



Orpwood House, School Road, Ardington, Wantage, Oxfordshire OX12 8PQ
Telephone 01235 862888 www.adkin.co.uk

Secretary of State for Transport
Department of Transport
National Transport Casework Team
Tyneside House
Skinnerburn Road
Newcastle Business Park
Newcastle upon Tyne
NEE4 7AR

KP/elc/C/1121a.002

17th March 2023

Dear Secretary of State

THE OXFORDSHIRE COUNTY COUNCIL (DIDCOT GARDEN TOWN HIGHWAYS INFRASTRUCTURE) COMPULSORY PURCHASE ORDER 2022

OBJECTION OF CAUDWELL & SONS LTD

I am instructed by the above party (hereafter referred to as the 'Objectors') to raise an objection to the proposed Oxfordshire County Council (Didcot Garden Town Highways Infrastructure – A4130 Improvement – Milton Gate to Collett Roundabout), A4197 Didcot to Culham Link Road, and A415 Clifton Hampden Bypass) CPO 2022.

The Objectors are the freeholders of land south of the River Thames and north of Appleford Road (B4016) as shown on Sheet 13 of the River Thames Bridge Crossing section, land west of Appleford Crossing as shown on Sheet 11 and land to the north of Thame Lane and west of Oxford Road (B4015) as shown on Sheets 17-19 of the Clifton Hampden Bypass section in the Draft Order. The Objectors are therefore a Qualifying Person for the purposes of their Objection to the Draft Order.

Please could any correspondence in relation to the objection and subsequent public inquiry be directed to Simon Mole, Montagu Evans, 70 St Mary Axe, London, EC3A 8BE (simon.mole@montagu-evans.co.uk) and Kevin Prince, Adkin, Orpwood House, School Road, Ardington, Wantage, Oxfordshire, OX12 8PQ (kevin.prince@adkin.co.uk).

Summary

The Draft Order has been made by Oxfordshire County Council ("the Council") applying for compulsory purchase powers in accordance with the Highways Act 1980 and the Acquisition of Land Act 1981. The Draft Order proposes the improvement of the A4130 and A415 and construction of new highways ("the Scheme").

The Scheme will be constructed on land owned by the Objectors which is currently farmland and ancillary uses, adjacent to allocated sites within the adopted South Oxfordshire District Council's Local Plan for employment and residential led development (Policies STRAT8 and STRAT9).

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Although the Objectors are not against the principle of the Scheme, they do object to the manner in which the Council have conducted themselves during the promotion of the Draft Order completely disregarding the Government Guidance on the use of CPO contained in the Guidance on Compulsory Purchase Process & The Criche Down Rules (February 2018).

The Council's Statement of Reasons

We have reviewed the Council's Statement of Reasons and comment on following sections:

Consultation and Public Engagement – Chapter 7

This chapter states the Acquiring Authority (the Council) has consulted with stakeholders 'extensively' throughout the development of the Scheme including the implementation of a stakeholder engagement strategy which alleged to take on board comments from stakeholders (we assume this was intended to include landowners) in the design of the scheme, taking on board feedback where possible, establish a long-term relationship with key stakeholders and addressing concerns.

In particular to landowners, paragraph 7.4 of Chapter 7 sets out the Council's approach to engaging with landowners. There is a distinct lack of detail in this paragraph which is reflective of the efforts made by the Council and their advisors in properly engaging with landowners. The paragraph mentions 'land access' which we can only assume is in relation to access requirements to land to facilitate survey access. Furthermore, the paragraph goes on to say "major landowners are represented and are aware of the land acquisition principles...." It is not known what is meant by this wording but if the intention was to ensure a minimal approach to negotiating by agreement, then that has been achieved.

We set out below the extent of engagement with the Council's agent (Gateley Hamer) in relation to negotiating an acquisition of land by agreement since the start of the promotion of the scheme:

Date	Nature of Approach
October 2020	Contact re Intrusive Surveys by the Council's agents (Gateley Hamer).
May 2021 to December 2022	We were informed by Gateley Hamer that the final red line plans were awaited before discussions could commence with clients regarding acquisition.
July 2022	CPO authority sought but again communicated to us and clients that preference was for the Council to acquire the land by entering into Options or negotiated agreements.
October 2022	Adkin fees for acting on behalf of our clients in negotiations were agreed.
19 December 2022	Meeting between Adkin and Gateley Hamer to discuss "red line" plans for each client. In fact at that meeting there were different versions of the plans produced and so plans were not left with Adkin.
21 December 2022	Gateley Hamer emailed to the final "red line" plans for each client and indicated that CPO notices would be issued in the New Year.
20 January 2023	CPO notices dated and posted to landowners.
23 January 2023	Gateley Hamer confirmed that they were still not in a position to discuss proposals to acquire land by agreement. Values still needed to be prepared and then approved by the Council and then would be able to meet and start discussing values.

The table demonstrates a lack of proper and meaningful negotiations by the Council. No Heads of Terms have been prepared, submitted or negotiated in advance of making the CPO, a lack of information about the scheme has been provided and there was very little opportunity for input into the "red line" plans prior to the CPO notices. This contradicts with paragraphs 7.9 and 7.15 of the Statement of Reasons which suggests the Council have been in discussions with landowners for acquisition of the necessary land and new rights necessary for the scheme delivery. This has not been the case in relation to this objector where no negotiations have taken place so far on the land and rights required.

Compulsory Purchase Justification – Chapter 10

Paragraph 10.9 of this Chapter correctly states that the Council recognises that compulsory purchase is intended as a last resort to secure the assembly of land and (my emphasis) has taken reasonable steps to acquire the land and rights required to deliver the Scheme by agreement. This wording is broadly in line with the CPO Guidance outlined in Compulsory Purchase Process and The Crichel Down Rules (February 2018).

However this paragraph also incorrectly creates an impression that the Council has been working with landowners to identify means of mitigating the impacts of the Scheme and actively pursuing private treaty negotiations in parallel with the preparation of the CPO. As demonstrated above no negotiations in relation to acquiring the land have taken place. In fact, the first on-site meeting with the Objector to consider the practical implications of the proposed temporary and permanent land take will have on farm accesses, farming operations and other practical business considerations is not scheduled to take place until March 23rd, the day after the window for objections to the CPO closes.

Paragraph 10.11 of this Chapter cross-references to paragraphs 17-19 of the Government Circular guidance stating the Council has “fully considered the Guidance”. Paragraph 17 of the Government Circular guidance confirms: “*Acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted*”. The extent of negotiations with landowners is summarised in paragraphs 10.17-10.18 and then specifically at 10.22-10.23 in respect of the section affecting this objector. There is scant evidence of any negotiations at all, let alone meaningful ones. “Fully considered” is a completely different test to “abided by” or “fully met” so we assume the Council are admitting their failure to meet the justification steps set out in the Government Circular guidance.

Paragraph 19 of the Government Circular guidance references the uncertainty and anxiety for owners and occupiers of affected land. It sets out points which should be considered by Acquiring Authority including:

- Providing full information from the outset about what the compulsory purchase process involves, the rights and duties of those affected and an indicative timetable of events; information should be in a format accessible to all those affected.
- Offering to alleviate concerns about future compensation entitlement by entering into agreements about the minimum level of compensation which would be payable if the acquisition goes ahead.
- Providing a ‘not before’ date, confirming that acquisition will not take place before a certain time.
- Where appropriate, give consideration to funding landowners’ reasonable costs of negotiation or other costs and expenses likely to be incurred in advance of the process of acquisition.

The Council, in this case, has failed to adhere to any of the considerations listed in paragraph 19 of Government Circular guidance. Information about the scheme has been difficult to obtain with incorrect plans provided, no terms have been offered setting out future compensation entitlements and a ‘not before date’ has not been forthcoming.

Paragraph 10.12 of the Statement of Reasons states “all owners and occupiers will be given the opportunity to enter into negotiations...” We consider this is a strange statement to make, suggesting that the ‘opportunity’ to enter into negotiations is something which will happen post the making of the Order, as has been the case here. Again, this contradicts Government Circular guidance. Paragraph 10.14 of the Statement of Reasons states “*the approach adopted by the Acquiring Authority is in accordance with the policy advice and recognised good practice*”. We have demonstrated the approach taken by the Council in this case is not in accordance with policy advice and our experience, not recognised good practice.

Paragraphs 10.19 to 10.27 (incorrect numbering) set out the details of each three elements of the scheme and the approach to negotiations. We note there are 54 interests listed in these sections and so far the Council have agreed terms with 2 parties representing a very poor return.

Failure to Minimise the Extent of Compulsory Acquisition

Through a lack of meaningful negotiation and information sharing the Council has failed to demonstrate it has sought to minimise the extent of its scheme and CPO. By way of example, we attach below an extract from General Arrangement Drawing 13 together with the corresponding CPO Map. Helpful the CPO red line boundary is shown on the General Arrangement Drawing dashed in red. In particular there is an area of land sought to be acquired (plots 13/3a and 13/4a) where there are no features or road elements shown on the General Arrangement Drawing. It is not clear why this land has been included in the Order and suggests the design of the scheme and proposed CPO red line acquisition boundary is excessive. Additionally, there is still confusion over whether this land is to be acquired permanently or temporarily as on papers provided to the Objector it is listed and identified as temporary land take and therefore assumed will be returned to the landowner.

Summary

Government Circular guidance confirms the very high standards that must be satisfied to justify compulsory purchase, depriving a landowner of their constitutional human rights. This has been reinforced in the recent CPO decisions of the London Borough of Barking and Dagenham Council (Vicarage Field and surrounding land) Compulsory Purchase Order 2021 and the Royal Borough of Windsor & Maidenhead (Nicholsons Shopping Centre) Compulsory Purchase Order 2022. In both cases the Acquiring Authorities were criticised for delay and failing to engage properly with affected landowners and occupiers. In both cases there were some attempts to negotiate in advance of making the Orders whereas for this CPO no attempts have been made in advance of making the Order.

We would respectfully request that for the reasons given, the Inspector gives due consideration to the objections raised and does not approve the Order as drafted.

Yours Sincerely



Kevin Prince MRICS FAAV
Director
kevin.prince@adkin.co.uk
Direct Line: 01235 434384