



Ministry of Housing,
Communities &
Local Government

Joanna Kromidias
Senior Solicitor
Haringey Council
Legal Services
7th Floor
10 Station Road
Wood Green
London N22 7TR

Please ask for: Mike Hale
Tel: 0303 444 5374
Mike.Hale2@communities.gov.uk

Email:

Your ref: LEG/PP/51533/JXK

Our ref: PCU/CPOP/Y5420/3199166

Date: 23 January 2019

Dear Joanna Kromidias

Town and County Planning Act 1990: Section 226(1) (a)
Acquisition of Land Act 1981
The London Borough of Haringey (Wards Corner Regeneration Project)
Compulsory Purchase Order 2016

1. The report of the Inspector, John Felgate BA (Hons) MA MRTPI, who held a public local inquiry into The London Borough of Haringey (Wards Corner Regeneration Project) Compulsory Purchase Order 2016 (“the Order”) on 11-27 July 2017, has been considered. I enclose a copy for your information. Some personal data has been redacted in accordance with Data Protection legislation. References in this letter to paragraphs in the Inspector’s Report are indicated by the abbreviation IR, followed by the relevant paragraph number.

2. The Order, if confirmed, would authorise the compulsory purchase of lands comprising the street block enclosed by Tottenham High Road, Seven Sisters Road, West Green Road and Suffield Road for the purpose of facilitating the development, redevelopment and improvement on, or in relation to, the land to contribute towards significant social, economic or environmental improvements.

3. During the inquiry, it was noted that the Schedule of Interests incorrectly describes the existing uses within the buildings numbered as Plot 28 on the Order Map. It also emerged that two occupiers of residential premises within the Order lands had been omitted from the Schedule of Interests. The Secretary of State has had regard to the Inspector’s Report (IR9 & IR10) that, should the Order be confirmed, that the Schedule can be corrected through minor modifications.

Inspector’s recommendation and summary of the decision

4. The Inspector’s Report summarises the submissions made at the local Inquiry at IR79-IR288. The Inspector’s conclusions are set out at IR289-384. The Inspector

Planning Casework Unit
Ministry of Housing, Communities and Local Government
5 St Philips Place
Colmore Row
Birmingham B3 2PW

Tel: 0303 44 48050
pcu@communities.gov.uk

recommended (IR385) that the Order should be confirmed, subject to the modifications set out in the Report schedule. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation and concludes that the Order should be confirmed with modifications.

Objections

5. When the Inquiry opened there were 164 duly-made objections to the Order of which 23 were qualifying objections with a further 25 non-qualifying objections received outside of the extended time. During the course of the Inquiry, 3 qualifying objections were withdrawn. Since the Inquiry ended, Grainger (the developer partner for the scheme) has acquired the freehold to both 9-11 West Green Road and 3-7 West Green Road, London and Mr Narendra Patel and Mrs Prajida Sukumaran, who were qualifying objectors, have subsequently withdrawn their objections. The main grounds of objection are: the effects on the Seven Sisters Market and on the market traders and the Latin-American community of which they are part; the loss of the existing buildings; and the consequential effects on the Conservation Area (CA).

Post Inquiry matters and correspondence

6. During the inquiry, the Special Rapporteurs of the United Nations Human Rights Committee (UNHRC) wrote to HM Government on 25 July 2017 seeking information relating to the Order. Following the conclusion of the Inquiry, the Secretary of State sent a response to the UNHRC on 4 October 2017. The Secretary of State considers it unnecessary to revert to the parties on the contents of this exchange of correspondence as the UNHRC letter, which was notified to the inquiry, was a request for information only rather than representations on the Order. The matters raised do not affect his conclusions on the decision. Copies of all the correspondence may be obtained by written request to the address at the foot of the first page of this letter. The Secretary of State, in any event, concludes for the reasons given by the Inspector (IR371) that Article 27 of the International Covenant on Civil and Political Rights (ICCPR) for ethnic and other minority groups to practice their own culture, language and religion, is not breached.

Matters Arising

7. On 28 February 2018, updated Guidance on *Compulsory Purchase Process and The Crichton Down Rules* ('Guidance') was published. This updates the Guidance issued on 29 October 2015 and it has been revised primarily to reflect legislative changes made since this date. The Secretary of State has had regard to the updated Guidance but he considers it unnecessary, in the light of the facts of this case, to revert to the parties on its contents as the changes do not alter his conclusions and decision.

Considerations

8. The Secretary of State has very carefully considered whether there is a compelling case in the public interest to confirm the Order. Paragraph IR289 sets out the relevant compulsory purchase legislation and policy in consideration of which the Secretary of State's decision is made.

Planning Framework

9. The Inspector's conclusions on the planning framework are set out at IR318-324 and the Secretary of State agrees that the relevant planning policies are those set

out at IR318. The Secretary of State agrees with the Inspector that the adopted policy framework for the area (summarised at IR 45-70) is set out in the London Plan (March 2016); the Haringey Strategic Policies (adopted March 2013 with alterations adopted July 2017); the Development Management Development Plan Document (adopted July 2017); and the Tottenham Area Action Plan (TAAP) (adopted July 2017) (IR 318). The Secretary of State agrees with the Inspector for the reasons given at IR 318-324 that the Order scheme accords with the most relevant development plan policies, including those policies that are site specific and area specific and would assist in bringing forward the types of development that the adopted planning framework seeks to promote and encourage. In this regard, we have also considered the Order scheme against the revised NPPF (July 2018) and find it is broadly consistent with this.

10. The Secretary of State considers that the key policy consideration is policy SS5 of the Tottenham Area Action Plan (adopted 2017). The policy allocates the Wards Corner site for 'mixed use development providing town centre uses at ground floor level, including a replacement market, with residential use above'. Paragraph 5.35 of the policy makes clear that it envisages the re-provision of the existing market on-site, a temporary market during construction and a range of small and affordable market units suitable for independent traders.

11. As to the affordable housing policy, the Secretary of State notes that the Haringey Strategic Policy SP2 sets a Borough wide target of 40% affordable housing on site but allows site specific circumstances to be taken into account and off site contributions to be made in exceptional circumstances. He further notes that the Order scheme does not propose to meet these affordable housing requirements for viability reasons given the higher than normal development costs. However, there is provision for a profit related off site contribution. In view of the site specific circumstances and importance of the Wards Corner site to LBHs regeneration programme, the Secretary of State agrees with the Inspector for the reasons he gives that the Order scheme is an exceptional case (IR 327).

12. The Secretary of State therefore agrees with the Inspector for the reasons given that the scheme accords with the most relevant Development Plan policies and he is further satisfied that the scheme is largely in accordance with the planning framework for the area.

Economic, Social or Environmental well-being

13. The Secretary of State has considered the Inspector's conclusions (IR296-301) in relation to the extent to which the proposed purpose of the Order will contribute to the achievement of the economic, social or environmental well-being of the area. The Secretary of State has carefully considered the Inspector's conclusions on the Order scheme's contribution to well-being.

14. The Secretary of State agrees with the Inspector that the direct economic, social and environmental benefits the scheme would deliver would be substantial. These benefits include: a new modern retail centre; a new modern home for the Seven Sisters Market; 196 residential units (a net increase of 154 units); major initial investment of around £60m; the creation of around 200 jobs during the construction phase to be offered first to local workers; the creation of significant permanent jobs within the development itself post construction; the creation of a new landmark with

the area benefitting from a major uplift to its fabric and public realm; and the local community benefitting from the greater prosperity that the development would bring and the improved prospects for the area's future.

15. As to the effects on the future of the Seven Sisters Market, the Secretary of State notes that while the safeguards in the varied s106 agreement do not provide a cast iron guarantee that the new permanent market will be provided, or retained in perpetuity, nor that all existing traders will be able to, or wish to continue trading, he agrees with the Inspector for the reasons given at IR 302-305 that the Order scheme makes reasonable provision for the retention and continued operation of the Seven Sisters Market. Although the development is not without risks to the market, he further agrees with the Inspector that it faces an uncertain future in any event and the overall effects of the Order scheme is to enhance and not diminish its prospects of survival.

16. As to the effects on the diversity and vitality of the district centre, the Secretary of State agrees with the Inspector for the reasons given that the Order scheme's net effects would be beneficial (IR 307-310). As to the effects on the area's historic heritage, while the proposed development would lead to the loss of two locally listed buildings and the High Road frontage, changing the character of this part of the CA, the Secretary of State agrees with the Inspector that the contribution these make to the character and appearance of the CA is, at best, neutral. The Secretary of State agrees with the Inspector that the development's overall effect on the CA and on the historic heritage of the area generally would be one of enhancement.

17. Overall, the Secretary of State considers the wellbeing requirements of Section 226(1) (A) of the Town and Country Planning Act 1990 are satisfied in this case because he considers, in agreement with the Inspector, that the Order scheme would positively enhance the area's wellbeing in its economic, social and environmental aspects.

Viability

18. The Secretary of State considers there are no planning impediments to the scheme proceeding. Planning permission for the scheme has been granted and lawfully implemented. He also considers that there are no financial or other impediments. LBH's developer partner (Grainger) has provided evidence to demonstrate their financial capability to carry out the development and the preconditions in the development agreement between LBH and Grainger either have been, or can be satisfied. Overall, therefore, the Secretary of State agrees with the Inspector's conclusion that the Order scheme is free from any legal or other impediments to implementation and there is therefore a reasonable prospect that the Order scheme will be delivered.

Alternatives

19. The Secretary of State has considered whether the purpose for which LBH is proposing to acquire the land could be achieved by other means, including considering the appropriateness of alternative proposals put forward by the owners of the land. One alternative proposal has been identified: the Wards Corner Community Coalition (WCCC) community-led alternative scheme. While the WCCC scheme received planning permission in 2014, the Secretary of State notes this permission has now lapsed. WCCC has no legal interest in the land, and no

evidence was presented at inquiry to demonstrate the viability of the scheme and/or how the scheme could be expanded to go beyond the retention and restoration of the former Wards Building. Accordingly, the Secretary of State agrees with the Inspector that it is difficult to envisage how the WCCC group could find the necessary resources and expertise needed to deliver its plans. Overall, therefore, the Secretary of State agrees with the Inspector's conclusion that there is no credible alternative to the Order scheme for the Seven Sisters area, which he considers is a key part of LBH's regeneration strategy for the area as a whole.

Efforts to Negotiate

20. The Secretary of State agrees with the Inspector (IR 337-343) that LBH and its partners have taken reasonable steps to acquire the interests in the Order Lands by agreement and there is no certainty that the remaining interests can be acquired in a reasonable timescale without compulsory purchase powers.

Human Rights

21. The Secretary of State has considered whether the purposes for which the Order was made interfere with the human rights, best interests of children, and minority rights under international law of those affected by the Order and, if so, whether any such interference is justified and proportionate.

22. The Secretary of State has carefully considered whether there is:

- Unlawful interference with Article 8 (right to respect for private and family life) and Article 1 of Protocol 1 (right to property);
- Unlawful discrimination under Article 14 (prohibition of discrimination); and
- Failure to consider the best interests of the children

23. Article 8 provides that everyone has the right to respect for private life, family life, home and correspondence. For those with homes on the Order Lands, the Secretary of State agrees with the Inspector that the confirmation of the Order would mean that any residents remaining in occupation would be deprived of their property interfering with their right to respect for home and private life protected by Article 8. As to whether such an interference is justified, in balancing the rights of residents affected against the benefits to the community as a whole of proceeding with the Order, the Secretary of State considers the making of the Order and the interference with the residents' private rights is justified and proportionate in the public interest. This is in order to effect and deliver the substantial economic, social and environmental benefits of the scheme that will arise for the whole community from the comprehensive redevelopment of the Order Lands. In this regard, the Secretary of State notes LBH's acknowledgement of its duty to assist with rehousing residents affected and the assurances given by them to seek to mitigate personal hardship suffered by residents affected and the action taken by LBH pursuant to this (IR 349-351).

24. As to the market traders, the Secretary of State agrees with the Inspector's analysis (IR 352) that the main focus of private and family life will be their homes and, while some traders' family lives may spill over to their working lives, the market is primarily a place for trading and any social interactions at work are likely to be secondary to those that take place at home. For these reasons, the Secretary of State considers that development affecting the market would not interfere with the

traders' Article 8 rights to respect for private and family life. However, even if it is considered that some or all of the traders' Article 8 rights are interfered with, we consider any such interference would be justified and proportionate given the substantial economic, social and environmental benefits of the scheme.

25. Article 1 of Protocol 1 (A1P1) provides that no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law. For those who own a qualifying interest in the Order Lands whose interests are compulsorily acquired, the Secretary of State agrees with the Inspector that interference with A1P1 arises but that such interference is justified and proportionate by the substantial benefits in the public interest of the scheme proceeding. As to the market traders, the Secretary of State agrees with the Inspector that there is no A1P1 interference because the traders hold licences terminable at short notice without the need for acquisition compulsorily or otherwise. However, even if some interference with A1P1 were found with respect to some or all of the traders, the Secretary of State considers any such interference would be proportionate and justified given the substantial economic, social and environmental benefits of the scheme in the public interest.

26. Article 14 establishes a right to freedom from discrimination in relation to the enjoyment of other European Convention of Human Rights (ECHR). We agree with the Inspector that there is no suggestion of discrimination by those who own a qualifying interest in the Order Lands. As to the traders, the Secretary of State agrees with the Inspector and considers that Article 14 is not engaged as there is no interference with Article 8, A1P1, or other ECHR rights. However, even if it is found that other ECHR rights are interfered with and the traders subjected to a particular disadvantage by reason of the Order Scheme, the Secretary of State considers the Order has a legitimate aim in the public interest of securing comprehensive regeneration and the means to achieve that aim are necessary and appropriate.

27. Where the Article 8 rights are those of children, they must be seen in the context of Article 3 of the UN Convention on the Rights of the Child (1989), which requires that the best interests of children are to be a primary consideration. In the planning context, case law has held that the best interests of the children are likely to be consistent with those of his/her primary carer unless circumstances indicate to the contrary. If the new market were to fail or did not allow for the social and cultural role of the current market to continue, while the children would lose an opportunity for mixing with other children and adults from similar ethnic backgrounds, the Secretary of State agrees with the Inspector that there is no clear evidence that this lost opportunity would significantly affect their best interests.

28. The Secretary of State, however, agrees with the Inspector that this worst case scenario is unlikely to occur as the Order Scheme and the s106 agreement (as varied) together seek to ensure that the social and cultural role of the market for the Latin American traders and other ethnic minorities will continue. The Secretary of State also agrees with the Inspector that there is no evidence that the best interests of the children are in any way different from those of their parents or the Latin American community. Overall, therefore, the Secretary of State does not consider, on the available evidence, that the best interests of the children have been interfered with. However, even if it is found that the best interests of the children have been interfered with, he considers any such interference would be justified and

proportionate given the need to take necessary steps to secure the future of the market given its current condition and the substantial economic, social, and environmental benefits of the scheme that will arise for the whole of the community from the comprehensive redevelopment of the Order Lands.

29. Overall, for the reasons above, the Secretary of State considers that the Order strikes a fair balance between the public benefits of the scheme and to the extent that there is any interference with the human rights of affected persons, including the best interests of the children, that any such interference is justified and proportionate and results in no unlawful discrimination.

30. The Secretary of State has carefully considered the submissions of the traders and the Council regarding the relevance of minority rights under international law, including the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), and the Framework Convention for the Protection of National Minorities (FCPNM). The Secretary of State agrees with the Council that international conventions become binding in UK law only if and to the extent that they are incorporated into domestic law and note that the ICCPR, ICERD, FCPNM and other international instruments and documents referred to by the traders have been incorporated domestically. However, even if it is considered that such minority rights are relevant in the context of the exercise of the Secretary of State's discretion whether or not to confirm the Order, he agrees with the Inspector that the confirmation of the Order would not preclude the continuation of the current informal arrangements relating to Latin American culture. Therefore, even in the unlikely event of the new market failing to materialise, the Secretary of State agrees with the Inspector that the confirmation of the Order would not deny the protected minority its rights under Article 27 of the ICCPR as nothing in the Order amounts to a prohibition on those activities or prevents the community from practising their culture elsewhere.

Public Sector Equality Duty (PSED)

31. The Secretary of State has considered his duty under Section 149 of the Equality Act 2010 to have due regard to the requirements of the PSED, in particular the need to eliminate discrimination, advance equality of opportunity and foster good relations between those with protected characteristics and others. The Secretary of State agrees with the Inspector that the decision may affect market traders, by virtue of their ethnicity (IR358) and women, by virtue of the fact that the majority of those affected are women (IR365).

32. The Secretary of State considers that any impacts (e.g. the lack of suitable and affordable replacement premises for existing and/or similar business) of the decision on these protected groups will be mitigated and provision made through both the opportunity for market traders to transfer to the temporary market facility and then eventually to the new market as established through the Section 106 agreement (including the alterations by way of the Deed of Variation).

33. The Secretary of State fully accepts that the move to the temporary market and then eventually to the new market may create some difficulties, including financial challenges. However, he has weighed this against the strong possibility that renovation works would need to be carried out in the fullness of time at the existing market in any event and these would not be without similar financial challenges and

would create a period of uncertainty. Following careful consideration of these matters, the Secretary of State concludes that any impact of the decision is justified and proportionate.

Justification in the public interests and overall balance

34. The Secretary of State considers that 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's conclusions on the main issues. He further considers the proposed purpose of the Order contributes to the achievement of the promotion or improvement of the economic, social and environmental well-being of the area. He also considers the purposes for which the land is being acquired accords with the adopted planning framework for the area.

35. The Secretary of State is satisfied that the viability of the scheme has been demonstrated, there is a reasonable prospect that the scheme will proceed, and the proposed alternative would not enable the benefits of the comprehensive regeneration of the area to take place. The Secretary of State also considers that reasonable steps have been taken by LBH to acquire the Order Lands by agreement and 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.

Secretary of State's decision

36. The Secretary of State has therefore decided to confirm the London Borough of Haringey (Wards Corner Regeneration Project) Compulsory Purchase Order 2016 with the modifications requested by the Inspector.

37. I enclose the confirmed Order as modified 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.

38. Copies of this letter and the Inspector's report are being sent to the remaining objectors who appeared or were represented at the local Inquiry.

39. This letter does not convey any other consent or approval in respect of the land to which the Order relates.

Yours sincerely

M A Hale

Mike Hale
Senior Planning Manager

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