



Ministry of Housing,
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Dear Mr Robinson

**The Town and Country Planning Act 1990: Section 226(1)(a)
Acquisition of Land Act 1981
The London Borough of Barnet (Brent Cross Cricklewood) Compulsory
Purchase Order (No. 3) 2016 ('Order')**

- 1 The report of the Inspector, Philip J Asquith MA(Hons) MA MRTPI who held a public local inquiry into the above order between 5 September and 13 September 2017 has been considered. A copy of the Inspector's report is enclosed. References in this letter to paragraphs in the Inspector's report are indicated by the abbreviation IR, followed by the relevant paragraph number. Cross references to other paragraphs in this decision letter are indicated by the abbreviation DL, followed by the relevant paragraph number.
- 2 The Order was made under section 226(1)(a) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981 by the London Borough of Barnet ('the Council') on 7 September 2016. If confirmed, the Order would authorise the compulsory purchase of the Order lands as summarised at IR 14-23. The Order land forms part of a wider Brent Cross Cricklewood regeneration area scheme ('BXC scheme'), which in total amounts to a site of some 151ha. The Order is the third compulsory purchase order made by the Council to facilitate the delivery of the BXC scheme. The London Borough of Barnet (Brent Cross Cricklewood) Compulsory Purchase Orders (No. 1 & 2) ('CPOs 1 and 2) were made by the Council on 20 April 2015 and confirmed by the Secretary of State on 7 December 2017. The purposes of the Order are for facilitating development, redevelopment and improvement of the Order lands by way of a mixed use scheme comprising commercial, retail, residential, hotel, conference and leisure, community facilities, car parking, infrastructure and highway works, new rail station, station buildings, railway sidings, rail stabling facilities and associated rail infrastructure, rail freight facilities, a waste transfer facility, public realm and environmental improvement works.

Inspector's recommendation and summary of the decision

- 3 The Inspector has recommended that the Order be confirmed subject to the modifications set out at IR 10. The Secretary of State agrees with the Inspector's conclusions concerning the Order, except where stated, and agrees with his recommendation, and has decided to confirm the Order with the modifications to correct the rights descriptions for Plots 36, 37 and 38 as set out in IR10.
- 4 The Inspector's Report contains a description of the Order Lands at IR 14-23. The Inspector's Report summarises the parties submissions made at the local inquiry at IR 24-243. The Inspector's overall conclusions on the Orders are set out in IR 244-277 and his recommendation is at IR 278.

Procedural matters and statutory formalities

- 5 The Secretary of State notes that the Council confirmed all statutory formalities had been complied with and there are no Protected Assets within the Order lands (IR 11). Thirteen relevant objections to the Order were received, two were withdrawn before the start of the inquiry and all but two had been withdrawn by the end of the inquiry, and six non-qualifying objections.
- 6 The Secretary of State notes that Ms N Choudhury, requested by letter dated 11 September 2017 the time and opportunity to submit a detailed late objection to the Order (IR 5). This request was opposed by the Council by letter dated 12 September for the reasons summarised at IR 5. The Secretary of State notes that the Inspector responded to Ms Choudhury's request by email on 12 September 2017 agreeing with the Council's reasoning as to why he should not accede to her request (IR 6). On 13 September 2017, the Secretary of State notes that Ms Choudhury responded to the Council's response of 12 September 2017 and reiterated her request to be able to submit a detailed late objection to the Order (IR 7). Having heard from Ms Choudhury in person, the Secretary of State notes the Inspector ruled that he was not prepared to accept a late objection from Ms Choudhury, for the reasons given by the Council (IR 9).
- 7 The Secretary of State notes that Ms Choudhury also requested that he should reconvene the inquiry to allow for further objections (IR 9). The Secretary of State has given careful consideration to this request to exercise his discretionary power to reopen the inquiry, pursuant to rule 18(6) of the Compulsory Purchase (Inquires Procedure) Rules 2007, but considers it is not necessary to do so. The Secretary of State considers that Ms Choudhury's concerns mainly relate to CPOs 1 and 2. He notes Ms Choudhury does not have a qualifying interest in the Order Lands. He further notes that Ms Choudhury objected to CPO 2 and gave evidence to that public inquiry in respect of CPO 1. He considers that the Whitefield Estate residents had the opportunity during the 20 day public inquiry into CPOs 1 and 2 to put forward objections to those Orders. He considers that the Council complied with all requirements for publishing and advertising the Order and that the appropriate objection period was observed. Overall, the Secretary of State agrees with the Inspector's conclusion at IR 274 that there is no cogent justification for re-opening the inquiry into the Order for fresh objections to be made.

Matters arising since the close of the inquiry

- 8 On 23 March 2018 the Secretary of State wrote to remaining objectors to afford them an opportunity to comment on the following matters:-
- a The publication on 7 December 2017 of the Secretary of State's decision to confirm The London Borough of Barnet (Brent Cross Cricklewood) Compulsory Purchase Orders (Nos 1 & 2) 2015 (<http://brent-cross-cricklewood.persona-pi.com/>)
 - b The potential Public Sector Equality Duty ('PSED') impacts arising under section 149 of the Equalities Act 2010 (<https://www.legislation.gov.uk/ukpga/2010/15/section/149>); and
 - c The publication on 28 February 2018 of the updated Guidance on the Compulsory Purchase Process and the Crichel Down Rules (<https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance>) ('CPO Guidance')
- 9 The Secretary of State received responses from Gina Emmanuel raising concerns, in summary, regarding the consultation process and concerns regarding details of the related planning applications. The Secretary of State also received a response from Eversheds-Sutherland on behalf of the Council. In summary, the Council consider that the confirmation of CPOs 1 and 2 strengthens the case for the confirmation of the Order, that they addressed PSED issues at the public inquiry, and the publication of the updated CPO guidance and, in particular, the reintroduction into the CPO Guidance at paragraph 106 of the additional factor as to the potential financial viability of the scheme and availability of funding was addressed by the Council in evidence and at the inquiry.
- 10 The Secretary of State received a further representation from Gina Emmanuel in response to Evershed-Sutherlands response which, in summary, raised additional concerns regarding the consultation process, the financing of the scheme, and PSED issues, particularly regarding public transport links and the potential impacts on the elderly, and those with disabilities or mobility issues.
- 11 The Secretary of State also received two letters of complaint from John Cox regarding the administration of the Order. While these complaints will be responded to separately under the internal complaints procedure, the letter also commented on the issues in the Secretary of State's letter of 23 March set out at DL 8 above. In summary, Mr Cox raised concerns regarding the consultation process, public transport links and the potential impacts on those with disabilities or mobility issues.
- 12 A response from Lia Colacicco, a London Borough of Brent councillor was also received by the Secretary of State raising concerns, in summary, regarding the design of and access to the proposed railway station.
- 13 The Secretary of State has carefully considered all of the responses received from the reference back exercise and has taken account of the matters raised by parties in their representations when making his decision on the Order.

Policy Considerations

- 14 Paragraph 106 of the CPO Guidance refers to certain factors in consideration of which the Secretary of State's decision on the Order is made.

Planning framework

- 15 The Secretary of State agrees with the Inspector for the reasons given at IR 245-246 that the purposes for which the Order lands are being acquired fits with the adopted planning framework for the area. He also takes account of the fact that the BXC scheme benefits from outline planning permission with reserved matters approval granted for early phases of the development (IR 246).

Well-being

- 16 The Secretary of State has carefully considered the Inspector's analysis at IR 247 – 253, of the extent to which the purposes of the Order will contribute to the improvement of the economic, social or environmental well-being of the area. The Secretary of State agrees with the Inspector that wellbeing is promoted by the BXC scheme by providing significant social, economic and environmental benefits to an area identified as an 'Opportunity Area' in the Council's Core Strategy and the London Plan (IR 247). He agrees with the Inspector's analysis for the reasons given as to the current condition of the Order Lands (IR 247) and the key benefits of the overall BXC scheme which include: the provision of a new town centre; additional retail floorspace; new homes; job creation; improvements to public transport; transport infrastructure and connectivity; additional community facilities; environmental and townscape enhancements; open space provision; and the remediation of contaminated land (IR 248). He agrees with the Inspector's conclusion that the BXC scheme as a whole would fulfil an economic, social and environmental role (IR 249).
- 17 The Secretary of State agrees with the Inspector for the reasons given that the Order Lands are a fundamental and integral part of the wider BXC scheme, and that it is difficult to isolate the particular benefits of development on the Order Lands from the benefits of the wider BXC scheme (IR 249). However, he agrees with the Inspector that development on the of the Order Lands would have specific benefits including: the provision of a new Thameslink station (BXT) increasing accessibility to BXC; the provision of the Midland Mainline (MML) Bridge increasing integration and allowing public transport connections from Edgware Road to the new town centre; the development of significant commercial and residential developments in the Station District; environmental and road infrastructure improvements; and the re-provision and re-siting with modern facilities of a Rail Freight Facility ('RFF') and a Waste Handling Facility ('WHF') (IR 250).
- 18 Overall, the Secretary of State concludes that the requirements of Section 226(1)(a) of the Town and Country Planning Act 1990 are satisfied because he considers, in agreement with with the Inspector, that development of the Order Lands will contribute clearly and positively to the improvement of the economic, social and environmental well-being of the area. (IR 276)

Delivery and resources

19 The Secretary of State has carefully considered the Inspector's analysis at IR254 to 257 regarding delivery and resources. Overall, and in accordance with paragraphs 13, 14 and 106 of the CPO Guidance, the Secretary of State agrees with the Inspector's conclusions for the reasons given that there is no evidence to suggest that the part of the BXC scheme relating to the Order lands would not be adequately resourced and delivered (IR 257).

Alternatives

20 Having carefully considered the Inspector's analysis at IR 258-261, and noting that no alternative proposals for the re-use of the Order Lands have been put forward, the Secretary of State agrees with the Inspector for the reasons given that the purpose for which the Council is proposing to acquire the land could not be achieved by any other means.

Impediments

21 The Secretary of State has had regard to the Inspector's consideration of the possible impediments to the scheme at IR 263 to 266, and considered, among other things, paragraph 15 of the CPO Guidance. The Secretary of State notes that outline planning permission has been issued for all of the land uses forming the BXC scheme, and further notes that separate reserved matters and other 'drop-in' approvals will be necessary for different elements (IR 262). He agrees with the Inspector's analysis at IR 262 that while concerns have been raised regarding the RFF, WHF, and the relocated rail stabling and sidings, these relate primarily to possible impacts on amenity and are matters that would be addressed through consideration of the applications as part of the planning process. He also agrees with the Inspector for the reasons given (IR263) that there are no obvious reasons why permission might be withheld for these or other elements relating to the BXC scheme. Overall, and for the reasons given by the Inspector, the Secretary of State agrees with the Inspector's conclusion at IR 266 that the development for which the Order lands are required is unlikely to be blocked by any impediments to implementation.

Remaining objections

22 The Secretary of State has carefully considered the Inspectors analysis at IR267-271 regarding the remaining objectors to the Order. *As to Palmbest Ltd, Batleys Properties Ltd and Bestway Wholesay Ltd's* objection, the Secretary of State agrees with the Inspector's conclusion for the reasons given at IR 267-269 that the compulsory acquisition of the lands subject to the objection is justified in the public interest (IR 269). *As to Cemex UK Operations Limited* objections, the Secretary of State agrees with the Inspector for the reasons given at IR 270-271 that the Council have made reasonable efforts to assist the remaining objector in its search for alternative premises and compulsory purchase would be justified in the public interest in order to avoid comprising the considerable social, environmental and economic benefits to be derived from the BXC scheme.

Non-qualifying objectors

23 The Secretary of State has carefully considered the concerns raised by the non-qualifying objectors and the acquiring authorities response to each at IR

159- 243. While concerns have been raised by Alisdair Bethley, Phil Fletcher and others regarding the potential environmental impacts of the development, the Secretary of State notes that an Environmental Impact Assessment has been undertaken (IR 164). He further notes that planning conditions were inserted to the planning permission in relation to air quality, that there is a requirement for monitoring and mitigation, and the Council's view at IR 164 that the Council were satisfied that the environmental impacts of the development would be satisfactory.

- 23 Concerning John Cox's objections regarding consultation, un-deliverability, alternative transport options and unfair state aid, the Secretary of State notes in IR 175 -178 that the Council have undertaken consultation in accordance with statutory requirements and that the Council have a joint venture partnership, and are confident that the scheme can be delivered. The Secretary of State further notes, in IR 180 that the Council consider the proposed Brent Cross Thameslink Station to be the most appropriate solution and that it accords with development plan and Local Plan policies. He also agrees with the Council's view in IR 182 to 185 that incorporating a potential Dudding Hill Line into the proposed Station is a matter for the promoters of such a scheme, and is not a reason to delay the provision of the Brent Cross Thameslink Station. The Secretary of State notes Mr Cox's objection regarding state aid, and considers that as the Order would empower the Council to acquire the Order Lands, it cannot be considered to constitute state aid.
- 24 Regarding Galabina Yordanova's objection, the Secretary of State agrees with the Council's view in IR 194 that the objection relates more closely to CPO2 and notes in IR 195 that an advisor has been appointed to represent residents on the Whitefield Estate.
- 25 The Secretary of State has considered the objection made by Gina Emmanuel and while some of the concerns raised have been addressed above, this objection also raises concerns regarding pedestrian/cycling routes, public transport concerns, green space, affordable housing, the WHF and incinerator, verification of commercial figures and measurements, space to the rear of Brent Terrace, re-phasing, concerns regarding asset management and governance arrangements. The Secretary of State has considered the Council's detailed response in IR 213 to 225, and is satisfied that the concerns raised have been addressed by the Council and do not represent an impediment to the delivery of the scheme.

Modification

- 26 The Secretary of State notes an error in referencing rights descriptions in the Order and the Council's request to modify the Order accordingly as set out at IR 10. Having regard to the Council's request and paragraph 40 of the CPO Guidance, the Secretary of State agrees with the Inspectors conclusion at IR 275 that it will be necessary to modify the Order to correctly identify the Plots that would relate to the Midland Mainline Bridge works and the Pedestrian Link works.

Human Rights

- 27 The Secretary of State has carefully considered whether the purposes for which the compulsory purchase order was made sufficiently justify interfering with the human rights of those with an interest in the land affected by the Order. In particular, he has considered the provisions of Article 1 of the First Protocol of the European Convention on Human Rights. The Secretary of State agrees with the Inspector that the purposes for which the Order was made sufficiently justify the proportionate interference in the public interest with the human rights of qualifying persons under section 12(2A) of the Acquisition of Land Act 1981 (IR 272).

Public Sector Equality Duty

- 28 The Secretary of State has considered the Equality Act 2010. Section 149 of the Equality Act 2010 introduced a public sector equality duty, that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In making this decision, the Secretary of State has had due regard to the requirements of the Public Sector Equality Duty, and has sought representations from parties as to the potential equalities impacts arising.
- 29 In this regard and in coming to his decision, the Secretary of State considers that the confirmation of the Order may have negative and positive impacts on protected groups, and in particular persons with the protected characteristics of age and disability. The potential negative impacts on protected groups include concerns raised by objectors regarding access to public transport. In particular, access to and around the proposed Thameslink Station for those with mobility issues has been raised as a concern by objectors. The Secretary of State considers that mitigation measures have been put in place by the Council in the Integrated Transport Strategy which forms part of the S73 planning permission. This seeks to ensure improved connectivity though and within the Brent Cross Regeneration Scheme area and to mitigate as far as possible the potential negative impacts on protected groups. The potential positive impacts on the protected groups include the provision of affordable housing, the creation of educational and recreational facilities, improved transport links, and accessibility.

Justification in the public interest and overall balance

- 30 The Order should be confirmed only if there is a compelling case in the public interest to justify sufficiently the interference with the human rights of those with an interest in the land affected. The Secretary of State agrees with the Inspector that the purposes for which the Order Lands are being acquired is supported by the adopted planning framework for the area (IR 245-246). The Secretary of State agrees with the Inspector and considers that the proposed purpose of the Orders will significantly contribute to improvement of the economic, social and environmental well-being of the area (IR 276). The Secretary of State agrees with the Inspector that the potential viability of the scheme has been demonstrated and that there is a reasonable prospect that

the scheme will proceed (IR 254-257). The Secretary of State agrees with the Inspector that the purposes for which the Council is proposing to acquire the Order Lands could not be achieved by any other means (IR 258-261). The Secretary of State considers that reasonable steps have been taken by the Council to acquire the remaining objector's land by agreement. The Secretary of State agrees with the Inspector that the purposes for which the Order Lands would be acquired and the benefits of the scheme justify interfering with the human rights of those with an interest in the land affected (IR 272). The Secretary of State has also had due regard to the Public Sector Equality Duty in considering whether to confirm the Orders (DL 28-29). Overall, the Secretary of State agrees with the Inspector and concludes, in his judgment, that the benefits of the Order sufficiently justify interfering with the human rights of those with an interest in the Order Lands and consequently that there is a compelling case in the public interest for the confirmation of the Order (IR 277).

- 31 The Secretary of State has therefore decided to accept the Inspector's recommendation and to confirm the London Borough of Barnet (Brent Cross Cricklewood) Compulsory Purchase Order (No. 3) 2016 with the modifications set out at IR 10.
- 32 I enclose the confirmed order and the map to which it refers. Your attention is drawn to section 15 of the Acquisition of Land Act 1981 about publication and service of notices now that the order has been confirmed. Please inform us of the date on which notice of confirmation of the order is first published in the press.
- 33 Copies of this letter and the Inspector's report are being sent to remaining objectors.
- 34 This letter does not convey any other consent or approval in respect of the land to which the order relates.

Yours sincerely

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Steve Jewell

Stephen Jewell
Planning Casework Unit Team Leader