



Compulsory Purchase Order Decision

Site visit made on 15 June 2021

by **O S Woodward BA(Hons.) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Case Ref: APP/PCU/CPOH/A3655/3264364

The Woking Borough Council (Sheerwater Regeneration) Compulsory Purchase Order 2020

- The Compulsory Purchase Order was made under section 226(1)(a) of the Town and Country Planning Act 1990 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 on 12 October 2020.
 - A separate Notice of Intention to issue a Certificate under Section 19(1)(a) of the Acquisition of Land Act 1981 was also made by Woking Borough Council on 25 August 2021.
 - The purpose of the Order is to facilitate the carrying out of the development, redevelopment and improvement of land in the Sheerwater area of Woking to provide new housing including assisted living properties, a community centre, a nursery, a leisure centre, retail units, a health centre, landscaping, open space, playspace, and associated works.
 - The New Rights are for crane oversailing over a number of properties falling outside the Order Lands on Albert Drive, St Michael's Road, Devonshire Avenue, Dartmouth Avenue and Broadmere Community Primary School.
 - There are no remaining qualifying objections and one remaining non-qualifying objection, on the grounds of lack of engagement and clarity on the proposals by Woking Council, and concerns about construction.
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Decision

1. That the Woking Borough Council (Sheerwater Regeneration) Compulsory Purchase Order 2020 (the Order) is confirmed.

Statutory Formalities and Preliminary Matters

2. Woking Borough Council is the Acquiring Authority (the AA). It has confirmed that all necessary statutory formalities have been complied with. No objections have been raised in this regard.
3. Six objections were received by the Secretary of State. All five qualifying objections have been withdrawn in writing, by Unity Schools Trust on 3 March 2021, Mr Richard Aubry on 18 April 2021, Mrs Agrawal both by herself and on behalf of Parmar Supermarkets Ltd on 20 May 2021, and by Newsteer on behalf of McLagan Investments Ltd & ASDA Stores Ltd on 7 June 2021. There is one remaining non-qualifying objection, by Mrs Bracken.
4. Several roads need to be stopped-up, either in full or in part. The AA have made applications for this, under s247 of the Town and Country Planning Act 1990 (as

amended) (TCPA 1990). Two of the orders were confirmed on 26 April 2019¹ and 23 April 2021². Two of the orders³ have not yet been determined and there remain two objections, both from statutory utility companies. The AA do not foresee any reasons why these stopping-up orders should not be secured and, given that the only remaining objections are from statutory companies and are likely to be able to be resolved, I agree. Between them, these applications cover all of the relevant highways, and I therefore do not consider the stopping-up orders to be an impediment to the implementation of the Order.

5. The Secretary of State certified⁴, on 19 November 2021 under Section 19 of the Acquisition of Land Act 1981, that the replacement open space land as part of the Order would be equally advantageous to persons with interest in the land and the public as the existing open space on the land.
6. I undertook a site visit on 15 June 2021, including visiting the Bishop David Brown School.
7. A revised National Planning Policy Framework (the Framework) was adopted in July 2021. I offered the AA the opportunity to comment on the revised Framework and I have reflected the revised Framework as appropriate throughout my decision letter.

The Order Lands and Surroundings

8. The Order Lands comprise 29.94 ha of land, including residential premises and gardens, commercial premises, open space and woodland within the Maybury and Sheerwater ward, bounded by:
 - Basingstoke Canal to the north;
 - Wakehurst Path and other properties to the west;
 - Bunyard Drive, Albert Drive, St Michael's Road, Dartmouth Avenue and Devonshire Avenue to the south; and,
 - The backs of the properties along Lambourne Crescent to the east.
9. In more detail, there are 573 residential units in the Order Lands, which make up the bulk of the existing development. There is also a parade of shops and a number of community and recreation buildings, including a health centre, dentist, nursery, children's centre, and a community centre. The majority of buildings in the area are two-storey, although the local centre is defined by a four-storey mixed use block and surrounding three-storey residential blocks. Much of the building stock is in poor condition, mostly dating from a 1950's post-war development.
10. There are some small pockets of open space in the Order Lands, and also extensive sports and play facilities, a recreation ground, school playing fields, an athletics track, and other open space, located along the northern boundary alongside the canal.
11. Some of the properties along the north side of Devonshire Avenue, and the Broadmere Primary Academy and Bishop David Brown Secondary schools and some of their grounds, are excluded from the Order Lands.

¹ Ref NATTRAN/SE/S247/3552

² Ref NATTRAN/SE/S247/4541

³ Refs NATTRAN/SE/S247/4711 and NATTRAN/SE/S247/4748

⁴ Ref PCU/S19/A3655/3267507

The Development

12. The Order has been made to assemble the land and interests necessary to facilitate the carrying out of the works associated with a hybrid part-full/part-outline planning permission⁵, dated 27 July 2016, as amended by s73 planning permission⁶ and a further hybrid part-full/part-outline planning permission⁷, both dated 18 April 2019. Combined, these planning permissions provide for the demolition of 573 dwellings and several existing non-residential buildings and sports facilities, including the recreation ground, play areas and athletics track. It is proposed for redevelopment of the site to provide: up to 1,142 dwellings, of which c.523 are to be affordable housing and of these up to 134 are to be assisted living units (hybrid Class C2/C3); a community/youth centre; a nursery; a leisure centre; retail; a health centre (Class D1); a dentist; new classrooms for the primary school; sports facilities including an artificial grass pitch; a multi-use games area (MUGA); skate park; improvements to Bishop David Brown School playing fields; hard and soft landscaping and open space; car parking; and, infrastructure and access works.
13. A s106 Planning Obligation, dated 17 April 2019, associated with planning permission Ref PLAN/2018/0337, secures the affordable housing, mitigation for effects on the Thames Basin Heaths Special Protection Area, local labour agreements, off-site tree planting, and Sustainable Urban Drainage Systems.
14. The masterplan is for residential development throughout the site, mostly low-rise at two to three-storeys, although with areas rising up to six-storeys, centring on the commercial heart of the development, running alongside Dartmouth Avenue. A large area of open space to the centre of the development is also planned, along with a further finger of open space leading north towards the river, and open space alongside the river itself. There are to be further pockets of open space throughout the development. Several playspaces are proposed, both to the main area of open space to the centre of the site and within smaller pocket parks throughout the area. The skate park and MUGA are to be within the main area of open space to the centre of the site. Substantial sports facilities are proposed to the northern part of the site, including a cricket pitch, small running track, '5G' pitch, a rugby pitch, and a leisure centre. This is largely within the land currently used as playing fields for the schools.
15. The Scheme is phased. The earlier phases, including the leisure centre and the earliest residential phases, began in July 2019 and are complete. Other residential phases are currently under construction, as I witnessed on my site visit. These works have been undertaken on land already owned by the AA. The planning permissions are in full for the earlier phases, as already constructed or under construction, and in outline for the later phases. There are proposed to be five reserved matters applications which will enable delivery of the latter phases of the Scheme. The overall timescale is expected to be six years and four months.

⁵ Ref PLAN/2015/1260

⁶ Ref PLAN/2018/0374

⁷ Ref PLAN/2018/0337

Reasons

16. The latest national guidance⁸, at paragraph 106, lists the factors to be considered for the purposes of an Order made under Section 226(1)(a) of the TCPA 1990. My conclusions are framed around these considerations, as follows.

Planning policy

“whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and the Framework”

17. The Scheme and Order Lands are largely on the same land as that covered by Policy CS5 of the Woking Core Strategy 2012. Policy CS5 identifies Sheerwater as one of two ‘priority places’ in the Borough, promotes the provision of new housing and affordable housing, an increased retail offer, and enhanced open space and public realm. The emerging Site Allocations Development Plan Document, which underwent Regulation 19 consultation in 2019, also allocates the Order Lands through emerging Site UA25. The site is allocated for regeneration including residential, retail, open space and leisure facilities. The Scheme is a comprehensive regeneration with substantial elements of market housing, affordable housing, retail, new open space, and sports and leisure facilities, including a new leisure centre, improved playing pitches for the schools, and a large proposed public park. It matches the policy vision for the Sheerwater ‘priority place’ and complies with both the adopted and emerging site specific policies.
18. Specifically, the emerging policy seeks no net loss of affordable housing and either the retention of the athletics track and playing fields or their relocation to an accessible location within the Borough. There would be no net loss of affordable housing, and indeed the Scheme includes affordable housing of significantly higher quality than as existing, with increased unit sizes, increased family housing provision, and an overall step-change in quality of the accommodation. In addition, the Scheme secures sufficient provision for vulnerable tenants currently residing in the one-bedroom properties and studio flats. The existing athletics ground, which was not publicly accessible, has already been re-provided elsewhere in the Borough. The proposal therefore accords with these specific policy requirements.
19. Paragraph 121 of the Framework requires that Council’s take a pro-active role in identifying and bringing forward land that may be suitable for meeting development needs, supported where necessary by compulsory purchase powers. This is precisely as has been proposed by the AA. The Scheme also complies with the key sustainable development principles set out in Paragraph 8 of the Framework, by providing a comprehensive, mixed-use regeneration of a highly accessible, brownfield site, near the centre of a town.
20. Overall, the Scheme generally reflects the provisions of adopted and emerging planning policy and is consistent with current and emerging policy objectives.

⁸ DLUHC Guidance on Compulsory Purchase Process and the Criche Down Rules, July 2019

Economic, social and environmental wellbeing

“the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area”

21. The area is largely characterised by low incomes and social deprivation, with large parts of the Order Lands ranked in the 20% most deprived neighbourhoods in the country. In particular, the Order Lands rank worst in Surrey for income deprivation, life expectancy is 76 years compared to nearby wards such as St Johns & Hook Heath where it is 83 years, a significantly greater proportion of young people (56%) do not remain in education beyond the age of 16 compared to the average in Woking (22%), and the number of people claiming benefits in the area (26%) is significantly above the average for Surrey (5%).
22. Much of the existing housing is in poor condition, dating from a post-war 1950's development. The layout of much of the area is poor, with unattractive and unsafe play and public open spaces with limited passive surveillance. The area suffers from an over-provision of social housing (70%) and does not provide a mixed and balanced community. Although there are some existing services and amenities, the retail offer is poor quality and limited, and the sports and leisure facilities are either not open to the public, or basic in terms of the facilities on offer.
23. There are undoubtedly a variety of socio-economic factors that contribute to the social deprivation in the area. However, it is clear that the poor quality of the urban environment, and the lack of social mix, as highlighted above, are key contributors. The Scheme would secure the transformation of the area with extensive new housing, an improved social mix, specialist accommodation for the elderly, much improved community facilities including a nursery and community centre, and vastly improved public open space and landscaping through the provision of well provisioned, landscaped, and large new parks. The Scheme is genuinely transformational.
24. The housing offer would be increased and enhanced to meet the existing and future needs of Sheerwater's population, and also to attract new people to the area to improve the overall diversity and social mix. The AA have been careful to establish a detailed plan to ensure that existing social tenants have the opportunity to remain in the area, if they wish to do so, and also to only moving the tenants once, wherever this is possible.
25. The existing community facilities, such as the Parkview Community Centre, and the clubs and people that use them, would be provided with new, larger, better provisioned, and higher quality facilities, including a youth community centre of up to 904 sq m, as well as a nursery and health centre.
26. The existing, limited retail provision is in small, poor quality retail units. The proposed commercial units of up to 1,845 sq m, to be of flexible class A use, will be of better quality and standard, providing more overall retail floorspace than as existing. This will encourage both existing businesses to relocate to the new units and also attract new businesses and commercial enterprises to the area.
27. The existing recreation ground and athletics track are to be lost. I particularly note that the recreation ground is a designated Asset of Community Value. However, these facilities have already been re-provided in an off-site location on

the other side of Woking, at Hoe Valley School⁹. The sports clubs, including Sheerwater Football Club, that used the existing facilities have re-located to the new facilities already. In addition, the proposal includes extensive new play areas, and significantly improved playing pitches for the schools, including a cricket pitch, small running track, 5G pitch, a rugby pitch, and a leisure centre. The leisure centre alone provides sports halls, a swimming pool, studios, gym, football and rugby pitches, and other facilities. This has already been built.

28. It would have been preferable for all of the re-provided sports and leisure facilities to be provided on-site. However, the high quality and extensive nature of the new proposed on-site facilities, coupled with the facilities at Hoe Valley School, would, taken together, significantly enhance recreation and sports facilities in comparison to the existing provision, Asset of Community Value designation notwithstanding.
29. Under a separate decision, the Secretary of State has certified that the replacement open space land as part of the Order would be equally advantageous to persons with interest in the land and the public as the existing open space on the land. This is unsurprising because the proposed landscaped park areas are extensive, running through the heart of the scheme, and include significant facilities such as play areas and a MUGA, along with a generally high standard of proposed landscaping. This compares favourably to the existing open space, which is limited in size, of poor quality, and often not overlooked by properties, and therefore unsafe.
30. Taken together, these benefits would make a considerable contribution to the improvement of the economic, social and environmental wellbeing of the area. In my judgement these benefits could not be delivered without intervention on the scale proposed by the AA and I am satisfied that the Order is necessary to secure those outcomes.

Achieved by other means

“whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means.”

31. There are multiple land ownerships in the Order Lands. The AA have been undertaking negotiations with freeholders and leaseholders. They have already secured at least 110 of the 120 properties within the Order Lands held by third parties. However, due to the number and variety of remaining ownerships not yet secured, and a number of unknown or unregistered interests, the AA have concluded that the timely acquisition of these interests on reasonable terms will, in some instances, only be achievable through compulsory purchase. This is the key issue affecting the affordable and timely delivery of the scheme.
32. The AA has already secured the ownership of significant parts of the Order Lands and has begun construction on parts of it. The AA have carefully considered the ‘red line’ of the Order Lands seeking to minimise the extent, for example by removing four properties from Devonshire Avenue from the Order Lands as part of the planning process. The extent of the Order Lands corresponds to the areas required to deliver the scheme, and no more. The AA have also been, and continue to, seek to acquire the Order Lands by agreement wherever possible. I

⁹ Planning permission Ref PLAN/2015/0703, dated 22nd December 2015 as amended by s73 permission Ref PLAN/2016/0247, dated 28 September 2016.

am therefore satisfied that the AA have made the Order for the remaining land as a last resort.

33. The Sheerwater area is extensive. The problems with its urban environment are spread across most of the area. Piecemeal and small scale development would not secure the substantive improvements to the area that are required in order to achieve the step change in the economic, social and environmental wellbeing of the area, as identified above, that would so clearly be beneficial. Much of the community infrastructure would become unviable if the project were to proceed on a piecemeal basis, with the scale of the entire proposal required to serve, fund and facilitate the supporting infrastructure and facilities. Construction and access would become logistically much more challenging, and likely impossible to achieve comprehensive regeneration.
34. Comprehensive development, in a co-ordinated manner, and over a relatively small timescale, is therefore required. Some elements of the Scheme have progressed already, on land owned by the AA. However, the Order Lands are required to facilitate the implementation of all of the comprehensive regeneration proposed by the planning permissions, the detail of which is to be secured through future reserved matters applications. If the Order Lands were not to be acquired then this would prevent the implementation of substantial elements of the proposal and would mean that the comprehensive regeneration of this identified 'priority place' would not occur.
35. For the reasons set out above, I conclude that the purpose for which the AA is proposing to acquire the land could not be achieved by any other means. Indeed, were the Order not to be granted it would potentially result in significant delay and risk to the completion of the Scheme. It would also mean that the significant wellbeing benefits of the scheme would not be realised.

Financial viability

"the potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed."

36. Delivery of the Scheme is being undertaken by the Thamesway Group of Companies, a group of companies wholly owned by the AA as delivery and investment vehicles. A high degree of commitment to the scheme has already been demonstrated through the securing of planning permissions, the acquisition of some land already, and the partially completed and ongoing construction of the first parts of the scheme.
37. I have been provided with the broad detail of the financial model on which the Scheme is based. The total projected costs of the scheme are £491,657,023. The AA has provided details of the funding measures required to facilitate the purchase of the Order Lands, and for the subsequent delivery of the scheme on that land. This is in the form of loan finance, which has already been agreed for the entire scheme, for £314,081,000. The loans are a mixture of 5 years, 20 years, 40 years and 50 years long. The AA have provided details of additional borrowing limits and have demonstrated that they have considered the possibility of costs rising and how they would deal with this through a revolving loan facility, if it occurs. The AA have also confirmed that the capital receipts from disposals in earlier phases and any Scheme profits will be reinvested back into later phases in order to secure the delivery of the Scheme. I am therefore satisfied that funding

for the scheme through to completion, and its overall financial viability, is not in doubt.

38. Part of the Thamesway Group of Companies is Thamesway Developments Ltd, which is an incorporated development vehicle with an over 20-year track record of delivering large-scale developments in the Borough, such as the Harrington Place residential development, and the Poole Road Energy Centre. This provides me with the necessary confidence that the financial information provided to me is reasonable and accurate, and that the delivery group can and will be able to deliver the scheme. I am therefore satisfied that there is a reasonable prospect that the scheme will proceed.

New Rights

39. The Council is also using its powers under section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (as amended) to secure new rights required for the purpose of delivering the Scheme. Such new rights relate to rights to swing cranes in connection with the construction of the development, as cranes will oversail land outside that part of the Order Lands required for the physical delivery of the Scheme. In other words, the right is needed for land where the cranes will oversail, but where full ownership is not required. The land in question is clearly related to the proposed construction and is limited in scope to relatively small areas where the cranes would sweep beyond the boundaries of the Order Lands. It is required for the purpose of delivering the Scheme and I consider the use of new rights, as opposed to purchasing the land, to be the appropriate and reasonable approach to this issue.

Human Rights Act

40. The Human Rights Act 1998 (HRA) enshrines in UK law most of the fundamental rights and freedoms contained in the European Convention on Human Rights (the Convention). Section 6 of the HRA renders it unlawful for a public authority to act in a way which is incompatible with a Convention Right.
41. Article 8 states that everyone has the right to respect for his private life and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of that right except as in accordance with the law and is necessary in a democratic society for specific purposes, including the economic wellbeing of the country. Article 1 of the First Protocol provides that every person is entitled to peaceful enjoyment of their possessions including their property. Article 1 states that no one shall be deprived of his possessions except in the public interest and subject to conditions provided by law and by the general principles of international law.
42. The rights under Article 8 and Article 1 of the First Protocol are qualified rights. In this case, the AA considers that there is a compelling case in the public interest such that if the Order Lands are acquired the public benefit would outweigh the private loss arising from that acquisition. For the reasons set out above, I agree. I am therefore satisfied that the interference with the private rights of those affected by the Order is outweighed by the public interest in securing the redevelopment of the land and the public benefits that would result from it. Accordingly, the compulsory acquisition of the Order Lands would not conflict with the rights provided by Article 8(1) of the Convention as the qualifications in Article 8(2) apply.

Public Sector Equality Duty

43. I have had regard to the Public Sector Equality Duty which is placed upon any public authority or person exercising a public function by the requirements of section 149 of the Equality Act 2010. These requirements were addressed by the AA in its preparations for the use of compulsory purchase powers and when resolving to make the Order. They have formed an integral part of the evolution of the scheme. The AA undertook a detailed Equalities Impact Assessment (EqIA), which has been kept under review as the scheme has developed. The AA have evolved the scheme in response to the issues raised by the EqIA, for example increased provision of one-bed properties for vulnerable tenants currently occupying one-bedroom and studio properties. The AA has also taken into account factors identified by the EqIA such as the likely increase in house prices due to the improved urban environment and quality of accommodation, through measures such as a profit cap.
44. I have received no information that would contradict the findings of the EqIA or other assessments undertaken by the AA. No representations have been made to suggest that the confirmation of the Order would result in any discrimination, harassment, victimisation or other conduct that is prohibited under the Equality Act or in a negative impact on any person with a protected characteristic. I am therefore satisfied that the Public Sector Equality Duty has been met.

The Objection

45. There is one remaining, non-qualifying objection, by Mrs Bracken. The objection relates to lack of engagement and clarity on the proposals by the AA and to previous construction impacts in 2013 that were felt to not have been dealt with adequately.
46. These matters are not relevant to the merits of the Order. The AA has provided evidence of extensive engagement with landowners and occupiers in the area since 2016. The AA's dedicated webpage for the project has been regularly updated since 2015 with all key news and decisions. The scheme has been the subject of several planning permissions, all of which underwent public consultation.
47. In terms of construction, the delivery group, the Thameswey Group of Companies, has extensive supervision and management procedures in place to ensure that its contractors comply with all relevant construction requirements. It has been confirmed by the AA that all construction to date has been in full compliance with planning conditions. In particular, condition 19 of the planning permission¹⁰ requires a Construction Environmental Management Plan to be approved prior to each phase of the scheme and thereafter complied with.
48. Overall, I am satisfied that the AA have adequately dealt with the effects from construction, and the potential effects from construction, on existing occupiers and owners both on the site and nearby.

Conclusion

49. Overall, I conclude that the Order Lands are required to secure the carrying out of development, redevelopment or improvement, and I am satisfied that the AA has opted to use its compulsory purchase powers as a last resort. The scheme

¹⁰ Ref PLAN/2018/0374

would secure economic, social and environmental improvements. There are no material considerations or remaining objections which would outweigh the matters in support of the Order. I am also satisfied that the new rights for land where cranes would oversail are required for the purpose of delivering the Scheme. I consequently conclude that there is a compelling case in the public interest and I conclude that the Order is confirmed.

O S Woodward
INSPECTOR