



Ministry of Housing,
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Your ref:

Our ref: PCU/CPOP/A5840/3199190

Date: 14 November 2018

Dear Ms Reed

**The Town and Country Planning Act 1990: Section 226(1)(a)
Acquisition of Land Act 1981
The London Borough of Southwark (Aylesbury Estate Site 1B-1C) Compulsory
Purchase Order 2014**

1. The report of the Inspector, Martin Whitehead LLB BSc (Hons) CEng MICE, who held a public local inquiry into The London Borough of Southwark (Aylesbury Estate Site 1B-1C) Compulsory Purchase Order 2014 ("the Order") opening on 9 January 2018, sitting for 16 days and closed in writing on 27 April 2018, has been considered. I enclose a copy for your information. References in this letter to paragraphs in the Inspector's Report are indicated by the abbreviation IR, followed by the relevant paragraph number. The acquiring authority, the London Borough of Southwark, is indicated by the abbreviation LBS.

2. The Order, if confirmed, would authorise the compulsory purchase of land and 8 mainly residential buildings, which were all part of the Aylesbury Estate. The purpose is to facilitate the carrying out of development, redevelopment and improvement on or in relation to the land pursuant to Section 226(1)(a) of the Town and Country Planning Act 1990. In particular, for the purpose of securing the regeneration of the Aylesbury Estate in accordance with the provisions of the Aylesbury Area Action Plan, including the demolition of the existing residential units and the provision of a mixed tenure residential development and associated landscaping. The redevelopment incorporates 830 new homes, including 406 affordable homes, of which 304 would be socially rented and 50 wheelchair accessible flats. Further details of the development are set out at IR178.

3. This is a fresh consideration of the Order. In September 2016, the Secretary of State decided that the Order should not be confirmed. Following a claim for judicial

review of that decision by the LBS in October 2016, the Secretary of State conceded and the inquiry detailed above was then held.

Inspector's recommendation and summary of the decision

4. The Inspector's Report summarises the submissions made at the inquiry at IR17-IR172. The Inspector's conclusions are set out at IR173-233. The Inspector recommended (IR235) that the Order should be confirmed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation and concludes that the Order should be confirmed. However, he has also decided for clarity the confirmation should be subject to a minor modification to the Order and Map as requested by the LBS.

Objections

5. The Inspector summarised the position regarding objections at IR9. Two qualifying objectors remain with an outstanding interest in one property in the Order Land. Their evidence is summarised at IR128-133. All other objections and opposing submissions, whether from when the Order was originally considered or made to the January 2018 inquiry are considered at IR134-172. The Inspector concludes on all remaining objections at IR218-223. The main grounds of objection are: the failure of the scheme to accord with the development plan, particularly in relation to density, sunlight, daylight, and the mix of tenures; the overall loss of social housing; the viability and deliverability of the scheme; the consideration of refurbishment as a more cost effective option; the compensation to leaseholders and rehousing options not enabling them to remain in the area; the loss of community and the effect on the social wellbeing of the area; the neglect of the estate; the efforts by the Council to negotiate prior to making the Order; and contravention of Article 1 of the First Protocol to, and Article 8 of, the Human Rights Act and section 149 of the Equality Act 2010.

Post inquiry closure matters and correspondence

6. Following the conclusion of the Inquiry, the Secretary of State has received a number of further representations from the remaining objectors and the responses made to these by the LBS. Further representations including from someone who had previously withdrawn their objection have also been received. The Secretary of State considers it unnecessary to revert to the parties on the contents of these exchanges. Guidance on Compulsory purchase and the Crichel Down Rules (February 2018) sets out the issues to be considered when deciding whether to not to confirm a CPO and IR175 does so for this Order specifically. As the representations received largely concern alleged procedural irregularities and issues relating to the handling of the matter by the LBS the matters raised do not affect the Secretary of State's conclusions or decision. Copies of all the post inquiry correspondence may be obtained by written request to the address at the foot of the first page of this letter.

Matters Arising

7. On 16 May 2018 the LBS wrote to the Secretary of State to request a correctional modification to the Order and Map, to exclude land which was adopted highway and unnecessarily included in the Order Map. As this was after the inquiry had closed, the request was copied to the remaining objectors by the LBS. The Secretary of State considers that given those parties are aware and that due to the minor

correctional nature of the amendments, further, formal reference back to the parties is unnecessary.

Considerations

8. The Secretary of State has very carefully considered whether there is a compelling case in the public interest to confirm the Order. IR10 confirms that the Inspector based his conclusions on the most up to date guidance 'Guidance on Compulsory purchase process and The Crichel Down Rules Rules' and IR74-175 sets out the relevant policy considerations and main issues under which the Secretary of State's decision is to be made.

Planning Framework

9. The Inspector sets out the planning framework for the area at IR183-185 and found that the adopted policy framework comprises the London Plan (2016), the Southwark Plan saved policies (April 2013), Southwark Core Strategy (April 2011), Southwark Adopted Policies Map and the Aylesbury Area Action Plan – AAAP (Jan 2010). He also found that the purpose for which the land is being acquired fits in the adopted local plan for the area.

10. The Inspector concludes at IR184 that the scheme complies with the relevant policies of the London Plan and with key saved policies of the Southwark Core Strategy as well as the density requirements of the Southwark Core Strategy. He also found that at IR185 that although there have been a number of changes to the scheme from that shown in the Masterplan, these are not sufficient to prevent it from being in general accordance with the AAAP. Overall he concluded that the purpose for which the land is being acquired fits with the adopted Local Plan. The Secretary of State agrees with the Inspector and reaches the same conclusions.

11. The Secretary of State has also considered the Order scheme against the revised NPPF (July 2018) and finds it is consistent with this. There is an extant planning permission for the regeneration of the Aylesbury Estate that is in the process of being implemented. Furthermore, he considers changes made to the NPPF do not relate to the Order to the extent that a reference back to the parties is necessary. He has also considered changes to the emerging Development Plan since the inquiry closed; including minor suggested changes to the draft London Plan issued (August 2018). Neither the draft London Plan nor the minor suggested changes refer specifically to the Aylesbury Estate or alter relevant policies to the extent that the Order is directly affected. The parties had opportunity to comment on the emerging London Plan during the inquiry process and the minor changes proposed since do not substantially alter policies that are relevant to his consideration of this Order. Overall, the Secretary of State agrees with the Inspector for the reasons given that the scheme accords with the most relevant Development Plan policies and he is satisfied that the scheme is in accordance with the planning framework for the area.

Economic, Social or Environmental well-being

12. The Secretary of State has considered the Inspector's conclusions (IR186-198) 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.

13. In terms of environmental wellbeing, at IR194 the Inspector considers that circumstances have changed since the CPO was considered previously by the Secretary of State in 2016, so that most of the buildings on the site are now vacant, in the process of being demolished or have been demolished, and most of the open space is inaccessible to the public due to it being used as part of the demolition site. At IR194 the Inspector says comparisons with the scheme as proposed through the granted planning application are therefore difficult. However, he concluded that based on the evidence the scheme would contribute to the improvement of the environmental wellbeing of the area.

14. At IR196 the Inspector considers the social dis-benefits of the confirmation of the Order would be limited to just one household (owned by the two remaining objectors) and would have a very limited impact on the social wellbeing of the area. The Order would enable the construction of a new development of housing and community facilities. In combination with those already provided under previous phases of the regeneration, it would represent a good contribution to the social wellbeing of the area.

15. At IR198 the Inspector found the direct and indirect economic benefits are far greater than any economic dis-benefit that would occur as a result of the Order and the scheme would contribute to an economic improvement to the wellbeing of the area.

16. Having considered the Inspector's separate analysis of the environmental, social and economic aspects of wellbeing, the Secretary of State is satisfied that all three strands would clearly benefit from the confirmation of the CPO and completion of this phase of the Estate's regeneration. Therefore, the Secretary of State considers the wellbeing requirements of Section 226(1) (A) of the Town and Country Planning Act 1990 are satisfied.

Viability

17. The Secretary of State considers there are no planning impediments to the scheme proceeding. Planning permission for the scheme has already been granted in 2015 and lawfully implemented. At IR179 the Inspector considered that there is no substantive evidence to show that there would not be sufficient funding available when required to complete the scheme, should the Order be confirmed. At IR182 he concluded that the LBS has demonstrated that it is fully committed to the development and that the necessary funding would be available as soon as it would be required to ensure that the scheme would be able to be carried out. Clearly the development has commenced and 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 completed.

Alternatives

18. The Secretary of State has considered whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by other means. The options put forward are for the refurbishment of the existing buildings (IR200). The Inspector concluded that there is insufficient evidence to show that the structural reports and the reported social problems that the LBS had relied upon when making its decision not to undertake refurbishment should have been

disregarded. The Secretary of State agrees with the Inspector's findings at IR203 and arrives at the same conclusions, as there is no credible alternative to the Order scheme for the regeneration of the Aylesbury Estate.

Efforts to Negotiate

19. The Estates Regeneration National Strategy (ERNS) December 2016 sets out policy expectations in relation to the rehousing of leaseholders and the Inspector considers that the LBS has taken reasonable steps to acquire all the necessary land interests by agreement (IR214) having reported that the all bar one of the 567 interests have been acquired (IR18). This follows a change to the LBS's policy allowing leaseholders not to invest their savings in their replacement property, if that is what they prefer. The Secretary of State agrees with the Inspector's findings at IR214 and considers that overall the scheme is consistent with the ERNS in this regard.

Human Rights

20. The Secretary of State has considered Section 6 of the Human Rights Act 1998 (HRA), transposing the European Convention on Human Rights (ECHR), which makes it unlawful for a public authority to act in a way which is incompatible with a Convention right. Of particular relevance in the context of this case are Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol to the Convention (Entitlement to peaceful enjoyment of possessions).

21. Those whose human rights may be subjected to interference would be the leasehold owners of the only remaining property to be acquired, one of whom would be likely to be required to vacate the property. At IR209 the Inspector accepted that there would be an interference with the human rights of the remaining objectors. He was, however, also satisfied (IR211) that any interference with their rights under Article 1 of the First Protocol and Article 8 of the ECHR is in accordance with the law, pursuant of a legitimate aim, and proportionate given the scale of the public benefits.

22. The LBS has continued with its efforts to negotiate with the two remaining objectors and all the other remaining statutory objections have been withdrawn. The Secretary of State agrees with the Inspector at IR209-211 that the purposes for which the Order is made justifies interfering with the human rights of those affected.

Public Sector Equality Duty (PSED)

23. 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. He has gone on to consider the Inspector's PSED analysis (IR204-207), the Equalities Impact Assessment work prepared for the LBS by Mott McDonald (June 2017) and other inquiry evidence submitted by the LBS and the relevant aspects of the objector's evidence.

24. The Secretary of State considers that the main protected characteristics which are relevant to this proposal are age, disability, race and sex with a focus on remaining residents. He has gone on to consider whether there is any specific evidence that the decision is likely to have any disproportionate positive or negative, direct or indirect impact on persons who share these relevant protected characteristics as compared to persons who do not share those characteristics.

The Inspector's main concern with equalities impacts, in relation to the scheme as a whole, was the same as for the CPO decision in 2016; the effect of the CPO on older people due to them not being offered a choice of replacement accommodation that would not disproportionately change their lives. In addition, the Secretary of State considers that amongst the four identified groups those with BAME backgrounds are also more likely to be disproportionately affected by the proposals alongside older age residents. Amongst these he notes in particular the positive impact on those with the protected characteristic of disability and the affordable home provision of 50 wheelchair accessible flats.

25. Copies of the detailed PSED analysis of impacts on which the Secretary of State based his consideration may be obtained by written request to the address at the foot of the first page of this letter. The Secretary of State acknowledges that the decisions may have potential negative and positive impacts on protected groups. However, the proposed mitigation measures and agreement to acquire the leasehold interests of all but one property on the Order Land are in place. The LBS has a range of rehousing options which include local options and it has undertaken extensive engagement with residents during the process. On balance the mitigation measures have demonstrated that the PSED negative impacts have been adequately addressed, where possible, and would amount to reasonable steps to meet protected groups' needs and mitigate residual disadvantage suffered, advancing equality of opportunity and minimising discriminatory impact.

26. Overall the Secretary of State considers has had due regard to the potential impacts of confirming the Order on protected groups in line with his duty under the PSED.

Justification in the public interests and overall balance

27. The Secretary of State acknowledges 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 all 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.

28. The Secretary of State is satisfied that the viability of the scheme has been demonstrated, there is a reasonable prospect that the scheme will be completed, 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 the acquiring authority to acquire the Order Land by agreement. Furthermore, he considers the purposes for which the Order Land 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

29. The Secretary of State has therefore decided to confirm The London Borough of Southwark (Aylesbury Estate Site 1B-1C) Compulsory Purchase Order 2014 with the addition of the modifications requested by the LBS.

30. I enclose the confirmed Order and Map as modified. 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.

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

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

Yours sincerely

MA Hale

Senior Planning Manager

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