



The Secretary of State for Transport
National Transport Casework Team
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Newcastle Upon Tyne
NE4 7AR

Our Ref: CP0334/AJ

Your Ref:

26 October 2020

Sent by post and email to: nationalcasework@dft.gsi.gov.uk

Dear Sirs

West Sussex County Council (A284 Lyminster Bypass (North)) Compulsory Purchase Order 2020

Clients: T & L Crawley No. 2 LLP

Plot Numbers: 10a and 10b of Table 1 PLUS 9a and 9b of Table 2

We act on behalf of T & L Crawley No. 2 LLP (“T&L Crawley”) in respect to the aforementioned Compulsory Purchase Order (“the CPO”) being promoted by West Sussex County Council (“the Council”) under section 239, 240, 246 and 250 of the Highways Act 1980 and the Acquisition of Land Act 1981.

Whilst T&L Crawley is fully supportive of the requirement for the proposed bypass, it is concerned that the scheme in its current form will impede its ability to make available land that is demonstrably suited to making a significant and beneficial contribution to the supply of much needed affordable housing within the area. We have presented alternative solutions to the Council which we believe would ensure the delivery of the bypass without being detrimental to the timely and early delivery of a new affordable housing development. An added benefit of our proposal is that it would likely generate significant cost savings for the Council. We are concerned however that the Council has failed to adequately engage and make any genuine attempt to secure the land required by agreement.

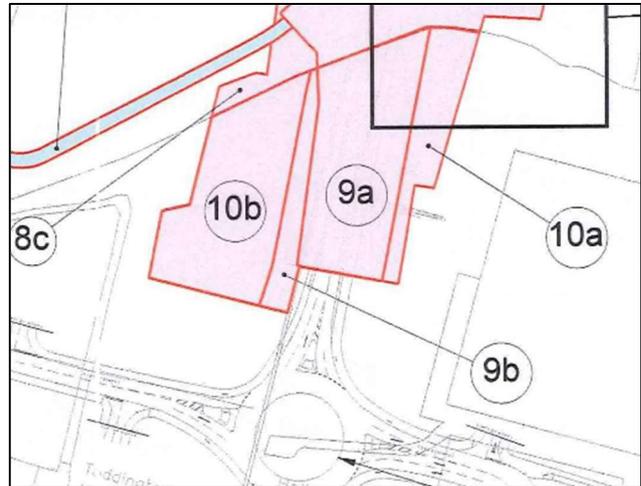
For the reasons set out in this letter, T&L Crawley formally objects to the CPO.

1. Impact on T&L Crawley’s Landholding

Our client’s land ownership is marked in red on the plan below left and is annotated parcels A, B, C and D. The proposed CPO land take is shown on the plan below right:



T&L Crawley's Landholding



Snapshot of Sealed CPO Plan 208 P13

By way of background, T&L Crawley purchased the land in May 2019. It is subject to an over-arching outline planning permission granted in 2013 and which extends over the wider area and includes, inter alia, for in excess of 1,200 residential dwellings. Under that permission parcels A and B are permitted to be developed for BI business use, parcel C for a 100-bedroom hotel and parcel D for other unspecified commercial use. The planning permission is dated, and the Policy aspiration associated with the delivery of BI business use on land parcels A and B is in need of review, in accordance with government policy.

T & L Crawley's professional consultants have advised that there is no demand for BI business space in this locality or the wider area. It is therefore our Client's intention to secure a hotel operator on land parcel C and to deliver other forms of employment use on land parcel D, including such as a public house, restaurant or residential care home. Such uses would complement the residential development currently being undertaken by Persimmon Homes Limited and others within the wider area. Parcels A and B are well suited in all respects to deliver residential housing and such use would be consistent with national planning policy and guidance.

Our client has agreed the sale of parcels A and B (the latter of which Plot 10b forms part) to a major registered housing provider who propose to construct 154 affordable homes. Terms have been agreed and matters are in solicitors' hands. The proposed scheme will be subject to funding from government housing initiatives which are sensitive to delivery programs. Consequently, the agreement to purchase parcels A and B is predicated on the purchaser being on site and able to commence construction by no later than the end of 2021. Any proposal by WSCC to make temporary use of any part of the land after that date would cause the sale of both land parcels A and B to collapse. Should the sale collapse as a consequence of the manner in which the proposed bypass is delivered, this would likely result in a substantial compensation claim being submitted to the Council.

This proposal by a major registered housing provider is significant. Arun District Council have a substantial shortfall in their housing land availability and a shortfall in housing completions. Their current land supply is 2.9 years whereas it should be at least 5 years. The addition of 154 new homes to the districts supply is of significance, with a particular benefit being that 100% of these homes will be affordable. A pre-application submission is currently with Arun District Council and their response is awaited. Ultimately, we consider there is significant social and public benefit to ensuring this scheme can be delivered.

We have presented an alternative solution to the Council which would enable both the proposed road scheme and affordable housing development on parcels A and B to be delivered:

We propose that the intended construction compound Plot 10b is relocated from parcel B to parcel C where it can either be incorporated with or alongside Plot 10a or otherwise kept separate. Our client is willing and able to make the entirety of parcel C available to the Council, if required. It is larger in size than the aggregate area of Plots 10a and 10b and is in a location which is comparable to that proposed by the Council.

Parcel C is located within close proximity to Plot 10b, less than 50m to the east, and therefore affords the same physical proximity to the area of construction that it is required to serve, as well as having a similar topography. A single compound on Parcel C has potential to afford economies of scale and cost, including in terms of site set up, servicing, security and welfare.

The above proposal has been presented to the Council, but we have received limited feedback. Indeed, there has been a tendency for the Council to present obstacles rather than participate in an open-minded meaningful engagement to find a pragmatic solution. Our proposal would enable the bypass to proceed as currently planned and the delivery of a major affordable housing development. It would therefore secure the dual public and social beneficial outcome of delivering the bypass and much needed housing whilst at the same time minimizing the deployment of public funds in terms of compensation payments. Whilst this solution would delay the delivery of commercial and employment development on parcel C, we consider, on balance, that this would be preferable to losing 154 much-needed new affordable homes in this area.

Our client has consistently maintained a willingness and ability to enter into an agreement with the Council to ensure their requirements can be met, without resorting to the heavy-handed approach of a CPO. This offer remains open and ready for acceptance.

2. Negotiations

The Statement of Reasons suggests that discussions and negotiations are ongoing and will continue during the CPO process. There has however been limited engagement from the Council with our client. Indeed, such limited discussions as have taken place have been instigated by our client, with limited feedback received when pragmatic alternatives have been proposed. In an attempt to reach an agreement our client has on two occasions sent emails to the council suggesting that a meeting would be beneficial. More specifically they have twice proposed a meeting on site to involve the Council, its professional advisers (WSP) et al, T & L Crawley and its professional advisers, including its civil engineers. Neither of those invitations have received any form of acknowledgment, never mind been accepted.

As set out above, there is a workable solution available that would facilitate the construction of the bypass whilst also ensuring the ability to deliver a significant affordable housing development which is desperately needed and would significantly benefit the local area. Given the shortfall in the districts housing supply, the demand for affordable homes and both current and emerging government policy in the latter regard, it is concerning that this offer has not been considered and taken forward more seriously as a workable and sensible alternative and one that is widely in the public interest.

In our opinion, the CPO as it currently stands, is premature, unjustified and is not a method of last resort. Further time is required to engage with affected owners prior to the use of compulsory purchase powers and for the Council to show that the meaningful alternative suggested has been properly considered.

3. Human Rights

It is our considered opinion that the proposed Order is an infringement of our client's human rights under the Human Rights Act 1998. The Secretary of State must consider whether, on balance, the case for compulsory purchase justifies interfering with the human rights of the owners and occupiers of the Order land. Under Article 1 of the First Protocol, no one shall be deprived of his possessions except in the public interest.

In *Prest v Secretary of State for Wales (1982)* it was ruled that:

"In any case where the scales are evenly balanced – for or against compulsory acquisition – the decision – by whomsoever it is made – should come down against compulsory acquisition."

We consider that there are sufficient grounds to call into question whether the Council has presented a compelling case in the public interest. As such, there is inadequate justification for interfering with the human rights of the owners and occupiers affected by this proposed scheme. The balance has not been struck between the individual rights and the wider public interest.

4. Conclusion

In conclusion, T&L Crawley are fully supportive of the delivery of the proposed bypass, but they are genuinely concerned that the proposed scheme, as it currently stands, has not been fully thought through. Our client has endeavored to engage with the Council to present a pragmatic solution which would enable the delivery of the proposed highway scheme, whilst also ensuring the ability to deliver much needed affordable housing.

The Council have demonstrated a lack of consideration for wider issues and an inflexibility to deliver a scheme whilst minimizing the impact on private landowners. The Council have failed to show joined up thinking in terms of discharging their functions, seeking to push through a highway scheme and at the detriment of Arun District Council in having the opportunity to ameliorate its significant shortfall in housing land supply. They have failed to adequately engage and have not demonstrated that there is a compelling case in the public interest which justifies overriding the private's right in the land sought to be acquired.

On this basis, it is T&L Crawley's view that the CPO should not be confirmed by the Secretary of State.

The above represents our client's objection to the aforementioned CPO. We reserve the right to add to or expand our client's case upon site of further evidence and information being made available by the Acquiring Authority.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'A. Juszczak', on a light-colored background.

Angela Juszczak BA (Hons) MSc MRICS
Director

For and on behalf of

ROGER HANNAH

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