

Mayor Sir Steve Bullock
and Members of the Council's Cabinet
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Date 2 September 2016
Our Ref LT-M-00433767

Dear Sirs

NEW BERMONDSEY REGENERATION – PROPOSED USE OF THE COUNCIL'S COMPULSORY PURCHASE POWERS

A Report on the above is to be considered by the Council's Mayor and Cabinet on 7 September 2016. We wrote to you on 16 February 2016 prior to consideration of this matter by the Council's Mayor and Cabinet on 17 February 2016. We have not at any stage received a response to that letter, or even an acknowledgement, although we note that the letter does appear to be referred to in the Report to the 7 September Mayor and Cabinet. A copy of our previous letter is attached.

We are instructed by the following individuals who all own properties and business premises which are to be acquired should the CPO proposals go ahead:

- Willow Winston (Unit 17 Excelsior Works)
- Sylavnus Woodcraft Limited (Unit 35, Bolina Industrial Estate)
- Hai Van Hguyen (Unit 31, Bolina Industrial Estate)
- Van Thi Ngoc Huynh (Unit 32, Bolina Industrial Estate)

Our clients remain concerned that the Council has not made any attempt to assess their needs or requirements. The Report sets out at Paragraph 7.10 "information provided by Renewal". The Council has not engaged with my clients at all, the Report simply sets out what the Council has been told. This cannot in any way amount to meaningful engagement by the Acquiring Authority. Renewal are not making the CPO, the Council are.

The points contained in our previous letter on the pre-conditions remain valid. To reiterate:

Condition (i) – Negotiations with landowners

There have been no meaningful discussions with any of our clients and no attempt to understand their requirements. The 'Relocation Strategy' approved by the Council pursuant to their Section 106 Agreement is an entirely meaningless document which does nothing to assess the needs of any of the

businesses within the CPO area. Nowhere in the Report does it discuss the business needs of our clients.

Condition (iii) – Compelling case in the public interest

Whilst the Report attempts to address points made in our previous letter, it still falls way short of the balancing exercise required. The Report states that Officers have “*carefully considered the balance to be struck between individual rights and the wider public interest*”. In order to do this Officers need to have considered the individual rights of those affected by the proposed CPO. The relevant paragraphs still do not provide a clear or concise summary or description of the individual rights which are likely to be affected by the proposed CPO.

Article 8 of the ECHR sets out that there shall be no interference by a public authority with the right to respect for private and family life except (amongst others) in the interests of the economic wellbeing of the country and that such interference is necessary in a democratic society. In determining whether such interference is necessary, it is not just about whether discretion has been exercised reasonably, it is also important to consider whether the interference is proportionate.

The Report provides no detail as to whether the resulting loss of our clients’ properties is a reasonable and proportionate interference of their rights under Article 8. In order to do so, there would need to be a full evaluation of our clients’ respective needs. It can only be when this information is available that Officers will be reasonably informed to be able to carry out a balancing exercise to decide whether there is a compelling case for the CPO.

Condition (iv) – Viability/delivery mechanism/Condition (v) – Business Plan/Funding Strategy

The Report now sets out more detail of the assessments carried out by PWC. However, we still consider that the lack of any development obligations is a serious failing which will be of paramount concern to the Secretary of State in considering whether or not to confirm any CPO.

We also still consider that the CPO is simply being used to deliver profit for a private sector party – this is entirely contrary to the ‘public purposes’ for which CPO should be used.

In conclusion we remain concerned and still cannot see how Members can make a decision to forge ahead with the use of compulsory purchase powers at this time.

Yours faithfully

SHOOSMITHS LLP

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Date 16 February 2016

Dear Sirs

NEW BERMONDSEY REGENERATION – PROPOSED USE OF THE COUNCIL'S COMPULSORY PURCHASE POWERS

A Report on the above is to be considered by the Council's Mayor and Cabinet committee on 17 February 2016.

We are instructed by the following individuals who all own properties and business premises which are to be acquired should the CPO proposals go ahead:

- Willow Winston (Unit 17 Excelsior Works)
- Sylvanus Woodcraft Limited (Unit 35, Bolina Industrial Estate)
- Hai Van Hguyen (Unit 31, Bolina Industrial Estate)
- Van Thi Ngoc Huynh (Unit 32, Bolina Industrial Estate)

Our clients are all extremely concerned that the Council are now seeking to use CPO powers when there has been no assessment of their needs or requirements. Although the Report suggests that human rights implications have been taken into consideration the comments made are extremely generic and at no stage of the Report is the impact of the proposed CPO on our clients assessed. There are also serious inaccuracies in the Report and misinformation about the true extent of the attempts made by Renewal to acquire the outstanding interests. In the case of our clients these attempts have been lacklustre at best and there have been no genuine efforts to engage our clients in any meaningful discussion. There has certainly been no 'negotiation'.

Turning to the Report, it sets out the pre-conditions identified by the Mayor on 7 March 2012. This date is almost 4 years ago and yet the Report contains no assessment of whether these remain the right pre-conditions. Leaving that point to one side the Report goes through each of the pre-conditions and reaches a view that they have all now been met.

We do not agree in relation to the following pre-conditions for the following reasons:

Condition (i) – Negotiations with landowners

As stated above there have been no meaningful discussions between Renewal and any of our clients and no attempt to understand their requirements. Renewal point to their 'Relocation Strategy' approved by the Council pursuant to their Section 106 Agreement. The Relocation Strategy is an entirely meaningless document which does nothing to assess the needs of any of the businesses within the CPO area.

Condition (iii) – Compelling case in the public interest

In order to assess this a balancing exercise is required. The Report states that Officers have "*carefully considered the balance to be struck between individual rights and the wider public interest*". In order to do this Officers need to have considered the individual rights of those affected by the proposed CPO. From our clients' perspective, Officers have not considered their specific individual rights. The relevant paragraphs within the Report are generic, broad brush comments which, even at a minimum, do not provide a clear or concise summary or description of the individual rights which are likely to be affected by the proposed CPO.

By way of example one of our clients, Ms Winston, lives and works at her premises. This is not referred to anywhere in the Report and in the draft Statement of Reasons it is stated that there is only one residential property within the CPO area which is Bridge House. This illustrates the lack of concern over the needs of individuals and demonstrates how the Report has failed to take account of the actual individuals who are affected. Without this then the balancing exercise cannot be said to have been exercised in the right way.

Article 8 of the ECHR sets out that there shall be no interference by a public authority with the right to respect for private and family life except (amongst others) in the interests of the economic wellbeing of the country and that such interference is necessary in a democratic society. In determining whether such interference is necessary, it is not just about whether discretion has been exercised reasonably, it is also important to consider whether the interference is proportionate.

The Report provides no detail as to whether the resulting loss of our clients' properties is a reasonable and proportionate interference of their rights under Article 8. In order to do so, there would need to be a full evaluation of our clients' respective needs. It can only be when this information is available that Officers will be reasonably informed to be able to carry out a balancing exercise to decide whether there is a compelling case for the CPO.

Condition (iv) – Viability/delivery mechanism/Condition (v) – Business Plan/Funding Strategy

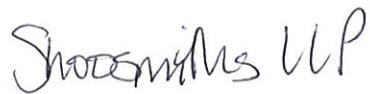
The Report sets out the reasons why it is believed that there is sufficient profit in the development to ensure that Renewal carries out the development. However, as acknowledged in the Report, there is no delivery mechanism in place other than this. We have been provided with a heavily redacted copy of the CPO Indemnity Agreement. There are no development obligations contained in there at all so that the Council will use its CPO powers to acquire the land and is then obliged to pass the land to Renewal without any commitment from Renewal whatsoever to deliver any part of the scheme. This is a serious failing which will be of paramount concern to the Secretary of State in considering whether or not to confirm any CPO.

We also note that the proposal now is that Renewal will not carry out the comprehensive development but intend to sell off chunks of the development. This waters down even further any prospect of control by the Council over the nature of the development, its timing or its quality. The CPO is simply being used to deliver profit for a private sector party – this is entirely contrary to the 'public purposes' for which CPO should be used.

In conclusion we are concerned that neither the Council nor Renewal have sought to consider the needs of the individuals affected by the CPO, including those of our clients. We also have concerns about the use of CPO powers to deliver profit.

In the circumstances we cannot see how Members can make a decision to forge ahead with the use of compulsory purchase powers at this time and we would ask that the decision be deferred for these issues to be considered properly.

Yours faithfully

A handwritten signature in cursive script that reads "Shoosmiths LLP".

SHOOSMITHS LLP