

16 October 2020

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By email and post

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Dear Sirs

**The Torbay Council (Crossways Shopping Centre) Compulsory Purchase Order 2020
Objection by Gaelic Investments Limited Partnership**

We are instructed by Gaelic Investments Limited Partnership (Gaelic), the freehold owner of the Crossways Shopping Centre, Paignton; being the Order Land subject to the above referenced Compulsory Purchase Order (Order).

Having reviewed this matter with our clients we find that:

- The acquiring authority is not correct (see paragraph 3.3 of its report dated 26 September 2019) in stating that:

"negotiations have not yet been successfully concluded. Powers of compulsory acquisition are needed to secure the land in the event that these negotiations are not successful"

There simply has been no negotiation of any genuine substance and the Order has been made before negotiations have started. The acquiring authority is in essence turning its back on negotiations and has made no genuine attempt to pursue negotiations. The acquiring authority will be put to proof at an Inquiry as to what negotiations took place prior to the making of the Order and in the period since the Order has been made. In particular our client will require cross examination of the acquiring authority's officers regarding attempts at negotiation and also will wish to hear from the acquiring authority's valuation agent regarding the nature, timing and basis of their instruction.

- The acquiring authority has, contrary to its stated intention in the section "background information", part 3(b) in its report authorising the compulsory acquisition, done nothing to ensure that negotiations with our clients "will be recommenced". Any compulsory acquisition should be held in abeyance whilst the acquiring authority engages with our client. The acquiring authority is also asked to identify what "hold out owners" are perceived to be frustrating the acquiring authority's intention, as our client believes it could deliver vacant possession without the recourse to any expropriation powers being necessary.
- Our client also believes there is no compelling case in the public interest for the proposed acquisition because the underlying scheme behind the acquiring authority's Order may not represent best use of the Order land and our client, if it had been allowed to do so, could bring forward a more appropriate and viable scheme for the Order land.

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- Our client does not believe that a compelling case can be made out on the basis that there is a viable scheme or sufficient funding in place for that scheme to be pursued. The acquiring authority will be put to proof to demonstrate that sufficient funding and commercial interest in the acquiring authority's scheme exists. The acquiring authority is further put to proof as to the clear intentions it has to develop the land and how this would be carried out in a reasonable timescale.
- Our client believes that it is able to attract interest in its site and there is no reason why the market should not be left to deal with the redevelopment of the site. It is our client's view that the acquiring authority's own activities have done much to suppress market interest in our client's property and, if our client is allowed, without the perceived or actual threat of compulsory acquisition over its property to do so then a suitable and viable scheme can be taken forward within a reasonable timescale. Our client will demonstrate how it is able to deal with all remaining interests in its land should it wish to do so and that there is no justification in powers of compulsory acquisition being sought.
- To the extent that new rights are sought by the acquiring authority, it is our client's view that, if such interests are even needed, they are far more appropriately dealt with by way of privately negotiated crane oversail licences and securing a permanent new right for such powers is not itself a compelling reason as to why expropriation is necessary.

It follows that our client objects to the Order and will require that its objections are heard in an Inquiry into confirmation of the Order by the Secretary of State.

In Summary our client's principal grounds of objection are:

1. There is no compelling reason for the expropriation of our client's interest. Our client is and always has been willing to engage with the acquiring authority to discuss any reasonable proposal for the acquisition of land on an open market basis.
2. There has been no substantive engagement, as required by the CLG Circular of October 2015 (as updated), by the acquiring authority with Gaelic. Contrary to paragraph 2 of the Circular the acquiring authority has decided to proceed with expropriation with no genuine attempt at negotiation. The acquiring authority will be put to proof regarding the content of its statement of reasons and its suggestion that negotiations:
 - 2.1 have been conducted with any genuine purpose by the acquiring authority; and secondly,
 - 2.2 were brought to an end by our client.
3. Our client is able to secure with very little effort the vacant possession of the principal Order Lands. There is no need for expropriation.
4. Further, and whilst acknowledging that matters of compensation are not issues for consideration at the Inquiry, our clients attempt to understand the offer made by the acquiring authority's solicitors has not been supported, This is despite requests to the acquiring authority and those representing it.
5. Finally the Order has been made before it can be reasonably demonstrated that no impediments to planning permission being granted can be shown.

A copy of this objection has been provided to the solicitors representing the acquiring authority.

Please acknowledge safe receipt of this objection.

Yours faithfully



Womble Bond Dickinson (UK) LLP

Copy to: *Gary Soloman, Burges Salmon*