



Department for  
Communities and  
Local Government

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Your ref:

Our ref: NPCU/CPO/N5090/74016

Date: 12 November 2015

Dear Ms Hamilton

**The Town and Country Planning Act 1990 Section 226(1)(a)  
The Local Government (Miscellaneous Provisions) Act 1976  
Acquisition of Land Act 1981  
The London Borough of Barnet (West Hendon Regeneration Area) Compulsory  
Purchase Order No 1 2014**

1. The report of the Inspector, Mrs Zoe Hill BA(Hons) DipBldgCons (RICS) MRTPI IHBC, who held a public local inquiry into The London Borough of Barnet (West Hendon Regeneration Area) Compulsory Purchase Order No 1 2014 ('the Order') on 20 – 23 and 27, 28 and 30 January 2015, with a site inspection on 29 January, 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.

2. The Order was made under section 226(1)(a) of the Town and Country Planning Act 1990, Section 13 of the Local Government (Miscellaneous Provisions) Act 1976, and the Acquisition of Land Act 1981 by the London Borough of Barnet ('the Council') on 3 June 2014. The Order, if confirmed, would authorise the compulsory purchase of residential blocks of Marriotts Close (11-98), Franklin House (1-76), Tyrrel Way (1-32), properties along West Hendon Broadway (including 181-197 and associated flats), construction sites and accesses, highways, footpaths, grassland and amenity land between the residential blocks named, for the purpose of facilitating the development and redevelopment or improvement of land at West Hendon. The Council have requested modifications to the Order summarised by the Inspector at IR5-IR6.

3. When the Inquiry opened there were 78 remaining objections and 29 non-qualifying objections. Prior to the Inquiry, 2 objections were withdrawn, and during the course of the Inquiry, 7 late qualifying objections were lodged, and 10 additional objections were made by non-qualifying additional objectors. The main grounds of objection were well-being benefits, in terms of economic, social and environmental matters would not be achieved, loss of public open space including memorial space and harm to the Welsh Harp Site of Special Scientific Interest and inadequate health and education facilities. Objections are also raised on grounds of lack of: proper consultation, meaningful negotiation and funding. Individual concerns are raised about personal circumstances relating to homes and businesses.

4. A Pre-Inquiry Meeting was held on 29 October 2014.

5. The Secretary of State notes that requests were made for the disclosure of viability evidence in respect of the proportion of affordable homes proposed in the scheme with the Inspector declining to exercise her powers under Section 250(2) of the Local Government Act 1972 to require the viability studies to be produced to the Inquiry (IR620). Having carefully considered the Inspector's analysis of the disclosure request (IR609-IR611 and IR620-IR622) and the evidence put to the inquiry by the parties in this respect, the Secretary of State agrees with the Inspector (IR610) and considers it is unnecessary to require the production of the detailed financial viability information.

#### **Inspector's recommendation and summary of the decision**

6. The Inspector recommended (IR642) that the Order should be confirmed with the modifications requested by the Council as summarised by the Inspector at IR5-IR6 and particularised in the amended Order and Map submitted at the Inquiry (INQ2 and INQ40). The Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with her recommendation.

#### **Post Inquiry correspondence**

7. The Secretary of State confirms that on 11 November 2015, it received two emails from the London Borough of Barnet confirming the updated position on Private Treaty Negotiations, which are noted.

#### **Policy Considerations**

8. IR69 and IR71 summarises the compulsory purchase policy in Circular 06/2004 in consideration of which the Secretary of State's decision on the Order is made. As you may be aware, new DCLG Guidance on Compulsory Purchase and the Crichel Down Rules has been published. This new guidance will now be taken into consideration by the Secretary of State in the confirmation of Orders. National policy set out in ODPM Circular 06/2004 has now been cancelled. I attach a link to the guidance for your information:  
<https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance>.

#### **Planning Framework**

9. The Secretary of State agrees with the Inspector's analysis of what constitutes the adopted planning framework at IR12-IR21. The Secretary of State has carefully considered the Inspector's assessment whether the purpose for which

the land is being acquired fits in with the adopted planning framework at IR575-IR582.

10. As to the Regeneration Area SPG 2005 (RA SPG), the Secretary of State agrees with the Inspector that this identifies West Hendon as a major opportunity for regeneration. It requires that existing affordable housing must be replaced by an equivalent amount, type and mix of new affordable housing funded by the private sector to meet Decent Homes Standard (IR575). He has considered the objectors' suggestion that the level of affordable housing is not acceptable (IR576). The Secretary of State notes that existing affordable housing on the estate amounts to 453 social rented dwellings whereas the scheme proposes 506 units made up of 219 social rented and 287 intermediate housing. He agrees with the Inspector for the reasons given that intermediate housing accords with the definition of affordable housing in the National Planning Policy Framework and, therefore, in terms of the RA SPG, the requirements as to affordable housing are met (IR576).

11. As to the UDP, he agrees with the Inspector that Policy GCrick, C1 and C1(A) reinforces that the West Hendon Regeneration Area will be a major focus for development and agrees that in addition to matters of housing and affordable housing it seeks protection of the Welsh Harp SSSI, integrated open spaces and highway improvements (IR577). He agrees with the Inspector that on the basis of the evidence there is no reason to doubt that the scheme which obtained planning permission did anything other than accord with the relevant UDP policies (IR577).

12. Overall, the Secretary of State agrees with the Inspector for the reasons given (IR581) that the scheme substantially accords with the adopted planning framework.

### **Well-being**

13. The Secretary of State has considered the Inspector's analysis as to the extent to which the proposed purpose of the Order will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area at IR583-IR608.

### **Dwellings**

14. The Secretary of State agrees with the Inspector that the existing residential accommodation of the estate is dated, and significant financial resources would be required to bring the properties up to Decent Homes Standard (IR583). He agrees the new scheme would provide for Lifetime Homes Standard, be suitably accessible, well insulated, with services improved, and better security (IR584). He agrees there would be a greater range of dwelling type and tenure providing a significant proportion of smaller units partly in response to the needs of the established community (IR585). He agrees the improved standard of the accommodation would represent a significant benefit to social well-being (IR585). He further agrees the scheme will bring benefits in terms of income within the area likely to result in increased demand for local retail and service facilities boosting the local economy and improving economic wellbeing (IR586).

### **Healthcare, Education and Community Facilities**

15. As to healthcare, the Secretary of State notes local capacity was assessed in detail in the Environmental Statement (IR133). He agrees with the Inspector the evidence indicates there is capacity within existing services such that any additional

demands can be accommodated (IR588). In terms of education provision, he agrees with the Inspector the evidence indicates there is requisite local secondary school capacity (IR589). He acknowledges the concern in respect of the undersupply of primary school places and notes the s106 agreement provides for the construction of a new two year primary school and nursery on the estate or a suitable alternative location. He agrees with the Inspector that while the new school would not be constructed until the later stages of the scheme and only in the event there is a need, nonetheless, there is the scope for construction of a new school and this provides a significant opportunity to improve the social well-being of the area (IR589). In terms of community facilities, he agrees with the Inspector that new purpose built facilities sitting alongside and making best shared use of some of the accommodation would represent positive and constructive use of community assets and has the potential to significantly improve social interaction, assist in healthy activity and promote wellbeing (IR590)

### **Open Space**

16. The Secretary of State agrees with the Inspector for the reasons given that the redesign of the open space has the potential to improve social interaction, physical activity and health, as well as enhancing the environment and making better use of environmental resources (IR591).

### **Impacts on Individuals**

17. The Secretary of State has carefully considered the Inspector's analysis of the impacts on individuals at IR598-IR606. He notes leaseholders would all be able to secure properties in shared equity homes based on the offer before them (IR600). He notes the commitment to subsidise service charges to levels comparable with other affordable housing in the borough (IR600). He agrees lack of information has been unhelpful but nonetheless considers that the shared equity scheme which has been put in place is such that the wellbeing of the residents is being considered (IR600).

18. In terms of secure tenants, he agrees with the Inspector for the reasons given that the needs of existing residents are being taken seriously (IR601). In terms of non-secure tenants, he acknowledges by the nature of the arrangement this group are most likely to be greatly affected. He notes however that of the 86 non-secure tenants, 54 have been re-housed, with 35 with improved circumstances as secured tenancies. Of the remaining, 12 have been cancelled following discharge of homelessness duties with the remainder of cases being processed by the Council as far as they are able (IR602). He agrees with the Inspector that the Council are taking its responsibilities for the wellbeing of non-secure tenants seriously (IR602).

### **Impacts on Businesses**

19. The Secretary of State has carefully considered the Inspector's analysis of the impacts on business at IR607-IR608. He agrees with the Inspector that the properties are required in the interests of wider community benefits, and that new retail space will be created as part of the development such that those areas lost would be more than made up for in terms of provision to the area, and as a consequence there would be no adverse impact on employment in the area (IR608).

20. Overall, the Secretary of State considers that the requirements of Section 226(1)(A) of the Town and Country Planning Act 1990 are satisfied because the

Order will contribute significantly to the economic, social and environmental wellbeing of the area.

### **Viability**

21. The Inspector's conclusions on viability are set out at IR609-IR611, and in relation to these, the Secretary of State considers that there is a reasonable prospect the overall scheme for the regeneration of the West Hendon Estate will proceed. The Secretary of State acknowledges that whilst a phase of the development in isolation would not be viable, that taken as part of a wider scheme, that it will produce the stated benefits.

### **Alternatives**

22. The Secretary of State has carefully considered the Inspector's conclusion as to whether, the purpose for which the Council is proposing to acquire the land, could be achieved by any other means at IR612-IR614. He agrees with the Inspector that from the evidence there is no feasible alternative to the provision of the comprehensive development, with the benefits of improved shopping and housing provision, improved access to green space and improved highway provision.

### **Consultation/Negotiation**

23. The Inspector's conclusions are set out in IR613, IR615-IR618 and IR619. The Secretary of State agrees with the Inspector that whilst relationships could have been better, from all available material that consultation has been adequate. In respect of negotiation, the Secretary of State agrees with the Inspector that reasonable efforts have been made by the Council to achieve negotiated settlements.

### **Human Rights**

24. The Secretary of State has carefully considered whether the purposes for which the Order was made sufficiently justify interfering with the human rights of those with an interest in the land affected. In particular, he has considered the Inspector's conclusions of this matter at IR634-IR637 and the provisions of Article 1 of the First Protocol to, and Article 8 of the European Convention on Human Rights. With regard to Article 8, the Secretary of State considers that in balancing the rights of individuals who are affected by the Order against the benefits to the community of proceeding with the Order, the making of the Order and the interference with the individuals' rights are justified in the interests of the community in order to effect the scheme. With regard to Article 1 of the First Protocol, the Secretary of State considers that the interference with the individual's property is justified by the advantages to the wider public interests by proceeding with the development which the Order would facilitate. Overall, the Secretary of State agrees with the Inspector and considers that the benefits of the scheme in terms of housing provision, the built and natural environment, traffic and transportation, and the local economy including retail facilities outweigh the interference with the specific human rights of the individuals affected by the Order and he is satisfied that such interference is proportionate and justified (IR637)

### **Public Sector Equality Duty**

25. 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.

26. In this regard and in coming to his decision, the Secretary of State considers that confirmation of the Order may have a detrimental effect or a disproportionate impact on persons who share a relevant protected characteristic in terms of families with young children, individuals with disabilities/medical conditions, and the elderly. The Secretary of State has gone on to balance these potential equality impacts against the benefits of the scheme which include designated playable space for children up to 11 years, 10% of overall residential unit provision that is wheelchair accessible, increased community facility provision and improved travel facilities. Overall, and having regard to the PSED, the Secretary of State considers that his decision to confirm the CPO is proportionate and justified in the circumstances.

#### **Justification in the public interest and overall balance**

27. 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 and considers that the purpose for which the land is being acquired substantially accords with the adopted planning framework for the area. (IR638) The Secretary of State considers that the proposed purpose of the Order, including the redevelopment and regeneration of the area, would have positive effects on the economic, social and environmental wellbeing of the area (IR638). The Secretary of State considers that the potential financial viability of the wider scheme has been demonstrated and there is a reasonable prospect that the scheme will proceed (IR638). The Secretary of State considers that no adequate alternatives exist in terms of achieving the purpose of the proposal (IR638). Overall, the Secretary of State agrees with the Inspector and considers that the public benefits significantly outweigh the private loss and consequently that there is a compelling case in the public interest to justify sufficiently the interference with the human rights of those individuals affected by the Order (IR640).

28. The Secretary of State has therefore decided to confirm the London Borough of Barnet (West Hendon Regeneration Area) Compulsory Purchase Order 2014 with the modifications requested by the Council set out at IR5-IR6 omitting the need for the associated S19 certificate. He considers the proposed modifications to the Order are reasonable and an acceptable approach to take in the circumstances and agrees with the Inspector that as the Council and Canal River Trust have reached agreement about the land around the Cool Oak Bridge and modification is sought to exclude this land from the Order, the S19 certificate no longer needs to be pursued (IR641).

29. I enclose the confirmed modified 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.

30. Copies of this letter and the Inspector's report are being sent to remaining objectors who appeared at the local inquiry. Copies of the letter are also being sent to other persons who made submissions at the local inquiry.

31. 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 Communities and Local Government

*Liz Hardy*

**Liz Hardy**  
**Senior Planning Casework Manager**