

**CD 6.3**

**Town and Country Planning Act 1990**

**Acquisition of Land Act 1981**

**Local Government (Miscellaneous Provisions) Act 1976**

**The Highways Act 1980**

**Inquiry into:**

**THE CORNWALL COUNCIL (LANGARTH GARDEN VILLAGE, THREEMILESTONE)  
COMPULSORY PURCHASE ORDER 2022**

**Proof of Evidence**

**of**

**Gavin Smith**

**2 January 2024**

## 1. INTRODUCTION

- 1.1 I am Gavin Smith, a Group Leader (Areas 5 and 6, Regulatory Services) at Cornwall Council. I hold a Master of Social Science (Honours). I report to the Head of Development Management.
- 1.2 I have circa 26 years planning experience, having previously worked as a Principal Planning Officer in the Major Projects Team in Cornwall Council and in North Cornwall District Council, a Development Control Planner in the London Borough of Newham, the Planning Enquiry Service Manager in the London Borough of Camden and as the Principal Technical Advisor in Franklin District Council.
- 1.3 I am the Head of Service Representative that deals with the planning applications for the Scheme including the Hybrid Application for the Hybrid Planning Permission (**CD 3.1**).

## 2. SCOPE OF EVIDENCE

- 2.1 My proof of evidence addresses the following policy tests as set out in the Government's Guidance on Compulsory Purchase Process and The Crichel Down Rules (2019) (the **CPO Guidance**) (**CD 5.4**):
  - 2.1.1 Whether, from a planning perspective, the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means (paragraph 106);
  - 2.1.2 Whether the Scheme fits with the adopted Local Plan for the area (paragraph 106);
  - 2.1.3 The extent to which the Scheme contributes to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area (paragraph 106); and
  - 2.1.4 Whether there are any planning related impediments to implementation of the Scheme, (paragraph 15).
- 2.2 The scope of evidence within my proof of evidence is as follows:
  - 2.2.1 Terminology;
  - 2.2.2 Planning history for the Site and how this is relevant to the test at paragraph 106 of the CPO Guidance;
  - 2.2.3 The planning application for the Scheme;
  - 2.2.4 How the Scheme fits with the local and national planning policy framework and how this is relevant to the tests at paragraph 106 of the CPO Guidance;

- 2.2.5 A summary of the planning benefits of the Scheme and how this is relevant to the test at paragraph 106 of the CPO Guidance;
- 2.2.6 A summary of the planning permission, conditions, and section 106 obligations for the Scheme and whether there are any planning related impediments to the delivery of the Scheme;
- 2.2.7 Other relevant planning decisions relating to the Scheme;
- 2.2.8 Third party applications relating to the Site together with responses to objections to the CPO to the extent relevant to my proof of evidence.

2.3 My evidence should be viewed alongside the further evidence prepared by and on behalf of the Council, in particular, the following proofs of evidence:

- 2.3.1 Mr Philip Mason – the Need for Regeneration (**CD 6.1**)
- 2.3.2 Mr Terry Grove-White - Planning (Applicant) (**CD 6.5**)
- 2.3.3 Mr Tim Wood – Highways and Transport (**CD 6.9**).

### 3. **TERMINOLOGY**

3.1 In my proof of evidence references to the core documents are made by the abbreviation, for example, “CD1.1”. Specific abbreviations are noted in the text on first use, and these abbreviations are also set out in the Glossary (**CD 6.17**). The proofs of evidence of other witnesses are referred to by the name of the author.

### 4. **PLANNING HISTORY**

#### **Previous permissions and history of market-led development**

- 4.1 As set out in section 3 of the Council’s Statement of Case (**CD 4.5**) and paragraphs 5.4 and 5.5 and Figure 6 of the proof of evidence of Mr Mason (**CD 6.1**), the Langarth area has been the subject of several previous planning permissions for large-scale development.
- 4.2 Following the revocation of the Regional Spatial Strategy and Cornwall Structure Plan in 2010 - in the period between 2012 and 2016 and before the adoption of the Cornwall Local Plan in 2016 (**CD 2.3**) - a range of planning applications were submitted over several years by neighbouring private developers.
- 4.3 The previous permissions mainly comprise of large-scale mixed-use development. As illustrated in the proof of evidence of Mr Mason (**Appendix PM2 thereto – Figure 7**) (**CD 6.2**), most of these permissions are anchored by large-scale retail. Cumulatively, these permissions make provision for

approximately 2,800 homes and 16,812 sq m. of convenience and 13,336 sq. m of comparison floorspace. **Appendix GS1** to my proof sets out the detail of these permissions and highlights those which have now expired.

- 4.4 As also noted in paragraph 5.7 of the proof of evidence of Mr Mason (**CD 6.1**), the local planning authority (**LPA**) tried to steer the direction of development through a development brief that was prepared in 2012 (**CD 2.6**) and endorsed as a material planning consideration. However, the development brief did not have the status of adopted policy and, in the absence of an up-to-date Local Plan and a 5-year supply of housing (and a very pro-development national planning policy position), the LPA had less ability to influence the shape and form of development.
- 4.5 The retail/town centre impact analysis carried out on behalf of the LPA at the time, did not support as much large-scale retail as ended up being permitted (noting that one of the schemes was permitted on appeal). However, the LPA received independent advice that it was unlikely that the market would allow for all of this retail floorspace to come forward. This advice confirmed that there was expenditure capacity for one new supermarket. See **CD 5.2** for a copy of the report prepared for the LPA by GVA in 2015 (excluding technical appendices) which contains this advice.
- 4.6 Market-led delivery has stalled, for the reasons set out in paragraph 5 of the proof of evidence of Mr Mason (**CD 6.1**). As it happens, not one of these out-of-town centre retail proposals has come forward within the lifetime of the relevant permissions. This supports the case for public sector intervention in order to provide development on land that is consistent with the aspirations of the development plan and actually delivers the desired planning benefits.

#### **Interplay with policy position**

- 4.7 As set out in the Statement of Case (**CD 4.5**) and in paragraph 5.8 of the proof of evidence of Mr Mason (**CD 6.1**), the precedent of development established by these previous permissions was, in effect, reflected in the adopted Cornwall Local Plan (Strategic Policies) 2016 (**Local Plan**) (**CD 2.3**) and the Truro and Kenwyn Neighbourhood Plan 2016 (**2016 TKNP**) (**CD 2.4**) – the key adopted development plan policies for the area in which the Site is situated, as at the time the planning application for the Scheme was submitted and determined<sup>1</sup>.
- 4.8 The 2016 TKNP map (**CD 2.4**) shows much of the Site as an area (shaded grey) with the benefit of existing planning permissions. The supporting commentary in the 2016 TKNP highlights the assumption, at the time the plan was made, that these previous permissions would give rise to substantial new communities in the west of the TKNP area. In practice, the 2016 TKNP relies upon

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<sup>1</sup> The Hybrid Application was validated on 4 December 2020 and determined on 5 April 2022.

the previous permissions to meet the Local Plan's requirement for 3,900 houses for Truro in the period up to 2030<sup>2</sup>.

- 4.9 The 2016 TKNP (**CD 2.4**) has undergone review in parallel to the Council undertaking masterplanning and submitting the planning application for the Scheme. The Truro and Kenwyn Neighbourhood Plan 2023 (**2023 TKNP**) (**CD 2.7**) went to referendum on 27 April 2023 and was made by Cornwall Council as local planning authority (**LPA**) in June 2023. The 2023 TKNP contains a bespoke policy for Langarth (Policy H3) which allocates the Site as a sustainable community with a mix of housing, public and private spaces and supporting infrastructure, in accordance with an overall masterplan. I provide more analysis of this policy in **Appendix GS3**.

### **Planning rationale for the Scheme**

- 4.10 The proofs of evidence of Mr Mason (**CD 6.1** - paragraph 5) and Mr Grove-White (**CD 6.5** – paragraph 4) set out the rationale for the planning application for the Scheme and public sector intervention. I do not repeat this here but agree with the conclusions reached that the planning history of the Site assists in demonstrating that the purpose for which the Council is proposing to acquire the land could not be achieved by any other means.

## **5. PLANNING APPLICATION FOR THE SCHEME**

- 5.1 As set out in paragraph 5 of the Council's Statement of Case (**CD 4.5**) and in paragraph 4.12 of the proof of evidence of Mr Grove-White (**CD 6.5**), the application for the Scheme is a hybrid application formed of two parts: a full element for the NAR (application A) and an outline element concerning the masterplanned mixed use component of the development (application B) (together, the **Hybrid Application**).
- 5.2 As the Hybrid Application was submitted by the Council on land partly owned by the Council, the application was determined by the Strategic Planning Committee, in line with the request of the Head of Development Management, "to enable transparent decision making of a planning application submitted by Cornwall Council which proposes development of a significant scale"<sup>3</sup>. This protocol also accords with the Council's constitution for determining applications of this size and scale.
- 5.3 The full description of development is set out in paragraph 4.12 of the proof of evidence of Mr Grove-White (**CD 6.5**) as well as the Committee Report<sup>4</sup> provided as **CD 1.9**.
- 5.4 The full application for the NAR represents the Council's updated scheme for a spine road, junctions off the A390 and related road infrastructure. It builds on principles approved under the previous permissions for the Site. The technical differences between the NAR forming part of the Scheme and

<sup>2</sup> Policy 2a: Key targets – Table showing housing apportionment for Truro with Threemilestone

<sup>3</sup> See under heading 'Reason for application being called to Committee' in the Committee Report provided as **CD 1.9**

<sup>4</sup> Comprising Committee Report, Appendix to Committee Report, Supplemental Report and Appendix and Delegated Officer Report

previous iterations of the NAR are explained in paragraph 7 of the proof of evidence of Mr Tim Wood (**CD 6.9**) and I do not repeat this here.

5.5 The outline application for mixed use development comprises the following land uses:

- up to 3550 dwellings, 200 extra care units and 50 units of student/health worker accommodation, including affordable housing
- five local centres comprising local retail (use class E), offices (E), restaurants and cafes (E), drinking establishments (sui generis), hot food takeaway (sui generis), health and community facilities (F1 and E)
- a local care health centre (E)
- a blue light centre for emergency services (sui generis)
- up to two primary schools (F1)
- business and commercial floorspace (E)
- brewery / public house (sui generis)
- areas of open space to include a suitable alternative natural greenspace (**SANG**), other strategic open space and a community farm/allotments
- public realm
- energy centre
- Park and Ride extension (of up to 600 spaces or 2.73 ha)
- cycle lanes
- connections with the existing highway network including crossings of the A390
- quiet lanes
- drainage and associated infrastructure; and
- the demolition of buildings and structures, site clearance and associated earthworks.

5.6 As Schedule 2 EIA development, the Application was supported by an Environmental Statement (**ES**). The ES considered the likely significant environmental effects of the proposed development during construction and on completion/during the operation of the development and includes

measures either to prevent, reduce or off-set any significant adverse effects on the environment. These measures have been secured by a combination of planning conditions and planning obligations, as further explained in paragraph 10 below and **Appendices TGW3, TGW4A and TGW 4B** to the proof of evidence of Mr Terry Grove White (**CD 6.6**).

- 5.7 Further information on the ES is contained in **Appendix TGW1** to the proof of evidence of Grove-White (**CD 6.6**).
6. In accordance with the statutory framework, the Hybrid Application was assessed against the development plan and all other material planning considerations. I consider these further in paragraph 7 below and provide a detailed compliance analysis in **Appendices GS2 to GS5** inclusive.
7. **PLANNING POLICY POSITION IN RELATION TO THE SCHEME**
- 7.1 **Appendix GS2** to my proof summarises the relevant Strategic Policies of the Local Plan (**CD 2.3**) and how the Scheme achieves compliance with these policies.
- 7.2 **Appendix GS3** to my proof summarises the relevant policies from the 2016 and 2023 TKNPs (**CD 2.4** and **2.7**) and how the Scheme achieves compliance with these development plan policies, in particular Policy H3 in the 2023 TKNP.
- 7.3 **Appendix GS4** to my proof summarises the relevant policies from the Government's National Planning Policy Framework (**NPPF**) (**CD 2.1** and **2.2**) and how the Scheme achieves compliance with these policies. (The Scheme was assessed against the 2021 iteration of the NPPF. The December 2023 NPPF will be a material consideration to the determination of future reserved matters applications).
- 7.4 **Appendix GS5** to my proof summarises the relevant policies from the Climate Emergency DPD (**CD 2.10**), which was an emerging plan at the time the Hybrid Application was submitted, has now been adopted and will guide future applications relating to the Site. **Appendix GS5** also explains how the Scheme complies with other local planning policies and guidance in force at the time the Hybrid Application for the Scheme was determined.
- 7.5 A copy of the Report to Strategic Planning Committee is provided as **CD 1.9**, which provides further detail on the LPA's assessment of the Scheme against this policy framework. In addition to the more granular policy analysis provided in **Appendices GS2 to GS5**, I summarise the key considerations informing the LPA's decision below:

#### Merits

- 7.5.1 The Scheme has been developed around the Government's garden community qualities and extensive public engagement.

- 7.5.2 The Scheme meets the strategic housing needs for the area, as identified in the Local Plan and reflected in the 2016 TKPN (the plan in force at the time the Hybrid Application was determined).
- 7.5.3 The Scheme incorporates a mix of housing including policy compliant levels of affordable housing and self/custom build and the intention to provide specialist housing such as extra care and student/health worker accommodation.
- 7.5.4 The mix of uses at the scale proposed helps create a community with the necessary infrastructure to provide a good proportion of the services and facilities required for its future residents.
- 7.5.5 The Scheme also provides for a range of sustainable modes of travel for residents to access the range of services and facilities at Truro, Threemilestone or beyond.
- 7.5.6 Early delivery of the NAR will unlock the area for development and provide relief to the A390 which assists with the wider transport management for this approach to Truro and critically the Royal Cornwall Hospital at Treliske.
- 7.5.7 The NAR design promotes active and sustainable travel modes with the inclusion of pedestrian and cycle routes.
- 7.5.8 The Scheme is predicated on the 'Decide and Provide' policy approach to transport planning (where decisions are made on a preferred model of transport planning and then provide the means to work towards that model). For example, the development provides for an extension to the Langarth Park and Ride and secures section 106 contributions towards bus services to serve the Scheme, as well as off-site mitigation, such as e-bike and cycle hub provision within Truro.
- 7.5.9 The Scheme provides for community infrastructure to meet the needs of the future occupants within the development including schools, local retail, community farm, allotments and open space.
- 7.5.10 Off-site contributions to Threemilestone are also secured under section 106 and will assist with the integration between the two communities.
- 7.5.11 The Scheme provides for the delivery of at grade crossings of the A390, to facilitate non-vehicular movements.
- 7.5.12 The proposed Suitable Alternative Natural Greenspace (**SANG**) reduces recreational pressures on other protected habitats. This SANG has the potential to serve not only the future residents within the Scheme but also the wider community.



- 7.5.13 The proposals also provide for improved interpretation of the Scheduled Monument within the Site<sup>5</sup>.
- 7.5.14 The delivery of strategic green infrastructure in a coherent landscape-led manner ensures the delivery of Biodiversity Net Gain (**BNG**) of at least policy level. The ongoing management of such areas are secured under section 106.
- 7.5.15 Employment benefits will arise through both the construction and operational phases of the development. During the operational phase, the mix of land uses facilitates an appropriate mix of employment opportunities, over a period of time, as the development is built out. The proposed employment floorspace will provide jobs and opportunities for prospective residents, as well as existing residents in the surrounding area. It will positively contribute towards a new co-ordinated mixed-use community, together with associated supporting community, education and retail uses. The economic growth and employment opportunities afforded by the Scheme, are a key benefit.
- 7.5.16 The Scheme provides an opportunity for an exemplar development to showcase sustainable low carbon living. Although many design details will need to be secured at the later reserved matter stage, the approved Energy Strategy sets out options for net zero carbon buildings and the potential for a district heat network to serve the development.
- 7.5.17 The strategic sitewide approach to sustainable drainage for the site and its wider catchment ensures that the proposed masterplan framework can be delivered in a rationalised manner and managed on-site. Further, the drainage strategy integrates such features as part of the wider strategic landscape strategy.
- 7.5.18 The Design Code (**CD 3.3**) provides an overarching framework by which detailed design can ultimately be informed and deliver the intended vision for Langarth Garden Village. A two-tier Design Code approach ensures that, for each Neighbourhood within the development, a clear set of requirements can be set out, having regard to localised factors for each Neighbourhood.

#### Harms

- 7.5.19 A negative of the Scheme is that the retail element of the proposal would draw trade from existing town centres. However, the actual impact of the retail element integrated into the Scheme would not amend existing shopping patterns to the extent that it would result in a significant adverse impact on the vitality and viability of Truro city centre or

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<sup>5</sup> Secured under conditions for the RMA for the Govers Link and SANG (**CD 3.15**)

any other designated centre. The primary purpose of retail in the Scheme is to provide highly accessible services and facilities to future occupiers of the development itself and neighbouring communities. It reduces the amount of convenience and comparison floorspace approved on the Site in previous permissions and thus reduces the potential future impact on Truro city centre. It will also not result in an over-concentration of such uses in the area.

- 7.5.20 The Scheme will inevitably result in adverse impacts to the environment, principally through a change in the local urban/rural fringe character to the detriment of the distinctive landscape character of the area. While this is a disbenefit of the Scheme, the actual harm is tempered as the development would be seen in association with and comparison to the massing and character associated with the nearby Threemilestone/Truro City/A390. It would result in an improvement to the character of the area, when compared to the impact of developing the same land in accordance with the existing permissions.
  
- 7.5.21 The proposed reduction in the amount of open, rural fields and greenspace within which the nearby World Heritage Site (**WHS**) is set would result in minor harm to the setting of the WHS. The identified harm is low, as the Scheme is situated in an area where the sensitivity of the WHS has already been reduced from recent urban developments that have impacted on the rural, open landscape within which the WHS is set.
  
- 7.5.22 The Scheme will introduce some additional vehicle trips onto the local highways network. The earlier permissions for the Site also had significant implications with regards to these matters, which were addressed in a piecemeal fashion rather than the co-ordinated manner proposed by the Scheme. The Scheme prioritises sustainable travel interventions over highway capacity measures, as opposed to the earlier permissions where the mitigation was highway capacity led.
  
- 7.5.23 As with the existing permissions, certain aircraft movement from Truro airfield would no longer be possible without contravening Rules of the Air. However, the airfield would still be operational for helicopters, albeit with altered flight paths, and normal aeroplanes could continue to use the airfield, not only in weather conditions favouring direct approaches from and departures to the northwest. The airfield is predominantly used for training, which it is understood could continue largely unchanged.
  
- 7.5.24 The ecology assessment has found that most potential effects would be minimised by the proposed embedded design measures, such as the retention of the majority of hedgerows and the provision of new habitats for a range of species on-site. Additional mitigation has been secured under section 106, including a financial contribution to the

management of a Special Area of Conservation (**SAC**) and temporary and long term mitigation measures for wintering woodlark. In addition, the approved Landscape and Ecological Management Plan (**LEMP**) helps ensure the appropriate management of retained and new habitats, sensitive street lighting schemes and encourages the incorporation of bird, bat and bee bricks built into the new buildings.

7.5.25 Overall, the embedded design measures and the additional mitigation measures, secured through a mixture of planning conditions and section 106 obligations, have allowed the ES to conclude that for both the construction and operational phases there would be no significant environmental effects.

7.5.26 The Scheme will result in the loss of agricultural land and change the immediate character of the landscape, albeit, it is accepted, a landscape that is situated to the edge of urban form and punctuated by built development. Inevitably the Scheme will result in the loss of some historic undesignated heritage features, such as some hedgerows; however, the landscape and heritage led design approach ensures that the vast majority of such features would be retained and inform the future detailed design proposals, as those are brought forward.

7.6 The LPA concluded that the substantial merits of the Scheme outweighed the identified harm. The Scheme represents a significant landscape and design-led development that has the potential to be a new exemplar low carbon living community, delivered in a strategic manner with the timely delivery of infrastructure to unlock development and to serve future residents.

7.7 With reference to paragraph 106 of the CPO Guidance (**CD 5.4**), my summary of the planning balance and the more granular policy analysis in the **Appendices GS2 to GS5** confirms that the Scheme fits with the adopted Local Plan for the area – as well as wider national planning policy and guidance.

7.8 I turn to consider some of the key planning benefits of the Scheme in paragraph 8 below.

## 8. **PLANNING BENEFITS OF THE SCHEME**

8.1 With reference to the other limb of paragraph 106 of the CPO Guidance, the Scheme contributes to the achievement of the promotion or improvement of the economic, social and environmental well-being of the area in a number of ways. Below I highlight some of the key planning benefits of the Scheme:

### **Housing**

8.2 The Scheme provides for a policy compliant mix of good quality housing to meet the housing needs of the area, as set out in the Cornwall Local Plan (Strategic Policies) (**CD 2.3**). This includes

affordable homes and the provision for self-build housing and key worker accommodation. The Scheme is located within Kenwyn Parish and will make a significant contribution to meeting local affordable housing need. However, due to the scale and strategic importance of the Scheme on the edge of Truro, it also has an important role in assisting the Council in meeting its wider strategic housing need for the Truro area.

### **Employment**

- 8.3 The Scheme provides for employment opportunities during its construction. In its operational stage, the Scheme provides for a mix of other uses to support the development of a self-sustaining community, including local employment opportunities in the five local centres proposed, as well as through community hubs and a community farm. As a result of the Scheme, 650 net full time equivalent (**FTE**) jobs would be created in the construction phase and 1,081 net FTE jobs in the operation phase for people in the Cornwall area.
- 8.4 It is not just the job-creation potential of the Scheme that is important, but also its location on the edge of Turo. The Scheme will help to reduce the need to commute out for jobs and services.

### **Energy**

- 8.5 The Scheme provides for an energy centre as well as opportunities for domestic microgeneration.
- 8.6 Climate change resilience is a key objective for the LPA, as demonstrated by the adoption of the Climate Emergency Development Plan Document (DPD) in February 2023 (**CD 2.10**). Please see **Appendix GS5** for further detailed analysis on this aspect of the Scheme.

### **Natural Environment**

- 8.7 As explained in paragraph 7.7 of the proof of evidence of Mr Philip Mason (**CD 6.1**) and paragraph 7 of the proof of evidence of Mr Grove-White (**CD 6.5**), the masterplan for the Scheme is 'landscape led'. This means that the landscape of the application site is used as the basis for layout and design which helps to minimise the landscape and visual impacts of the Scheme.
- 8.8 The masterplan looks at opportunities and constraints on a sitewide basis and provides for a coherent and cohesive network of green infrastructure and open space.
- 8.9 This network meets the LPA's policy objectives around multi-functional green space, including drainage.
- 8.10 The template section 106 obligation accompanying the Hybrid Planning Permission (see **CD 3.7**) provides for the long-term management and maintenance and stewardship of both strategic and non-strategic open space and green infrastructure.

- 8.11 The Scheme achieves above policy compliant levels of BNG.
- 8.12 The approach to sustainable urban drainage (**SUDS**), provides opportunities for improved water quality as well as increased biodiversity.
- 8.13 The Scheme also provides relief from the recreational pressures on a nearby Special Area of Conservation (Penhale Dunes SAC) through the provision of SANG, which proposals were brought forward in consultation with Natural England.

### **Historic Environment**

- 8.14 The LPA welcomes the sensitive design response to historic hedgerows and ancient byways and routes through the Site. This helps preserve local distinctiveness.
- 8.15 The LPA also welcomes the proposals for improved management and interpretation of the Penvenitnnie Round, a scheduled monument. These have been subsequently secured via a condition attached to the reserved matters approval for the SANG which requires the preparation, submission and implementation of a full conservation statement to provide control over the historic landscape features (**CD 3.15**).

### **Transport**

- 8.16 The LPA is keen to finally realise the provision of a route across the Site, which will unlock the development on the Site as well as providing relief to the A390 and dedicated cycle provision.
- 8.17 The Scheme is supported by a comprehensive sustainable travel and movement strategy (part 9 of the Transport Assessment submitted in connection with the Hybrid Application) (see **CD 3.11C** and **CD 3.11D**) which supports a range of sustainable modes of travel, as well as helping address some of the wider congestion issues in Truro.
- 8.18 This includes an ambitious modal shift target, supported by financial contributions towards public transport, a network of off-site mobility hubs and facilities for electric bikes and vehicles – all features which help to future proof the Scheme for future generations.

### **Garden Community**

- 8.19 Ultimately, by working with the Government's Garden Community principles, the Scheme represents an opportunity for an exemplar development to showcase sustainable living.

## **9. PLANNING BALANCE**

- 9.1 In making its decision to grant the planning permission for the Scheme, the LPA weighed the following factors against the benefits summarised at paragraph 8 above:

- 9.1.1 loss of agricultural land;
- 9.1.2 harm to the immediate character of the landscape;
- 9.1.3 draw of trade from existing town centres
- 9.1.4 harm to the setting of the nearby heritage assets and loss of undesignated heritage features, such as some hedgerows; and
- 9.1.5 increased traffic movements.

9.2 Where appropriate, the LPA sought mitigation via planning conditions and section 106 planning obligations. I consider these 'mitigation measures' further at paragraph 10 below. Further analysis is also provided in **Appendices TGW4A and TGW4B** to the proof of evidence of Mr Grove-White (**CD 6.6**).

9.3 The LPA concluded that the benefits – some of which are direct, and others which are catalytic - outweighed the harms and, for the reasons summarised at paragraph 7.5 above, the LPA granted planning permission for the Scheme on 5 April 2022 (the **Hybrid Planning Permission**) (**CD 3.1**).

## 10. **PLANNING CONDITIONS AND PLANNING OBLIGATIONS**

10.1 In this section I consider whether or not there are any planning impediments to the delivery of the Scheme as required by paragraph 106 of the CPO Guidance. The approach to planning conditions and section 106 planning obligations responds to the hybrid nature of the application and the nature and plurality of land interests in the planning application site.

10.2 As set out in paragraph 699 of the Committee Report (**CD 1.9**) and illustrated in Figure 10 in **Appendix PM2** to the proof of evidence of Mr Mason (**CD 6.2**), as at the date of grant of the Hybrid Planning Permission, much of the Site was under the control/ownership of Cornwall Council. Other parts of the Site were in third party landownership. In these circumstances, as the LPA cannot enter into a contract with itself or compel third-parties to enter into section 106 planning obligations at the point of grant of Hybrid Planning Permission, the LPA made use of two negatively worded planning conditions to secure that a Memorandum of Understanding (**MOU**) (condition 30 – Council land) or section 106 planning obligation<sup>6</sup> (condition 31 – third party land) is entered into prior to commencement of development under the outline element of the Hybrid Planning Permission, on the relevant land. Commencement of development pursuant to the full element of the Hybrid Planning Permission, being the NAR, takes subject to planning conditions (see the conditions tracker at

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<sup>6</sup> Planning obligations entered into under section 106 of The Town and Country Planning Act 1990

**Appendices TGW4A and TGW4B** to the proof of evidence of Mr Grove-White – **CD 6.6**) but is not subject to any additional mitigation under section 106.

- 10.3 The MOU contemplated by planning condition 30 is required where the Council retains an interest in the land where development pursuant to the Hybrid Planning Permission (**CD 3.1**) takes place. In this MOU, the Council will explain to the LPA how the section 106 obligations will be complied with for the duration of the Council's ownership and will undertake that its successor in title will enter into the section 106 planning obligation with the LPA, in the normal way. As at the date of this proof of evidence, a draft MOU to discharge planning condition 30 is in circulation and a further progress update will be provided at the Inquiry as needed. As noted above at paragraph 10.2, the MOU needs to be in place before commencement of development in the first phases of development under the outline element of the Hybrid Planning Permission. As the Council, the LPA and the Council's delivery partner (LGV LLP<sup>7</sup>) are currently working proactively together to agree the form of the MOU, I do not consider this to be an impediment to delivery.
- 10.4 If third parties want to take the benefit of the Hybrid Planning Permission (i.e. to implement development pursuant to the Hybrid Planning Permission), condition 31 requires them to enter into a section 106 planning obligation substantially in the form of the template published alongside the Hybrid Planning Permission (see **CD 3.7**), prior to commencement of development on their land. This ensures that the section 106 mitigation is secure, the public benefits associated with that mitigation accrue and that no development 'takes free' of mitigation which is necessary to make the development acceptable in planning terms.
- 10.5 This approach to using planning conditions to secure section 106 mitigation is relatively common on large-scale development sites in multiple landownerships, is an approach adopted by the LPA elsewhere and is explained in further detail in the legal note attached as **Appendix GS7**.
- 10.6 The form of the template section 106 planning obligation was agreed and published prior to grant of the Hybrid Planning Permission, for transparency and certainty around the quantum of and triggers for the obligations. This template section 106 planning obligation is provided as **CD 3.7**.
- 10.7 The section 106 terms are summarised in chronological order in **Appendix TGW3** to the proof of evidence of Mr Grove-White – **CD 6.6**. The summary in Mr Grove-White's **Appendix TGW3** contains a column which explains how none of the section 106 obligations present an impediment to delivery – or to realising the social, economic and environmental benefits of the Scheme. I have discussed and agreed the content of this column with project-planner, Mr Grove-White. It is also consistent with the delivery strategy endorsed by Cabinet in December 2022 (**CD 1.11**).

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<sup>7</sup> LGV Property Holdings LLP – see further information on the LGV LLP see paragraph 5 of the proof of evidence of Mr Harry Lewis – CD 6.11

## Planning conditions

- 10.8 The planning conditions for both the full and the outline elements of the Hybrid Planning Permission can be classified into four broad groups: pre-commencement conditions, construction-period conditions, pre-occupation conditions and ongoing or compliance conditions.
- 10.9 A summary of the planning conditions to the full element of the Hybrid Planning Permission is provided at **Appendix TGW4A** to the proof of evidence of Mr Grove-White – **CD 6.6**. A summary of planning conditions to the outline element of the Hybrid Planning Permission is provided at **Appendix TGW4B** to the proof of evidence of Mr Grove-White. As with the section 106 planning obligations accompanying the Hybrid Planning Permission, I do not consider that any of the planning conditions attached to the Hybrid Planning Permission present an impediment to delivery of the Scheme. For example, all of the pre-commencement conditions for the NAR have already been discharged (with partial discharge of the landscape condition to facilitate works on a staged basis) and works are already underway on land owned by the Council. The planning conditions attached to the outline element of Hybrid Planning Permission tend to relate to individual development parcels so can be discharged as individual parcels are released/assembled for development. Further analysis can be found in Appendices **TGW4A** and **TGW4B** of Mr Grove-White's proof of evidence (**CD 6.6**). Again, I have discussed and agreed this analysis with project planner, Mr Grove-White.

## 11. OTHER PLANNING DECISIONS RELATING TO SCHEME

- 11.1 Table 2 in **Appendix GS1** provides a fuller summary of the other planning decisions which are linked to the Scheme. This summary should be read alongside **Figure 11** in **Appendix PM2** to the proof of evidence of Mr Mason (**CD 6.2**). In headline summary:

Development	Planning reference	Decision date	Relationship with Scheme
Interim Link Road - full permission	PA20/00009	6 March 2020	Interim link road to provide access from the A390 to the proposed NAR – <b>allowed NAR roadworks to start without delay</b>
Energy Centre – full permission	PA20/09599	21 January 2021	Energy centre, incorporating electricity substation and battery storage and vehicular access from Park & Ride site – <b>allows energy generation for Scheme and</b>



Development	Planning reference	Decision date	Relationship with Scheme
			<b>Hospital to progress without delay</b>
Listed Milestone – listed building consent	PA20/09610	5 April 2022	Removal of listed milestone during construction work and relocation on the southern side of the new junction following its completion – <b>necessary to facilitate construction of West Langarth Junction</b>
Condition 17 NMA	PA22/07415 (NMA)	30 August 2022	Non-material amendment to condition 17 (Cornish hedges) – <b>facilitates logical discharge of condition</b>
Plot B6 NMA	PA22/07415 (NMA)	23 September 2022	Non-material amendment for alterations to the alignment of the access side road within Plot B6 and alignment of the ramped bridleway access on the private land – <b>necessary for parity with CPO and SRO Map</b>
Governs – RMA for SANG and access	PA22/07093	23 February 2023	35.92 ha Governs Park, roads and parking area including SANG - recreational area/habitat mitigation for Scheme required to be delivered before occupation of more than 200 dwellings
Eastern Junction – pre-app	PA22/02098/PRE APP	5 April 2023	<b>Pre-application advice for Eastern Junction</b>
Pumping Station 2 – full permission	PA22/09111	8 May 2023	Land NW of Governs – <b>sewerage infrastructure to serve the Scheme</b>

Development	Planning reference	Decision date	Relationship with Scheme
Pumping Station 1 – full permission	PA23/02209	18 May 2023	Land at Penventinnie – <b>sewerage infrastructure to serve the Scheme</b>
Phase 1 green infrastructure and utilities - RMA	PA23/06512 (RMA)	Pending determination	Details for access, appearance, landscaping, layout and scale of the 15.46ha parks and infrastructure area supporting Phase 1, including roads and drainage systems – <b>phase 1 enabling infrastructure</b>
Primary School	PA 23 /05687 (RMA)	Pending determination	Details for the access, appearance, landscaping, layout and scale of the first primary school – <b>phase 1 community infrastructure</b>
Neighbourhood Design Codes	PA23/07057 (CD)	Pending determination	Condition discharge application under conditions 8 and 9 to secure approval of NDC for West Langarth Character Area – <b>further details to give Design Code more localised definition</b>
Eastern Junction	PA22/02098/PRE APP (RMA)	Pending determination	Details of layout, access, appearance and landscaping of the link road between the NAR and the A390 at Eastern Junction – <b>critical transport infrastructure</b>

11.2 In conclusion, and with reference to paragraph 106 of the CPO Guidance, I do not consider there to be any planning related impediment to the delivery of the Scheme.

## 12. THIRD PARTY APPLICATIONS RELATING TO SITE

- 12.1 **Table 1 in Appendix GS1** provides a full summary of the third-party applications relating to the Site. The following table extracts those applications which were submitted/validated after grant of the Hybrid Planning Permission for the Scheme i.e. since 5 April 2022. Unlike Table 1 in **Appendix GS1**, in the interests of completeness, it includes applications which were submitted but have subsequently been withdrawn by the relevant applicant.

Development	Planning reference	Planning status	Relationship with Scheme
<b>Willow Green</b> – section 73 application to remove underpass condition 37 from outline permission ref PA14/10755	PA21/04337	Withdrawn (September 2022)	Related to third party land comprised in Site but underlying permission has now lapsed
<b>Willow Green</b> – section 73 application to amend conditions 5 and 6 (parameter plans and phasing plan for part of site not owned by Council) to outline permission ref PA14/10755	PA22/00529	Withdrawn (September 2022)	Related to third party land comprised in Site but underlying permission has now lapsed
<b>Maiden Green</b> – reserved matters application under Maiden Green hybrid permission ref PA14/00703	PA22/07181	Pending determination	Related to third party land comprised in Site  Reserved matters application for access for site outside of scope of the existing full consent, appearance, landscaping, layout and scale for 515

Development	Planning reference	Planning status	Relationship with Scheme
			2no. dwellings, community buildings and land for a primary school with public open space, landscaping and associated infrastructure
Willow Green Cottage – outline application for up to 5 new dwellings and associated access road	PA23/00635	Pending determination	Related to third party land comprised in Site  Treated effectively as infill; if approved will be subject to its own section 106 obligation
Land To South East Of Penventinnie Barn - full application for construction of a detached two storey dwelling	PA23/02842	Pending determination	Related to third party land comprised in Site  Treated effectively as infill; if approved will be subject to its own section 106 obligation
Land North of West Langarth Farmhouse Outline application with all matters reserved for the erection of four detached two storey dwellings with double garage	PA23/01962	Withdrawn	Related to third party land comprised in Site

### 13. ADJOINING APPLICATIONS/DEVELOPMENTS

- 13.1 The table below summarises the planning position for the key developments outside of or materially outside of the Site but referred to in the objections to the CPO:

Development	Planning reference	Decision date	Relationship with Scheme
<p>Petrol filling station (PFS) including a new sales building, underground tanks, pump island / canopy, forecourt, car parking, landscaping, boundary treatments, drainage infrastructure, associated access arrangements (including A390 junction and associated pedestrian access) and associated infrastructure (CD 3.20)</p>	PA21/06047	20 Sep 2021	<p><b>This permission has been implemented although substantive development is yet to progress</b></p> <p>If development were to come forward fully in accordance with this permission it would deliver a junction works (but not the link to the NAR) in broadly the same location as the 'Eastern Junction' permitted (in outline) under the Hybrid Planning Permission - and in respect of which a reserved matters application has now been submitted and is pending determination as at the date of this proof of evidence (see paragraph 14 below).</p> <p>However, I understand that the Council needs permission for the link to the NAR and cannot, in any event, rely on third party delivery of this junction within the timeframes required for the Scheme, hence the proposals to compulsorily acquire the land required to deliver the Eastern Junction.</p>

Development	Planning reference	Decision date	Relationship with Scheme
As amended by NMA	PA22/09016	01 November 2022	Amendment to condition 12 – allowing hard landscaping details to be approved before PFS is brought into use
As amended by NMA	PA22/09017	03 November 2022	Amendment to condition 8 (badger mitigation) – allows PFS to come forward without conflict with Scheme, overcoming one of the grounds of objection to the Scheme at the Hybrid Application-stage.
Full planning permission for a 78 bed hotel with integral bar / breakfast facility, B1 uses on the ground floor (up to a maximum of 345 sq.m.), a Drive Thru restaurant (A3 / A5), pump station, access, parking, landscaping, infrastructure and associated works ( <b>CD 3.23</b> )	PA19/07921	30 Nov 2020	<p><b>This permission has been implemented although substantive development is yet to progress</b></p> <p>This development is located to the east of the Scheme and is unfettered by the CPO land take required to complete the Council's proposed Eastern Junction works and wider A390 improvements</p> <p>Note that this planning permission was subject to a unilateral undertaking made pursuant to section 106 of the TCPA which ensured that the landowner would dedicate as public highway land needed for improvements to the A390. However, the land included within the undertaking is insufficient to deliver the</p>

Development	Planning reference	Decision date	Relationship with Scheme
			improvements to the A390 required for the Scheme.
As amended by NMA ref PA23/04870	PA23/04870	10 Jul 2023	Amends the description of development to read: <i>Full planning application for the development of a hotel with integral bar / breakfast facility, B1 uses on the ground floor (up to a maximum of 345 sq.m.), a Drive Thru restaurant (A3 / A5), pump station, access, parking, landscaping, infrastructure and associated works.</i>
As proposed further amended under S73	PA23/07436	Pending determination	S73 to carry out development without compliance with condition 2 to decision notices PA19/07921 dated 30/11/2020 and PA23/04870 dated 07/07/2023

#### 14. EASTERN JUNCTION

At the time of writing this statement, the LPA are in the process of determining a reserved matters application to provide details of the link road between the Northern Access Road and the A390 (PA23/07445). This part of road is referred to as the 'Eastern Junction'. This application is based on earlier pre-application advice received from the LPA reference PA22/02098/PREAPP (**CD 3.16**). Whilst I cannot fetter the LPA's final discretion, I am not aware of any impediment to positive determination in early 2024.

#### 15. CONCLUSION

- 15.1 Fundamentally, the Hybrid Planning Permission for the Scheme provides for a comprehensive and coordinated approach to the development of the Site.

- 15.1.1 I have set out at paragraph 4 above, together with **Appendix GS1** an analysis of planning history of the Site. Based on this analysis, and from a planning perspective, it is my view that the purpose for which the Council is proposing to acquire the land could not be achieved by any other means (paragraph 106 of the CPO Guidance).
- 15.1.2 I have set out at paragraph 7 above, together with **Appendices GS2 to GS5** inclusive, my analysis and confirmation that the Scheme fits with the adopted Local Plan for the area (paragraph 106 of the CPO Guidance). The Hybrid Planning Permission was granted and is challenge free.
- 15.1.3 I have set out at paragraphs 8 and 9 above, how, in my view, the Scheme contributes to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area (paragraph 106 of the CPO Guidance).
- 15.1.4 Finally, through my analysis of the planning conditions and obligations attached to the Hybrid Planning Permission for the Scheme, together with my review of the other permissions or consents required to implement the Scheme set out at paragraphs 10 and 11 above, I am satisfied that there are no planning impediments to realising the benefits that will arise from the delivery of the Scheme (paragraph 15 of the CPO Guidance).

16. **STATEMENT OF TRUTH**

- 16.1 I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.



Signed by Gavin Smith

2 January 2024