

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

**Revised Inquiry into**

**THE LONDON BOROUGH OF SOUTHWARK  
(AYLESBURY ESTATE SITES 1B-1C)**

**COMPULSORY PURCHASE ORDER 2014**

**PINS REFERENCE: NPCU/CPO/A5840/74092**

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**Rebuttal statement [of](#)**

**Agnes Kabuto**

**For the Aylesbury Leaseholders Group**

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**5 January 2018**

1. This following is my response to some of the points raised in the proof of evidence of Marcus Mayne submitted by the Acquiring Authority.

### **Mediation**

2. In paragraph 4.16.1 of his proof of evidence, Mr Mayne claims that mediation has been offered but not taken up.

3. This is not the case; as can be seen from the email exchanges appended to the end of this statement, the Acquiring Authority's Simon Chambers agreed with my Surveyor in correspondence dated 19<sup>th</sup> June 2017 with regards to mediation.

*"I agree that given where we are it will be more effective to explore negotiations further and so propose that we hold any mediation in abeyance until such time as the parties have had the opportunity to take forward further discussions over value".*

### **Acquiring Authority's valuation offers**

4. In paragraph 4.16.5 of his proof of evidence, Mr Mayne lists the valuation offers that the Acquiring Authority has made in relation to my home. He lists a "Third offer – 03/10/2016 at £290,000. No response". I do not recall or have any documentation in my records relating to this 'third offer'.

5. I further note that only the most recent valuation was carried out by an external surveyor. All previous valuations had been carried out by Council officers who were in some cases unqualified and not RICS registered **(CD50; para 218)(ID20)**.

6. In addition, I would like to point out that this most recent valuation of £300,000 on 27/10/2016 is nearly three times the amount of the Council's initial offer of £110,000 on 23/08/2010 (172%). This is more than twice the increase in the land registry house price index over the same period (70%)<sup>1</sup>. This shows how unreasonable the Council's initial offer was and is further evidence that it has failed to take reasonable steps to negotiate.

### **Rehousing offers (RSL partners)**

7. In paragraph 4.16.2 of his evidence, Mr Mayne claims that I was offered 'shared equity opportunities' on Site 1a and Camberwell Fields but turned these down.

8. This is not the case; I applied for a shared equity property at Camberwell Fields but was told that they didn't have any wheelchair accessible properties **(SAK2)**. I didn't apply for a shared equity property on Site 1a for the reasons outlined in detail in paragraphs 12 to 17 of my original proof of evidence; namely that the Site 1a shared equity offer restricted capital uplift and incurred high service charges and in any case was restricted to just one bed and two bedroom properties. As with the FDS plans there are no family size units offered under the shared equity option.

9. In paragraph 4.16.9 of his proof of evidence Mr Mayne claims that I was offered a shared equity property on Site 7 of the regenerated estate but turned it down. This is not the case; I expressed an interest in applying for a shared equity property on this site and completed a financial assessment by submitting several documents in August 2016.

10. This included the following: 3 months consecutive statements for all bank and building society accounts, insurance & pension policies; 3 months personal income documentation; 3 months personal cost documentation; 6 months household cost documentation.

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1 HPI index for Southwark for Aug 2010: (68.36) & Oct 2016: (116.69)

<http://landregistry.data.gov.uk/app/ukhpi>

I was subsequently sent a copy of a First Draft Shared Equity lease for 27 Harry Cole Court Lease by Joanna Bradly, Harvard Gardens Sales Team at L&Q and was advised that I would next need to register and apply formally for the property through L&Q's online application service. Having completed my application online I was subsequently informed that I was not eligible because of the earnings criteria – see paragraph 18 and (SAK3) of my original proof for details.

### Rehousing offers (Council)

11. In paragraph 4.16.11 of his proof, Mr Mayne claims that “*The Council and its partners have made various offers of rehousing to Ms Kabuto*”. I have already shown that this is not the case in respect of the Council's RSL partners. In respect of the Council I was originally told that I was ineligible for rehousing assistance and would have to provide for myself on the open market.

12. This is confirmed in paragraph 4.16.11 of Mr Mayne's proof and it is noteworthy that the Council only changed its mind on my eligibility, after its inadequate approach to leaseholder rehousing was pointed out at the previous 2015 CPO public inquiry.

13. Since then I have received two formal offers of rehousing on a shared equity basis from the Council, which I have turned down for the simple reason that the properties they offered were not suitable because they were not wheelchair accessible properties. Details of these offers are found in paragraphs 21 to 24 of my original proof along with a schedule in (SAK4).

14. The Council has made other informal offers of shared equity units from its housing stock and NHHT has discussed the possibility of purchasing a street property under shared equity terms, but I have not pursued any such offers because none of the properties offered have been wheelchair accessible properties. Below is an example of such in which I am being offered a street property where the only access to the property is by a steps.

**From:** Hill, Melanie <Melanie.Hill@southwark.gov.uk>  
**Sent:** 20 November 2017 12:59  
**To:** 'Agnes ASK'  
**Subject:** Property for open market sale - Madron Street, SE17 - 3 bedroom terraced house

Hi Agnes,

I've found this alternative property in SE17 on purple bricks, this has a big bathroom and generally the property looks big and spacious as it has 3 double bedrooms. This is close to the big Tesco's on Old Kent Road.

I understand that you are exploring purchasing a property with the assistance of Nottinghill Housing association and they would be able to assist you with purchasing the property and then sell it back to you on shared equity terms. If you are interested in this property then I would encourage you to speak to Eleanor as soon as you can.

<https://www.purplebricks.co.uk/property-for-sale/3-bedroom-terraced-house-london-320383#/>



#### 3 bedroom terraced house for sale in Madron Street, London ...

[www.purplebricks.co.uk](http://www.purplebricks.co.uk)

Referencing fee payable per occupant over 18 years old. England and Wales - £118.80 inc. . Students - £72 inc. .

15. With its accessibility issues in full view, the property is clearly unsuitable for wheelchair users and I cannot understand why the Council continues to send me such offers. Whilst it may assist the Council in being able to claim that I have been offered a 'various' number of replacement properties, it does not assist in constructively engaging in addressing my family's wheelchair access rehousing need.

16. In any event, the shared equity offer is disadvantageous. I currently own 100% of my home and because of my age I would be unable to ever staircase a shared equity home, which would mean that I wouldn't be able to bequeath it to family members as I am currently able to do.

17. The restrictions on succession/assignment rights with the shared equity leases is compounded by other restrictions on subletting etc as detailed in Ms Robinson's proof of evidence.

18. The shared equity option has the further disadvantage in that any improvements I make to the property over the years would not be equally apportioned should I ever wish to sell the property.

19. As mentioned in my proof of evidence, it is no surprise that of the circa 300 Aylesbury estate leaseholders 'decanted' to date, only 6 have taken up the shared equity option.

20. Finally I would like to respond to paragraph 4.16.3 of Mr Mayne's proof of evidence in which he says:

*"I understand that the Leaseholder holds a similar view to the Leaseholder at 105 Chiltern House in that she is seeking a direct swap of 100% of the equity in their current property for 100% of a more valuable replacement property. I respond to this point below in relation to 105 Chiltern House. This matter is not one I consider can be appropriately dealt with at a CPO public inquiry as it is an issue for the Upper Tribunal (Lands Chamber) to determine on legal interpretation of the Compensation Code under the Acts. In my view the legislation is clear that any owner will receive market value and home loss for their existing property, not the full market value of the property they move into."*

21. It is clear that Mr Mayne has misunderstood what we have requested. He says that we are "seeking a direct swap of 100% of the equity in their current property for 100% of a more valuable replacement property." This is not the case; we do not expect to be gifted the difference in market value between our existing homes and those being built in their place. We have made it clear that the Council/developer would retain ownership of the difference in value which would be registered as a charge against the property and which would be recoverable on sale.

22. This is in line with current government guidance on estate regeneration (**CD73**) which says:

### Home swap model

Leaseholders receive market value for their home plus a home loss payment. Residents can use this payment to move elsewhere, or take a Home swap option to use the payment to buy property on the estate. The difference in value becomes a charge on the property that is repayable if the property is sold within seven years. This enables the estate landlords to secure revenue early on.

23. The government's guidance on estate regeneration clearly reflects the common sense view that regeneration is supposed to benefit the existing residents of an estate, not displace them. Tenants have the right to return to a new home on the estate on equivalent terms and it is only right that leaseholders should enjoy the same right.

24. Finally, I would like to take this opportunity to correct a typographical error in my original proof of evidence. In paragraph 10 of my proof I refer to an accommodation schedule for the amended FDS planning application (17/AP/3885) showing that there will be no family size shared ownership/equity homes on the redeveloped order land. I refer to the accommodation schedule under the objectors' core bundle reference (RN20); this is incorrect and should read (JF28).

Signed

Agnes Kabuto

**Appendix – copy of email communications between myself, the Acquiring Authority and Carter Jonas:**

*On 12 Dec 2017, at 15:43, Agnes ASK <[agnessak@hotmail.com](mailto:agnessak@hotmail.com)> wrote:*

*Hi Stephen*

*Hopefully you are well.*

*We are going back for the public inquiry in January 2018 and was wondering whether you have had any correspondence from Southwark Council since your last correspondence to Simon Chambers?*

*Best regards*

*S. Agnes Kabuto*

*"Morning Agnes and apologies for the delay in getting back to you. I haven't had any discussion with Simon Chambers for a while now, the last contact I had was with Mark Warnett just before the Tribunal hearing. I haven't pushed this pending the outcome but funnily*

*enough Mark has just emailed me to see if I am in a position to take matters forward.*

*I am happy to contact him if you want me to, so await your instructions.*

*Regards  
Stephen*

*Sent from my iPhone"*

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**From:** Stephen Lashmar <StephenLashmar@roger-hannah.co.uk>

**Sent:** 19 June 2017 11:40

**To:** Agnes ASK

**Subject:** FW: 148 Chartridge, London

Morning Agnes

Following on from our conversation on Friday, please see the email below from Simon Chambers which has bought us some time. Once I have had the chance to review the valuation approach adopted by Carter Jonas we can then discuss a strategy to taking this forward.

Regards  
Stephen

**Stephen Lashmar** BA(Hons) MRICS

Associate Director | RICS Registered Valuer

**From:** Chambers, Simon [mailto:Simon.Chambers@southwark.gov.uk]

**Sent:** 19 June 2017 10:56

**To:** Stephen Lashmar

**Subject:** RE: 148 Chartridge, London

Dear Mr Lashmar,

I have forwarded your email to Carter Jonas and asked them to respond to you on the detail of their valuation approach and to take forward discussions over value.

In regard to mediation, I agree that given where we are it will be more effective to explore negotiations further and so propose that we hold any mediation in abeyance until such time as the parties have had the opportunity to take forward further discussions over value. However to respond to your questions regarding mediation. As the intended focus was on resolving issues around value it was not the Council's intention to have their own legal representation during the process. However we acknowledge that the leaseholder may wish to be legally represented and we would therefore consider paying reasonable legal costs following discussions with the Council. If the leaseholder wished to be legally represented it is likely that the Council would also seek legal representation during the process.

In terms of mediators the Council would initially propose a list mediators. However we acknowledge that the list would not be exhaustive and would therefore be willing to consider alternative mediators, as long as they are either a qualified lawyer or a surveyor by profession and who is a CEDR accredited mediator with experience of CPO compensation matters.

I have asked Carter Jonas to keep me updated on discussions over value, so I hope that we are able to make some progress in this regard soon.

Kind Regards,

Simon Chambers

Regeneration Manager

**From:** Stephen Lashmar [<mailto:StephenLashmar@roger-hannah.co.uk>]

**Sent:** Friday, June 16, 2017 11:08 AM

**To:** Chambers, Simon

**Subject:** 148 Chartridge, London

Simon

As you will be aware, I act for Agnes Kabuto in respect to the subject premises.

Following my return from annual leave, I understand that the Council have offered to go to mediation. Having discussed this with my client, whilst we are happy to consider this, subject to further clarification on a number of points, I do feel that it may be more cost effective to explore negotiations further as I note that since the offer was made by Carter Jonas at the end of October 2016 there has been limited engagement in terms of negotiations.

In arriving at their valuation of £300,000 I note that Carter Jonas have relied upon the last three sales within Latimer and indexed the sales prices. Having sought to reconcile the indexation, what Index has been utilised? In order to take this forward, would it be possible for Carter Jonas to provide a detailed summary as to how they have arrived at their valuation?

In respect to mediation, as you will appreciate mediation is a legal process and whilst it is noted that the Council will cover surveyor's reasonable costs, in my experience a claimant is likely to need the input of a solicitor through the process. Would the Council be prepared to cover a claimant's reasonable legal costs for the process? If the matter were to go to mediation would the Council be intending to have their own legal representation?

With regard to the mediator, it is understood that the Council have compiled a list of suitable appointments from which a claimant can choose. Can you advise how this list was compiled? Whilst we know the role of the mediator and their impartiality you will appreciate a list compiled by the Council is going to be viewed with suspicion.

I look forward to hearing from you.

Regards  
Stephen

## **Stephen Lashmar** BA(Hons) MRICS

Associate Director | RICS Registered Valuer

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