of construction;
 - 7.4.2 any changes to the approved drawings and documents;
 - 7.4.3 the terms of appointment of the contractor and professional team;

- 7.5 The Buyer must provide the Council with:-
- 7.5.1 a development appraisal in respect of the Council Land before it submits its reserved matters application;
 - 7.5.2 an updated development appraisal as required by the Council;
 - 7.5.3 collateral warranties from the contractor and professional team with appropriate step-in rights;
 - 7.5.4 notice of commencement of works;
 - 7.5.5 a right to inspect the construction site during the construction period;
 - 7.5.6 updates on the progress of the development at least monthly;
 - 7.5.7 notice of practical completion of the works;

8. PRE-EMPTION RIGHT

- 8.1 The Council is granted a right of pre-emption to acquire residential properties constructed by the Buyer.
- 8.2 The right of pre-emption occurs when the Buyer decides to sell or market any residential units.
- 8.3 The Buyer cannot sell residential units without giving the Council a pre-emption notice specifying the units on offer, the proposed purchase price (being their market value) and the proposed terms of sale.
- 8.4 if the Council wishes to proceed with the pre-emption by accepting the pre-emption notice, subject to finalising the purchase price.
- 8.5 If the Buyer and the Council cannot agree the purchase price either party may refer the matter to an independent chartered surveyor. Once the surveyor has determined the valuation, the Council may elect to proceed with the purchase of all, some or none of the units.

9. FUNDER

- 9.1 The Funder has agreed to guarantee the obligations of the Buyer in the Land Agreement.
- 9.2 The Funder confirms as at the date of the Land Agreement that:-
 - 9.2.1 it is a █% shareholder in the Buyer;
 - 9.2.2 the Buyer has not traded or carried out any activity other than to prepare to enter into the Land Agreement and Site Assembly Agreement;
 - 9.2.3 the Buyer has no assets, liabilities or commitments other than the Land Agreement and Site Assembly Agreement.

10. TERMINATION

10.1 Time limits

- 10.1.1 **Time Limit for Submitting the Planning Application:** If the Buyer has not submitted an overall masterplan for the Development together with a detailed planning application for Phase 1 by **30 September 2022** (subject to justifiable extensions of time but no later than **31 December 2022**) the Council may terminate the Land Agreement.
- 10.1.2 **Time Limit for Obtaining Planning Permission:** If Planning Permission has not been granted by **three years** from exchange of the Land Agreement (subject to justifiable extensions of time) then either the Council or the Buyer may terminate the Land Agreement.

- 10.1.3 **Time Limit for the First Sub-Phase within Phase 1:** If the conditions for the sale of the first Sub-Phase within Phase 1 (which is understood to be the Lodge Lane car park site) are not satisfied by **three years** from the date of the satisfactory planning permission or if earlier **three years** from the date of the Land Agreement (in each case subject to justifiable extensions of time) then either the Council or the Buyer may terminate the Land Agreement.
- 10.1.4 **Time Limit for Subsequent Sub-Phases within Phase 1:** If the conditions for the sale of subsequent Sub-Phases within Phase 1 are not satisfied by **three years** from the date of the first CPO Confirmation by the Secretary of State (subject to justifiable extensions of time) then either the Council or the Buyer may terminate the Land Agreement.
- 10.1.5 **Time Limit for Phase 2:** If the conditions for the sale of Phase 2 are not satisfied by **six years** from the date of the first CPO Confirmation by the Secretary of State or if earlier **eight years** from the date of the Land Agreement (in each case subject to justifiable extensions of time) then either the Council or the Buyer may terminate the Land Agreement.
- 10.1.6 **Time Limit for Phase 3:** If the conditions for the sale of Phase 3 are not satisfied by **eight years** from the date of the first CPO Confirmation by the Secretary of State or if earlier **10 years** from the date of the Land Agreement (in each case subject to justifiable extensions of time) then either the Council or the Buyer may terminate the Land Agreement.
- 10.1.7 **Time Limit for any Further Phase:** If the conditions for the sale of a Further Phase are not satisfied by **ten years** from the date of the first CPO Confirmation by the Secretary of State or if earlier **12 years** from the date of the Land Agreement (in each case subject to justifiable extensions of time) then either the Council or the Buyer may terminate the Land Agreement.
- 10.2 **Funder termination**
- If the Funder does not consider that any Phase or Sub-Phase remains Financially Viable or considers that market conditions have materially deteriorated the Funder may terminate its involvement in future Phases or Sub-Phases (but not in respect of any Phase or Sub-Phase in respect of which the Council has made a resolution to compulsory purchase). The Buyer may propose a substitute Funder for the Council's approval, failing which the Council or the Buyer may terminate the Land Agreement in respect of future Phases or Sub-Phases.
- 10.3 **Default termination**
- 10.3.1 The Council is entitled to terminate the Land Agreement for specified events of default but only in relation to the Phase(s) to which they relate and have not yet commenced construction.
- 10.3.2 The events of default are:
- (a) failure by the Buyer to enter into a building contract or commence construction by six months after completion of the sale of the relevant Sub-Phase (subject to justifiable extensions of time);
 - (b) failure to substantially comply with the development provisions in the Land Agreement, after notice of default has been given by the Council;
 - (c) failure to practically complete the works on the Sub-Phase by five years after completion of the sale of the relevant Sub-Phase (subject to justifiable extensions of time);
 - (d) the Buyer or the Funder becomes insolvent;
 - (e) where land has been transferred to a subsidiary of the Buyer, the Buyer ceases to retain a █% shareholding in the subsidiary before completion of the works.
- 10.3.3 if an event of default occurs in respect of any land that has not reached practical completion the Council may exercise a Call Option to require the Buyer to transfer the Council Land back to the Council. The Call Option cannot be exercised without first giving an opportunity to any funding

partner or sub-buyer to make good the default. The Call Option Price is the lower of (a) the price paid by the Buyer and the CPO Costs relating to the Council Land and (b) the Open Market Valuation of the Council Land. If the parties cannot agree the Call Option Price, it will be determined by an independent chartered surveyor.

11. **ASSIGNMENT**

- 11.1 The Buyer may not assign the benefit of the Land Agreement to a third party except to a Funder by way of charge as security.
- 11.2 The Funder may assign the benefit of the Land Agreement to a group company with the Council's approval.

SECTION 2

SITE ASSEMBLY AGREEMENT

1. OVERVIEW

- 1.1 The Site Assembly Agreement is a contract to be entered into between the Council, the Buyer and the Funder.
- 1.2 It sets out the agreement between the parties to consult on a compulsory purchase order in respect of the Site. Nothing in the Site Assembly Agreement fetters the Council's duties obligations, powers or rights in the discharge of its functions as a statutory authority. The Council may discontinue the CPO process if Counsel advises that it is unlikely to succeed or where there has been a material change in circumstances so that its underlying purpose remains unfulfilled.
- 1.3 Whilst the Site Assembly Agreement anticipates a single CPO across the entire Site, it also allows for Multiple CPOs on a Phase basis. it is understood that the Council is likely to pursue the latter.

2. OBTAINING A SATISFACTORY PLANNING PERMISSION

- 2.1 The Buyer is responsible for preparing a draft planning application with supporting documents and submitting it to the Council for its approval. Once approved, the Buyer must submit it to the local planning authority and pursue the grant of a Satisfactory Planning Permission as soon as reasonably possible. The Buyer cannot substitute, withdraw or vary the planning application without the Council's consent.
- 2.2 Once the planning permission is issued the Site Assembly Agreement contains terms to determine whether the planning permission is a Satisfactory Planning Permission or whether to lodge and pursue an appeal.

3. COMPULSORY PURCHASE

- 3.1 The Buyer agrees to indemnify the Council against all CPO Costs, but the Council agrees not to settle compensation claims before making a GVD or notice to treat where they exceed £ [REDACTED] without the prior approval of the Buyer (not to be unreasonably withheld or delayed).
- 3.2 The Funder guarantees that the Buyer will comply with its financial obligations.
- 3.3 Before Council committee authority is given to make the CPO, the Buyer must provide a solicitors' undertaking to pay the Initial Stage CPO Costs to secure the resolution to make the CPO.
- 3.4 After Council committee authority is given to make the CPO the Buyer must give the Council a solicitors' undertaking, bond or security deposit to pay the Stage 1 Security Sum which is for CPO Costs, a [REDACTED] % contingency and an allowance of £ [REDACTED] for enforcement costs.
- 3.5 After the Council intends to issue a notice to treat or execute a GVD, the Buyer must give the Council a solicitors' undertaking, bond or security deposit to pay the Stage 2 Security Sum which is for CPO Costs, a 10% contingency and an allowance of £ [REDACTED] for enforcement costs.
- 3.6 There are provisions to revise the Stage 1 Security Sum and Stage 2 Security Sum if these sums are likely to be exceeded. Any overpayment will be reimbursed to the Buyer.
- 3.7 All property outgoings must be paid to the Council whilst the land is owned by the Council.
- 3.8 The Developer must liaise with the Council in relation to the appointment of a land referencer in connection with the proposed CPO. The Buyer will procure that the land referencer completes its land referencing exercise to allow the Council to make and confirm a CPO.
- 3.9 The Buyer must produce a compensation assessment setting out all known CPO interests, their heads of claim, whether blight could be claimed, an estimated range of compensation and assumptions. The compensation assessment will be reviewed at various stages in the CPO process.
- 3.10 The Buyer agrees to use reasonable endeavours to negotiate terms by private treaty to acquire all Third Party

Property and rights, keeping the Council fully informed throughout.

3.11 The Council agrees to:-

- 3.11.1 keep the developer informed of the CPO process;
- 3.11.2 take all steps to minimise and mitigate CPO costs;
- 3.11.3 give the Buyer not less than 20 working days' notice of the date on which the Council is legally required to make any CPO payments; and
- 3.11.4 promptly pay any sums received from the Buyer to those who are due to be paid CPO costs.

3.12 The Council and the Buyer will seek to agree drafts of the CPO, the map, notice of making the CPO and supporting statement of reasons.

3.13 The Council will use its reasonable endeavours to seek authority from its relevant committee to make the CPO as soon as the CPO documents are agreed provided that:-

- 3.13.1 there is a compelling case in the public interest to make the CPO;
- 3.13.2 the necessary funding will be made available to pay all CPO costs; and
- 3.13.3 the Buyer has complied with its obligations to acquire Third Party Property and rights.

3.14 The Council must also be satisfied that the following conditions are or will be satisfied:-

- 3.14.1 there are no material impediments to the development going ahead;
- 3.14.2 the Compensation Assessment has been agreed or determined and there is no outstanding request from either party to review any entry or omission from them;
- 3.14.3 the Land Agreement is subsisting and in full effect;
- 3.14.4 the Council has received the Security Deposit and/or the Solicitors' Undertaking and/or the Bond for an aggregate amount equal to the Stage 1 Security Sum which is the CPO land acquisition costs, procedural costs up to a public inquiry and a decision by the Secretary of State, projected costs for blight notices and a [redacted] % contingency on the preceding costs and an allowance of £ [redacted] for enforcement costs;
- 3.14.5 no part of the Site Assembly Agreement is the subject of legal proceedings or dispute resolution.

3.15 After authority has been given by the relevant Council committee to make the CPO, the Council will submit the draft CPO documents to the Secretary of State or Counsel for technical examination and then submit the CPO in the statutory form to the Secretary of State for confirmation. The Council will take all appropriate steps to secure confirmation of the CPO. The Council will provide the Buyer with the CPO documents submitted to the Secretary of State and the names and addresses of those to whom it has served notices of making the CPO.

3.16 There are agreed provisions regarding the funding of a public inquiry and keeping the Buyer advised on the progress and result of the public inquiry.

3.17 If the CPO is confirmed the Council will comply with its statutory notice obligations and will provide a copy of the Secretary of State's decision and inspector's report.

3.18 There are agreed provisions regarding the appeal if the Secretary of State does not confirm the CPO including if:-

- 3.18.1 the Council considers that it would be unlikely to promote and/or improve the economic and/or social and/or environmental well-being of the area to pursue such an appeal; or

- 3.18.2 written advice from Counsel assets there is a less than even chance of a successful appeal.
- 3.19 If the CPO is confirmed and the Buyer gives the required notice, the Council will implement the CPO in consultation with the Buyer but it will agree to acquire the CPO land on reasonable terms without having recourse to the implementation of the CPO.
- 3.20 There are agreed provisions regarding the service of blight notices.
- 3.21 There are agreed provisions regarding the referral of matters to the Upper Tribunal (Lands Chamber) if the Buyer wishes the Council to request the determination of statutory compensation.

4. TERMINATION

- 4.1 The Site Assembly Agreement may be terminated by the Council where:-
 - 4.1.1 an Event of Default occurs including insolvency of the Buyer or Funder;
 - 4.1.2 material breach of the Buyer's obligations after notice of default has been given by the Council; and
 - 4.1.3 material breach of the land referencer's terms of appointment after notice of default has been given by the Council without an alternative land referencer having been appointed.

- 4.2 If the Land Agreement is terminated then either party may terminate the Site Assembly Agreement.

5. ASSIGNMENT

- 5.1 The Buyer may not assign the benefit of the Site Assembly Agreement to a third party except to a Funder by way of charge as security.
- 5.2 The Funder may assign the benefit of the Site Assembly Agreement to a group company with the Council's approval that it has sufficient financial standing and relevant experience to comply with the Funder's obligations.

SECTION 3

NOTES TO THIS REPORT

1. This Report is provided by Pinsent Masons LLP and no partner, member or employee assumes any personal responsibility for it nor shall owe a duty of care in respect of it.
2. We have not inspected the Property and do not give any opinion as to the state or condition of the Property, its value or its commercial marketability.
3. All Plans attached to this Report are indicative only.

APPENDIX 1

PLAN 1

APPENDIX 2

PLAN 2

APPENDIX 3

PLAN 3

APPENDIX 4

PLAN 4