

**THE LONDON BOROUGH OF BARNET  
(WEST HENDON REGENERATION AREA)  
CPO No 1 2014**

**PROOF OF EVIDENCE OF PAUL WATLING BSc MRICS  
(CAPITA Surveyors on behalf of the London Borough of Barnet)**

**PLANNING INSPECTORATE REF: APP/NPCU/CPO/N5090/74016**

## CONTENTS

1. Introduction .....	3
2. Land and interests acquired by private treaty negotiations .....	5
3. Land & interests to be acquired by the Council .....	6
4. Negotiations to date .....	7
5. Table 2 negotiations .....	17
6. Commercial relocation .....	18
7. Responses to objections .....	20
8. Conclusion.....	22
9. Statement of truth and declarations .....	23

## APPENDICES

Appendix 1	Correspondence dated 5 <sup>th</sup> March 2014 – introductory letter to leaseholders of Estate Properties
Appendix 2	Correspondence dated 5 <sup>th</sup> March 2014 – introductory letter to freeholders and occupiers of West Hendon Broadway properties
Appendix 3	‘Communications Schedule’: record of contact information
Appendix 4	Initial offer letter (Estate Properties)
Appendix 5	Capita response to leaseholders regarding level of initial offers
Appendix 6	Negotiations Schedule

## 1. INTRODUCTION

- 1.1 My name is Paul Watling BSc MRICS, Registered Valuer. I am a Director and head the Valuation team at Capita and I am lead advisor to the London Borough of Barnet in respect of Council-led CPO regeneration schemes where there is the need for valuation and negotiation for the acquisition of property interests in accordance with the Compensation Code.
- 1.2 I have been a practicing Chartered Surveyor since April 1989 when I secured Associate membership of the RICS. Since then, I have worked primarily within the valuation discipline, but have also engaged in rent reviews and commercial property agency early in my career.
- 1.3 I am experienced in the valuation of commercial and residential property throughout the UK, although during the last decade my work has increasingly focussed on London and the Home Counties. Within those sectors I undertake valuations on behalf of investors, owner-occupiers and developers for a variety of purposes, including secured lending, accounts, strategic and statutory purposes.
- 1.4 I have been a Director and Head of Valuation at Capita (formerly Nelson Bakewell / NB Real Estate) since October 2005. During that time, I have acted on behalf of a range of clients including the following:
- Lenders – such as Anglo Irish Bank, Deutsche, Svenska Handelsbanken, Bank of East Asia, Bristol & West, etc. Valuations have included small shops to department stores, owner-occupied offices to multi-tenanted blocks, nursery industrial units to distribution warehouses and single residential flats / houses to large London Development sites.
  - Funds and Institutions – accounts valuations for the likes of Prudential, Bank of Ireland Pension Fund and Greenwich Hospital Estate.
  - Local Authorities – valuations for accounts, statutory and strategic purposes for authorities such as Barnet, Tunbridge Wells and Westminster City Council.
  - Housing Associations – Capita is currently engaged by Genesis Housing Association and provides valuation advice to assist with viability assessments, strategy and accounting.

- 1.5 At the end of 2013, London Borough of Barnet ('the Council') appointed Capita to act on its behalf in respect of negotiations to acquire all third party proprietary interests required to facilitate the delivery of Phases 3b & 3c of the Scheme.
- 1.6 In negotiations to date, I have been assisted by my colleague, Rosie Moore MRICS, who has experience in working as a Compulsory Purchase surveyor and advisor on large regeneration schemes and who has been liaising with agents and progressing negotiations on a day to day basis under my supervision.
- 1.7 My evidence will address:
- Land and interests acquired by private treaty negotiations to date;
  - Approach to negotiations;
  - Ongoing negotiations;
  - Commercial relocation;
  - Comment upon objections.

## 2. LAND AND INTERESTS ACQUIRED BY PRIVATE TREATY NEGOTIATIONS

2.1 I am advised that Metropolitan Housing Trust acquired the following properties for the purposes of the Regeneration Project, by private treaty negotiation between 2004 and 2008:

### Acquisition of Estate Properties and West Hendon Broadway Properties to date

The Estate			
Number	Block	Type*	Acquired
<b>Properties lying within the Order Land</b>			
191 A-D	West Hendon Broadway		27/09/2005
95	Marriotts Close	2 Bed Maisonette	20/12/2005
191	West Hendon Broadway	Mixed use	28/06/2006
195-197	West Hendon Broadway	Mixed use	30/06/2006
6	Franklin House	1 Bed Flat	29/08/2006
31	Marriotts Close	1 Bed Flat	28/01/2008
44	Franklin House	1 Bed Flat	13/06/2008
<b>Properties included in Later Phases of the Scheme</b>			
8	Marriotts Close	4 Bed House	29/07/2004
86	Tyrrel Way	2 Bed Maisonette	04/11/2004
19	Warner Close	2 Bed Maisonette	24/11/2004
160	Marsh Drive	2 Bed Maisonette	30/06/2005
66	Warner Close	2 Bed Maisonette	14/12/2005
83	Marsh Drive	2 Bed Maisonette	07/12/2005
47	Warner Close	1 Bed Flat	23/12/2005
22	Warner Close	2 Bed Maisonette	25/01/2006
145	Marsh Drive	2 Bed Maisonette	01/09/2006
25	Marsh Drive	2 Bed Maisonette	16/02/2007
79	Tyrrel Way	2 Bed Maisonette	02/03/2007
96	Tyrrel Way	2 Bed Maisonette	02/11/2007
47	Tyrrel Way	1 Bed Flat	09/11/2007
30	Warner Close	1 Bed Flat	28/11/2007
2	Marriotts Close	4 Bed House	07/12/2007
5	Marsh Drive	2 Bed Maisonette	06/02/2008
44	Warner Close	1 Bed Flat	15/02/2008
113	Tyrrel Way	2 Bed Maisonette	27/02/2008
39	Warner Close	1 Bed Flat	27/02/2008
89	Tyrrel Way	2 Bed Maisonette	11/04/2008
217	Marsh Drive	1 Bed Flat	15/05/2008
216	Marsh Drive	1 Bed Flat	05/06/2008
185	Marsh Drive	2 Bed Maisonette	11/07/2008
222	Marsh Drive	1 Bed Flat	19/09/2008

- 2.2 These acquisitions are historic, concluded prior to the property market collapse in late 2008 / early 2009, but were nevertheless carried out in order to facilitate the Regeneration Project and they demonstrate the intention of the Council and the Developer to acquire properties by private treaty negotiation in the first instance.
- 2.3 The interests above are in addition to those acquired by the Council in advance of Phase 1 of the Regeneration Project (the 'Lakeside' development) in respect of which I refer you to the evidence of Mr Wylde (Page 7, Paragraph 3.15), Mr Calladine (Page 17, Paragraph 7.3) and Mr Cowie (Page 20, Paragraph 6.4).

### 3. LAND & INTERESTS TO BE ACQUIRED BY THE COUNCIL

- 3.1 In February 2014, the Council instructed Capita to commence private treaty negotiations to acquire third party property interests falling within the Order Land (and required for the delivery of Phases 3b & 3c) of the Scheme.
- 3.2 The original programme was to acquire the Estate Properties before the end of March 2015 based upon the development partners' programme.
- 3.3 I understand that, save for the 'Catalyst Land' (see references in Paragraph 2.3 above) no further acquisitions of land interests were made by MHT post-2008 and, to my knowledge, no further negotiations have been conducted by MHT with residents or their agents since 2008, although further engagement and consultation has occurred, as outlined in paragraphs 2.13 and 2.14 of the Statement of Case (**CDA.11** pages 9-12).
- 3.4 The third party property interests within the Order Land which the Council is seeking to acquire comprise the following:
  - a) Residential properties held by 'leaseholders' (owner-occupiers and absentee landlords) in the low-rise blocks comprising 1 – 32 Tyrrel Way and 11 – 98 Marriotts Close and the high-rise block, Franklin House. These are referred to as 'Estate Properties'.
  - b) The mixed use properties at 181 - 197 (odd numbers) West Hendon Broadway (generally commercial uses on ground floor with self-contained residential flats above). These are referred to as the 'Broadway Properties'.
  - c) The land required to facilitate the proposed new pedestrian and cycle bridge, adjacent to the existing vehicular bridge at Cool Oak Lane.

The relevant interests are set out in the Order Land Schedule (**CDA.03**).

- 3.5 In addition Capita is instructed to negotiate compensation payable upon the extinguishment of rights and easements listed in table 2 of the CPO Schedule (Table 2 Rights). The compensation will be assessed in accordance with the Compensation Code.

3.6 Supplementary to the above, but outside of the scope of the Order Land, Capita was also instructed to assist the Council in the valuation and negotiations for the acquisition of a strip of land at 3 Station Road (a former social club, known as 'Deerfields') to facilitate highway improvement works required as part of Phase 4 of the scheme. Further information is set out at paragraph 4.7.42 of my evidence.

## **4. NEGOTIATIONS TO DATE**

4.1 Following Capita's appointment I implemented a strategy aimed at, so far as possible, acquiring the relevant interests by agreement, fulfilling the requirements of the CPO Circular 2004/06 (**CDA.10**), as follows:

### **4.2 Initial engagement with third party landowners / occupiers**

4.2.1 Negotiations commenced with introductory letters being sent to all leaseholders of Estate Properties on 5<sup>th</sup> March 2014 (sample letter enclosed in Appendix 1 to this Proof).

4.2.2 The letter invited all Estate leaseholders within the Order Land to enter into negotiations for the acquisition of their properties. It also provided an explanation of the Scheme, Capita's involvement on behalf of the Council, the leaseholder's rights (including their right to professional representation and recovery of reasonable fees), the heads of claim arising from their loss and, finally, notification that Capita's surveyors would be making house visits commencing on 20<sup>th</sup> March 2014.

4.2.3 Separate letters (Appendix 2) were sent to owners and occupiers of the Broadway Properties. These letters set out the same information, although inspection dates were not stated.

4.2.4 In March 2014, I entered into preliminary discussions with the surveyor acting on behalf of the Canal & River Trust ('CRT') regarding the land required to facilitate the delivery of the Cool Oak Lane cycle and pedestrian bridge.

4.2.5 In addition, Capita entered negotiations with representatives of the owner of the Deerfields site in Station Road. Although part of the land at this site is not required until phase 4 of the Scheme (therefore falling outside of the Order Land), following the service and subsequent withdrawal of a Purchase Notice the Council has agreed to the advance acquisition of the land. This clearly demonstrates the Council's commitment to the project and to acquiring by private treaty negotiation where possible.

### **4.3 Undertake property inspections / commence discussion with landowners and occupiers**

#### Estate Properties

4.3.1 Inspections commenced on 20<sup>th</sup> March 2014. To date, we have inspected 26 out of 34 leasehold properties.

4.3.2 In most cases, we made house visits to the leaseholders during days / dates stated in the letters. However, in some cases, specific arrangements were made, as follows:

- 49 Marriotts Close – Mr Whelan – 4<sup>th</sup> April 2014
- 60 Franklin House – Mr P Carr – 1<sup>st</sup> May 2014
- 18 Franklin House – Ms A Adubifa – 8<sup>th</sup> May 2014
- 30 Tyrrel Way – Mrs Coleman – 23<sup>rd</sup> May 2014
- 88 Marriotts Close – Mr Hussain – 5<sup>th</sup> June 2014
- 96 Marriotts Close – Mrs S Rothnie – 5<sup>th</sup> June 2014
- 21 Tyrrel Way – Mrs N Kadiri – 5<sup>th</sup> June 2014
- 48 Marriotts Close – Mrs L De Monfort – 12<sup>th</sup> June 2014
- 3 Tyrrel Way – Ms Adelaide Adams – 20<sup>th</sup> June 2014
- 28 Marriotts Close – Milverdene Ltd – 11<sup>th</sup> July 2014
- 30 Franklin House – Ms A Hamed-Monfared – 18<sup>th</sup> July 2014
- 21 Marriotts Close – Mr Witrol – 7<sup>th</sup> October 2014
- 44 Marriotts Close – Ms Hyacinth – 2<sup>nd</sup> December 2014

4.3.3 Where leaseholders granted Capita's Surveyors access to their properties, inspections were undertaken, including measurement and taking of notes and photographs as to condition and fixtures and fittings.

4.3.4 In a few cases, access has not been gained, as follows:

- 51 Marriotts Close – Mrs Erza-Essien
- 22 Tyrrel Way – Mrs V Payne
- 59 Marriotts Close – Mr E Kent
- 70 Marriotts Close – Mrs D Dean
- 85 Marriotts Close – Ms D Steele
- 45 Franklin House – Mr R Forte
- 51 Franklin House – Ms E Lawson
- 52 Franklin House – Mr P Waters

4.3.5 Where invited to do so, Capita's employees (including myself) took time to sit with leaseholders and talk through the CPO process, their entitlement to compensation under the Code and their relocation preferences, options and obligations.

4.3.6 When undertaking inspections, in addition to property factors, in accordance with the Council's and Developer's instructions, Capita gathered the following information:

- Confirmation of identity of occupier
- Contact details (telephone / email)
- Whether the occupier is either a leaseholder ('owner-occupier') or tenant.
- Whether they would like to remain in the area.



- Whether they are interested in a property within the new development and, if so, whether they would want to pursue the Shared Equity option that is available to them.
- Information to determine whether they qualify for the Shared Equity option (subject to date of purchase and residence).
- How they would fund the purchase of a property in the new development.

4.3.7 This information is logged in a schedule referred to as 'the Communications Schedule' reproduced as Appendix 3 of my evidence.

#### Broadway Properties

4.3.8 A few inspections of the Broadway Properties were undertaken in conjunction with the Estate Properties, namely No. 181 West Hendon Broadway. Visits were made to occupying tenants during May 2014. However, detailed inspections were not carried out until the Summer, after agents had been instructed and contact had been made (please see Negotiation Schedule for further information – Appendix 6).

4.3.9 Progress had been made with all Broadway Properties (within the Order Land) by the end of September 2014 (as explained at paragraph 7.5 below).

#### CRT

4.3.10 A general viewing of the land on the banks to the Welsh Harp in the vicinity of the existing Cool Oak Lane bridge was carried out during March 2014.

## **4.4 Prepare an Estimate of Value**

4.4.1 Based upon information gathered, I formed a view as to Market Value of the individual property assets. In accordance with the Compensation Code, the Market Value is assessed in the 'no-scheme world'. Accordingly, I have assessed the value of the Estate Properties on the assumption that the Scheme proposals did not exist.

4.4.2 In addition to the value of the property, the property owner is entitled to the following:

- Home Loss Payment (10% of Market Value) for owner-occupiers or Basic Loss Payment (7.5% of Market Value) for absentee landlords
- Disturbance payment (costs to the leaseholder in moving including, if appropriate, the cost of specific fixtures and fittings).
- Professional fees – agent's and lawyer's.

4.4.3 Private treaty negotiations have taken place over a number of months and Capita continues to review evidence and Market Values as appropriate to reflect prevailing market conditions.

## 4.5 Agree fees with agents

4.5.1 Understanding the challenging nature of the compulsory purchase procedure, the Council wanted to agree fees with agents representing affected parties in advance of the CPO being made. As negotiations were progressing in the shadow of the CPO, it was understood by all parties that fees would be assessed and reimbursed in accordance with the Code.

4.5.2 My colleague, Rosie Moore, entered discussions with agents appointed by leaseholders of Estate Properties to attempt to agree these. Discussions commenced in May 2014 with:

Dan Knowles of Sawyer Fielding

4.5.3 Mr Knowles clients comprise the leaseholders at the following addresses:

3,7,11,13,14,15,16,17,19,21	Tyrrel way
35,47,48,49,59,70,85,88,92,96,98	Marriotts Close
18,30,51,52,60	Franklin House

Angela Connor of Roger Hannah & Co

4.5.4 Appointed to act on behalf of the leaseholder of 30 Tyrrel Way.

Robert Clifford of Richard John Clarke

4.5.5 Appointed to act on behalf of the leaseholders of 45 Franklin House and 22 Tyrrel Way and the freeholder of 195/197 West Hendon Broadway.

Maurice Walsh of Robson Walsh

4.5.6 Appointed to act on behalf of the leaseholder of 28 Marriotts Close.

Alan Shaw of Alan Shaw & Associates Ltd

4.5.7 Appointed to act on behalf of the leaseholders of 21 and 44 Marriotts Close as well as the leaseholder of the flat at 187A West Hendon Broadway.

Angela Robinson of Matthews & Sons

4.5.8 Appointed to act for the freeholder of 183 West Hendon Broadway and the commercial tenants of Nos. 185 and 187 West Hendon Broadway.

Jane Bradshaw of Montagu Evans

4.5.9 Appointed to act for the freeholder of 193 West Hendon Broadway.

Adrian Rose of Tanner Rose

4.5.10 Appointed to act for the freeholder of 181 West Hendon Broadway (this instruction was originally placed with Strettons and has only recently been transferred to Tanner Rose).

## CRT

- 4.5.8 David Fisher was appointed to act on behalf of CRT.
- 4.5.9 Hourly charges have been agreed with all agents acting on behalf of leaseholders, save for Mr Clifford, of Richard John Clarke, who has not responded to correspondence.

## **4.6 Initial offer to acquire**

- 4.6.1 Initial offers were made to leaseholders of Estate Properties on 4<sup>th</sup> June 2014.
- 4.6.2 A copy of a typical offer letter, sent by my colleague Rosie Moore following approval by me, is included in Appendix 4 to this Proof.
- 4.6.3 The offers made were in respect of the Market Value element only, exclusive of Home Loss / Basic Loss payment, disturbance and professional fees.
- 4.6.4 Following meetings with CRT on 26<sup>th</sup> June and 4<sup>th</sup> September 2014, a formal offer, in full and final settlement, was submitted by Capita on behalf of the Council, directly to CRT on 29<sup>th</sup> September 2014. Negotiations are at an advanced stage to acquire the land and rights required to facilitate the Cool Oak Lane cycle and pedestrian bridge.
- 4.6.5 With reference to Paragraph 4.2.5 above, Capita entered negotiations with the owners of the Deerfields site at Station Road. An offer in full and final settlement for the acquisition of the strip of land required to widen Station Road was submitted to the land owner on 22<sup>nd</sup> September 2014. Again, negotiations are at an advanced stage to acquire this interest.
- 4.6.6 No offers have been made to date in respect of the Broadway Properties. Discussions are progressing at a rate led by the freeholders or their agents. All parties are fully appraised of all aspects of the CPO and agents and owners are contacted by Capita on a regular basis in an effort to progress negotiations. As noted under Paragraph 6.5 below, Capita's due diligence (inspections, measurement, perusal of title information and leases) is at an advanced stage, although still not yet complete. Further discussions with owners and agents, detailed inspections, deduction of title and tenancy information is necessary before offers can be made.

## **4.7 Progress negotiations**

Capita, on behalf of the Council, is committed to reaching settlements by negotiation in advance of compulsory purchase powers being exercised. This commitment is demonstrated as follows:

### **Estate Properties**

- 4.7.1 Following initial offers, Capita entered discussions with the representatives of the leaseholders of Estate Properties. Details of these negotiations are set out in the Negotiations Schedule (Appendix 6 of this Proof), but are summarised as follows:

## Negotiations with Dan Knowles of Sawyer Fielding

- 4.7.2 On 4<sup>th</sup> June a letter was sent to the leaseholders represented by Mr Knowles confirming the initial offers with reference to the comparable transactions to which Capita had referred in determining the offers.
- 4.7.3 A preliminary meeting was held with Mr Knowles at Capita's offices on 3<sup>rd</sup> July 2014. At this meeting, comparables were discussed in broadest terms.
- 4.7.4 Capita subsequently received email correspondence from Mr Knowles rejecting Capita's proposal and presenting outline information upon quoting terms for comparable properties.
- 4.7.5 After discussing his comments in more detail in a telephone conversation, Capita responded to Mr Knowles' emails in a letter dated 6<sup>th</sup> August, re-iterating the comparables to which we referred in making the initial offers.
- 4.7.6 Mr Knowles reverted in a letter dated 11<sup>th</sup> August 2014 confirming his rejection of Capita's offer. He set out comparables in support of his views and submitted counter offers relevant to the properties held by his clients at levels substantially in excess of those submitted by Capita.
- 4.7.7 There followed an exchange of emails and telephone conversations between Mr Knowles and Rosie Moore of Capita. This exchange related not only to discussions regarding comparable evidence, but also to questions submitted by Mr Knowles in respect of a number of issues, including:
- The impact of the Scheme on Table 2 rights held by his clients (see below).
  - Questions related to the provision of alternative accommodation in the new development (the Shared Equity option).
- 4.7.8 These supplementary questions required input / confirmation by the Council and the Developer.
- 4.7.9 In consideration of the evidence presented by Mr Knowles together with new evidence from our own researches, in responding to Mr Knowles on 23<sup>rd</sup> September 2014, Capita submitted revised offers (Market Value element only) for the Estate Properties.
- 4.7.10 Capita, along with representatives from the Council and the Developer, met with Mr Knowles at the Council's offices on 26<sup>th</sup> September 2014. Comparable evidence was exchanged and values discussed.
- 4.7.11 Since that meeting, further evidence has been exchanged, considered and discussed, over the telephone and by email. Mr Knowles has submitted revised offers at levels marginally below his initial counter-offers.

4.7.12 Most recently, on 17<sup>th</sup> November 2014, Capita has submitted a final offer to Mr Knowles for the Estate Properties. Again, these figures excluded Home Loss / Basic Loss payments, disturbance and professional fees.

#### Specific Negotiations with Mr Knowles

4.7.13 One of Mr Knowles clients, Mrs Adele Adams of 3 Tyrrel Way, wishes to agree compensation at the earliest possible date in order to be able to move as quickly as possible.

4.7.14 Rosie Moore of Capita met with Mrs Adams, Dan Knowles and representatives of the Developer at her property on 20<sup>th</sup> June 2014.

4.7.15 Subsequent to that meeting, on 3<sup>rd</sup> July 2014, an offer in full and final settlement, based on our view of Market Value of the property at that time, was submitted to Mr Knowles, on behalf of Mrs Adams. This offer represented Market Value plus Basic Loss Payment plus disturbance, plus an additional allowance for specialist adaptation works on account of Mrs Adams personal circumstances. It was exclusive of Mr Knowles' professional fees.

4.7.16 The offer was rejected by email on 3<sup>rd</sup> July by both Mr Knowles and his client. Save for the second and third offers (see Paragraphs 4.7.9 and 4.7.12 above), no further offers have subsequently been submitted to either Mrs Adams or Mr Knowles in respect of this particular property.

#### Negotiations with Angela Connor of Roger Hannah & Co

4.7.17 Ms Connor is representing only one leaseholder, Mr & Mrs Coleman of 30 Tyrrel Way (2-bed maisonette).

4.7.18 The processes applying to Mr Knowles apply equally to Ms Connor.

4.7.19 Following the initial offers being made, Capita made repeated requests of Ms Connor for a counter-offer which was ultimately forthcoming (verbally only) at a level significantly above that made by Capita, but substantially below the offer received from Mr Knowles (referred to above).

4.7.20 Following the submission of revised 'market value' offers (see above), in this instance Capita submitted a further offer in 'full and final settlement' (inclusive of Basic Loss Payment and disturbance). This offer was made on 26<sup>th</sup> September 2014.

4.7.21 Ms Connor formally rejected the latter offer on 14<sup>th</sup> October 2014 and submitted a counter-offer on 30<sup>th</sup> October at a level in excess of the initial counter-offer. In my view this demonstrated an unwillingness on the part of the leaseholder to enter into substantive negotiations.

4.7.22 Since this exchange, Capita has submitted the third offer (exclusive of Home Loss and disturbance payments) on 17<sup>th</sup> November 2014.

## Negotiations with Robert Clifford of Richard John Clarke

- 4.7.23 Appointed to act on behalf of the leaseholders of 45 Franklin House (one-bed flat) and 22 Tyrrel Way (two-bed maisonette) and the freeholder of 195/197 West Hendon Broadway.
- 4.7.24 Despite follow-up phone calls and emails, no negotiations have been held with Mr Clifford to date. No response has been received from him – either verbal or written. Nevertheless, offers have been made to him as set out in the Negotiation Schedule (Appendix 6).

## Negotiations with Alan Shaw of Alan Shaw & Associates Ltd

- 4.7.25 Mr Shaw is representing the leaseholders of 21 and 44 Marriotts Close as well as the leaseholder of the flat at 187A West Hendon Broadway.
- 4.7.26 Progress with Mr Shaw has been slow despite best efforts to engage him. As regards the Estate Properties that he is dealing with, chasing emails were sent and phone calls made in July and August, as set out in the accompanying Negotiations Schedule (Appendix 6).
- 4.7.27 Following the revised offer for No. 21, a low-rise one-bed unit, Rosie Moore met with Mr Shaw at the property on 7<sup>th</sup> October 2014 at which informal discussions were held. Comparables have been exchanged and a counter offer was submitted by Mr Shaw at a substantially higher level than Capita's assessment of Market Value. Accordingly, this offer was immediately rejected by the Council.
- 4.7.28 The third offer was made on 17<sup>th</sup> November 2014, exclusive of Home / Basic Loss payment, disturbance and fees (see above).
- 4.7.29 On 2<sup>nd</sup> December Rosie Moore met with Mr Shaw again, this time at 44 Marriotts Close, to discuss the future housing requirements of Ms H Aymes and her daughter. Following this meeting, further 'without prejudice' discussions were conducted regarding 21 Marriotts Close. Capita and Alan Shaw continue to liaise at the time of drafting this Proof.
- 4.7.30 Further details have been requested regarding the lease at 187A West Hendon Broadway from Mr Shaw and, to date, no further information has been provided. Accordingly, no offers have been made to date in respect of this property.

## Maurice Walsh of Robson Walsh

- 4.7.31 Mr Walsh is representing the leaseholder of 28 Marriotts Close, a one-bed low-rise flat.
- 4.7.32 Despite chasing phone calls and emails, no discussions have been held with Mr Walsh. No response has been received from him – either verbal or written. Nevertheless, Capita has submitted the three offers to him that are relevant to low-rise one-bed properties on the dates set out in Appendix 6.



## Unrepresented leaseholders

- 4.7.33 There are 2 unrepresented leaseholders on the Estate.
- 4.7.34 Ms Naana Erza-Essien is the leaseholder of 51 Marriotts Close, a two-bedroom maisonette. I have met Ms Erza-Essien and spoken briefly with her. I have recommended her to appoint a representative but, to date, I am not aware that she has chosen to do so. No negotiations have been held with this leaseholder. She has, nevertheless, been issued with the three offers made in respect of all two bedroom maisonettes, on the dates set out in Appendix 6.
- 4.7.35 Mr & Mrs M Kahoul are the leaseholders of 64 Marriotts Close, a two-bedroom maisonette. Upon inspection, the property was occupied by a third party who Mr & Mrs Kahoul advise is a 'house-sitter' during their absence abroad. I have subsequently spoken to Mr Kahoul on the telephone, most recently on 6<sup>th</sup> November 2014, when he rejected Capita's second offer that had been submitted at that time. Again, he has been issued with the three offers that have been submitted for the two bedroom maisonettes on the dates set out in Appendix 6.

## The Broadway Properties

- 4.7.36 Letters have been despatched to freeholders, leaseholders and occupying tenants of properties in West Hendon Broadway advising them of process and their rights in the same manner as the Estate Properties on 5<sup>th</sup> March 2014.
- 4.7.37 On behalf of the Council, Capita has approached all freeholders and occupiers of commercial properties in West Hendon Broadway and has invited parties to enter negotiations. Progress to date is set out in Appendix 6 and under Paragraph 6.2 below.
- 4.7.38 Capita has carried out initial discussions with all commercial occupiers including advising dates that vacant possession is required, listening to individual concerns, advising on their obligation to relocate and their rights to be professionally represented and to receive compensation in accordance with the Code. Capita has also offered to meet further with the occupiers. However none have responded to this offer. On behalf of the Council, Capita will continue to pursue engagement with occupiers and provide a schedule of available properties where relevant.
- 4.7.39 Capita has progressed liaison upon all of the Broadway Properties listed in Paragraph 6.5 and has held discussions with a number of freeholders and leaseholders or their agents and has inspected a number of West Hendon Broadway properties. On behalf of the Council, Capita is progressing negotiations where owners are willing to enter into early discussions.

## **Negotiations with CRT**

- 4.7.40 Negotiations for the acquisition of the land and rights to facilitate the construction of the pedestrian and cycle bridge at Cool Oak Lane are progressing well between the Council and CRT. These are summarised in the Negotiations Schedule (Appendix 6).
- 4.7.41 I understand it is likely that terms will have been finalised (and CRT's objection withdrawn) prior to the commencement of the Inquiry. The progress made in these negotiations demonstrates the Councils commitment to reaching agreement by private treaty negotiation where possible.

## **Negotiations with the owner of Deerfields site, Station Road**

- 4.7.42 As noted under Paragraph 3.6, the Council has committed to the early acquisition of land interests where appropriate. Terms for the acquisition of the strip of land to facilitate the longer term widening of Station Road, a condition of the West Hendon Regeneration Scheme, have been agreed subject to contract. Whilst this property does not fall within the Order Land, the land is required for Phase 4 of the Scheme. The early acquisition of this land demonstrates a commitment by the Council and Developer to negotiate the acquisition of interests where possible.

## **4.8 Engagement with leaseholders and their agents**

- 4.8.1 On 16<sup>th</sup> September 2014, Capita attended an open meeting at the West Hendon Estate Community Centre in Marsh Drive.
- 4.8.2 At that meeting, I presented the Council's position and listened to arguments presented by leaseholders and their agents (although, on behalf of the leaseholders, only Mr Knowles attended).
- 4.8.3 Capita has responded to leaseholders, as a group and individually, regarding issues raised. Most recently, this has related to the level of initial offers. Copies of Capita's letters in response to those issues is included in Appendix 5 of my evidence.

## **4.9 Exercise Compulsory Purchase powers where negotiated settlement cannot be reached**

- 4.9.1 Capita, on behalf of the Council and the Developer, remains committed to acquiring property interests by private treaty negotiation.
- 4.9.2 This determination is demonstrated by the agreements reached with CRT and the freeholder of the Deerfields site and Capita's continual commitment to engage and negotiate with the 3<sup>rd</sup> party landowners.



- 4.9.3 The divergence in opinion of value between Capita and the leaseholders of Estate Properties and their agents is wide and not easily bridged. Nevertheless, offers have been submitted in line with my assessment of Market Value based on the evidence available and application of reasonable judgment. Capita has submitted revised offers as further evidence has come to light. The landowners and their agents have not, in my view, produced evidence to support unrealistic counter-offers submitted to date.
- 4.9.4 Market Value is a matter of judgment, more so where there is a dearth of directly comparable evidence. However, Capita has consistently considered 'fair' Market Value in accordance with the Compensation Code.
- 4.9.5 On behalf of the Council, Capita continues to monitor evidence relevant to the Market Value of both the Estate Properties and the Broadway Properties. However, at the date of this Proof, I believe that no further adjustment is appropriate.

## 5. TABLE 2 NEGOTIATIONS

- 5.1 Initial letters were sent to all third parties listed in Table 2 of the CPO Schedule on 10<sup>th</sup> July 2014. The Table 2 parties were informed that they may have rights of way and / or rights of light that might be affected by the Scheme.
- 5.2 The letters set out the following:
- The nature of the right that may be affected.
  - Willingness to enter negotiations, before CPO powers are confirmed, with parties claiming that their rights are affected.
- 5.3 The purpose of the letters was, in compliance with the CPO Circular, to ensure that all parties were aware that their rights *might* be affected. The detail is not finalised but the Council and Developer are confident that suitable alternative access will be available and the loss or modification of rights will result in no diminution in value to the claimants properties.
- 5.4 In terms of rights of way, access to all properties listed in Table 2 will be maintained and therefore, in my judgement, the enjoyment of the properties will remain unaffected. Written responses have been made by Capita accordingly to written enquiries in respect of Table 2 rights (I refer you to the schedule relating to Table 2 negotiations included in Appendix 6). Nevertheless, if affected parties or their agents are able to demonstrate material loss in this regard, statutory compensation may be payable.
- 5.5 As regards Table 2 rights to light, studies carried out and included in the Environmental Statement conclude that there will generally be no substantial impact upon the levels of daylight resulting from the development. The Environmental statement is at **CDB.24**. Levels of Daylight are referred to throughout the document, but I refer you to the concluding comments at Page 673, Paragraph 2 and summarised at the front of the document – Page xi, Paragraph 8.1, under Key findings of the Environmental Impact Assessment).

- 5.6 These points were discussed at the open meeting on 16<sup>th</sup> September 2014 where it was clearly stated that third parties should make contact directly with Capita setting out the basis for a claim with evidence to demonstrate any loss incurred in accordance with the Compensation Code.
- 5.7 Based on information currently available there is no evidence to demonstrate material loss of rights to retained Estate Properties and therefore no offers of compensation have been made.

## 6. COMMERCIAL RELOCATION

- 6.1 This applies only to the commercial units within the Broadway Properties.
- 6.2 Vacant possession is not required until March 2017, but the Council is committed to acquiring interests early where possible or entering option agreements if that is preferred by landowners.
- 6.3 Freeholders and Leaseholders of the West Hendon Broadway properties were included in the mailshot despatched on 5<sup>th</sup> March 2014. Capita received no response to these letters.
- 6.4 Accordingly, further approaches were made, again by letter, on 29<sup>th</sup> July 2014, requesting early negotiations, and again on 2<sup>nd</sup> October 2014.
- 6.5 These approaches have resulted in the following progress:
- 181 West Hendon Broadway – full inspection of ground and upper floors (owner occupied).
  - 183 West Hendon Broadway – discussions with freeholder's agent and inspection of upper floors (commercial premises vacant).
  - 185 West Hendon Broadway – full inspection of commercial unit. Ongoing discussions with one of the residential owner-occupiers.
  - 187 West Hendon Broadway – discussions with freeholder's agent (commercial premises vacant).
  - 189 West Hendon Broadway – freehold held by London Borough of Barnet / Metropolitan Housing Trust.
  - 191 West Hendon Broadway – preliminary discussions with the ground floor tenant (freehold held by Metropolitan Housing Trust).
  - 193 West Hendon Broadway – preliminary discussions with the ground floor commercial tenants and freeholder owner and agent.
  - 195 West Hendon Broadway – discussions with the freeholder's agent and occupational commercial tenant.
  - 197 West Hendon Broadway – discussions with the freeholder's agent and occupational commercial tenant.
- 6.6 For further details, I refer you to the Negotiation Schedule, Appendix 6.
- 6.7 Capita will continue to engage with freehold business owner-occupiers and freehold investors.

- 6.8 Capita has informed business tenants of their rights and obligations under the process. However, offers of a more formal meeting have been made to occupiers with no response to date.
- 6.9 Capita will continue to work with freehold investors regarding business tenancies so far as it is able. Where lease events occur that might precipitate a negotiation with the freeholder, efforts will be made to progress discussions.

#### Assistance to be Provided

- 6.10 In the interest of maintaining the vitality of the street, minimising losses to business and landowners and reducing the risk of crime and antisocial behaviour, my client wishes to encourage businesses to remain in their West Hendon Broadway properties until a point as close as possible to vacant possession being required. Capita has written to and visited the occupiers and advised them of vacant possession dates, their right to be represented and their obligation to mitigate their losses and relocate their businesses. Capita has offered further meetings to discuss these points further. In the interest of providing further assistance so they are fully apprised of the CPO, their rights and obligations and have adequate time to plan for their business relocations Capita will:
- Continue to send letters to the occupiers in mid-2015, updating the CPO process and planned vacant possession dates, re-stating surveyor contact, explaining occupiers' rights in terms of compensation and professional representation and requesting appointments to conduct further discussion.
  - Follow-up to include meetings to discuss the occupiers' plans for relocation, establish the exact nature of the interests held by occupiers, timescales and relocation opportunities and predicted relocation costs. Due to conflicts of interest Capita will not be able to provide relocation advice. In this respect occupiers will be recommended to liaise with their own professional advisors.
  - However, if appropriate, Capita will provide lists of suitable available relocation units on request, with a view to minimising business extinguishment and assisting in the mitigation of business losses.
  - Capita will conduct further discussions and negotiations with business occupiers throughout the pre-acquisition period so that businesses are fully aware of the CPO process and their compensation entitlement, their requirement to relocate their business before March 2017 and their legal obligation to mitigate their loss.

## 7. RESPONSES TO OBJECTIONS

### 7.1 Objection Themes 13 & 45 – Lack of Negotiation

Objector Number	Plot	Objector	Remaining / Non-Remaining
2	20	Mr & Mrs Coleman	Remaining
5	27	Mr & Mrs Patel	Remaining
12	26	Mr Patel	Remaining
13	Not Known	Mr & Mrs Ahmed	Remaining
14	14	D & M Forte	Remaining
15	20	Ms V Payne	Remaining
16	26	B Patel	Remaining
21	T2-20	Ms M Guimaraes	Remaining
22	T2-20	Mr & Mrs Thoumine	Remaining
23	T2-20	Mr & Mrs Benham	Remaining
24	T2-20	MN Siddiqui	Remaining
25	T2-20	S Ahmed	Remaining
26	T2-20	Mr & Mrs A Variava	Remaining
27	T2-20	Mr & Mrs A Okekunle	Remaining
28	T2-20	Mr & Mrs P Patel	Remaining
29	T2-20	Ms M Olubi	Remaining
30	4&5	Mr & Mrs A Asawala	Remaining
32	5	L De Montfort	Remaining
34	6&7	Mr & Mrs E Kent	Remaining
36	10&11	Ms D Steel	Remaining
37	10&11	Mr & Mrs M Hussein	Remaining
39	10&11	Ms S Rothnie	Remaining
40	10&11	Fuard & Facel	Remaining
41	T2 (20)	P Wicker	Remaining
42	T2 (20)	A Rahimian	Remaining
43	T2-20	K Merrell & B Pajevic	Remaining
45	18&19	Mrs A Adams	Remaining
48	18&19	Mr & Mrs L Welford	Remaining
50	18&19	C Graham & M Newman	Remaining
52	20	I Hafeez	Remaining
53	20	J Killeen	Remaining
54	20	N Kadiri	Remaining
6	38, 38A, 39, 40, 40A, 41, 41A, 41B, 42, 43, 43A & 44	Canal & River Trust	Remaining

7.1.1 I refer to all Paragraphs under section 4 above, but specifically Paragraphs 4.3 – 4.7 which, I believe, demonstrate that Capita has made reasonable endeavours to engage with leaseholders and their agents since being instructed by the Council. With specific reference to Theme 45, negotiations with CRT are at an advanced stage.

7.1.2 These negotiations are summarised in the Negotiation Schedule included as Appendix 6 (note that I have recorded only one set of negotiations where agents, such as Sawyer Fielding, are representing more than one leaseholder).

7.1.3 Negotiations have been unsuccessful to date because of a material divergence in opinions of Market Value of the interests to be considered. The lack of settlements is not the result of a lack of willingness to engage by Capita.

**7.2 Objection Theme 15 - The Council’s Surveyors’ initial offers do not represent market value (cf: offers under Right to Buy)**

Objector Number	Plot	Objector	Remaining / Non-Remaining
2	20	Mr & Mrs Coleman	Remaining
32	5	L De Montfort	Remaining
34	6&7	Mr & Mrs E Kent	Remaining
36	10&11	Ms D Steel	Remaining
37	10&11	Mr & Mrs M Hussein	Remaining
39	10&11	Ms S Rothnie	Remaining
40	10&11	Fuard & Facel	Remaining
45	18&19	Mrs A Adams	Remaining
48	18&19	Mr & Mrs L Welford	Remaining
50	18&19	C Graham & M Newman	Remaining
52	20	I Hafeez	Remaining
53	20	J Killeen	Remaining
54	20	N Kadiri	Remaining

7.2.1 I refer to the Paragraphs under 4.4 and 4.6 to 4.9 above.

7.2.2 I confirm that all offers submitted have been based upon Capita’s contemporary opinion of Market Value having regard to researched information at the time.

7.2.3 I confirm that, following the offers made on 4<sup>th</sup> June 2014, I reviewed Capita’s opinion of Market Value, as a result of which the subsequent offers were made on 23<sup>rd</sup> September and 17<sup>th</sup> November 2014.

7.2.4 I believe that Capita’s continued, and continuing, review of the market relative to the Estate Properties demonstrates engagement with the leaseholders and their agents, that Capita has reacted to negotiations conducted to date and that we are committed to trying to reach settlements by private treaty.

## 7.3 Objection Theme 16 - No attempt to assist business relocation

Objector Number	Plot	Objector	Remaining / Non-Remaining
12	26	Mr Patel	Remaining

7.3.1 I refer to Paragraph 6.10 above. Capita has made contact with the majority of business occupiers in West Hendon Broadway. Where appropriate, occupiers have been made aware of their responsibilities under the Compensation Code and the need to mitigate their losses, including business relocation.

7.3.2 As noted, however, the date by which vacant possession is required is no sooner than Spring 2017.

7.3.3 I recognise Capita's responsibility to assist affected businesses with relocation and assistance will be provided as and when we are approached.

7.3.4 As regards Mr Patel's objection, he is represented by Richard John Clarke with whom, despite Capita having sent emails and letters, no discussions or negotiations have been conducted to date.

## 8. CONCLUSION

8.1 I have exercised my professional judgment in assessing Market Value of the respective interests throughout. I have reacted to engagement with agents and leaseholders and have submitted revised offers in consideration of evidence presented to me and evidence that I have sourced myself.

8.2 I believe that my evidence set out in Section 4 above demonstrates that Capita has exercised reasonable endeavours to progress negotiations for the acquisition of the various land interests within the Order Land required by the Council.

8.3 The concluded negotiations (subject to contract) with CRT and the owner of the Deerfields site also demonstrate the Council's willingness to reach agreement by private treaty negotiation.

8.4 I further believe that Capita has taken such action as has been appropriate to date in terms of liaising with businesses regarding relocation. Capita is willing to enter discussions with business occupiers when it is appropriate or at the time that business occupiers request assistance, which ever is earlier. However, to date, no approaches have been made and I consider that it is too early for Capita to make approaches to tenants to assist in business relocation in the context of the Council's wishes set out under Paragraph 6.10 above.



## 9. STATEMENT OF TRUTH AND DECLARATIONS

- 9.1 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.
- 9.2 The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.
- 9.3 I confirm that my report has drawn attention to all material facts which are relevant and have affected my professional opinion.
- 9.4 I confirm that I understand and have complied with my duty to the Public Inquiry as an expert witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.
- 9.5 I confirm that I am not instructed under any conditional or other success-based fee arrangement.
- 9.6 I confirm that I have no conflicts of interest.
- 9.7 I confirm that I am aware of and have complied with the requirements of the rules, protocols and directions of the Public Inquiry.
- 9.8 I confirm that my report complies with the requirements of RICS – Royal Institution of Chartered Surveyors, as set down in the RICS practice statement 'Surveyors acting as expert witnesses'.



---

Paul Watling BSc MRICS