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**STATEMENT OF CASE**

**LONDON BOROUGH OF SUTTON  
(ELM GROVE) COMPULSORY PURCHASE ORDER 2024**

**TOWN AND COUNTRY PLANNING ACT 1990  
THE ACQUISITION OF LAND ACT 1981**

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## 1 PURPOSE OF THE STATEMENT OF CASE

- 1.1 This Statement of Case (“**Statement**”) is made on behalf of the London Borough of Sutton (“**Council**”) as the acquiring authority pursuant to Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007.
- 1.2 On 26 March 2024 the Council made the London Borough of Sutton (Elm Grove) Compulsory Purchase Order 2024 (“**Order**”) pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981.
- 1.3 The Order was submitted to the National Planning Casework Unit (“**Secretary of State**”) for consideration on 9 May 2024. The Secretary of State by way of letter dated 16 September 2024 has given notice of their intention to hold an inquiry into the objections to the Order.
- 1.4 This Statement sets out the Council’s case for making the Order as will be put forward at the inquiry. It supplements the Council’s Statement of Reasons which should be read alongside this Statement.

## 2 INTRODUCTION

- 2.1 The site that is proposed for redevelopment and that is the subject of the Order has an area of approximately 0.89 hectares and is comprised of the Elm Grove Estate and 216-220 High Street (“**Order Land**”).
- 2.2 The Council has made the Order to address concerns about the quality and longevity of the homes currently located within the Elm Grove Estate (“**Estate**”) and wishes to maximise the opportunities to provide new high quality housing, including affordable housing, in the Borough and enhance place-making.
- 2.3 The Order Land is the subject of an outline planning application with reference DM2024/00392 (“**Planning Application**”) for:

*Outline planning application (with all matters reserved) for development including demolition of existing buildings and structures within Elm Grove Estate and erection of new buildings to provide residential floorspace (Class C3); retention, refurbishment and rear extension of 216-220 High Street to provide town centre (Class E), community (Class F2), sui generis and residential floorspace (Class C3); new pedestrian and vehicular access; associated amenity space, open space, public realm and landscaping; car and cycle parking spaces; plant; refuse storage; servicing; other works incidental to the proposed (phased) development; and Phase 0 enabling preliminary works in the form of demolition of two existing bungalows on-site (“**Order Scheme**”).*

- 2.4 The Council’s Planning Committee considered and resolved to grant the Planning Application for the Order Scheme on 4 September 2024, subject to the completion of a planning agreement and the imposition of planning conditions.

2.5 The Order Scheme would transform this part of Sutton Town Centre and would deliver high quality new housing with a range of tenures and types, an uplift in the amount of affordable housing in the area, increased local economic activity and deliver significant environmental improvements. In addition, although construction jobs would be temporary, the construction phase of the development is scheduled to occur over an approximately 3 to 4 year period. It is anticipated that the construction of the Order Scheme will support the employment of a significant number of people, including apprentices, graduates and trainees, for the duration of the construction of the Order Scheme.

2.6 Overall the Order Scheme will make a significant contribution to the economic, social and environmental well-being of the area and deliver very significant benefits, including the following:

- provision of up to 282 high quality new one, two and three bedroom homes, including flats and maisonettes built to meet modern design, quality, energy and safety standards. In purely numerical terms this amounts to an increase of 109 dwellings;
- private outdoor space for every home with new resident-only courtyard gardens with safe play areas for children, inclusive of a net increase in terms of quality and quantity;
- better designed and more secure resident-only car parking with the opportunity for electric car charging points and secure resident-only cycle, bin and recycling storerooms;
- delivery of 50% affordable housing to include a range of tenure types and sizes (including the re-provision of existing affordable housing);
- delivery of new homes to modern accessibility standards such that residents will be able to benefit from more appropriate and adaptable homes in terms of level access and wheelchair accessibility;
- a high proportion of smaller and larger family housing including two-bedroom four-person homes and three-bedroom five-person homes to meet identified local demand in a town centre location;
- a tenure blind approach to the design of the Order Scheme to facilitate a genuinely mixed and inclusive community;
- improved quality of commercial space at Market House, adjacent to the Order Land;
- the design of the Order Scheme will adhere to Designing Out Crime principles that will seek to address anti-social activity in the area;

- new east-west multi-functional routes through the Order Scheme site to provide pedestrian and cycle access, connecting Benhill Avenue, Throwley Way and the High Street, significantly improving connectivity;
- improved permeability and wayfinding through the careful placement and integration of marker buildings at key connection points along the Order Scheme's edges;
- landscaped and well-lit new and improved public realm to include the two existing east-west routes which connect Elm Grove and the High Street;
- re-organisation of the rear of the High Street resulting in improved amenity, accessibility and sense of safety;
- creation of wider economic and social benefits as a result of the development activity and the creation of jobs, apprenticeships and training opportunities during the construction phase of the Order Scheme;
- increase in the ecological and urban greening of the Order Scheme site to deliver local biodiversity net gain;
- incorporation of sustainable urban drainage systems; and
- energy-efficient development, using a fabric first approach to contribute towards the Council's net-zero targets.

2.7 The Order has been submitted to the Secretary of State for Levelling Up, Housing and Communities (now the Secretary of State for Housing, Communities and Local Government) for confirmation. If confirmed, the Order will enable the Council to acquire compulsorily the land required to facilitate the Order Scheme.

2.8 This Statement explains why the Council considers that, for the purposes of the powers enabling the Order, the Order Scheme will contribute to:

2.8.1 the development, redevelopment or improvement of the Order Land;

2.8.2 improving the economic and social well-being of this area of Sutton through the provision of new high quality mixed-tenure housing and additional employment opportunities; and

- 2.8.3 improving the environmental well-being of the area as a consequence of the high quality public open space and play areas facilitated by the Order Scheme, and the sustainable nature of the Order Scheme.
- 2.9 The extent of the Order Land is shown edged red and coloured pink in respect of land interests to be acquired on the Order Map which accompanies the Order ("**Order Map**").
- 2.10 The freehold interest in the majority of the Order Land is owned by the Council; however the Order Land is subject to a number of leasehold interests, tenancies and other rights. The Council is now seeking to secure ownership of all of the Order Land and to ensure that the Order Scheme can be implemented and that the comprehensive benefits referred to at section 2.6 above are secured.
- 2.11 The Council has taken and will continue to take steps to consult and negotiate with all third parties that have interests in the Order Land to acquire their interests by agreement, but it is clear that compulsory purchase powers are needed to ensure that vacant possession can be achieved and that the full Order Scheme can be delivered.
- 2.12 A copy of this Statement, the Statement of Reasons, the Order and the accompanying maps and background documents are available for inspection at the following locations:
- (i) London Borough of Sutton (offices open Monday to Friday 09:00 to 17:00) at Civic Offices, St Nicholas Way, Sutton SM1 1EA
- (ii) at the following web address:
- [www.sutton.gov.uk/w/elm-grove](http://www.sutton.gov.uk/w/elm-grove)

### **3 ENABLING POWERS**

- 3.1 Section 226(1)(a) of the Town and Country Planning Act 1990 Act (as amended) (the "**1990 Act**") enables a local authority to make a compulsory purchase order if it thinks that acquiring the land in question will facilitate the carrying out of development, redevelopment, or improvement on, or in relation to, the land being acquired. "Improvement" includes regeneration (section 226(1B) added by the Levelling Up and Regeneration Act 2023).
- 3.2 Section 226(1A) of the 1990 Act states that a local authority must not exercise its powers under section 226(1)(a) unless it thinks that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of its area.
- 3.3 The Council is satisfied that the proposed Order Scheme will result in overwhelming social, economic and environmental well-being improvements to the area through redevelopment of the Order Land

with a comprehensive development providing new high quality new housing, and major additions and improvements to public open space and recreational and play areas.

- 3.4 The Acquisition of Land Act 1981 sets out the process for compulsory acquisition and applies to the Order, and the acquiring authority is the Council.
- 3.5 The making of the Order is consistent with the Ministry of Housing, Communities and Local Government's Guidance on the Compulsory Purchase Process (October 2024) ("**CPO Guidance**"), and in particular Tier 2, Section 1 which provides advice on orders made under section 226 of the 1990 Act.

## **4 DESCRIPTION OF THE ORDER LAND**

### **General description and character**

- 4.1 The Order Land is located in Sutton Town Centre to the east of the High Street. Sutton train station is approximately 0.5 miles to the south of the Order Land, circa a 10 minute walk, providing direct rail services to London Bridge and London Victoria. The site is also well connected in terms of bus routes, with several bus routes operating from Marshall's Road to the north. Elm Grove is a cul-de-sac, providing servicing access to the rear of properties along the High Street and front access to the properties in the Estate. In terms of road links, Elm Grove can only be accessed by vehicles from Benhill Avenue to the south and also has pedestrian access from Throwley Way to the east. It is situated a short distance from the A232 to the south which provides access to Croydon to the east, Ewell to the west and the M25 to the south west. It is a short distance from the A217 which provides connections through to Central London to the north.
- 4.2 The Order Land comprises a site area of 0.89 hectares and is located in a densely built up environment with most of the surrounding properties at four storeys or higher. To the east, the Order Land is bounded by Throwley Way, a B-road which services buses and heavy vehicular traffic and high density four storey properties are located directly opposite the blocks within Elm Grove, with another of the Council's estates, Rosebery Gardens located just to the north east. To the west of the Order Land is Elm Grove, located at the rear of the High Street properties which are a minimum of three storeys. Located along Elm Grove are a number of shop delivery bays, parking, bin stores attached to the shops and some informal extensions to the High Street properties which are fairly recently constructed. To the south along Benhill Avenue are located two and three storey mixed use, commercial and office properties, including the Locally Listed Benhill House which houses the Sutton Adult Education Centre. To the north of the Order Land is Marshall's Road with two storey retail, and four storey residential properties as well as an area with multiple bus stops.
- 4.3 The Estate was built in the 1980s and consists of 73 dwellings made up of one, two and three bedroom homes in the form of flats, houses and bungalows. Along the southern and eastern perimeter of the Estate are three large blocks of three storeys, containing 45 x one bedroom flats and 12 x two bedroom

flats. Along Elm Grove and in the central part of the Estate are short terraces of two storey housing which make up 14 x three bedroom houses and 2 x three bedroom bungalows.

4.4 The existing public realm within the Order Land is of poor quality, with 46 hard standing car parking bays, small pockets of unusable grass verges which lack definition of use and designation. There are a small number of mature trees and there is little to no open green landscaping or planting. A number of areas of the estate within the Order Land are now in poor condition and ongoing consultation with residents that commenced in 2017 has revealed that a large number of residents identified problems with the circulation spaces within the Estate, anti-social behaviour, crime, and a lack of safety within the Estate. A number of key design features within the estate have been identified as contributing towards the concerns of residents including:

- Poor design, lighting and layout of the estate contribute to the significant amount of anti-social behaviour, such as loitering in and around the estate, substance misuse and drug dealing;
- Shared entrance doors are frequently vandalised or broken;
- Alleyways leading to the high street are poorly lit and feel unsafe;
- Many households are overcrowded;
- Windows in the flats are small, reducing the amount of daylight in homes;
- Homes are poorly insulated for sound and you can hear your neighbours and there is noise from traffic and bin lorries;
- There is a lack of usable outdoor space and flats don't have a balcony;
- There is a lack of places for children to play, or for the community to enjoy;
- Homes that are inefficient to heat, leading to a rise in cases of mould and damp;
- Fly tipping is a major problem, as are bin stores and waste management;
- There is a lack of privacy, with members of the public using the estate as a cut through;
- There is illegal car parking on the estate and residents' parking bays are frequently blocked by visitors to the town centre;
- Blocks have no lifts or step free access meaning homes are not very accessible for elderly residents, those with mobility issues or families with young children;
- No planting or fences in front of windows to give privacy to ground floor homes;
- Poor external lighting generally; and
- No secure cycle storage.

#### **Land Referencing**

4.5 The Council has instructed independent agents to carry out the referencing exercise for the Order Land, and those agents in doing so, have confirmed they owe a suitable duty of care to the Council. The actions taken by the agents to investigate title and owner/occupier details for inclusion in the Order included:

- 4.5.1 Land Registry searches and a review of available deeds and similar information;



- 4.5.2 Service of Requisitions for Information pursuant to section 16 of the Local Government (Miscellaneous Provisions) Act 1976 on behalf of the Council and a review of information returned in response;
- 4.5.3 Cross-referencing with housing officers to verify the information that the agents had assimilated (subject to adhering to data protection restrictions); and
- 4.5.4 Virtual site inspections.

4.6 The referencing exercise has been kept under review and subject to updating until the date on which the Order was made. It is considered the Schedule to the Order is therefore as accurate as it can be based on diligent inquiries made on behalf of the Council.

4.7 The Order Map indicates the area within which a number of land interests are sought to be compulsorily acquired. The Order Map has been carefully delineated to ensure that the parcels of the land to be acquired includes only the land that are required to facilitate the delivery of the Order Scheme.

## **5 REASONS FOR THE DELIVERY OF THE ORDER SCHEME AND THE NEED TO EXERCISE COMPULSORY PURCHASE POWERS**

5.1 Plans for the future of the Estate have been developed through extensive engagement and co-design with residents over the past six years. This has led to overwhelming support for the proposal, as reflected in the outcome of the Residents' Ballot that ran between 7 February and 3 March 2022, where 78.6% of residents voted 'Yes' to the redevelopment of Elm Grove. Reasons for this decision are the following:

- The current design of the Estate is not capable of accommodating sufficient improvements to address existing residents' concerns as outlined at section 4.4;
- Investment to deliver improvements to the current Estate would not deliver the re-provision of the existing housing on the Estate as new high quality housing;
- Resident sentiment in favour of the redevelopment option, subject to further design and the completion of a Residents' Ballot; and
- The benefits arising from the Order Scheme as outlined at section 2.6 would not be delivered otherwise.

5.2 A Landlord's Offer setting out the Council's proposals was formulated for all eligible parties that currently hold an interest in the Order Land and this was published as part of the Residents' Ballot process. The Residents' Ballot result demonstrates significant support and enthusiasm for redevelopment among residents and the objective of the Order Scheme is to deliver the redevelopment that is supported by existing residents.

- 5.3 The Council needs to exercise its compulsory purchase powers to ensure that it can obtain vacant possession of the Order Land required for the Order Scheme within a reasonable timescale, to address the concerns of existing residents regarding the Estate, and meet the aspirations of the residents who currently reside within the Order Land, as demonstrated by the results of the Residents' Ballot.
- 5.4 Given the number and nature of the interests that need to be acquired there is an unacceptable risk that they will not be acquired within a reasonable timescale, and to meet the requirements of the Greater London Authority funding to secure the delivery of the affordable housing.
- 5.5 The interests to be acquired include those of freeholders, leaseholders and any private express or implied rights that may have been granted over the Order Land. A summary of the main land interests are as follows:
- 5.5.1 A residential estate consisting of 73 homes, of which 57 were owned by the Council (subject to tenancies), and 16 were owned privately with 11 being subject to long leaseholds and 5 being held pursuant to freehold interests.
- 5.6 Discussions are ongoing with affected landowners in relation to the acquisition of land to deliver the Order Scheme and will continue with all affected landowners and lessees. The progress to date in terms of acquiring interests in the Order Land is summarised in Section 8.

## **6 PLANNING POLICY BACKGROUND**

- 6.1 The current Development Plan for the Order Scheme site currently comprises the following documents:
- 6.1.1 Sutton Local Plan (2018); and
- 6.1.2 The London Plan (2021).
- 6.2 Material considerations include: the National Planning Policy Framework (December 2023) ("**NPPF**"); Planning Practice Guidance ("**PPG**"); regional and local supplementary planning guidance/documents (SPG/SPDs) to include the Sutton Town Centre Masterplan (June 2016) and any other emerging policy and guidance and site specific circumstances. The proposed NPPF was also published in July 2024 (for consultation now ended) with an expected new and final NPPF to be issued in December 2024 or January 2025.
- 6.3 At a local level, the Issues and Preferred Options Regulation 18 Consultation for Sutton's Emerging Local Plan (July 2024) has been published (with closed consultation on 26 September 2024). Due to this early stage, the Emerging Local Plan is afforded limited weight at this current point in time. However, it is worthwhile to note that the Elm Grove Estate is subject to a draft site allocation STC6 (HELAA 2023 Ref: SH14) supporting residential regeneration.

## National Planning Policy Framework

- 6.4 The NPPF is a material consideration in planning decisions, as well as relevant supplementary planning documents and guidance.
- 6.5 The NPPF sets out guidance in relation to key planning principles including delivering a sufficient supply of homes; building a strong, competitive economy; ensuring the vitality of town centres; promoting sustainable transport; making effective use of land; achieving well-designed places; promoting healthy and safe communities; conserving the historic and natural environments; and meeting the challenge of climate change.
- 6.6 With regard to the Order Scheme, the approach taken by the Council to promoting the regeneration of this area already embodies the NPPF guidance regarding sustainable development in terms of the emphasis on the delivery of high quality public realm and recreational space and the efficient use of land in line with economic, social and environmental objectives to improve people's quality of life.
- 6.7 The Order Scheme also seeks to significantly increase the supply and quality of housing within the Sutton area in accordance with the NPPF's focus on the need to "significantly boost the supply of homes" (NPPF paragraph 60), and the recognition in the NPPF that "*The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes)*" (NPPF paragraph 73).
- 6.8 Paragraph 74 of the NPPF also requires local planning authorities to "*identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old*". The Order Scheme will significantly address the issue of the need for the delivery of high quality housing in the area.
- 6.9 The Council is satisfied that the housing proposed will be delivered where it is needed, and will fully comply with the requirements of paragraph 130 which states:

*"Planning policies and decisions should ensure that developments:*

*a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

*c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

*d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*

*e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*

*f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience”.*

## **The London Plan**

6.10 The London Plan, published March 2021, provides the spatial development strategy for London which deals with matters of strategic importance to Greater London. The London Plan is based upon three principle purposes for the Greater London area:

- Promoting economic development and wealth creation;
- Promoting social development; and
- Promoting the improvement of the environment.

6.11 The London Plan recognises the important role of the redevelopment and intensification of existing housing estates. Policy H8, in particular, supports the demolition and replacement of existing homes, to include through estate redevelopment proposals, provided it results in a level of housing “...*at existing or higher densities with at least the equivalent level of overall floorspace*” (Part A). Supporting paragraph 4.8.1 promotes intensification of existing housing estates as a key future provider of new homes and affordable homes.

6.12 The proposed design for the Order Land, which was the subject of the Residents’ Ballot, is broadly compliant with the adopted policies within the London Plan.

## **Local Plan**

6.13 The Local Plan is the foundation for how development will be controlled in the Borough of Sutton up to 2031.

6.14 As defined by the Local Plan, the Order Land is identified within Site 'STC45 Elm Grove Estate' which states that any development scheme should pay particular regard to:

- The Sutton Town Centre Masterplan (2016);
- Providing buildings of 2 to 6 storeys, with taller elements located on the Throwley Way frontage, stepping down to the west;
- Providing an active frontage to Marshalls Road in the form of retail or other town centre uses;
- Providing a mix of housing types, including family-sized units;
- Retaining and enhancing connection between the High Street and Throwley Way;
- Protecting land for Tramlink along the Throwley Way frontage;
- Enabling connection to any planned decentralised energy network serving the town centre; and
- The need to provide flood risk assessment and appropriate Sustainable Urban Drainage System measures.

6.15 The Estate's renewal will actively assist in contributing towards the Borough's pressing affordable and general housing needs and demands in the short, medium and longer term.

## **7 CURRENT PLANNING POSITION & ORDER SCHEME**

7.1 The Planning Application for the Order Scheme was submitted to the local planning authority on 15<sup>th</sup> March 2024. The development is described in section 2.3.

7.2 The Order Scheme has evolved and been refined following extensive and in-depth pre-application consultation with local stakeholders and discussions with the Local Planning Authority ("LPA") and the Greater London Authority ("GLA"). Since October 2021, constructive consultation and engagement has taken place with the LPA on the Order Scheme. From April 2023, Planning Performance Agreements (PPA) were entered into with the LPA and GLA and pre-application consultation and engagement commenced in earnest. This pre-application consultation comprised specialist LPA and GLA Officer input (to include: Planning, Urban Design, Trees, Energy & Sustainability, Highways, and Environmental Health) in order to discuss technical matters around the emerging proposals. The design has evolved throughout this process, taking on board Officers' comments in order to allow for a robust planning application with LPA support at the time of submission. During this pre-application consultation process, and since the successful Residents' Ballot, there has been constructive ongoing resident consultation on emerging plans alongside wider public consultation through two exhibition events in October and December 2023.

7.3 The Council's Planning Committee resolved to grant the Planning Application for the Order Scheme on 4 September 2024, subject to the completion of a planning agreement and the imposition of planning conditions.

## **8 THE COUNCIL'S EFFORTS TO ACQUIRE THE LAND**

8.1 The Council has been seeking to negotiate the acquisition of the legal interests in the land required for the proposed development by agreement and has been successful in assembling many of the interests set out in the Order Land. The Council is, however, seeking to use its powers under section 226(1)(a) the 1990 Act because it considers that it may not be practicable to agree terms for the acquisition of the remaining interests in the Order Land required to facilitate the development of the Scheme within a reasonable timeframe. This is explained further below.

### **Council Tenants**

8.2 Extensive engagement with the residents of the Order Land has been undertaken over the past seven years since late 2017. This has included public meetings and individual conversations in person, over the phone or virtually and all tenants have been made fully aware of the redevelopment proposals for the Estate through various consultation exercises, as described in section 7, and the Landlord Offer issued as part of the Residents' Ballot. Engagement has also involved discussions on housing need and personal preferences for those affected by the Order Scheme. Discussions have been held with tenants to explain the options available to them and the implications of the Order Scheme, as well as explaining the Council's rehousing and compensation offer and commitments to residents under the Landlord Offer. The Landlord Offer sets out the various ways in which the Council will assist tenants in finding a new home, depending on their tenancy status, and separately addresses secure Council tenants, those tenants in temporary accommodation and tenants of private landlords.

8.3 The Council's Housing Regeneration team has made contact with all of its tenants on the Estate. This includes tenants that have been offered a number of commitments and guarantees under the Landlord Offer. Through the engagement process residents have been asked whether they would like to take up the right to return option of an upgraded new home on the new estate, or whether they would prefer to move away permanently to an alternative Council home or Housing Association property in the Borough. Residents have also been supported in this process with help in completing their housing register applications and in applying a priority (A) rehousing status, enabling them to bid for a suitable home that meets their needs.

8.4 Of the 57 homes owned by the Council on the Estate, 38 homes are now unoccupied (see Table 1). So far 26 secure tenants and 6 eligible non-secure tenants have moved permanently to an alternative home in Sutton under the terms of the Landlord Offer. These residents along with the remaining secure tenants and eligible non secure tenants still on the Estate benefit from the commitments offered to them in the Landlord Offer, including home loss compensation payments, disturbance payments for the reasonable cost of moving and extra help and support with moving, such as assistance with

arranging removals, the disconnection and reconnection of services, making applications for housing benefit and council tax benefit and extra support for older and more vulnerable residents.

8.5 For non-secure tenants living in temporary accommodation on the Estate who do not qualify for a move to a permanent home under the Landlord Offer, the Council will continue to provide support in finding them a replacement temporary home. This will include a tailored housing advice service to explain accommodation options and ongoing communication, so that affected temporary tenants will know when they will have to move and the likely date that their property will be needed for redevelopment, so they will have sufficient time to plan their move.

8.6 Of the 19 homes owned by the Council on the Estate that are still occupied:

8.6.1 6 secure tenants and 2 eligible non-secure tenants have recently accepted offers of alternative accommodation and these residents are currently in the process of completing their moves.

8.6.2 6 secure tenants and 4 non-secure tenants living within the Estate continue to be supported by the Council in their search for alternative accommodation, and 1 non-secure tenant is awaiting eviction.

8.7 9 secure tenants and 2 eligible non secure tenants that have expressed a preference to exercise their right to return to a new upgraded home within the Order Scheme once the scheme has been built. They will continue to be supported by the Council as part of the continuous engagement process.

**Table 1 – Occupation of Affordable Homes on the Estate by Council tenants as at the date of this Statement**

Elm Grove - Tenants Summary	Total	Occupied Properties			Returning to Elm Grove
		Accepted Property	Awaiting Property	Awaiting Eviction	
Secure Tenants	12	6	6	0	9
Eligible Non-Secure Tenants	0	0	0	0	2
Non Secure Tenants	7	2	4	1	
Unoccupied Properties	38	-	-	-	
<b>TOTAL AFFORDABLE HOMES</b>	<b>57</b>	<b>8</b>	<b>10</b>	<b>1</b>	<b>11</b>

8.8 Throughout the consultation process the Council has ensured that all of its residents have access to, and support from their Independent Residents Adviser - Public Participation, Consultation and

Research (PPCR) and a member of the Sutton Federation of Tenants and Residents Association (SFTRA). Local MPs and Ward Councillors have also provided additional support to residents of the Estate. The Council is in regular contact with its tenants around the moving process which will be carried out in line with the construction programme.

### **Private Leaseholders and Freeholders**

- 8.9 The Council's advisor Savills has attempted to undertake negotiations with all the private leaseholders and freeholders with interests in the Order Land which comprise 8 resident long leaseholders, 4 resident freehold owners and 4 non-resident landlords (3 with leasehold interests and 1 with a freehold interest) with tenants occupying their properties, along with the owners of a number of car parking spaces to the rear of 232-234 High Street and 236-238 High Street which are commercial and residential buildings. Responses were received from all of the non-resident owners and offers have been made in accordance with the CPO Guidance.
- 8.10 In addition to these offers, and to ensure that any leasehold/freehold residents that wanted to remain at the Estate could do so, the Council has also provided resident occupiers with generous options under the Landlord Offer which has provided those eligible with the option of an upgrade in the new Scheme (a larger, better specification dwelling with access to private outdoor space). This offer has been taken up by seven of the resident leaseholders/freeholders.
- 8.11 Whilst there is a negative impact to the remaining five resident leaseholders/freeholders by depriving them of their property and their home, the Council has sought to mitigate the negative impact of the Order on the affected parties by offering a package of compensation which would allow them to move to an equivalent property within the area.
- 8.12 Of the four non-resident owners, three have completed the sale of their properties to the Council and Savills has agreed terms with one remaining non-resident owner, with solicitors instructed to progress the purchase.
- 8.13 In summary, of the sixteen privately owned properties:
- 8.13.1 Offers to all the affected parties have been made to acquire their properties by private treaty.
  - 8.13.2 The Council has completed the acquisition and obtained vacant possession of six properties (two non-resident leasehold interests, two resident leasehold interests, one non-resident leasehold interest and one resident freehold interest).
  - 8.13.3 A further seven owners, six of who intend to purchase and relocate back into the Order Scheme, have agreed terms by private treaty and are currently progressing their respective transactions with solicitors.



- 8.13.4 One further owner has reached verbal agreements for the purchase of their properties (which is being delayed by a probate issue) and will be relocating back into the Order Scheme once it is built
- 8.13.5 The Council's advisor continues to negotiate with the remaining two leasehold owners.

## **Other Interests**

- 8.14 The Council owns the freehold of the property at 216-220 High Street known as Market House and there are 3 commercial leaseholders who currently occupy the property. These include The Sound Lounge, Volunteer Centre Sutton and Successful Sutton – Business Improvement District. The Council has continued to work collaboratively with each group and has evolved its plans to accommodate and secure their continued use of the building and their interests are excluded from the Order.
- 8.15 The Council's surveyor is also in discussions with the owner of the car parking spaces to the rear of 232-234 High Street, Sutton in relation to the acquisition of the spaces. The Council has offered to provide an equivalent number of spaces within the new Scheme should the owner require them. This offer has been verbally agreed subject to terms.
- 8.16 The Council's surveyor is also in discussions with the owner of the car parking spaces to the rear of 236-238 High Street, Sutton in relation to the acquisition of the spaces to enable an adequate interface with the new Order Scheme works. The Council has entered into initial discussions to acquire by agreement and the re-provision of the same facility to the owner. The owner has verbally agreed terms with the Council.
- 8.17 The positive and negative impacts of the Order have been assessed as part of the consideration of options before the decision to make the Order was made. Whilst there is a negative impact to the remaining leaseholders by compulsorily purchasing their property, the likely positive impacts of implementing the Order are considered to mitigate the negative impacts.
- 8.18 Since the Order was made, the Council has made significant progress to acquire the interests in the Order Land by agreement in order to implement the Cabinet decision to implement the Scheme. The Council continues to negotiate to acquire the remaining interests by agreement. However, having exhausted all other options, the Council has made the Order to ensure vacant possession is obtained, and obtained within a reasonable period of time.

## **9 JUSTIFICATION FOR USE OF COMPULSORY PURCHASE POWERS**

- 9.1 With regard to the justification needed to support a compulsory purchase order, the CPO Guidance states at paragraphs 12 and 109 that in deciding whether or not to confirm an order under section 226(1)(a) of the 1990 Act, the decision will be made on its merits and the Secretary of State will consider the following:

- 9.1.1 Whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area, and where no up to date Local Plan exists, the draft Local Plan and NPPF;
- 9.1.2 The extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area;
- 9.1.3 The potential financial viability of the Order Scheme for which the land is being acquired, source of funding, general funding intentions and the timing of available funding, and that there is a reasonable prospect of the Order Scheme going ahead;
- 9.1.4 Whether the purpose for which the authority is proposing to acquire the land could be achieved by any other means;
- 9.1.5 Any legal or physical impediments to implementation of the Order Scheme;
- 9.1.6 The purposes for which the compulsory purchase order is made and whether they justify interfering with the human rights of those with an interest in the land affected; and
- 9.1.7 Whether there is a compelling case in the public interest to make the Order.

9.2 These are each considered below in relation to the Order and Order Scheme.

**Whether the purpose for which the land is being acquired fits in with the adopted planning framework**

- 9.3 The Council has considered whether the proposals for the Order Land comply with the Local Plan for the area, and acknowledges that the proposed development of the Estate that is the subject of the outline planning permission represents a departure from the Local Plan. It was, however, determined that material considerations indicate decisively that permission should be granted, and a stage 2 reference to the Mayor will be made.
- 9.4 The Order Scheme would create a new residential development within Sutton which would deliver strongly against many of the objectives of policy at all levels, including the London Plan.
- 9.5 The proposed housing would make a significant contribution to the Council's supply of good quality new housing, including delivering an affordable housing percentage that exceeds planning policy requirements for which there is great demand in accordance with requirements of the NPPF on deliverable housing supply and Local Plan (and London Plan) policies. All existing affordable housing floorspace will be re-provided.
- 9.6 Overall, for the reasons given elsewhere in this Statement e.g. at section 6; despite the failure to comply with the detail of the allocation policy, the Council is satisfied that the purposes for which the

Order Land is being acquired fits with the policies of the adopted Local Plan and will enable the Council to begin to realise the wider regeneration aspirations for the Borough.

**The extent to which the scheme will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area**

9.7 The Council considers that the land proposed to be compulsorily acquired will facilitate the comprehensive development of the Order Land in a manner which will positively contribute to the improvement of the economic, social and environmental well-being of the locality and the wider Borough. The key benefits from the Order Scheme are summarised below.

9.8 Key benefits which cumulatively significantly outweigh any residual harm arising from redevelopment are:

9.9 Social –:

9.9.1 the provision of up to 282 high quality new one, two and three bedroom homes, including flats and maisonettes built to meet modern design, quality, energy and safety standards and significantly improve on the standard of the current residential provision within the Order Land;

9.9.2 private outdoor space for every home with new resident only courtyard gardens with safe play areas for children, inclusive of a net increase in terms of quality and quantity;

9.9.3 better designed and more secure resident only car parking with the opportunity for electric car charging points and secure resident only cycle, bin and recycling storerooms;

9.9.4 delivery of 50% Affordable Housing to include a range of tenure types and sizes (including the re-provision of existing Affordable Housing);

9.9.5 delivery of new homes to modern accessibility standards such that residents will be able to benefit from more appropriate and adaptable homes in terms of level access and wheelchair accessibility;

9.9.6 high proportion of smaller and larger family housing include two-bedroom four-person homes and three-bedroom five-person homes to meet identified local demand in a town centre location;

9.9.7 the design of the Order Scheme will adhere to Designing Out Crime principles that will address anti-social activity in the area;

9.9.8 re-provision of existing affordable homes with high quality replacement homes.

9.10 Environment –:

- 9.10.1 the design will contribute to the Council's net-zero targets using a fabric first approach;
- 9.10.2 improved permeability and wayfinding through the careful placement and integration of marker buildings at key connection points along the Order Scheme's edges;
- 9.10.3 a new east-west multi-functional route through the Order Scheme site to provide pedestrian and cycle access, connecting Benhill Avenue, Throwley Way and the High Street, significantly improving connectivity;
- 9.10.4 the provision of new high quality safe play areas;
- 9.10.5 landscaped and well-lit new and improved public realm to include the two existing east-west routes which connect Elm Grove and the High Street;
- 9.10.6 increase in the ecological and urban greening of the Order Scheme site to deliver local biodiversity net gain; and
- 9.10.7 maximising the use of a sustainable town centre location.

9.11 Economic – in economic terms, the development of the Order Land represents a major opportunity to bring vitality to and enhance the vibrancy of Sutton through an uplift in the quality of the environment and accommodation (residential and commercial), and attracting new residents to the area. The Order Scheme will also result in the creation of wider economic and social benefits as a result of the development activity and the creation of jobs, apprenticeships and training opportunities during the construction phase of the Order Scheme. During the construction and operational phases of the Order Scheme it is anticipated that there will be increased economic activity within the High Street within Sutton Town Centre and the utilisation of other local services and businesses.

9.12 Therefore the Order Scheme represents a significant opportunity for economic, social and environmental improvements which can help achieve the broad goals of sustainable development and also help in the wider regeneration of the Borough.

**The potential financial viability of the Order Scheme, source of funding, general funding intentions and the timing of available funding and that there is a reasonable prospect of the Scheme going ahead**

**Funding**

9.13 The funding required to deliver the Order Scheme is being covered by a number of sources. Through its Housing Revenue Account, the Council will be investing in the replacement of and new affordable housing, in addition to obtaining vacant possession for the project. A budget for this project was

approved as part of the Council's Capital Programme by the Strategy and Resources Committee on 19 February 2024.

- 9.14 An Affordable Housing Grant allocation of £26,625,000 from the GLA has been secured, subject to achieving the necessary start on site conditions. This comprises a key element of the funding strategy
- 9.15 Additionally, the developer partner will take on the financing of the delivery of the private housing in accordance with the terms of the development agreement referred to below.

### **Developer Procurement**

- 9.16 A procurement process in accordance with the Public Contract Regulations 2015 was launched in October 2023 to select a suitably experienced developer partner. Following the publication of the opportunity, three bidders were shortlisted to participate in the Competitive Dialogue process. Final tenders were received in April 2024 and Lovell Partnerships Limited has been appointed as the Council's preferred development partner. The proposed delivery structure will be a contractual based partnership arrangement through a Development Agreement. Completion of the Development Agreement with the Preferred Bidder is programmed for autumn 2024.
- 9.17 The Council is satisfied that there are no financial or funding related impediments to bringing forward the Order Scheme.

### **Whether the purpose for which the land is to be acquired could be achieved by other means**

- 9.18 The alternative option would be to not go ahead with the redevelopment of the Estate, despite the positive result of the Residents' Ballot. This would not be optimal because it does not address the Council's objective of maximizing the opportunities to provide new high-quality housing and of enhancing place-making within Sutton.
- 9.19 Further it would not address issues raised as a concern by residents of the Estate as described in section 4.4.
- 9.20 This alternative would also result in the Council missing the opportunity to take advantage of funding from the GLA as this is only available for new build development.
- 9.21 The Council has and will continue to attempt to acquire all remaining interests by negotiation; however, this may not be possible in all cases. Where agreement by negotiation is not possible the only other option which would guarantee delivery of the comprehensive Order Scheme in a timely manner is to acquire the interest through the exercise of the Council's powers of compulsory purchase.
- 9.22 The Council is satisfied that it has taken all reasonable steps to acquire the land required by negotiation, and that Order is now necessary to secure the redevelopment of the Order Land.

9.23 The Council therefore considers there to be a compelling case in the public interest to proceed with the Order.

#### **Legal or physical impediments to the implementation of the Order Scheme**

9.24 A stopping up order will be sought to secure the stopping up of specific highways within the Order Land and this application will be made following issue of the planning permission and its determination will run concurrently with the Order process. The areas of land that are proposed to be stopped up include:

9.24.1 Existing car park aisles that form junctions with Elm Grove;

9.24.2 Part of the existing Throwley Way bus layby along the Throwley Way site frontage;  
and

9.24.3 The existing pedestrian connection through the Estate that links Elm Grove with the Throwley Way footway.

9.25 The highway authority has not objected and the acquiring authority is not aware of any reason why the stopping up order would not be granted as it will form part of the Order Scheme.

9.26 The key issue affecting the delivery of the Order Scheme relates to land ownership. Whilst the Council has been working to ensure the land required for the Order Scheme is assembled, to date it has not been possible to enter into agreements with all owners and those with interests in the Order Land. Negotiations will continue with affected parties with a desire to conclude acquisition by agreement, but without the certainty of land assembly through the compulsory purchase process, the Order Scheme will not be realised.

#### **Whether the purposes of the Order Scheme justify interfering with the human rights of those with an interest in the land affected**

9.27 The Human Rights Act 1998 requires that every public authority must act in a manner that is compatible with the Convention for the Protection of Human Rights and Fundamental Freedoms (“the **Convention**”).

9.28 Relevant parts of Article 1 of First Protocol of the Convention provide:

*“Every natural or legal person is entitled to peaceful enjoyment of his possessions” and “[no] one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law ...”*

9.29 Relevant parts of Article 8 of the Convention provide:

*“(1) Everyone has the right to respect for his private and family life, his home and his correspondence.  
(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interest of ...the economic well-being of the country...”*

9.30 Relevant parts of Article 6 provide that:

*“In determining his civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”*

9.31 The Council has considered alternatives to the Order Scheme but has determined that the purpose for which the Order Land is to be acquired could not be achieved by means other than by the compulsory purchase of the Order Land, which will interfere with rights held by owners and occupiers of the Order Land. Such interference is justified through the Council's use of its powers under section 226(1)(a) of the 1990 Act.

9.32 The proposed regeneration of the Order Land through the Order Scheme has been publicised extensively and consulted upon by the Council. Third parties likely to be affected by the proposals have been offered several opportunities to make representations to the Council. Any owner, lessee or occupier of land included within the Order Land would have the opportunity to make a representation or objection to the Council, and to appear at a public inquiry before a decision is made as to whether or not the Order should be confirmed.

9.33 If the Order is confirmed, notwithstanding the provisions of Article 1 of the First Protocol and/or Article 8 of the Convention, adequate provisions are in place to compensate those affected. The Council also considers that use of compulsory purchase powers in order to bring about this major development is proportionate to the interference with human rights, particularly in light of the statutory compensation available.

### **Public Sector Equality Duty**

9.34 The Council has also had due regard to its obligations under section 149 of the Equality Act 2010 and carried out an Equality and Human Rights Impact Assessment (completed in September 2021), on the proposals and the consultation that has taken place in the run up to the Residents' Ballot (“**EqIA**”). The Council has updated its EqIA (December 2023) to consider the changes to the proposal leading up to the submission of its Planning Application.

9.35 The Public Sector Equality Duty places a duty on public authorities to take due regard in their decision-making processes to the need to eliminate discrimination, foster good relations and advance equality of opportunity. The protected characteristics as defined in the Act are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 9.36 The Council also takes into account any potential impact on those with a current, or previous care experience, or those who are at a socio-economic disadvantage. As set out in the EqIA, the impact of the disruption of rehousing may have a short term disproportionately negative impact on mainly older people, vulnerable people or those with a disability, but overall the proposal is considered to be mainly positive.
- 9.37 Procedures have been put in place to mitigate against any negative impact including a dedicated decant officer, a comprehensive package of support for moving arrangements including all reasonable costs being covered.
- 9.38 In terms of the Landlord Offer made to eligible residents within the Order Land:
- 9.38.1 Secure Council tenants and eligible Non Secure tenants who wish to stay on the estate will be guaranteed an offer of a new home at social rent levels on the new estate; and
  - 9.38.2 Resident leaseholders and freeholders will receive a fair deal and affordable options to assist them to buy one of the new homes on the estate if they wish to do so e.g. shared equity or shared ownership.

### **Public Interest**

- 9.39 The Order Scheme generates significant benefits to both the local and wider area and is a significant positive for both. The Order Scheme is of a scale and nature that will provide a catalyst for wider regeneration and revitalisation of the surrounding area and provides for extensive additions to the public realm which will enhance the local environment and improve links to the wider area.
- 9.40 The Order Scheme will bring widespread and compelling public benefits through delivery of high quality new housing to meet housing demand, public realm and environmental improvements which will add to the viability and vitality of the town centre and enhance its character.

### **Resident Consultation**

- 9.41 In response to concerns raised by residents about building conditions within the Order Land and anti-social behaviour, the Council explored ways to improve the standard of residential provision for current residents within the Order Land. In April 2017 Architects Levitt Bernstein and PPCR Associates (public participation specialists) were selected to work alongside local residents, local businesses and the Council to look at options for reshaping Elm Grove Estate and the immediate surrounding area.
- 9.42 The vision for Elm Grove was to create a liveable and attractive neighbourhood, for both existing and future residents, with safe and well-overlooked spaces, streets and improved homes for all. Five workshops were held between June and November 2017 along with a site tour arranged to show residents examples of other regenerated estates across London. During the engagement with the local



community the Council discussed what works, what doesn't and their preferences for the future of the Estate. This information was used to develop the preferred emerging option for Elm Grove, which was presented at an exhibition in March 2018.

- 9.43 Between November 2020 and February 2021, a series of 7 co-design workshops and 5 drop-in sessions with residents were held to consider 3 options for the future of Elm Grove: (i) refurbishment, (ii) partial redevelopment and (iii) full redevelopment. Through this process, full redevelopment was established as the most suitable option to meet the needs of residents, the Council and the wider community. This consultation informed an Options Appraisal report that was prepared by Savills in May 2021.
- 9.44 In late 2021 the Council undertook 3 further consultation workshops with residents to review the previous masterplans and the shared priorities, in order to redefine the design principles for a new Masterplan for the Estate. Two themed workshops were held for residents to share their views on what's important to them in relation to their new homes, the new building and an improved estate environment.
- 9.45 A further two themed workshops were held in June and October 2023 with Estate residents as part of the development of proposals for the public realm, parking, play and amenity areas. In addition to these, public drop-in exhibitions open anyone living and working in the wider area were held in October and December 2023 to allow all those either interested or affected by the proposed development to comment on the emerging proposals and make suggestions on both the design and the engagement process. These were attended by local councillors and by representatives from the Metropolitan Police to provide attendees the opportunity to ask more detailed questions about specific aspects of the proposals.
- 9.46 Five workshops were also held with the tenants of Market House between October 2023 and February 2024. These were attended by Sound Lounge, Successful Sutton and VCS, to discuss specific proposals for the Market House building and the surrounding landscape areas. Workshops were held in Market House to allow tenants to more easily understand the potential changes and impacts on their current use of the building.
- 9.47 The resident consultation exercises was supported by communications including a dedicated area of the Council's website, 2 public exhibitions, regular newsletters delivered door-to-door, letters, and posters / information boards displayed at key points in the Order Land.
- 9.48 As noted in paragraph 5.2 a Landlords Offer was formulated in accordance with the GLA's requirements for all eligible parties that currently hold an interest in the Order Land and this was included in the Residents' Ballot that ran between 7 February and 3 March 2022. The Landlords Offer contained design commitments and indicative proposals for the Order Land in accordance with the GLA's expectations and the options that would be available to residents in terms of relocation or remaining resident within the Order Land. Extensive consultation accompanied the issue of the

Landlords Offer. The ballot closed on 3 March 2022 and the result was 78.6% in favour in relation to the redevelopment of the Order Land.

## Summary

9.49 Having regard to the provisions of the 1990 Act, and the CPO Guidance, the Council considers that the Order Land is both suitable for and will facilitate the carrying out of development, redevelopment or improvement and will make a positive contribution in the promotion of the economic, social and environmental well-being of its area.

9.50 Without the use of these powers, the much-needed development of the Order Land is unlikely to be achievable either at all, or within any reasonable timescale. Appropriate compensation will be available to those entitled to claim it under the relevant statutory provisions. The Council is therefore satisfied that the purposes for which the Order is made gives rise to compelling reasons that justify interfering with the human rights of those with an interest in the land affected.

9.51 The Council considers that there is a compelling case in the public interest that the Order Land be compulsorily acquired in order to achieve the purposes set out in the Order and described in further detail in this section 9 of the Statement of Case.

## 10 SPECIAL CONSIDERATIONS

10.1 There is no consecrated land, renewal area land, open space, land forming part of a common, or fuel or field garden allotment included within the Order Land. No land within the Order Land is held by the National Trust. No land within the Order Land is held by the Crown.

10.2 There are no listed buildings or ancient monuments located within the Order Land, and none of the Order Land is part of a conservation area.

## 11 OBJECTIONS

11.1 The Secretary of State has received 5 objections to the making of the Order and a number of objections raise similar points.

11.2 A summary of all the objections to the Order is set out below:

No	Objector	Plot No.	Address	Nature of Objection
1	Kim's Commercial Real Estate Limited	-	206 High Street, Sutton, Surrey SM1 1NU	<p>1. The final design is not clear and may not be planning compliant.</p> <p>2. Limited contact from Council and Council has not discharged duty to negotiate.</p> <p>3. Failure to provide adequate information about impact of Order.</p>

No	Objector	Plot No.	Address	Nature of Objection
				4. Failure to consider an alternative scheme that would limit impact on Objector's property. 5. It is not clear the Order Scheme is financially viable or deliverable.
2	Southern Gas Networks Plc	-		1. The Order Scheme may adversely affect the integrity of and/or access to low pressure gas mains within and in the vicinity of the Order Land.
3	Patricia Alin	-	Flat 12 Marshalls Court SM1 4DU	1. The height of the Order Scheme will severely affect light in her property. 2. Failure to consult about Order.
4	Arif Hassan	-	208 High Street Sutton SM1 1NU	1. The Order Scheme will adversely impact right to light.
5	Chun Sing	-	Flat 6 Marshalls Court SM1 4DU	1. The Order Scheme will adversely impact right to light. 2. Failure to provide information about Order.

11.3 This section of the Statement first responds to the matters that have been raised by the objectors and then identifies those which remain.

## Engagement

11.4 As discussed in section 8, the Council is satisfied that it has made thorough and repeated efforts to contact and engage and negotiate with all affected landowners and occupiers to attempt to acquire the various land interests by agreement in accordance with the Guidance. There is no requirement on the Council to seek to engage with persons whose land interests are not being acquired and hence no requirement to seek to engage with any of the Objectors.

11.5 In Table 2 of the Order, the Council identified those properties for which the Order Scheme may infringe the landowners' right to light. The Council served the Order on those landowners together with the Statement of Reasons. Four of those landowners (including three objectors, being Arif Hassan, Chun Sing Lai, Patricia Alin) contacted the Council after being served Notice of the making of the Order. The Council responded by sending letters on 25 April 2024 to explain the Order process and next steps, including to:

11.5.1 clarify that the Council would not be acquiring their land;

11.5.2 explain the Council would not be in a position to properly assess the potential impact of the Order Scheme on neighbouring landowners' rights of light until the Scheme had been finalised and it made a reserved matters application; and

11.5.3 note that there is a statutory compensation regime in place that can be pursued by relevant landowners through the Lands Tribunal at the relevant time and if appropriate.

11.6 The Council's surveyor Emmanuel Pitman at Savills also spoke with Mr Hassan on 8 July 2024. Mr Pitman explained the Order process and noted Mr Hassan may or may not be entitled to compensation. Mr Hassan stated he could not make a decision and was not interested in discussing compensation until full details of the Order Scheme were available.

### **Withdrawn objections**

11.7 The Council's solicitor Bevan Brittan wrote a letter to Kim's Commercial Real Estate Limited's solicitor Irwin Mitchell on 1 October 2024 to address the concerns raised in its objection. Irwin Mitchell responded on 11 October 2024 to confirm that the objection was withdrawn.

11.8 The Council completed an Asset Protection Agreement with Southern Gas Networks Plc on 8 October 2024 and this objection has therefore now been resolved. Southern Gas Networks Plc withdrew its objection on 9 October 2024.

### **Remaining objections**

11.9 There are three remaining objections, lodged by Patricia Alin, Arif Hassan and Chun Sung. The scope of these objections relates to engagement (addressed above) and the Order Scheme's impact on rights to light.

### **Rights to light**

11.10 It is the Council's case that these objections are governed by Section 13 (4) of the Acquisition of Land Act 1981 which states:

*'(4) If the confirming authority is satisfied that an objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed it may disregard the objection'.*

11.11 The objections of Patricia Alin, Arif Hassan and Chun Sing relate exclusively to compensation matters that can be dealt with by the Upper Tribunal as they relate exclusively to a potential infringement of rights to light that may benefit the relevant properties and so should be disregarded.

## **12 CONCLUSION**

12.1 In the light of the matters set out in the Statement of Case, the Council considers that there is a compelling case in the public interest in support of the making of the Order. The Council invites the Secretary of State to confirm the Order so that the Order Scheme can be delivered.

### **13 RELEVANT DOCUMENTS FOR ANY PUBLIC INQUIRY**

13.1 The Council intends to refer to, or put in evidence, the documents (or relevant extracts from those documents) which are listed below. The Council reserves the right to refer to or adduce additional documents.

13.1.1 Housing Economy and Business Committee report and minutes 28 September 2021, 7 December 2021, 7 July 2022, 24 January 2023 and 17 July 2024;

13.1.2 Strategy Resources Committee report and minutes 19 February 2024;

13.1.3 Planning Committee report, draft decision notice and minutes 4 September 2024;

13.1.4 Objections to the Order lodged by:

(a) Kim's Commercial Real Estate Limited;

(b) Southern Gas Networks Plc;

(c) Patricia Alin;

(d) Arif Hassan; and

(e) Chun Sing;

13.1.5 National Planning Policy Framework (December 2023);

13.1.6 Proposed reforms to National Planning Policy Framework (July 2024);

13.1.7 Guidance on the Compulsory Purchase Process (October 2024);

13.1.8 Sutton Local Plan (2018);

13.1.9 The London Plan (2021);

13.1.10 Emerging Sutton Local Plan – Issues and Preferred Options Consultation and Proposed Changes to Policies Map (July 2024);

13.1.11 Sutton Town Centre Masterplan (2016);

13.1.12 Better Homes for Local People - The Mayor's Good Practice Guide to Estate Regeneration (February 2018);

13.1.13 Statement of Community Involvement (planning application DM2024/00392);

13.1.14 Summary Reports of the following consultation sessions held by the Council:

- (a) Summary Report of Elm Grove Community Plan First Consultation Session on 22 and 24 June 2017;
- (b) Summary Report of Elm Grove Community Plan Second Consultation Session on 29 June 2017;
- (c) Summary Report of Elm Grove Community Plan Third Consultation Session on 19 September 2017;
- (d) Summary Report of Elm Grove Community Plan Fourth Consultation Session on 24 October 2017;
- (e) Summary Report of Elm Grove Community Plan Fifth Consultation Session on 28 November 2017;
- (f) Summary Report of Future of Elm Grove Estate: Workshop 3 on 30 November 2020;
- (g) Summary Report of Future of Elm Grove Estate: Workshop 5 on 15 December 2020;
- (h) Summary Report of Future of Elm Grove Estate: Workshop 7 on 19 January 2020; and
- (i) Summary Report of Future of Elm Grove Estate: Workshop 8 on 9 February 2020;

13.1.15 Options Appraisal Report – May 2021;

13.1.16 Landlord's Offer; and

13.1.17 Equality and Human Rights Impact Assessment (Updated December 2023).