



# BLANDY & BLANDY

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The Secretary of State for Levelling up, Housing  
and Communities

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Our Ref: KVJ/EVA392/1

Your Ref:

Date: 20 June 2023

Dear Sirs

**Chichester District Council (Access Track Off Crooked Lane, Birdham) Compulsory Purchase Order 2023**

**Objector- Mrs Mabel Evans**

**Property- Hedgex Crooked Lane Birdham Chichester West Sussex PO2 7HB**

**Interest in land- Ownership of and rights of way over the access track which runs between the site boundaries of two properties fronting Crooked Lane Birdham (Hedgex and Copperfields)**

We are instructed by Mrs Mabel Evans the freehold owner of property known as Hedgex Crooked Lane. Mrs Evans has neighbouring freehold interests, together with certain rights over and an interest in the access track which is the subject of the Chichester District Council (Access Track Off Crooked Lane. Birdham) Compulsory Purchase Order 2023, which seeks to acquire compulsorily rights in plot 3, 4 and 5 identified on the Order Plan under the Compulsory Purchase Order made on 2<sup>nd</sup> May 2023. Mrs Evans objects to the making of the Order and wishes this objection to be taken into consideration in proceedings considering the Order and whether it should be confirmed.

The rights to be acquired by the acquiring authority are the freehold interest in the land identified on the order plan known as the access track off Crooked Lane Birdham.

The statement of reasons identifies the requirement for the access road to enable Martlet Homes Limited to deliver new affordable social rented homes on the Crooked Lane site for which planning permission has been granted. The planning permission consents construction of an access road from Crooked Lane to the Northeastern boundary of the Crooked Lane site to provide a means of access for the development proposed. The acquiring authority claims it is necessary to promote the compulsory purchase order given the areas of unknown ownership and conflicting claims in respect of plots identified including plots number 3,4 and 5 in which Mrs Mabel Evans has an interest.

Mrs Mabel Evans objects to the acquisition of their rights and interests in the track, and notes that the acquisition compulsorily of these rights together with the rights of neighbours acts as a key to unlocking the development potential of this site. No proper recognition of this

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has been forthcoming from the acquiring authority or the developer. In fact, the standing of the developer to bring this development forward is questioned and the CPO should not be confirmed where there is doubt as to the financial ability of the developer to bring forward a site in accordance with the powers granted by the CPO. The developer company (a wholly owned subsidiary of Hyde Homes) does not appear to the objector to be sufficiently financially sound to bring forward the development proposals, the parent company having been allocated conditional grant funding, and an apparent lack of ready cash being assumed by the decision to sell locally socially rented property in their ownership in Birdham. The objector refers to the published decision of the Regulator for Social Housing Regulatory judgement: Hyde Housing Association Limited dated 29 March 2023. which extends to Martlet Homes Limited and raises some concern that there was a need for In Depth Assessment on continued financial capacity .

The developer will be put to strict proof of the financial viability of the project and their ability to deliver it. The objector understands that there are currently only seven with Birdham connections on the list for this affordable housing, and the purported purpose of offering these dwellings to local people to fulfil a demonstrated need will not be met. The precise proposals for occupation of those without local connections should be revealed in the public interest to give greater transparency to the need for the use of CPO powers .

The objector will put the acquiring authority to strict proof of the need for compulsorily acquiring the access track given that alternative access schemes are available to the Crooked Lane site. It is submitted that the most appropriate and convenient route identified is from the Saltings, and that has not been fully investigated and the impediments advanced to this alternative access could be overcome. This alternative would be a more proportionate and justified route with less impact on the locality and amenity of residents. This is particularly so as the owner of that property owns the remaining 50% of the field included in this development site, currently outside the village settlement boundary, but likely to come forward for development in due course.

The amenity of neighbouring land including Hedgecox would be unduly adversely affected by the proposed CPO and insufficient efforts have been made throughout the planning and CPO process to ensure that the proposals do not have an exceptionally harsh result by way of outcomes for the occupants of Hedgecox. This would be an infringement of the convention on Human Rights as it disproportionately penalises the individual land interests under consideration. The balancing exercise and justification of the case for compulsory acquisition of the access track in the public interest has not been properly demonstrated and the acquiring authority will be put to strict proof of this.

The objector has concerns on the stability of her land given that the levels of the access track and her curtilage differ considerably. The access track is considerably lower than her neighbouring property which is close board fenced at the boundary to ensure there are no health and safety hazards for those using the gardens at Hedgecox. If the track is to be compulsorily acquired to enable development the Objector must be assured that the integrity of her land will be secure and there will be need for shoring up of the bank, with appropriate engineering measures in place to prevent any risk to the stability and integrity of the Hedgecox



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site. It is also of concern that the dwellinghouse itself is within 2.8 meters of the boundary and the attached car port of 2.8 metres width with concrete driveway running to it adjacent to the perimeter fencing, so that it may be that it is not just the gardens that are at risk of subsidence and in need of stabilising work, particularly as widening of the track will be necessary to enable the width to be suitable for the development. The track is currently 3.6 metres wide and cannot accommodate two-way traffic in its current form.

The objector would also wish to see traffic calming measures promised in the planning process guaranteed and some assurances made to reduce noise and traffic impact on the gardens at Hedgecox. The objector notes that the previously prepared road safety audit is now out of date and that proposals for the road have not addressed the changing situation locally, including the capacity of the neighbouring primary school. The objector believes others have raised detailed issues on access and flood risk, matters about which Mabel Evans also has concerns and reserves the right to bring forward further detailed representations on during the CPO process.

The confirming authority has stated in its statement of reasons at paragraph 12 that consultation with the relevant landowners has been attempted and that meaningful attempts at negotiation have been pursued in accordance with the CPO guidance at paragraph 17. The acquiring authority state that they will continue to attempt negotiations in parallel with the making of the order. The objector does not accept that meaningful negotiation has been attempted and the Acquiring Authority has failed to meet the standards set out in CPO guidance to engage with objectors. The objector had commenced without prejudice negotiations in 2018 and, despite continued chasing of the solicitors acting for the developer at that time no progress was made to complete a negotiated settlement. The Objector would like to have those negotiations reopened but has received no approach to date.

In fact, the objector was last approached by Avison Young on the basis that they would like to "pop in" and see her to discuss the proposals. This approach was wholly inappropriate and particularly so given that Mrs Evans is an elderly individual who has lived alone since the death of her husband in 2006. She understandably felt threatened and intimidated by the approach and the way it was advanced. No other attempt to discuss matters has been forthcoming in recent years and it has not been possible for the objector to be reassured on the proposals which appear to her to be continuing without genuine attempts to engage her in the process or seek to meet her concerns.

The objector submits that the Public Sector Equalities Duty in relation to the impact on elderly persons has not been fulfilled and the acquiring authority failed to adjust its procedures in consultation on the proposals for compulsory purchase to take account of the needs of elderly persons who are disproportionately affected by the CPO. Should the CPO be confirmed there has been no consideration of the adverse impact of the construction period to implement the planning permission and its effect on amenity of neighbours. The planning permission did not have any prospect of implementation and it should not have been granted in any event on this basis.



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The objector considers that the attempts to negotiate generally have been negligible and offers previously made have not been reasonable for the interest to be acquired. The objector was in the process of negotiating a settlement some years ago that has not been continued by the developer and was prematurely curtailed. The objector expects and hopes that the rights required in respect of the CPO can be the subject of agreement between the confirming authority and the objector as owner and occupier of parts of the access track.

Notwithstanding the objector makes the points above, as objections in principle to the making of the CPO, the objector recognises, and reluctantly accepts, the expectation that she should enter into negotiations in good faith to reach a negotiated settlement to settle this objection. It is hoped this objection will allow the acquiring authority to offer the necessary reassurances and commitments leading to withdrawal of this objection. On current information and assertions in the Statement of Reasons the objector does not believe the CPO to have been justified based on information received to date. Subject to that justification and sufficient evidence supporting the acquiring authorities full and detailed requirements for compulsory acquisition, it may be possible to agree satisfactory arrangements in respect of the acquisition of the objector's land. The objector continues to seek professional advice on this matter and will consult advisors on any offers of settlement proposed.

The objector hopes to be in a position to withdraw this objection in due course, if her concerns can be satisfied by genuine efforts of the acquiring authority and developer funding the CPO process failing which a case will be made into any public inquiry held into the confirmation of the CPO.

Yours faithfully

*Blandy & Blandy LLP*

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