



Department for Transport

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Your Ref: LS/P/DC/125631

Our Ref: DN5011/60/1/7

Date: 3 June 2013

Dear Sir

**HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981**

**THE LONDON BOROUGH OF ENFIELD (SOUTH STREET) COMPULSORY
PURCHASE ORDER 2011 ("the CPO")**

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to refer to the Public Local Inquiry held at the Civic Centre, Silver Street, Enfield on 12 March 2013 before Mr I Jenkins BSc CEng MICE MCIWEM, an Inspector appointed by the Secretary of State to hear an objection to and representations about the above named Order submitted by the London Borough of Enfield Council ("the Council").

2. If confirmed by the Secretary of State the CPO would authorise the Council to purchase compulsorily the land described therein for the purpose of the improvement of the existing highways at South Street, Tennyson Close and Keats Close, Enfield.

THE INSPECTOR'S REPORT

3. The Inspector has considered the objection to the Order both as made in writing and presented orally at the Inquiry and has submitted his report to the Secretary of State. A copy of that report is enclosed with this letter. References in this letter to the Inspector's report are indicated by the abbreviation "IR" followed by the paragraph number in the report.

4. The Inspector's report summarises the case for the Council at IR 4.1.1 to IR 4.1.18. The case for the objector is summarised at IR 5.1.1 to IR 5.1.12 and the Council's rebuttal of the objections is at IR 6.1.1 to IR 6.1.14. The Inspector's conclusions are detailed at IR 7.1.1 to IR 7.1.27 whilst his recommendations are given at IR 8.1.

THE INSPECTOR'S CONCLUSIONS AND RECOMMENDATIONS

5. In light of his conclusions the Inspector has recommended at IR 8.1 that the CPO be confirmed, with modifications, as detailed at IR 3.2 and at IR 7.1.12, and in accordance with CPOa, comprising a triangular shaped area of 20 square metres along the frontage of No. 75 South Street instead of the larger rectangular shaped area of 32 square metres which the CPO seeks to acquire. The Inspector has concluded at IR 3.3 that, in his judgement, the proposed modifications would be necessary in the interests of precision and at IR 7.1.13 that the CPOa modifications would not alter the purposes for which the Order was made and would not reduce the CPO boundary except through the reduction in the size of plot 11 which do not amount to substantial amendments.

THE DECISION OF THE SECRETARY OF STATE

6. The Secretary of State has considered carefully all the objection to the Order. He has considered the Inspector's report and accepts his conclusions and recommendations.

7. The Secretary of State has carefully considered whether the purposes for which the CPO is required sufficiently justify interfering with the human rights of the objector and he is satisfied that they do. In particular, he has considered the provisions of Article 1 of The First Protocol to the Human Rights Act 1998 (as amended) and also of Article 8. In this respect, the Secretary of State agrees with the Inspector's conclusions at IR 7.1.27 and is satisfied that in confirming the CPO, a fair balance has been struck between the public interest and interests of the objector.

8. The Secretary of State does not consider that the objection constitutes grounds for not proceeding with the proposals, and accepts that the modifications mentioned in IR 3.2, IR 7.1.11 and IR 7.1.12 are necessary and that they should be made. He is satisfied that the modifications to the CPO, referred to in paragraph 5 above, would not prejudice the interests of anyone directly concerned. For these reasons he has decided to confirm, as modified by him, the London Borough of Enfield (South Street) Compulsory Purchase Order 2011 and this letter constitutes his decision to that effect.

9. In confirming the Order, the Secretary of State has relied on the information that the Council and others have provided, as contained in the Order and any related plans, diagrams, statements or correspondence as being factually correct. This decision on confirming the Order is given on this basis.

COMPENSATION

10. Details of compensation arising as a consequence of confirmation of a compulsory purchase order are for negotiation with the acquiring authority and not the Secretary of State. Accordingly, owners and occupiers of land included in the CPO will need to be approached by the Council about the amount of compensation payable to them in respect of their interests in the land required for the proposals. If the amount cannot be agreed the matter may be referred for determination by the Lands Tribunal under the Lands Tribunal Act 1949 and the Land Compensation Act 1961.

COSTS

11. In view of the Secretary of State's decision to modify the CPO to delete 12 square metres from Plot 11, the Council's and other interested parties' attention is drawn to the guidance contained in the Department for Communities and Local Government Circular 03/09: *Costs Awards in Appeals and Other Planning Proceedings* that applies in such circumstances. Should Mr Ozan Beliger not wish to negotiate with the Council direct or is unsuccessful in reaching a settlement of his Inquiry costs with the Council, the Secretary of State for Transport would, on receipt of an application for costs from him, be prepared to consider making an award of costs in respect of his reasonable costs incurred in connection with the Inquiry, with such costs being paid by the Council, in recognition that his objection has been partially successful.

AVAILABILITY OF DOCUMENTS

12. A copy of this letter, together with a copy of the Inspector's report has been sent to the objector, and the other persons who appeared and made representations at the Inquiries. Copies will be made available on request to any other persons directly concerned and can also be viewed on

<https://www.gov.uk/government/organisations/department-for-transport/series/highways-act-inspectors-reports-and-decision-letters>.

Please arrange for a copy of the Inspector's report and of this letter to be made available for inspection at the offices of the Council and at all other places used to deposit the Order for public inspection at making stage. Any person entitled to a copy of the Inspector's report may apply to the Secretary of State for Transport, at this address within 6 weeks of the receipt of this letter, to inspect any document, photograph or plan submitted by the Inspector with the Inspector's report. Those documents, photographs or plans, are retained at this office, and will be made available at a local place of inspection.

RIGHT OF CHALLENGE

13. Notice is to be published of confirmation of the Order. Any person who wishes to question the validity of the confirmed Order, or any particular provision contained therein, on the grounds that the Secretary of State has exceeded his powers or has not complied with the relevant statutory requirements in confirming the Order may, under the provisions of Schedule 2 to the Highways Act 1980 and section 23 of the Acquisition of Land Act 1981, do so by application to the High Court. Such application must be made within six weeks of publication of the notice that the Order has been confirmed. The High Court cannot entertain an application under the said Schedule 2 or section 23 before publication of the notice that the Secretary of State has confirmed the Order.

Yours faithfully

VICTORIA POINTER

Authorised by the Secretary of State
to sign in that behalf