

To: The Secretary of State for Housing, Communities and Local Government
National Planning Casework Unit
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**NOTICE OF OBJECTION TO THE CONFIRMATION OF THE LONDON BOROUGH OF HARROW
(GRANGE FARM ESTATE REGENERATION PHASES 2 AND 3) COMPULSORY PURCHASE
ORDER 2020**

The Objection

1. This is a Notice of Objection to the confirmation of The London Borough of Harrow (Grange Farm Estate Regeneration Phases 2 and 3) Compulsory Purchase Order 2020 (the Order) by The Reserve Forces' and Cadets' Association for Greater London (RFCA for Greater London) of Fulham House, 87 Fulham High Street, London, SW6 3JS.
2. RFCA for Greater London objects to the confirmation of the Order insofar as it applies to the land comprised in the parcels or areas numbered 75 and 76 as well as 96 on the order map and all of the rights, including but not limited to rights of way, listed in Table 2 of the Order as regards parcels 69 and 96 on the order map and all other rights listed in Table 2 of the Order as are for the benefit of the land in parcels 75 and 76 or either of them, as the case may be, or for the benefit of 84 Northolt Road, Harrow (the Rights).

The Objector

3. The RFCA for Greater London is one of thirteen such associations which together cover the whole of the United Kingdom. All of the RFCAs are established by the Defence Council under powers vested in it by section 110 of the Reserve Forces Act 1996 (RFA 1996). All of the RFCAs are publicly funded and exist to provide specified services to the Ministry of Defence.
4. The RFA 1996 requires the RFCAs to fulfil two general duties:
 - 4.1 to give advice and assistance to the Defence Council in respect of the state of the Reserve Forces for their area; and
 - 4.2 to conform to the Defence Plan for the United Kingdom.
5. More specifically, powers and duties are assignable to the RFCAs under section 113 of the RFA 1996. These powers and duties may include the provision and maintenance of buildings and establishing or assisting cadet units. Under section 117 of the RFA 1996 the Defence Council is empowered to issue Regulations for (amongst other purposes) regulating the manner in which powers are to be exercised and duties are to be performed by the RFCAs and for specifying the services to which money paid to them by the Defence Council is to be applicable.
6. Such Regulations, in exercise of the powers conferred by section 117 of the RFA 1996, have been made by the Defence Order. The most recent of these regulations came into force on 30 December 2014 and may be cited as the Reserve Forces' and Cadets' Associations Regulations 2014 (RFCAs Regulations). They replaced previous Regulations made by the Defence Council in 2009. As stated in regulation 1.3 these Regulations are made by the Defence Council on behalf of the Secretary of State for Defence. Such regulations are laid before Parliament before coming into effect.
7. Significantly, regulation 1.3 declares that each RFCAs (and therefore including the RFCAs for Greater London) is a Central Government body with Crown status. Therefore, the

Crown status of the RFCA for Greater London has the force of law by virtue of the RFCA Regulations made under the RFA 1996.

8. A Council of RFCAs has been constituted by the thirteen individual RFCAs, including the RFCA for Greater London, to provide central co-ordination and a central focus to enable the Associations to fulfil the requirements entrusted to them. The RFCA Regulations makes provisions for the governance of the Council of Reserve Forces' and Cadets' Associations as well as the individual RFCAs.
9. The powers and duties conferred on the RFCAs by section 113(2) of the RFA 1996 as regards the provision and maintenance of buildings and other facilities are referred to in Part 4 of the RFCA Regulations 2014 as "estate services". It is provided by paragraph 4.2 of the Regulations that the duties assigned to each Association in respect of estate services should be carried out with the consent and subject to such directions and conditions (whether general or particular) as may be specified by the Defence Council. Within the ambit of those powers each RFCA may (amongst other powers) purchase, lease, hire or otherwise acquire land and buildings for the purpose of the RFA 1996, occupy suitable property of the Secretary of State for Defence and carry out such works and facilities management services to land and buildings as may be necessary for the accommodation of the military or cadet forces it administers.

The Objector's interests

10. The freehold land comprised in parcel 75 on the order map is registered under title number MX259129. The proprietor of the registered freehold land is the Secretary of State for Defence. Parcel 76 on the order map is unregistered land and is believed also to be vested in the Secretary of State for Defence. Although, for reasons presently unknown, parcels 75 and 76 have different titles they constitute on the ground a single property which is in single occupation and single use by RFCA for Greater London. The property accommodates land and buildings without physical division. The property is known as 84 Northolt Road, Harrow HA2 0DW.

11. The RFCA for Greater London occupies parcels 75 and 76 under the above-mentioned statutory powers in order to provide and maintain an RAF Air Cadets Centre at the premises comprised in those parcels. Its interests in and occupation of the land comprising those parcels are, therefore, statutory in origin and nature and RFCA for Greater London enjoys the Rights in the same capacity. The Rights are incidental to its interest in parcels 75 and 76.
12. Parcels 75 and 76 on the order map formerly comprised part of a larger area of land which belonged to the Ministry of Defence and which was sold to Harrow Council (the Acquiring Authority) for housing in or about 1973 or 1974. Prior to that sale the whole of the land in question was a Territorial Army site. Upon selling the greater part of the former Territorial Army site to Harrow Council the Ministry of Defence retained the freehold land comprised in parcels 75 and 76 in order that, and for the very purpose that, the land so retained should continue to be used as a Cadets Centre by the RAF Air Cadets.
13. There are set out below the Grounds of Objection of the RFCA for Greater London to the confirmation of the Order as regards the land comprised in parcels 75 and 76 as well as 96 on the order map and as regards the Rights.

Ground 1 – Absence of enabling power

14. The Order is made under and for the purposes of section 226(1)(a) of the Town and Country Planning Act 1990 (TCPA 1990). It is expressly provided by section 226(2A) that the Secretary of State must not authorise the acquisition of any interest in Crown land unless (a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown and (b) the appropriate authority consents to the acquisition. It is provided by section 226(9) that Crown land must be construed in accordance with Part 13, TCPA 1990 which also defines the term “the appropriate authority”.
15. The Order expressly excludes from its ambit the interests of or owed by the Secretary of State for Defence in parcels 75 and 76 on the order map. It may be inferred that

that exclusion is there as recognition of the effect of section 226(2A), 226(9) and Part 13, TCPA 1990. However, no such exclusion has been made as regards any interest of the Secretary of State for Defence in the land comprised in parcel 96 and in respect of any of the Rights. The Order provides no explanation for that inconsistency.

16. The Order also does not exclude from its ambit the interests held by RFCA for Greater London in the land comprised in parcels 75 and 76 or in parcel 96 or as regards any of the Rights.

17. The principal interest in parcels 75 and 76 is the freehold interest which is vested in and owned by the Secretary of State for Defence as Crown land. As stated above, RFCA for Greater London occupies those parcels, being land and buildings vested in the Secretary of state for Defence, under statutory powers and as a Central Government body in its own right. These powers and their context are described in paragraphs 3 to 12 above. As declared by regulation 1.3 of the RFCA Regulations, RFCA for Greater London is a Central Government body with Crown status. Accordingly, the statutory interest which it holds in parcels 75 and 76 in occupying for statutory purposes the land comprised in those parcels belonging to the Secretary of State for Defence is a Crown interest. All of RFCA for Greater London's interests in parcels 75 and 76 together with parcel 96 and the Rights are, therefore, Crown interests and are not within the enabling power of section 226(1)(a) TCPA 1990 but, to the contrary, are expressly excluded from that enabling power by section 226(2A).

18. Indeed, RFCA Regulations 2014 expressly recognises that RFCAs are exempt from legislation that applies to land or buildings vested in or held by them to the same extent as the Crown. Regulation 4.6 provides:

"In so far as Associations established under RFA 96 Part XI are exempt from legislation that applies to land or buildings vested in or held by them, to the same extent as the Crown, they shall observe the policy of the Defence Council to operate, so far as practicable, within the spirit of such laws".

19. The policy of the Defence Council concerns the operation of the RFCAs and does not extend to cessation of operation by acceptance of compulsory acquisition by a local authority or, more specifically, to dispossession of land which is held and occupied by RFCAs to provide Cadet Centres.
20. Even if RFCA for Greater London had not been a statutory Central Government body with Crown status, though clearly it is, it holds, manages and occupies parcels 75 and 76 as a RAF Air Cadet Centre on behalf of the Crown under the powers and for the purposes of RFCA Regulations, as a statutory service arm of the Ministry of Defence so that proviso (a) in section 226(2A) is not satisfied. As for (b) even were it relevant (which it is not because (a) is not satisfied), the Secretary of State for Defence holds the freehold interest in that land for the very purpose of providing land and accommodation for the RAF Air Cadet Centre in that location and that is the very purpose served by the occupation and management of that land by RFCA for Greater London.
21. It is, therefore, submitted that the enabling power in section 226(1)(a), TCPA 1990, relied upon by the Order as the relevant enabling power, does not authorise the acquisition of any interest of RFCA for Greater London in the land comprised in parcels 75 and 76 on the order map and the same applies to parcel 96 and to the Rights and all of them.
22. All of the further Grounds of Objection set out below are advanced without prejudice to Ground 1.

Ground 2 – the land being acquired is not needed

23. As appears from the Statement of Reasons and certain documents in support of the planning application under reference P/3524/16 for Phases 2 and 3 of the Regeneration Scheme the purported purpose of seeking acquisition of parcels 75 and 76 which accommodate the RAF Air Cadet Centre is merely to widen the existing accessway onto Northolt Road and provide some landscaping. All of the purposes and

objectives of the Regeneration Scheme, as described in the Statement of Reasons, can be achieved without the acquisition of parcels 75 and 76.

24. There is already an existing and perfectly adequate accessway from the Estate onto Northolt Road provided along parcel 69 on the order map. This accessway is sufficiently wide for a vehicle to use it. It is, therefore, by definition, perfectly adequate for a pedestrian access onto Northolt Road.
25. The location of parcels 75 and 76 can be seen from the order map to be on the south eastern periphery of Grange Farm Estate. They form, together with the accessway on parcel 69, the shape of a peninsular that extends away from Grange Farm Estate. An accessway onto Northolt Road can continue to be provided on parcel 69 without any acquisition of parcels 75 and 76. The land comprised in those two parcels, 75 and 76, serves no purpose integral to or essential for the proposed housing regeneration scheme.
26. According to the Statement of Reasons the Estate as a whole covers approximately 4.1 hectares in size. It cannot sensibly be suggested that the design of the regeneration scheme on an area of that size cannot make adequate provision for landscaping without the acquisition of parcels 75 and 76. The Statement of Reasons sets out the case for the regeneration of the Estate but provides no case whatsoever, still less a compelling case, for the acquisition of the specific land which is the subject of this Objection, namely, parcels 75 and 76.
27. There is no need to acquire parcels 75 and 76 in order to deliver the Regeneration Scheme. That stark fact is recognised by the Acquiring Authority. At a meeting held on 24 January 2019 between representatives of Harrow Council and RFCA for Greater London the representative of the Acquiring Authority conceded that, although acquisition of the land which accommodates the Cadets Centre is in the Authority's opinion desirable (to deliver what was described as an enhanced entrance to the site from Northolt Road and increase connection from the Estate to the wider community) it is not essential. That concession is self-evidently correct. It is trite law that the

compulsory acquisition of land is only justifiable if there is a compelling case for it. In *Chesterfield Properties plc v Secretary of State for the Environment* (1997) 76 P&CR 117 at 129-131 it is stated: *"it must...be demonstrated that in confirming it [the minister] has concluded that there exists a substantial public interest or interests outweighing the landowner's rights."* The stated purpose for which, on the Acquiring Authority's case, it seeks to acquire the land and rights specified in the Order under section 226(1)(a), TCPA 1990 is the regeneration of the housing estate. Land on the periphery of the housing estate (Parcels 75 and 76) which is not essential to the delivery of the regeneration of it, as the Acquiring Authority accepted, is land for which no case for compulsory acquisition has been or could be made. As was stated in *Brown v Secretary of State for the Environment* (1978) 40 P&CR 285 (Forbes J):

"It seems to me that there is a very long and respectable tradition for the view that an authority that seeks to dispossess a citizen of his land must do so by showing that it is necessary, in order to exercise the powers for the purposes of the Act under which the compulsory purchase order is made, that the acquiring authority should have authorisation to acquire the land in question."

That citation is made without prejudice to the Objector's primary case which is that this is Crown land in respect of which the enabling power relied upon by the Acquiring Authority does not exist and, accordingly, this is not and cannot be a case involving the dispossession of a citizen of his land.

Ground 3 – the acquisition is not within section 226(1)(a), TCPA 1990

28. The power to acquire land compulsorily under section 226(1)(a) may only be exercised by a local authority for the purpose of development, redevelopment or improvement of land if, by reason of the limitation in section 226(1A), that is likely to contribute to the achievement of one or more of the promotion or improvement of (a) economic wellbeing, (b) social wellbeing or (c) environmental wellbeing, of its area.

29. It is submitted that in determining whether those requirements are satisfied in the case of parcels 75 and 76 the test must be applied as regards the proposed development, redevelopment or improvement of those parcels. Whether or not that is so as to the acquisition of land within the Order generally, it is submitted that it must be the case as regards parcels 75 and 76 specifically for the very reason set out under Ground 2 that the acquisition of those parcels is not essential to the delivery of the housing regeneration scheme. The Acquiring Authority cannot seek to justify the acquisition of parcels 75 and 76 as satisfying the requirements of section 226(1A) by attempting to piggy-back that acquisition on to the overall objectives of the regeneration of the Estate, in particular the regeneration of the housing stock. That is so because the objectives of promoting or improving the economic, social and environmental wellbeing (if such objectives are in fact valid) as supplied by the regeneration of the core areas of the Estate, as distinct from this peripheral area, can all be achieved without the acquisition of parcels 75 and 76.
30. It is accepted that as regards the regeneration of the housing estate itself that will promote and improve social and environmental wellbeing. It is not clear, and not presently accepted, that it will promote or improve economic wellbeing.
31. However, as regards parcels 75 and 76 themselves, it is submitted that enhancement or enlargement of the accessway onto Northolt Road, which is already perfectly adequate, and some minor landscaping, when there has to be extensive scope for designing in landscaping elsewhere on such a large estate, does not satisfy section 226(1A): it is not likely to contribute to the achievement of the promotion or improvement of social wellbeing or environmental wellbeing or even economic wellbeing of this particular area. The extent to which that promotion or improvement is to be found in the regeneration of Grange Farm Estate are objectives which can be delivered in full without the acquisition of parcels 75 and 76.
32. No case, still less a compelling case, has been made to explain why the mere enlargement of an existing and perfectly adequate accessway onto Northolt Road and some minor additional landscaping are such as to promote or improve social or

environmental wellbeing or economic wellbeing. Not only will they not do so but, to the contrary, they will have a seriously detrimental impact on social and economic wellbeing of the local community in this area for the reasons given, in particular, in Ground 4.

Ground 4 – retention of the existing use of the land is more important than the purpose for which it is proposed to be acquired

The importance of the existing use

33. The existing RAF Air Cadets Centre at 84 Northolt Road, accommodated in the premises comprised in the land at parcels 75 and 76 on the order map, is the home of 1454 (Harrow) Squadron. The Squadron's Royal Warrant is dated 5 February 1941 which was the date on which the Air Training Corp was officially established in the middle of the Blitz. It is the oldest RAF Air Cadets Squadron (formerly Air Training Corp) to operate continuously without a break in the London Borough of Harrow. Personal and civic responsibilities play an important role in the Squadron. In addition to taking part in local Remembrance Day events, since 1993 this Air Cadets Squadron has been honoured to represent the London Borough of Harrow at the Twin Towns Armistice Parade in Douai, France where it has paraded with the French Armed Services to remember their fallen as well as our own. This Air Cadets Squadron also provides the Guard of Honour for various Mayoral functions within Harrow at the request of the London Borough's Mayoral Services department.

34. As appears from the above, the Air Cadets Centre was already established at this location in 1973/1974 when a larger area of land was sold off by the Ministry of Defence to Harrow Council for housing but the land now described as parcels 75 and 76 on the order map was retained for the very purpose of maintaining the Air Cadets Centre at this location. The precise date on which the Air Cadets first took occupation of the Centre at this location is not known but is thought to date back to the 1960's.

35. Although some of the Air Cadet activities are undertaken away from the Centre, such as flying and gliding, adventure training and sports, many of the key activities of the Air Cadets are undertaken at the Centre itself which is its purpose. These include:

- parade and drill;
- training and education;
- some Duke of Edinburgh Award activities.

36. Parade and drill are a central activity of the RAF Air Cadets. It builds teamwork and is a vital means of displaying the high standards of dress and behaviour for which the RAF Air Cadets are renowned. Foot drill, basic drill and banner drill all involve practice, discipline and skills which are an absolutely essential element of the experience and development of qualities of an Air Cadet. Of significant relevance to this Objection is the fact that Air Cadet Centres have parade grounds and drills and parading take place there. 1454 (Harrow) Squadron is no exception. The existing use of parcels 75 and 76 includes a parade ground to the rear of the Air Cadets buildings.

37. Air Cadets are encouraged to participate in the Duke of Edinburgh Award Scheme and to work their way up through the levels leading to Gold. Air Cadets also have the opportunity to participate in leadership training and in BTEC courses, first aid and City & Guilds vocational qualifications. The BTEC certificates and diplomas which may be attained as an Air Cadet include certificates in teamwork, personal skills, citizenship and personal development in the community. These certificates as well as those available from the Institute of Leadership and Management are available at no cost to the Air Cadets and play an important role in the Air Cadet Squadrons, including Squadron 1454 based at their Squadron HQ located at 84 Northolt Road; parcels 75 and 76 on the order map.

38. The Ministry of Defence has published the Review of the Reserve Forces' and Cadets' Associations, 2019. This will be presented in evidence at the Public Inquiry. Its findings are summarised by the Minister of State for the Armed Forces who states in the Foreword: *"I was pleased to see that the evidence gathered by the Review confirms my belief in the RFCAs as organisations that provide real value to the sectors they*

support, to our local communities, and to Defence. Their functions remain relevant and valuable contributing to Defence objectives whilst building and maintaining vital links for the Defence community with the general public". Before stating that he supported the Review's recommendations he added: "The RFCAs have a clear and significant role to play in making the Reserve and Cadet experience an increasingly rewarding way to learn key skills and contribute to the UK's security."

39. The University of Northampton has been commissioned to carry out a four year study into the social impact and return on investment resulting from the Ministry of Defence expenditure on the Cadet Forces. It published its Year 3 Interim Report in Autumn 2019. The full Report and the Year 4 Report, as and when available, will be produced in evidence at the Public Inquiry. The University research team reports that its interview with Cadets, volunteers, parents and teachers reveal a rich tapestry of the impacts of a Cadet Force on a range of personal attributes, such as confidence, resilience, independence, mental wellbeing, education, qualifications and life experience. The research team concluded that it is confident that the impact of participation in the Cadet Forces on the health and wellbeing of young people is positive and that the return on investment is significant.

40. The research suggests that activities that young people undertake as Cadets such as leadership tasks, sailing, flying, first aid, teamwork, sports, lifeguarding and the Duke of Edinburgh's Award are likely to develop their self-efficacy. Both the 2018 and the 2019 reports found data that showed that there were no statistically significant difference in self-efficacy between Cadets who were eligible for free school meals and Cadets who were not. The University research team considers this to be an important finding. It states that it is very possible that those Cadets who are eligible for free school meals have higher self-efficacy scores because of their Cadet experiences. It reports that the development of non-cognitive skills (such as leadership, communication, self-confidence, resilience, self-discipline and teamwork) which are key outcomes for young people in the Cadet Forces are important for success in both education and the labour market, and can make a significant difference to the lives of

young people. It further reported that the potential impacts of the Cadet Forces on reducing the vulnerability of young people could be very important.

41. Of particular significance to 1454 (Harrow) Squadron with its Cadet Centre located at the outer edge of Grange Farm Estate is the following finding of the University research team:

“Nearly all teachers, social workers, and members of the police force that volunteer to help run the cadet units said that participation in the Cadet Forces particularly benefits disadvantaged children (including those with learning difficulties). It is suggested that this subset of respondents is an expert and informed group and that this finding should be viewed as important.”

Rooted in community

42. Immediately prior to the onset of the Coronavirus pandemic, there were a total of 60 Air Cadets parading at the Cadet Centre at 84 Northolt Road with 11 Adult volunteer staff. The Cadets were aged from 12 to 18 and were all drawn from the local community.
43. As is the case with all Cadet Forces, 1454 (Harrow) Squadron has strong links with the local community. Most of the Cadets live close to this Cadet Centre at 84 Northolt Road. Their homes and local schools are within an easy walk or cycle to this Cadet Centre. The RAF Air Cadets is a fully inclusive organisation and it draws its Cadets and support from within the immediate demographic group.
44. If this Air Cadet Squadron had to be relocated more than a mile from its existing centre there would be a very substantial risk, for a variety of reasons, that the close ties between this Air Cadet Squadron and the local community would be broken and that young people within this local community will be deprived of the opportunity of continuing to parade with or to join this Air Cadet Squadron.

45. Many of the Cadets in this locality are drawn from disadvantaged families. Many of them come from a socio-economic group that could not even afford the bus fare to parade twice-weekly at a Cadet Centre further away.
46. The Air Cadets parade in full uniform. They parade in the evenings. For at least a third of the year it is dark in the evenings. The majority of the Air Cadets who attend this Squadron are from Indian and Sri Lankan families. There is, regrettably, a dual threat to their safety and security, which would be acute if they had to walk a significant distance in the dark. As is well-known, there is a threat to the Armed Forces from terrorism. This threat extends to Cadets in uniform. In addition, although there is no reason to believe that those who join the Air Cadets remain gang members, nonetheless, speaking generally, youth that live in this particular area do not cross gang lines. Most unfortunately, there is a high risk of knife crime and a significant increase in gang activity in recent years. Parents may not want their children walking some distance to their home, late at night, in the dark, in uniform. RFCA for Greater London owes these Air Cadets, having regard to their age, a duty of care, as does society at large.
47. These considerations are recognised in the Ministry of Defence Review of the Reserves Forces' and Cadets' Associations, 2019 referred to above. It is stated in that Report that the estate managed by the RFCAs is *"overtly outward facing, based in the community and therefore needs to be accessible. This is particularly true for Cadets who are, by virtue of their age, more localised than their adult counterpart in the Reserves who are able to travel greater distances to their respective base"*.
48. As stated above, the RAF Air Cadets in 1454 (Harrow) Squadron are drawn from the local community with its particular demographic character and have close links with the local community. The importance of the relationship between the Cadet Centre and the local community cannot be overstated. The Northampton University research concluded that *"it is possible to suggest, based on the available data that youth groups, such as the Cadet Forces, improve community cohesion which can bring*

benefits across a range of areas, such as health, wellbeing, crime and education which result in savings across Government departments.”

The balance

49. It is demonstrably clear that the Cadet Forces in general, and this RAF Air Cadet Squadron in particular, constitute a very valuable resource for the young people who join the Cadets, for their local community, for society, the country and the Armed Forces. They make an immensely important contribution.
50. Weighed in the balance there can be no doubt whatsoever that the existing use of the Cadet Centre at 84 Northolt Road, Harrow (parcels 75 and 76 on the order map) by and for 1454 (Harrow) RAF Air Cadet Squadron is on any measure vastly more important than the widening of a footpath and the addition of some minor landscaping.
51. For the reasons set out above, that is the appropriate comparison because the regeneration of the housing estate can be delivered without parcels 75 and 76 and their only alleged contribution is a modestly enhanced footpath and some minor landscaping.
52. In the context of section 226(1A), TCPA 1990 the existing use of parcels 75 and 76 as an RAF Air Cadet Centre serves to promote and improve the social and economic wellbeing of the area to a far greater extent than the Acquiring Authority’s proposals for these two parcels of land on the periphery of the housing estate. Consequently, the loss of the Cadet Centre would have a seriously detrimental impact on the social and economic wellbeing of the area. By no relevant criteria would that seriously detrimental impact be made up, or even partially made up, by what the Acquiring Authority proposes to replace the Cadet Centre at this location.
53. It was stated in the judgement in *Prest v Secretary of State for Wales* (1982) 81 LGR 193, CA: *“In any case... where the scales are evenly balanced – for or against*

compulsory acquisition – the decision – by whomsoever it is made – should come down against compulsory acquisition”. In this case, for all the reasons set out above, the scales are not evenly balanced; they are weighted very heavily against compulsory acquisition.

Ground 5 – breach of section 149 of the Equality Act 2010

54. The Acquiring Authority recognises its statutory duty under section 149 of the Equality Act 2010 (EA 2010) in the Statement of Reasons. However, its assessment is entirely confined to the regeneration of the housing estate. It pays no regard whatsoever to the equalities impact on the RAF Air Cadets in this locality.

55. Relevant protected characteristics under the EA 2010 include age, disability, race and religion.

56. We have set out above the strong ties between the Air Cadets and the local community in this locality and the reasons why the Air Cadet Centre needs to remain in this locality. We shall set out below in Ground 7 why the Acquiring Authority’s proposals for alternative facilities for the Air Cadets are inadequate, inappropriate and unworkable.

57. We have also set out above the extent to which the Cadet Forces improve the life skills and life chances of young people. This RAF Air Cadet Squadron makes the same life-changing contribution.

58. If this RAF Air Cadet Centre were to be lost to this community there would be a disproportionately adverse impact on young persons in this community including those who are from disadvantaged backgrounds and those with learning difficulties. Moreover, as stated above, the majority of the Cadets who attend this RAF Air Cadet Centre are from Indian and Sri Lankan families. This Air Cadet Squadron supports and has strong connections with these ethnic minorities within the immediate local community. The loss of this Air Cadet Centre in this locality would have a

disproportionately adverse impact on these ethnic minorities within the local community. The impact would, therefore, be indirectly discriminatory against or would have an adverse impact on the equality of opportunity of young persons in general and those drawn from ethnic minorities in particular.

59. The protected characteristics of age, race and religion as regards the Air Cadets in this locality and this community are conspicuous by their absence in the Statement of Reasons. Having regard to the significantly and disproportionately negative impact on young persons and on ethnic minorities in this community were this RAF Air Cadet Centre to be lost to this locality the Acquiring Authority has failed to have due regard to the matters set out in section 149 of the EA 2010 in accordance with its statutory duty. As regards the RAF Cadets Centre in this location its proposals have been formulated in breach of that duty.

Ground 6 – Human Rights Act

60. As stated above, all of the other Grounds are without prejudice to Ground 1. Were private property rights involved, which based on Ground 1 they are not, the Convention rights within Article 1 of the First Protocol of the European Convention for the Protection of Human Rights would be engaged. This Ground 6 proceeds on the unlikely basis that private property rights are involved. Section 6 of the Human Rights Act 1998 renders it unlawful for a public authority to act in a manner which is incompatible with a Convention Right. For the reasons especially set out above in Grounds 4 and 5 there is a serious lack of proportionality in the attempted use of compulsory purchase powers as regards parcels 75 and 76 when weighing in the balance the importance and value of the existing use and the negative impact of the loss of that use on the local community, on young persons and on ethnic minorities.

61. If the use of compulsory purchase powers are not to infringe the property rights protected by Article 1 of the First Protocol to the Convention it must be shown that a fair balance has been struck between the interests of those whose rights are affected and the public interest. Proportionality is at the heart of that balance. In this case,

the lack of proportionality, as regards the limited proposals for these two parcels of land weighed against the immense importance and value of the rights and purposes of the RFCA for Greater London in occupying the RAF Air Cadet Centre based there, would be such as to infringe Convention rights if, contrary to the Objector's primary case, private property rights were involved.

Ground 7 – The proposed alternative premises are inadequate, inappropriate and unworkable

62. As stated in the Order, the aggregate area of the land comprised in parcels 75 and 76 is approximately 600m². Of that area the buildings occupy 264m². The open space within the Cadet Centre comprises the balance of approximately 326m². The Acquiring Authority's proposal is to replace the existing Cadet Centre with only indoor space measuring some 282m². No outdoor space is offered by the Acquiring Authority. The Statement of Reasons provides no explanation for why the Acquiring Authority considers (if it does so consider) 282m² of indoor space only to be an adequate replacement for 600m² of land affording both indoor space and outdoor place for the RAF Air Cadets. It is manifestly inadequate.

63. The outdoor space within the existing Cadet Centre provides for secure parking at the front of the buildings of the Squadron's minibus and trailer which are vital to its activities when conducted away from the Centre. For reasons of security, it is essential that the parking provision is secure and inaccessible to the public so as to guard against the Squadron's vehicles being vandalised or tampered with. As already stated, to the rear of the buildings is the Squadron's parade ground which is vital for their drill and parading activities. The RAF Air Cadets drill and parade in uniform. For reasons given above as regards the threat from terrorism, as part of the Armed Forces, the Air Cadets' parade ground must be secure and shielded from the public.

64. Within the estate managed by the RFCA for Greater London there are 92 Cadet Centres including this Air Cadet Centre at 84 Northolt Road. All 92 Cadet Centres in

the Greater London area have the benefit of safe and secure outdoor space for drills, parading and similar activities conducted outdoors.

65. The Acquiring Authority's proposal is to provide indoor space only for the Air Cadets within the building or buildings to be constructed at Plot 7 on its planning application drawings. To propose that a replacement facility for the Air Cadets be located in the midst of a building providing residential or other family accommodation is inappropriate and unworkable. As already explained, for security reasons, premises which accommodate Cadets or any other unit of the Defence establishment must be secure and inaccessible to the general public. That imperative cannot be achieved by proposals which seek to locate premises for the RAF Air Cadets within a residential building or any other building to which the public have access.

66. Secondly, the Air Cadets parade in the evenings. Their activities necessarily create a degree of noise. Their use of premises is, therefore, incompatible with family accommodation and it is axiomatic that it would not be acceptable to attempt to co-locate an Air Cadets unit within a residential building or in close proximity to family accommodation.

67. The loss of the parade ground, the absence of provision for secure parking, the reduction in overall space and the proposed location within what appears to be a residential building of purported replacement indoor space for the RAF Air Cadets render these proposals entirely inadequate, unsuitable and unworkable. The Acquiring Authority knew that what it proposed was not well suited to the requirements of the RAF Air Cadets Centre.

68. Aggravated by the absence of meaningful engagement and consultation, the Acquiring Authority's approach to the subject of facilities for the RAF Air Cadets has been to treat them as though they were just an ordinary youth club rather than a unit of the Ministry of Defence under the ultimate command of an RAF Air Commodore. In consequence, the Acquiring Authority has advanced proposals for replacement facilities which are thoroughly inadequate, inappropriate and unworkable.

Ground 8 – Loss of open space

69. In this context open space is a material consideration irrespective of ownership or accessibility. That is common ground. It is conceded in paragraph 6.65 of the Statement of Reasons that there would be a loss in the overall quantum of open space across the Estate under the Acquiring Authority's proposals which is an outcome that is resisted by (in our submission, an outcome that is contrary to) the London Plan 2016, the Acquiring Authority's Core Strategy 2012 and the Local Plan Policy DM18 (Protection of Open Space). The Statement of Reasons attempts to justify the loss of open space on the ground that the qualitative benefits of providing multifunctional and attractive open space allegedly far outweighs the loss. Yet, Policy DM18 provides that whilst open space may be reconfigured within a comprehensive, deliverable scheme there should be no net loss of open space. Further, that is all the more important in the London Borough of Harrow because, as is recognised by paragraph 5.25 of the supporting text to the Local Plan, there is a substantial open space deficiency within the Borough. It is stated that the total deficiency across the Borough equated to 117 hectares of land in 2010 and will rise to 139 hectares by 2026.

70. In paragraph 97 of the National Planning Policy Framework, February 2019 it is stated that the loss of existing open space, which is not surplus to requirements, resulting from proposed development of this kind may be permitted only where it is replaced by equivalent or better provision in terms of quantity and quality in a suitable location. Thus, quality alone does not justify the loss of quantity of open space. That is entirely understandable. If open space is deficient in quality the remedy should be to improve it, not reduce it, especially in a Borough that is substantially deficient in open space.

71. It is submitted that insofar as the proposed Regeneration Scheme involves any appreciable loss of open space it is contrary to the Development Plan. A small but highly important part of that loss of open space is the proposed loss of the RAF Air Cadets' parade ground in this locality. For the Air Cadets their parade ground performs an environmental function, as well as others. It enables the Air Cadets to parade and

drill in the fresh air. Its loss would be detrimental to that function, contrary to Local Plan Policy DM 18. As stated above, the Acquiring Authority's proposals make no provision for replacement of the existing open space within the Air Cadet Centre both in terms of the parade ground and in terms of secure parking provision. The total loss of open space currently enjoyed by the Air Cadet Centre measures approximately 326m². That loss cannot be justified either in terms of the Local Plan or in terms of section 226(1)(a), TCPA 1990.

Ground 9 - Lack of engagement and consultation

72. As the Acquiring Authority acknowledges at paragraph 8.6.4 of the Statement of Reasons, in the case of the making of an order under section 226(1)(a), TCPA 1990 it is especially important that proposals are founded on appropriate evidence base and have been subjected to consultation processes to include those whose property is directly affected.

73. The Acquiring Authority's community engagement and consultation are summarised in paragraphs 2.18 to 2.24 of the Statement of Reasons. It is noteworthy that no specific mention is made of any consultation and engagement with the RAF Air Cadets. That is because, in any meaningful terms, there has not been any.

74. At the meeting held on 24 January 2019, referred to above (there had been an earlier meeting in November 2017), the representative of the Acquiring Authority was informed by representatives of the RFCA for Greater London that:

- 74.1 the Air Cadets need a freehold site for a single-storey building, parking and parade ground which has direct access (i.e. not through or part of another building);
- 74.2 the previous proposal to include a new facility for the Air Cadets within Phase 3 was rejected particularly because of location (within a residential building) and tenure;
- 74.3 previous searches for an alternative site had been unsuccessful (so that full provision for the Air Cadets must remain in this immediate locality);

- 74.4 the Air Cadets have a very active membership, circa 60 Cadets drawn from within a short distance of the existing premises;
- 74.5 it was not possible to amalgamate this unit with other units due to distance and profile of the Cadets; and
- 74.6 the location of a replacement facility must be within walking distance of the current facility.

75. It is quite apparent that the Acquiring Authority has had no regard to the thrust of these needs and requirements in formulating its proposals. The Estate is estimated to cover 4.1 ha. Therefore, the Air Cadets' Centre, measuring approximately 600m², occupies a mere 1.46% of that area. It is not credible for the Acquiring Authority to argue (if it does so argue) that, if it desires to relocate the Air Cadets Centre and if it set its mind to it, it could not design the regeneration of the estate with a like for like replacement of the Air Cadets' Centre. The purpose of consultation and engagement is to secure a robust evidence base, to listen, gain important information and act upon it. As regards the RAF Air Cadets, the Acquiring Authority merely went through the motions.

76. As further evidence of the Acquiring Authority's lack of engagement with RFCA for Greater London, the Acquiring Authority failed prior to making the Order to establish in accordance with its *Tameside* duty (*Secretary of State for Education v Tameside MBC* [1977] AC 1014) the status of the RFCA for Greater London and the nature of its interests particularly in parcels 75 and 76 of the order map.

77. Moreover, the lack of engagement has continued beyond the making of the Order. On 27 October 2020 we requested further information from the Acquiring Authority as regards Plot 7, the proposed location within it of indoor space for the Air Cadets and related information. For the Acquiring Authority, all of the information so requested would be expected to be readily to hand. Yet, to date, more than three weeks later, the Acquiring Authority has failed to supply any of the requested further information.

Reservation and Conclusion

78. RFCA for Greater London reserves the right to add to, supplement or amplify these Grounds of Objection, particularly if the Acquiring Authority advances a case or alleges facts which are not set out in the Order or the Statement of Reasons. RFCA for Greater London will need to elaborate upon Ground 7 as and when the Acquiring Authority does belatedly provide the information requested by it as referred to in the immediately preceding paragraph.

79. If Ground 1 is upheld, then, by virtue of section 226(2A), TCPA 1990, the Secretary of State must not confirm the Order as regards parcels 75 and 76, as well as 96, on the order map and the Rights. Without prejudice to Ground 1, on the basis of the other Grounds of Objection the Secretary of State is respectfully requested not to confirm the Order as regards or to the extent of parcels 75 and 76, as well as 96, on the order map and the Rights.

The logo for Gunnercooke LLP, featuring the firm's name in a stylized, handwritten-style script above the text "Gunnercooke LLP" in a bold, sans-serif font.

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19 November 2020