



**BIRDHAM VILLAGE  
RESIDENTS' ASSOCIATION  
BVRA**

**Bvra objection to use of a CPO, Crooked Lane, Birdham.**

BVRA has been in existence since 2012 has over 200 members and has been a rule 6 objector at 2 local appeal hearings.

The process of getting to this point has been long ( 10 + yrs ) and contentious .

Bvra considers it would be a misuse of CPO powers in this case.

Hyde purchased the land in the full knowledge that it did not own, or have a ROW to use the track. Some would say that was a poor commercial decision, other sites were available at that time, but probable more expensive.

As an exception site, it is intended to meet the needs of Birdham Parish only, but there has never been a large enough need for this development, or now a CPO

There are nearly 240 dwelling in the planning pipeline for Birdham, so affordable need could be met without the use of a CPO.

The Road Safety Audit made almost no mention of the school. The parents and the head teacher are worried about the safety of the children by creating a road junction just by the school entrance.

There is no compelling case in the public interest for this CPO, it should be left as it was classified at the planning stage, “ a private legal matter ”.

Because of the public interest and opposition, if necessary it should end up as a public enquiry.

**Conflict with national policies on important matters**

While the CPO itself might not conflict the actual site did.

Under 2012 version of NPPF para 173 & 177 sites should be deliverable. Most would consider a site without an access as not deliverable.

At the original planning hearing this rule was ignored, problems with the track were classified as a “private legal matter” then 3 yrs later when it is obviously not deliverable and the planning approval was about to run out CDC agreed to amend the wording of conditions to allow a material start.

Which was just pegging out part of the road and putting up about 6 meters of fencing. CDC officers accepted this as a start.

Issues with the track were now classified as “a complex civil matter” still no mention that the site might need a CPO.

We also know from FOI that the site’s owner intends, in the future, to apply for planning permission for the remainder of the field.

Quoting para 6.16 of the 2013 planning hearing briefing notes “*the site does not prejudice the further development of land to the south*”. This is clearly an artificial subdivision of the site contrary to planning rules.

## **Raise Novel issues**

Is it the proper use of a CPO” to get a developer out of a poor commercial decision to purchase, with full knowledge, a site that did not include the access ?

Attached is the history of the track starting in 2010 when CDC planned to buy the site, which is probably best to read first .

Back in 2013 a letter was read out just before the initial planning hearing was started. It was from Hyde’s solicitors “the position regarding the access to the development site on this project has been investigated and we are satisfied that the Association will be in a position to implement the scheme in line with the terms of the application.”

“ Furthermore any issues relating to the ownership of an access or the existence of private rights of way over it, should not constitute material consideration under the Town and Country Planning act 1990 for the purpose of the planning application in this matter”

The letter did not mention that at worst a CPO might be required. Was this misleading to the Planning Committee? Hyde have never been able to implement the scheme.

In CDC’s Public Document Pack For the Full Council Meeting 7<sup>th</sup> March 2023 to vote on the use of a CPO, there was a lot of information, but only the wording that the officer wanted to be seen.

In this pack ( page 51 ) Housing Needs Evidence Para 1.4 , it states : “ The legal transfer of the development site at the time of purchase granted rights of entry and rights of way over the access only so far as the vendor was able to do so.”

Obviously as the claimed ROW was removed from the vendor’s title deeds in 2012 the vendor, was not able to grant Rights of entry or a ROW over the track. But that bit of information was not presented to Councillors. Was this misleading ?

Councillors should have been told : Hyde purchased the site in 2014 knowing full well that it did not include the access track and there was no ROW to use the track.

CDC's code of practice requires a site visit before the application for an exception site is debated. This did not happen, please see attached Committee site visits - code of practice

The debate indicated there was a lack of knowledge about the access track, and its use by farm machinery to access adjacent fields.

So is it the proper use of a CPO” to get Hyde out of a poor commercial decision to purchase a site that did not include the access. A reasonable person would think a site without an access was not deliverable. Which has turned out to be true, and why there is now talk of a CPO. Nobody in CDC or Hyde wants to back down. The amount of time and money spent on this project has got to make a mockery of any cost normally associated with delivering just 15 social housing.

## **Give rise to significant controversy**

This site was contentious from the start. Initially it was the only option looked at, and it was only after public objections that other sites were considered, but really the decision had been made. Documents were released under the FOI : here are just a few

Linda Grange CDC ( Housing ) 28 July 2010 “This is the only potential site in Birdham”

Sam Irving CDC/Hyde ( RHE) 1<sup>st</sup> Sept 2010 “I will need to arrange a consultation session with the community” then a week later on 9<sup>th</sup> Sept “ I need to emphasize the sensitivity of this site and



would appreciate it, if this information, could be kept strictly confidential at this stage as there is some local opposition and we need to tread carefully”

Linda Grange CDC 9 Feb 2011 “CDC have fully committed to this scheme, acting over and above our usual enabling capacity to bring this site forward.“

And from the following exchange, Hyde was obviously worried that correct procedures had been followed at the planning stage. The only reason that Bvra did not instigate a JR was money.

Austin Wade Hyde 21Nov 2013 to Steven Harris CDC “ We are in the process of obtaining a quote for JR insurance but may find ourselves in a position where we wish to implement the planning without cover in place ( this is unlikely but possible). Is the council’s solicitor able to produce a short statement confirming that the LPA has acted accordingly in respect of this application and that it does not believe there is grounds for an order to arise from a JR ?

Steven Harris CDC 21Nov 2013 to Austin Wade Hyde “ I will ask Austin, but I think you should work on the basis that we won’t be able to provide written confirmation to that effect ...”

Birdham Parish Council object  
Chichester Harbour Conservancy object  
Over 80 residents object

The councils case to use a CPO depends on proving a large housing need.  
So there is about 50 pages on Housing need, lots of colourful tables and graphs, proving a large requirement for affordable homes in the Chichester district.

However, this is an H9 Exception Site which comes with it’s own set of rules, these are attached. It is not like a normal development site. An exception site is allowed on land not usually available for building,( in this case building on the AONB ) and one of the rules is that it meets a need of people with a local connection , in this case Birdham, not a need for social housing from other Parishes  
In CDC’s Housing Need Evidence page 18 table 13

in Birdham there are only 7 on housing list A-C and back in 2013 it was only 10.

Only households in bands A-C are considered to be in a high priority housing need.

Also over the resent years the need in Birdham has been met in other ways, Affordable homes :

Longmeadow 10 in July 2013,

Tawney Nursery 12 in Nov 2013,

Rowan Nursery 7 in Mar 2020

And in the planning pipeline

73 dwellings at 3 nurseries on Bell Lane Appeal date 5 July 2023

150 dwellings off Main Road, Birdham Appeal date 12 Sept 2023

14 dwellings Russel Nursery yet to be determined.

All of theses have affordable elements,

Hyde ( Martlet Homes ) are also selling off some of their housing stock in Birdham ( 6 Farne Lane ) which tends to indicate that there is no great need.

Another controversial item is road safety

The school headmaster and parents are concerned about the creation of a road junction opposite the school entrance, which they do not think is in the public interest. The Road Safety Audit was done in January 2013 but did not state the time of the site visit. It did not mention the proximity of the school, but it did say the traffic was light. At the planning stage, decisions on the suitability of the access track used this report. The report is now out of date, the school has had the addition of a

nursery, the traffic is not light, and parked cars remain near the school for most of the day. so a new Road Safety Audit will most likely be required to support a CPO.

### **Have impacts which extend beyond the local area**

It would set a precedence to other developers that they could buy a plot of land without an access, then later, ask the Council to use CPO powers to get one.

### **Conclusion**

BVRA reiterates .there is no compelling case in the public interest for the land affected by the proposed CPO to be acquired, it should be left as a private legal matter.

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