

28<sup>th</sup> March 2014

For the attention of Simon Drinkwater

East Herts District Council  
Pegs Lane  
Hertford  
SG13 8EQ

Dear Simon

**Old River Lane, Bishops Stortford**

Following our recent meetings and subsequent correspondence, I write to clarify a number of factors in relation to the proposed resolution for the council to assist the land assembly on the above project with compulsory purchase powers as follows:

TIAA Henderson Real Estate

On 24 June 2013 Henderson Group plc ("Henderson") and Teachers Insurance and Annuity Association - College Retirement Equities Fund announced they had agreed to combine their European and Asian real estate businesses to form a leading real estate venture, TIAA Henderson Real Estate ("THRE"), with assets under management of approximately £13.0 billion (US\$19.8 billion) [as at 31 March 2013].

TIAA Henderson Real Estate will be a joint venture wholly owned by the parent companies of TIAA (60% interest) and Henderson (40% interest). THRE will be headquartered in London with offices in Europe, Asia-Pacific and planned for North America. In order to provide investment management services certain UK companies in the THRE group will be regulated by the UK Financial Conduct Authority whilst other branches, subsidiaries and associated companies will be regulated in Europe, Asia-Pacific and North America as appropriate.

The land transaction which promoted the development opportunity in the Old River Lane site is between the Henderson UK Property Fund ("HPF") and East Herts District Council ("EHDC"). HPF is a Jersey Property Unit Trust Fund whose trustees Anley Trustees Limited and Maison Anley Property Nominee Limited appointed Henderson Global Investors Limited as their investment advisor. This Investment Advisor role has now been transferred to Henderson Real Estate Asset Management Limited, which is a THRE company. The fund, its governance, its investor base and the individuals working on the fund's behalf all remain unaltered.

Viability of the Scheme Proposals

The issue of viability is covered in paragraphs 20 and 21 and paragraph 16(iii) of Appendix A of "Circular 06/04: Compulsory Purchase and The Criche Down Rules" The relevant sections are extracted below for your ease of reference:

*"PARAS 20 and 21*

*Resource implications of the proposed scheme*

*20. In preparing its justification, the acquiring authority should provide as much information as possible about the resource implications of both acquiring the land and implementing the scheme for which the land is required. It may be that the scheme is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty about the assembly of the necessary land. In such instances, the acquiring authority should provide an indication of how any potential shortfalls are intended to be met. This should include the degree to which other bodies (including the private sector) have agreed to make financial contributions or to underwrite the scheme, and on what basis such contributions or underwriting is to be made.*

*21. The timing of the availability of the funding is also likely to be a relevant factor. It would only be in exceptional (and fully justified) circumstances that it might be reasonable to acquire land where there was little prospect of implementing the scheme for a number of years. Even more importantly, the confirming Minister would expect to be reassured that it was anticipated that adequate funding would be available to enable the authority to complete the compulsory acquisition within the statutory period following confirmation of the order. He may also look for evidence that sufficient resources could be made available immediately to cope with any acquisition resulting from a blight notice.*

*APPENDIX A - PARA 16(iii)*

*(iii) the potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitments from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be. The timing of any available funding may also be important. For example, a strict time-limit on the availability of the necessary funding may be an argument put forward by the acquiring authority to justify proceeding with the order before finalising the details of the replacement scheme and/or the statutory planning position;"*

You will see that paragraph 20 and 21 are primarily about the local authorities ability to fund the acquisitions required. This should therefore be satisfied by the heads of terms for the indemnity agreement which have been issued to you.

The issue of actual scheme viability is only really referred to in Paragraph 16 (iii) Appendix A above and as you can see it places nearly all the emphasis on the issue of funding. At inquiry, our evidence would present a statement of general viability with a further statement of HPF's ability to fund the project – a full scheme appraisal is never produced by us as it contains commercially sensitive information (such as assumptions on acquisition land values) which objectors could use for commercial advantage.

The issue of viability as required under paragraph 16 (iii) appendix A is far less concerning for us than it is for a traditional property development company as we are the investment institution. A traditional property development company would normally sell a completed project to an investment institution such as ourselves in order to release his profit. We are therefore not required to produce that profit (as we effectively cut out the developer) but instead we require a risk adjusted annualised investment return over a longer period (which might be 5, 10 or even 20 years).

In all our experience of running planning led compulsory purchase procedures of this type in town and city centres the Secretary of State has been fully satisfied that by us proceeding with planning, land

assembly, demonstrating that we have sufficient financial means to deliver the development and that we have underwritten and are proceeding with the CPO that it demonstrates that there is a “reasonable prospect” that the scheme will proceed.

The project does meet investment return requirements for our investors at the current time but as projects go through all sorts of cycles in their journey to completion, the “reasonable prospect” is the test the secretary of State uses to determine his view.

As a business looking after nearly £13bn of property assets within numerous funds (one of which is the Henderson Property Fund), we have multiple sources of project equity funding. The choice of which funding source to be deployed for this project and if this will be supplemented with commercial debt to boost returns and reduce risk, will not be decided until much nearer the construction start date, but the Secretary of State has in the past been fully satisfied that we have funds to support the project in accordance with the requirements of the circular and are committed to deploying part of the funds under our management for the development of the project.

In simple terms, HGI are able to demonstrate they have the funds available for the development and are demonstrating their confidence in the forecast returns being sufficient for our investors by expending the significant capital cost on planning, land acquisitions and the actual CPO procedure itself.

#### Suitability of Proposals

The scheme was designed in response to known retailer demand at the time. The retail units are therefore configured to respond to the size and configuration that target retailers were requiring within the town. We continue to monitor this demand and the implication it has on design, however, this will continue to evolve throughout the process and often changes late into the construction of the project.

#### Private Treaty Land Assembly Discussions

We understand that Neil Cooper has retained ownership of the Coopers of Stortford building within his personal pension fund following his sale of his business and the leasehold interest has now passed to the new owners of the business. We are currently trying to meet the new owners and our agents have left a number of messages, but we would assume their due diligence process would have identified the issues relating to the development and its planning consent.

Our last response from Neil Cooper from our formal proposal for the store was with a significantly higher counter offer for compensation than his land or interest is worth.

Waitrose have actually been very slow in response to our drawn proposals for their store. Despite chasing, we suspect they have been awaiting the decision on the Civic Federation Judicial Review before moving forward with the proposals.

The United Reform Church have resolved to progress matters to move to a reconfigured Charis Centre and have appointed legal and estates professional advisors. We also suspect that progress has been slowed awaiting the judicial review decision. We have also met with the Charis Centre and established that their building is still for sale and that they are still keen to find alternative premises for their church.

The principle of a land swap with an environmental improvement has been broadly agreed with the Lemon Tree restaurant and we are looking forward to progressing matters into legal documentation.

There has no doubt been a delay caused by the judicial review process, which has allowed the parties we have been negotiating with to slow the process. The CPO resolution and resultant requisition letters will ensure all the parties above remain focused on achieving an expeditious deal for the lands required.

#### Implementation and Delivery Programme

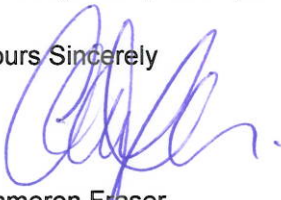
It is hoped that a resolution to support the development with CPO powers will enable the few remaining land interests to be agreed by private treaty. However, there remains the possibility that interests required may necessitate the full CPO procedure to be implemented creating a maximum period of 18 months from today to conclude land transactions and obtain vacant possession of the site. From our experience this period is sufficient for the CPO procedure itself, the preparation for it and the possession procedure following the Secretary of State's decision.

The 18 month period for the CPO procedure would allow for consent of planning reserved matters and pre-commencement planning conditions, pre-letting of retail and leisure uses and procurement of the construction contract to be run in parallel enabling construction to start immediately on vacant possession. The development would therefore be opening a further 24 months later in Autumn 2017. However, the new car parking within the development will be available for use 12 months before the overall development completion.

If land acquisition can be concluded without the need for the full CPO procedure to run its course, we anticipate that this development opening date can be brought forward to Spring 2017.

Should you require any further information, please do not hesitate to contact me.

Yours Sincerely



Cameron Fraser  
Director of Property