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# Compulsory Purchase Order Decision

Inquiry Held on 12 & 13 December 2023

Site visit made on 12 December 2023

**by Zoë Franks Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 13<sup>th</sup> March 2024

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**Case Ref: APP/CPOP/L3815/3321240**

**Chichester District Council (Tangmere)(No 2) Compulsory Purchase Order 2023**

- The Order was made under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) and the Acquisition of Land Act 1981 by Chichester District Council.
- The purposes of the Order are for facilitating the carrying out of development of the Tangmere Strategic Development Location to deliver at least 1,000 homes and up to 1,300 homes, an expanded village centre, school, open space, community facilities, associated infrastructure and other associated works to contribute to the promotion and improvement of the economic, social and environmental well-being of the acquiring authority's area.
- The main grounds of objection were that the scheme would prevent access to the Order Land and use of part of a garden, and would be harmful to wildlife; and that the proposed housing and infrastructure is not required as the area is already overcrowded.
- When the inquiry opened there were 4 Remaining Objectors and 1 Non-Statutory Objector. 2 statutory objectors were withdrawn during the inquiry.

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## Decision

1. For the reasons given below and having regard to all matters raised I confirm the Chichester District Council (Tangmere)(No.2) Compulsory Purchase Order 2023 subject to the following modifications
  - i) The removal of references to Plots 9, 9A and 9B in Table 1 and Table 2 of the Schedule to the Order
  - ii) The amendment of the Order Map so that Plots 9, 9A and 9B are no longer shown as areas shaded pink.

## Procedural Matters and Statutory Formalities

2. On 6 July 2023 the Secretary of State confirmed that the decision in this case had been delegated to an appointed Inspector.
3. The Inquiry sat for two days, as detailed above.

4. Chichester District Council ('the Acquiring Authority') confirmed at the Inquiry that all statutory formalities had been complied with as required.

### **Requested Modification**

5. The Acquiring Authority has submitted a request to modify the Order by way of the exclusion of Plots 9, 9A and 9B.
6. This land was proposed to be used as a community orchard which will now be relocated elsewhere within the Tangmere Strategic Development Location ('the Tangmere SDL').
7. As the modification relates to the removal of land from the Order and is not contentious, I am satisfied that no parties would be prejudiced by such variation. I will therefore examine the Order on the terms proposed by the modification.

### **The First CPO**

8. The Order follows the Chichester District Council (Tangmere) Compulsory Purchase Order 2020 ("the First CPO") which was confirmed on 11 November 2021, the purpose of which was to facilitate a very similar scheme.
9. The Inspector appointed in the First CPO found:

*"The Scheme appears viable, there are no other impediments beyond the remaining land assembly, and the developer has the resources, experience and expertise to deliver. The Inquiry was presented with no reasonable basis to conclude that any alternative proposals might represent a realistic and imminent prospect of realising those same clear ambitions of the development plan and so delivering the benefits arising. The purposes of the Order could not be achieved in the absence of compulsory purchase action. It is clear that the Authority has opted to use its powers only as a necessary last resort to address the outstanding acquisitions and that section 226(1)(a) is appropriate."*<sup>1</sup>
10. He therefore concluded that there was a compelling case in the public interest for the use of compulsory purchase powers and that such action was expedient.
11. The main difference in the Scheme in this CPO when compared to the First CPO is that the community orchard is in a different location.

### **Reasons**

#### **The Order Land and Surroundings**

12. The Order Land comprises an area of approximately 77 hectares, located to west of the village of Tangmere, West Sussex, south of the A27. It is predominantly used for agricultural purposes and is separated into fields with a natural fall in level from north to south. It incorporates the same land interests as the First CPO with additional parcels of land adjacent to the A27 roundabout junction which are referred to as Plots 19A and C - F in the Schedule to the Order ('the Additional Land'). These plots were not included in the First Order as they were incorrectly believed to have been adopted highway at the time of its making and confirmation.

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<sup>1</sup> Paragraph 107

## **Statutory provisions and guidance**

13. The Order is made under section 226(1)(a) of the Town and Country Planning Act 1990 ("the 1990 Act"). It enables acquiring authorities with planning powers to acquire land if they think that it will facilitate the carrying out of development, re-development or improvement on, or in relation to, the land being acquired as long as they think that the proposal is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the area.
14. The Guidance on Compulsory Purchase Process and The Crichel Down Rules 2019 ("the CPO Guidance") advises:

"Acquiring authorities should use compulsory powers where it is expedient to do so. However, a compulsory purchase order should only be made where there is a compelling case in the public interest."

## **The Case for the Acquiring Authority**

15. The Acquiring Authority's case has not changed since the making and confirmation of the First CPO. They confirmed that the purpose of the Order is to facilitate delivery of housing, and associated infrastructure, in a sustainable and high quality development and that it will provide for delivery of the planned development of the Tangmere SDL as identified in the adopted Chichester Local Plans: Key Policies 2014 – 2029 and Site Allocations Plan Documents 2014 – 2029 (together 'the Local Plan').
16. The Additional Land in the Order is required to provide appropriate access for the proposed development to the A27. The junction to the A27 will link to the spine road which runs north/south throughout the Scheme, and which provides the central access to the proposed residential development, and is therefore integral to it.
17. The land which was included in the First CPO needs to be included again because the Acquiring Authority cannot acquire any of the land for the purpose of the Scheme unless it can acquire all of it, including the Additional Land. The benefits identified in the First CPO were predicated on the junction with the A27 being provided as part of the Scheme, and the development cannot take place unless the Additional Land can also be secured.
18. As the powers under the First CPO may have expired before this CPO can be confirmed it is necessary to include the totality of the land required in this CPO in order to provide the required certainty.
19. The Acquiring Authority has secured the agreement of all the landowning parties (albeit that some of the objections were not withdrawn until after the opening of the Inquiry).
20. The Acquiring Authority consider that none of the three remaining objections provide any reason not to proceed with confirmation of the Order, and the compelling case necessary to justify the confirmation of compulsory purchase powers has been made out.

## **Considerations**

### *Local Plan and Other Policy*

21. The evidence submitted by the Acquiring Authority, which was not challenged at the Inquiry, is that the Scheme is consistent with the existing planning policy in the Local Plan. In addition the Scheme is also consistent with the emerging Chichester Local Plan 2021 – 2039 ('the Emerging Local Plan') which allocates the Tangmere SDL a minimum of 1300 dwellings.
22. It is also consistent with the National Planning Policy Framework in that it would support the Government's objective of significantly boosting the supply of homes in the area and enable the land to be developed without further delay.
23. The Acquiring Authority submitted that the calculation of Local Housing Need in accordance with national policy is 666 dwellings per annum ('dpa') - this is significantly higher than the housing target in the Local Plan (which is 435 dpa). However, even this lower figure which represents an under-provision requires the delivery of the strategic development locations ('the SDL') identified in the Local Plan, and of which Tangmere SDL is the second largest, but on which clearly development has not yet commenced. The Emerging Local Plan also recognises the need to deliver the Tangmere SDL with it identified as providing 1,300 houses.
24. The Inspector in relation to the First CPO found that the planning policy context is highly supportive of the Scheme. As set out above, the Scheme in this CPO has not changed significantly and I therefore agree that it is supported by the relevant local and national policy.

### *Economic, social and environmental well-being*

25. The benefits to be provided by the Scheme relate to the wider Tangmere area and not just to the proposed new housing. The Scheme is well-related to the existing settlement with the necessary infrastructure. As such it offers multiple social, economic and environmental benefits.
26. As already referred to above, the Scheme is critical to the delivery of housing provision in the district. Clearly such provision will contribute significantly to the economic, social and environmental well-being of the area, as will the provision of the associated infrastructure such as a primary school and enhanced health and community facilities. In addition to providing these new elements individually, it will also strengthen and serve the existing village of Tangmere more broadly.

### *Achievement by any other means*

27. The need for the comprehensive delivery of Tangmere SDL is a policy requirement. This is in order to achieve a complete and high-quality development encompassing both housing and infrastructure. Compulsory powers are therefore required in order to deliver the Scheme comprehensively and to its full potential.
28. Prior to the making of the First CPO, the various landowners attempted to negotiate an arrangement for the development of the Order Land working together as a consortium. However, this did not ultimately result in a scheme

coming forward. The Tangmere SDL is the only identified SDL in the Local Plan where development has not yet commenced, but as the second largest area it is essential that it does so in order to contribute towards the provision of the required new houses, and that it now does so imminently.

29. The First CPO did not include the Additional Land but it is required to provide the junction with the A27, and therefore the required access to the development. This junction is integral to the Scheme and to providing all the benefits arising from it. The First CPO cannot therefore fully deliver the potential identified by that Inspector as it has subsequently been realised that it cannot provide this required access to the A27.
30. It is evident from the long history in relation to the development of the area that the only way to ensure the necessary comprehensive development (including the required infrastructure with the road links) of the Tangmere SDL (and certainly within a reasonable timescale) is through the use of compulsory purchase powers.

#### *Delivery/Viability*

31. The Inspector in the First CPO found that the Scheme appears viable and that the developer had the resources, experience and expertise to deliver it. There is nothing before me to suggest that this is no longer the case.
32. Indeed, the Acquiring Authority's case, which was supported in evidence, is that the development partner, Countryside, has become part of the Vistry Group PLC which in fact increases the financial resources available to it. Countryside has a track record in delivering new homes and the evidence submitted and presented at the Inquiry confirmed the commitment to build out the scheme. Countryside has obtained a planning permission for the amended Scheme (provisional on completing the planning obligation). This adds weight to the ability of the Authority and Countryside to deliver the Scheme within the required timescale.
33. Adding further weight to the likelihood of a timely delivery is undertakings given by the Authority to acquire the land by way a single general vesting order within 6 months of an unchallenged CPO. This indicates a commitment by the Acquiring Authority to undertake the Scheme within a prompt timescale.

#### *Other Impediments to the Scheme*

34. The evidence presented on behalf of the Acquiring Authority is that there is no reason why the planning obligation mentioned in paragraph 32 will not be completed and the planning permission issued in accordance with the resolution. There is nothing before me to conflict with this assertion.

#### **Outstanding Objections**

35. Only three objectors remain, and none of these have submitted any evidence in relation to their original objections. The fact that so few objections remain supports the Council's case that they have used the CPO powers as a last resort, and have also fulfilled their duty to try to make reasonable efforts to acquire relevant rights and interests by agreement in accordance with the guidance.

*Ms Thelma Stone – Statutory Objector*

36. Ms Stone uses her rear gate to access Saxon Meadow and uses a path to the Church. She wishes to continue to use this way from the garden to the Church, and also objects on the basis that the disruption to the wildlife (which will be caused by the development) is not within the interest of the eco-system.
37. There has been no evidence submitted to support the existence of this right of access and way, but even if they did exist I accept that the Scheme requires a secure and coherent boundary treatment as part of the comprehensive redevelopment. If such rights do exist any appropriate compensation can be awarded for their acquisition under the compulsory acquisition compensation scheme.
38. This objection does not therefore provide a basis to withhold confirmation of the Order.

*Ms Julie Warwick – Statutory Objector*

39. Ms Warwick objects on the basis that part of her garden, which was extended by previous tenants over 20 years ago, is on the Order Land. She wishes to retain it as part of her garden and argues that it is a small part when taking into account the overall size of the Order Land.
40. The Acquiring Authority confirmed that there is no evidence of ownership rights from either Ms Warwick or her landlord, and there was nothing before me to indicate otherwise. If any such evidence were to come forward subsequently then this may lead to a right to compensation.
41. Whilst the area concerned may be small when taking account of the overall size of the Scheme the provisional planning permission represents a comprehensive and planned development which requires a clear boundary treatment.
42. There is no reason before me not to proceed with the confirmation of the Order as a result of this objection.

*Ms Laura Plain – Non-statutory Objector*

43. Ms Plain is objecting to the scheme as the area is overcrowded and there are already too many houses with inadequate infrastructure. She is also concerned about the loss of land for food production, and the impact on the deer population and increase in pollution.
44. Ms Plain is not a statutory objector as she does not assert a property interest in the Order Land, and her concerns relate to the wider planning policy in the district and planning merits of the Scheme. However, as set out above, the Scheme is consistent with both the Local Plan and the Emerging Local Plan. The planning merits of the Scheme have already been considered by the Acquiring Authority's planning committee who resolved to grant permission (provisional on the planning obligation). The proper forum to deal with the concerns raised regarding the strategic planning for the district is in relation to the Emerging Local Plan.
45. There is therefore no reason not to confirm the Order on this basis.



## Human Rights and Equality Issues

46. Article 8 (1) of the European Convention on Human Rights provides that everyone has the right to respect for their private and family life, home and correspondence, and Article 1 of the First Protocol to the Convention the right to the peaceful enjoyment of possessions. These rights are clearly relevant when considering compulsory purchase.
47. As the Acquiring Authority has highlighted, the Order Land has predominantly been used for agricultural purposes. There have been no objections or representations made on the basis that there will be the extinguishment of a commercial enterprise or acquisition of residential property (other than possibly in relation to the extended garden and gate as dealt with above although it has not been shown that there are any additional property interests or rights). Indeed, the landowners have withdrawn their objections and any disputes regarding the appropriate financial contribution for those interests can be determined under the compulsory acquisition compensation scheme.
48. In any event, the significant public benefits of the Scheme clearly outweigh any interference with the parties' rights, which would be very limited in this case and would not result in the total loss of anyone's home (again with the limited caveat regarding the loss of the encroached garden areas). The Scheme is therefore proportionate, and there is a compelling case in the public interest sufficiently justifying interfering with the human rights of those with an interest in the land affected.
49. The Public Sector Equality Duty set out in section 149 of the Equality Act 2010 ('the PSED') is the duty to have due regard to eliminating discrimination, advancing opportunity and fostering good relations when making decisions, and applies to the decision on whether to confirm the CPO in this case. It is also the duty to ensure that any decision giving rise to any negative impacts in relation to these aims is informed and made with regard to any less harmful alternative outcome.
50. The Acquiring Authority engaged external consultants to advise on compliance with their duties under the Equalities Act 2010 and they produced an initial Equalities Impact Assessment in respect of the First CPO with two subsequent updates. These assessments made recommendations and an action plan which has been adopted and which the Acquiring Authority has confirmed will continue to be implemented as appropriate.
51. The Acquiring Authority also highlights that the Scheme does not require the relocation of anyone with protected characteristics and has many benefits for the local community. These benefits include increasing the range and quality of new houses with a mix of size, tenure and ownership options with sustainable design to reduce energy usage. In addition the improvements to the local infrastructure will lead to benefits such as increased local convenience shopping, and enhanced social, community, recreation, primary education and healthcare facilities as well as enhanced open space and green infrastructure. These improvements will benefit all residents including those with protected characteristics.
52. I am also satisfied that the Acquiring Authority has taken account of the need to minimise the disadvantages suffered by those with protected characteristics

throughout the CPO process to ensure fair access to it and the ability to participate by all.

53. I am therefore satisfied overall that the scheme does not discriminate against those with protected characteristics and that due regard has been had to advancing opportunity and fostering good relations, in accordance with the PSED.

### **Conclusions**

54. The Scheme is in accordance with the Local Plan and has the benefit of a provisional planning permission. The evidence is that the resources, both financially and in terms of experience and track record, are in place to ensure timely delivery.
55. The CPO is required, notwithstanding that the majority of the land was included in the First CPO, so that all of the land can be acquired at the same time to ensure its delivery. The access to the A27 is integral to the Scheme and the benefits identified in the First CPO cannot be realised unless the Additional Land is also secured through confirmation of this CPO.
56. The outstanding objections are not sufficient to lead to the CPO being rejected or amended.
57. Overall it is concluded that there is a compelling case in the public interest for the CPO to be confirmed, and it was expedient to use those powers. There are no impediments to the development of the Order Land, and there is a good prospect of the Scheme being delivered within a reasonable time scale with no realistic prospect of the Scheme being realised without the CPO.
58. For the reasons given above and having regard to all matters raised I therefore confirm the Compulsory Purchase Order subject to the modifications as detailed above.

*Zoë Frank*

INSPECTOR



## APPEARANCES

### FOR AUTHORITY:

Alexander Booth of King's Counsel,  
instructed by Davitt Jones Bould on behalf  
of Chichester District Council

He called:

Andrew Frost – Director of Planning  
and Environment, Chichester District  
Council

Hannah Chilvers – Principal Planning  
Policy Officer, Chichester District  
Council

Martin Leach – Managing Director,  
Vistry Major Projects

Peter Roberts – Partner, Dalton  
Warner Davis LLP

### FOR THE OBJECTORS:

Annabel Graham Paul of  
Counsel, instructed by Ashurst  
LLP on behalf Bosham Limited  
and Shopwyke Limited

Provided update regarding the status of their  
clients' objections.

Trevor Goode,

Partner - Ashurst LLP

### INQUIRY DOCUMENTS

- ID1 Virtual Pre-Inquiry Meeting Agenda
- ID2 Note of Pre-Inquiry Meeting
- ID3 Notice of Inquiry
- ID4 Status Of Objections Tracker
- ID5 Compliance Letter 28 November 2023
- ID6 Pre-Inquiry Note 4 December 2023
- ID7 Provisional Timetable
- ID8 2 x Deeds relating to Plots 1,3,4 7 5 and 16,17,18 and 19E  
dated 12 December 2024
- ID9 Opening submissions of the Acquiring Authority
- ID10 Closing submissions of the Acquiring Authority