

CD9.10

Proof of Evidence

2-4 Ringers Road and 5 Ethelbert Road, Bromley, BR1 1HT

[APPEAL REF: APP/G5180/W/24/3340223]

By

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17th June 2024

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Appendices

- Appendix 1 – Ramsay Evans Summary of Experience
- Appendix 2 – Knight Frank Prime Yield Guide – November 2021
- Appendix 3 – Knight Frank Prime Yield Guide – May 2024
- Appendix 4 – Expression of Interest from Penge Churches Housing Association (PCHA)

Cited Core Documents

- CD3.6 – Decision Letter
- CD8.15 – 210.08 R1 Block B Proposed 2nd Floor (May 2024)
- CD8.16 – 210.09 R1 Block B Proposed 3rd Floor (May 2024)
- CD9.2 – Turner Morum Viability Assessment – 7th March 2024
- CD10.1 – Council Statement of Case
- CD10.7 – BPS Viability Assessment – 19th April 2024
- CD11.1 – Statement of Common Ground

1. QUALIFICATIONS & RELEVANT EXPERIENCE

- 1.1. My name is Ramsay Evans of Turner Morum LLP Chartered Surveyors ('TM').
- 1.2. I graduated from the University of the West of England (UWE) in 2012 with an RICS accredited Honours Degree in Property Development and Planning and joined Turner Morum Chartered Surveyors ('TM') in 2014, following two years at another property consultancy.
- 1.3. In 2017 I qualified as a Member of the Royal Institution of Chartered Surveyors (RICS) following completion of the Assessment of Professional Competence (APC). I then went on to complete the RICS Expert Witness Certificate in 2019 and I am an RICS Registered Expert Witness, specialising in planning and development matters.
- 1.4. I was promoted to Partner in 2023 and am currently enrolled on the 18-month RICS Diploma in Arbitration concluding in October 2024.
- 1.5. I specialise in advising on the potential, viability and value of development land across the country and I am currently instructed by a number of land owners, local authorities, registered providers and developers – including land promoters, PLC & SME housebuilders, consortiums and JV's. A summary of experience is included at [Appendix 1](#).
- 1.6. I regularly give evidence within arbitrations, independent expert determinations and planning appeals – including public inquiries. I have also spoken at planning and development related conferences and events.

2. BACKGROUND INFORMATION & AGREEMENT ON VIABILITY

- 2.1. The Statement of Common Ground ('SoCG') [CD11.1] contains information regarding the site and its context.
- 2.2. The planning application [ref: 21/05585/FULL1] submitted in November 2021 proposed 35% affordable housing (33 units), comprising 13 shared ownership flats (39%) and 20 social rent flats (61%).
- 2.3. The planning application was refused in November 2023 and one of the reasons for refusal stated in the Decision Letter [CD3.6] was [my underlining]:

"The application does not comply with all the criteria listed in London Plan Policy H5C. The application therefore fails to meet the criteria necessary to qualify for the Fast Track Route and in the absence of a Financial Viability Assessment the application fails to demonstrate that the proposal would maximise the delivery of affordable housing, thereby contrary to Policy H4 and H5 of the London Plan and Local Policy 2."

- 2.4. The Applicant appealed the refusal and TM were appointed by the Appellant in January 2024 to undertake a viability assessment, so as to enable viability and affordable housing to be agreed ahead of the inquiry.
- 2.5. I produced and provided a viability assessment [CD9.2] dated 7th March 2024 which concluded that “The scheme is not...able to viably provide any affordable housing, or equivalent contribution.”. The conclusions of my assessment are summarised below, for ease of reference:

Tab	Affordable % (Hab Rms)	Affordable % (Units)	Surplus / Deficit	Actual Developer Return as % GDV
1A	50.7%	50.0%	-£6.952m	-10.0%
1B	35.4%	35.1%	-£5.231m	-1.2%
1C	11.4%	10.6%	-£2.267m	10.7%
1D	0.0%	0.0%	-£0.974m	14.9%

- 2.6. As summarised above, the scheme shows a -£0.974m deficit even if delivered at 100% market/private accommodation. This deficit increases/worsens to -£2.267m if 11.4% affordable (by habitable room) is included.
- 2.7. BPS Chartered Surveyors ('BPS') were appointed by Bromley London Borough Council ('the Council') to review my March 2024 viability assessment. BPS reached the same conclusion in their April 2024 report [CD10.7] that the scheme could not viably provide any affordable housing.
- 2.8. BPS concluded that the scheme showed a deficit of -£2.262m at 11.4% affordable housing (by habitable room); within £5,000 of my figure.
- 2.9. The below extracts are taken from the BPS report:

7.13. The appellant's viability assessment by Turner Morum has been independently assessed on behalf of the Council by BPS Surveyors and it is agreed that the scheme cannot provide any additional affordable housing beyond the 10 units now proposed the provision would comprise 6 social rent and 4 shared ownership amounting to a 12% (by habitable room) provision / 11% (by unit) provision.

7.14. It is agreed that substantial weight should be given to the proposed affordable housing provision.

7.15. The summary table below is an extract from BPS Surveyors viability assessment and sets out the agreement between the parties in relation to the key inputs and viability findings.

Input	TM	BPS	Comments
Income			
Open Market Sales	£33,753,125 (£6,728psm/£625psf)	£33,753,125 (£6,728psm/£625psf)	Agreed
Affordable Housing	£2,055,063 (£3,222psm/£299.31psf)	£2,055,063 (£3,222psm/£299.31psf)	Agreed
Affordable Workspace	£828,603 (£258 psm/£24 psf)	£948,343 (£258 psm/£24 psf)	Ambiguous – headline figures agreed, assuming terms in s106 agreement in perpetuity
Cafe	£604,283 (£3,874psm/£360psf) £30 psf pa, 6 mth rent free at 7%	£695,636 (£3,874psm/£360psf) £30 psf pa, 6 mth rent free at 7%	Ambiguous – headline figures agreed
Co-Working Space	£nil	£nil	Agreed – assuming non-revenue producing status secured in s106
Ground Rents	£nil	£nil	Agreed
Car Parking	£nil	£nil	Agreed
Expenditure			
EUV	£2.485m	£2.485m	Agreed
Landowner Premium	10%	10%	Agreed
Benchmark Land Value	£2.734m	£2.734m	Agreed
Build Costs	£21,079,917	£21,079,917	Agreed
Contingency	5%	5%	Agreed
Professional Fees	10%	10%	Agreed
Abnormals	£969,559	£969,559	Agreed
OMS Disposal Fees	3%	3%	Agreed
Commercial Letting fees	15%	15%	Agreed
Affordable disposal fees	0.5%	0.5%	Agreed
Purchaser's Costs	6.8%	6.8%	Agreed

S106	£118,624	£118,624	Ambiguous - We require confirmation from the Council on this input.
CIL	£1,309,478	£1,309,478	Ambiguous - We require confirmation from the Council on this input.
Finance	£2,455,922	£2,590,724	Agreed
Profit: OMS Affordable Housing Commercial	17.5% 6% 15%	17.5% 6% 15%	Agreed
Development Timeframes			
Pre-construction Period	6-months	6-months	Agreed
Construction Period	18-months	18-months	Agreed
Pre-Sales	50%	50%	Agreed
Sales Period	12-months	12-months	Agreed - 4 sales pcm
Viability Position	-£2.267m	-£2,262,253	Agreed – No affordable housing can be provided
Actual Profit	10.7%	10.7%	

2.10. Accordingly, the Statement of Common Ground ('SoCG') [CD11.1] states/records that:

“The appellant’s viability assessment by Turner Morum has been independently assessed on behalf of the Council by BPS Surveyors and it is agreed that the scheme cannot provide any additional affordable housing beyond the 10 units now proposed the provision would comprise 6 social rent and 4 shared ownership amounting to a 12% (by habitable room) provision / 11% (by unit) provision.

It is agreed that substantial weight should be given to the proposed affordable housing provision.”

2.11. For completeness, at the time of writing this Proof it appears from exchanges regarding the draft s106 agreement that some contributions are not agreed. However, I do not believe the overall viability conclusions would be affected by what is agreed/determined in relation to these non-agreed contributions. The sums involved are small, relative to the circa £2.26m+ deficit shown at the proposed and agreed 11.4% affordable housing level.

3. MAIN ISSUES

3.1. The pre-conference note issued by the Inspector on 13th May 2024 [CD12.1] states that (paragraph 6):

“The Council has advised that it no longer wishes to contest its reason for refusal relating to affordable housing provision (RFR1), although it will argue that it has an effect on the overall planning balance.”

3.2. Within the Case Management Conference ('CMC') held 17th May the Appellant's advocate confirmed I would be called to give evidence. The Council's advocate confirmed I would not be cross-examined as viability was agreed.

3.3. The Case Management Conference ('CMC') Summary Note issued 20th May 2024 [CD12.3] included:

"14. At the conference, the local housing land supply position and affordable housing were discussed, with the parties at varying stages of (dis)agreement on these matters. On reflection, the Inspector considers it appropriate to deal with these (together with evidence on the housing mix) through formal presentation of evidence in chief and cross-examination, in a conjoined 'housing matters' session. It will be for the parties to continue to collaborate to minimise the amount of evidence needing to be tested at the Inquiry. Due to witness availability, this session will take place in the first week of the Inquiry."

3.4. This Proof of Evidence is provided to assist with the cojoined housing matters session.

4. PROPOSED ON-SITE AFFORDABLE HOUSING PROVISION

4.1. As summarised within the below extract from the accommodation schedule underpinning the viability assessment [CD9.2], the proposed 10 no. affordable dwellings (equating to 11.4% by habitable room) are proposed to be provided as 6 no. (60%) Social Rent and 4 no. (40%) Shared Ownership across the 2nd and 3rd floors of Block B:

Unit	Ref	Beds	Unit ft2	Hab Room	Tenure
49	B.02.01	2	667	3	SR
50	B.02.02	2	786	3	SR
51	B.02.03	2	764	3	SR
52	B.02.04	1	538	2	SR
53	B.02.05	1	678	2	SR
54	B.03.01	2	667	3	SR
55	B.03.02	2	786	3	SO
56	B.03.03	2	764	3	SO
57	B.03.04	1	538	2	SO
58	B.03.05	1	678	2	SO

4.2. Of the 6 no. Social Rent dwellings, 4 no. are proposed to be 2-bedroom and 2 no. are proposed to be 1-bedroom.

4.3. Of the 4 no. Shared Ownership dwellings, 2 no. are proposed to be 2-bedroom and 2 no. are proposed to be 1-bedroom.

4.4. Plans identifying the proposed affordable dwellings can be seen at CD8.15 & CD8.16.

5. VIABILITY CONTEXT

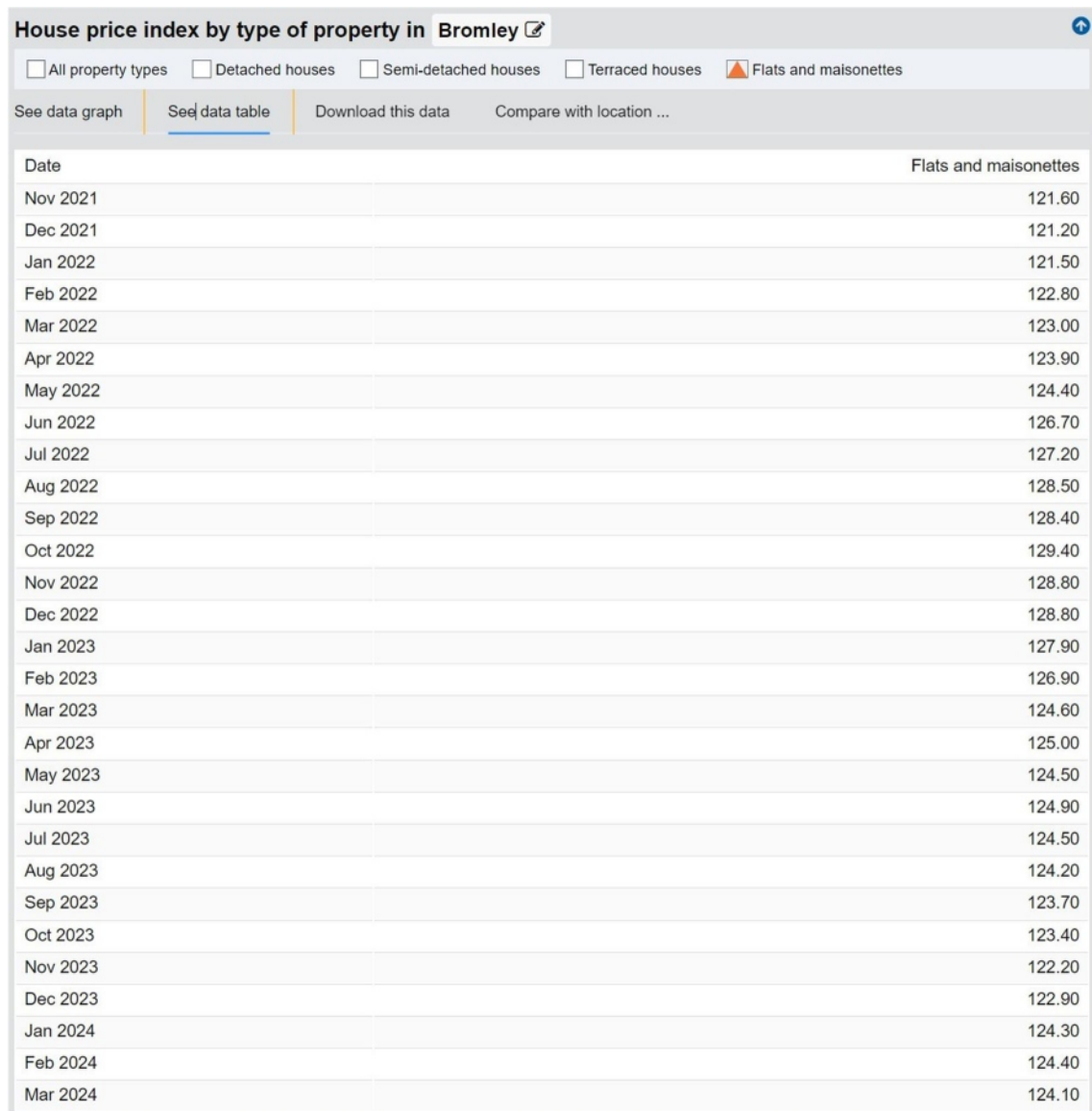
- 5.1. I have been asked to include a section which explains the reasons behind why the November 2021 planning application proposed 35% affordable housing but the viability has recently been agreed at 11.4% affordable housing.
- 5.2. I was only appointed in January 2024. However, I have been instructed on numerous projects which have spanned the 2021-2024 period. I am therefore able to provide an overview about the challenges which the development and construction industries have seen over the last circa 2.5 years (since the application was made in November 2021).
- 5.3. Firstly, a reduction in financial viability over this sort of period is not uncommon. I am involved with numerous schemes where the viable level of affordable housing (and/or other s106 obligations) has needed to reduce in order for schemes to come forward. This can be for a variety of reasons, some of which will be site specific, but generally speaking my experience is that such changes in scheme viability primarily arise from build cost growth exceeding house price growth, although there are also several other contributory factors.
- 5.4. I have outlined below the various changes since November 2021 relative to the Appeal scheme:

- 1. Build Costs: The BCIS All-In Tender Price Index (TPI) has increased by 13.95%, from 344 in 4Q'21 (when the planning application was made) to 392 in Q2'24. This alone suggests a circa £3m+ increase to costs (£22.05m build costs x 13.95%).

Recent changes		
Date	Index	Equivalent sample
1Q 2021	328	Provisional
2Q 2021	331	Provisional
3Q 2021	339	Provisional
4Q 2021	344	Provisional
1Q 2022	349	Provisional
2Q 2022	365	Provisional
3Q 2022	371	Provisional
4Q 2022	375	Provisional
1Q 2023	379	Provisional
2Q 2023	383	Provisional
3Q 2023	386	Provisional
4Q 2023	388	Provisional
1Q 2024	390	Provisional
2Q 2024	392	Provisional

[Whereas]...

- Private GDV: The Land Registry House Price Index (HPI) for Flats & Maisonettes in Bromley has increased by 2.06%, from 121.6 in Nov'21 to 124.1 in March'24 (the latest available period). This suggests a circa £0.5m increase to GDV – based on the original 35% affordable position (£24.34m private GDV x 2.06%).



House price index by type of property in Bromley

All property types Detached houses Semi-detached houses Terraced houses Flats and maisonettes

See data graph | See data table | Download this data | Compare with location ...

Date	Flats and maisonettes
Nov 2021	121.60
Dec 2021	121.20
Jan 2022	121.50
Feb 2022	122.80
Mar 2022	123.00
Apr 2022	123.90
May 2022	124.40
Jun 2022	126.70
Jul 2022	127.20
Aug 2022	128.50
Sep 2022	128.40
Oct 2022	129.40
Nov 2022	128.80
Dec 2022	128.80
Jan 2023	127.90
Feb 2023	126.90
Mar 2023	124.60
Apr 2023	125.00
May 2023	124.50
Jun 2023	124.90
Jul 2023	124.50
Aug 2023	124.20
Sep 2023	123.70
Oct 2023	123.40
Nov 2023	122.20
Dec 2023	122.90
Jan 2024	124.30
Feb 2024	124.40
Mar 2024	124.10

Pausing there for a moment, build costs have increased by over £3m, but private unit values have only increased by circa £0.5m. A number of additional factors then need to be considered...

3. Affordable values: The offers which Registered Providers (RP's) are making on s106 affordable units are generally lower now than they were in Q4'21 (at the time of the planning application). The change is for a variety of reasons but includes the following:
 - RP's are directing more funds towards retrofitting/improving existing stock (especially to rectify issues such as cladding, fire regs, mould, etc).
 - Government-set rent caps are being outstripped by cost growth
 - Interest on their loans has increased due to higher interest rates
 - Loan to value difficulties – due to OMV of units levelling off, etc.

4. CIL: Bromley CIL increased by 14.4% from £100/m² to £114.41/m². Mayoral CIL increased by 14.4% from £60.55/m² to £69.27/m². This results in an additional circa £165,000 at 10% affordable housing.

Index Type	Index on 19 April 2021
1) RICS CIL Index	333
2) All-in Tender Price Index	333
3) Retail Prices Index	293.5

London Borough of Bromley Charging Schedule Rates

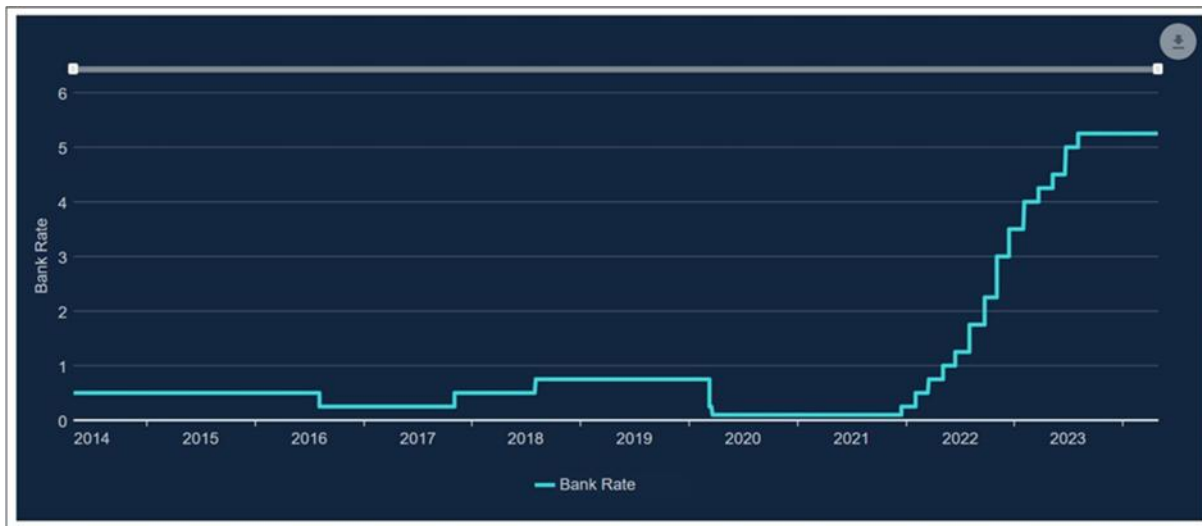
Rates (applicable across the whole administrative area of the London Borough of Bromley)	Charge £ per sqm
Residential development excluding residential development which delivers additional care and support services	£100 per sqm

Mayoral CIL (MCIL2) Rate Summary for Planning Permissions Granted in 2021

Table 1: MCIL2 charging rates for all development in London¹

MCIL2 Charging Band	London Boroughs and Mayoral Development Corporations	MCIL2 Charging Schedule Rate as Adopted 1 April 2019 (£ per square metre)	MCIL2 Charging Schedule Rate Including Indexation for Calendar Year 2021 (£ per square metre) ²
Band 1	Camden, City of London, City of Westminster, Hammersmith & Fulham, Islington, Kensington & Chelsea, Richmond-upon-Thames, Wandsworth	£80	£80.73
Band 2	Barnet, Brent, Bromley, Ealing, Enfield, Hackney, Haringey, Harrow, Hillingdon, Hounslow, Kingston upon Thames, Lambeth, Lewisham, Merton, Redbridge, Southwark, Tower	£60	£60.55

5. Finance Rates: The Bank of England ('BoE') Base Rate has increased from 0.1% in November 2021 to 5.25% – in part due to former Prime Minister Liz Truss' September 2022 'mini budget'], which has had significant knock-on effects to the commercial cost of borrowing.



6. Commercial values/yields: Linked to above comments regarding finance rates, elevated commercial lending rates result in higher borrowing costs, necessitating higher yields to justify investments. Higher commercial yields result in lower capital values – hence the GDV of the commercial scheme elements is negatively affected. For example, the below table summarises the change in retail yields according to the Knight Frank Prime Yield Guide (see [Appendix 2 & 3](#)):

High Street Retail	Nov'21	May'24	Inc/dec
Prime Towns	6.50%	7.00%	+0.50%
Regional Cities	6.50%+	7.25%	+0.75%
Good Secondary	8.25%-8.50%	10.00%	+1.75%-2.00%

7. Sales Rate: High mortgage interest rates has resulted in fewer transactions and therefore a lower sales rate being achieved across new build developments now, compared to Q4'21. This impacts the profile of income which negatively impacts finance costs.

5.5. In addition, there have been changes to the scheme which have impacted the figures, such as the inclusion of the additional staircase resulting in a loss of net/valuable space, etc.

6. CONCLUSIONS

- 6.1. The viability of the proposed development is agreed in that the parties agree that the scheme is non-viable when delivering the proposed 11.4% affordable housing. On this basis it is agreed that the proposed level of affordable housing is the maximum that can be viably provided.
- 6.2. Any improvement in viability will be captured via the agreed early and late-stage review mechanisms set out within the S106 Agreement.
- 6.3. The affordable housing is proposed to be delivered as 60% Social Rent and 40% Shared Ownership which aligns with policy, with the dwellings comprising both 1-bedroom and 2-bedroom apartments.
- 6.4. I understand that Penge Churches Housing Association (PCHA) have recently expressed interest in taking the 10 no. affordable dwellings (see [Appendix 4](#)).

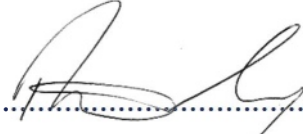
7. STATEMENT OF TRUTH

- 7.1. I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

8. DECLARATION

- 8.1. I confirm that my Proof of Evidence has drawn attention to all material facts which are relevant and have affected my professional opinion.
- 8.2. I confirm that I understand and have complied with my duty as an expert witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.
- 8.3. I confirm that I am not instructed under any conditional or other success-based fee arrangement.
- 8.4. I confirm that I have no conflicts of interest.
- 8.5. I confirm that I am aware of and have complied with the requirements of the rules, protocols and directions of the Planning Appeal.

- 8.6. I confirm that my report complies with the requirements of RICS – Royal Institution of Chartered Surveyors, as set down in the RICS practice statement and guidance note *Surveyors acting as expert witnesses* (2014, amended 2023).



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Partner
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17th June 2024