

**Oxfordshire County Council (Didcot Garden Town Highways Infrastructure – A4130 Improvement (Milton Gate to Collett Roundabout), A4197 Didcot to Culham Link Road, and A415 Clifton Hampden Bypass) Compulsory Purchase Order 2022 (“the CPO”)**

**Oxfordshire County Council (Didcot to Culham Thames Bridge) Scheme 2022 and the Oxfordshire County Council (Didcot Garden Town Highways Infrastructure – A4130 Improvement (Milton to Collett Roundabout), A4197 Didcot to Culham Link Road and A415 Clifton Hampden Bypass (Side Roads) Order 2022 (“the SRO”)**

**STATEMENT OF CASE FOR  
MAYS PROPERTIES LIMITED**

**Introduction**

1. This is the Statement of Case for Mays Properties Limited (“MPL”) in respect of the Oxfordshire County Council (Didcot Garden Town Highways Infrastructure – A4130 Improvement (Milton Gate to Collett Roundabout), A4197 Didcot to Culham Link Road, and A415 Clifton Hampden Bypass) Compulsory Purchase Order 2022 (“the CPO”).
2. The order-making authority is Oxfordshire County Council which is the relevant local highway authority and the local planning authority (“the Acquiring Authority”). The CPO is promoted under sections 239, 240, 246, 250 and 260 of the Highways Act 1980.
3. MPL are the freehold owners of 3.61 acres (1.46ha) land fronting the A4130 registered under title BK90497 (“the Property”) and from which the Acquiring Authority seeks to acquire interests. MPL have been served with a notice under s. 12 of the Acquisition of Land Act 1981 (“ALA 1981”) as a qualifying person within the meaning of that Act.
4. MPL have objected to the CPO under s.13(6) of the ALA 1981.

**The Property to be acquired.**

5. The CPO includes land within the Property in Table 1 referred to as plots 1/6b and 1/6a (“the

Land to be Acquired"). The Property

- (1) benefits from infrastructure planning permission P14/V0087/FUL for a T Junction access directly onto the A4130 with loop road serving the Property ("the T Junction Access"). This T Junction Access planning consent ("T Junction Access Consent") has been implemented (implemented in 2017), and
  - (2) is subject to proposals to develop its retained land under planning references P15/V2880V/O, P18/V2139/FUL P19/V0008/RM and P20/V0657/RM for a roadside scheme (including hotel) (the Roadside Services Scheme) accessed via the above T Junction Access. The Roadside Services Scheme planning permission has been implemented (implemented in 2022)
6. MPL submitted a planning application (P22/V1121/O) in July 2022 seeking to develop its site for what is known as its supermarket scheme (being an application for a supermarket and roadside services to be accessed from the A4130 via the consented T Junction Access and referred to as the "Supermarket Development". The Local Planning Authority is minded to grant consent subject to completion of a s106 agreement, the detail of which is agreed and is currently being documented.

### **The Need for the Land Acquired**

7. Notwithstanding the description within the CPO, it is understood that the Acquiring Authority requires plot 1/6b permanently and is only seeking to acquire 1/6a permanently because it cannot secure sufficient rights to occupy it temporarily under the Highways Act. This is evidenced by a drawing prepared by OCC and issued to Mays Properties Ltd (drawing number GH132861001-LOLP-MPL P01 - dated 12/10/2022). This drawing preceded OCC's CPO and clearly identifies 1/6a as being land that OCC intended to acquire temporarily.
8. Put simply, the Acquiring Authority only wishes to occupy plot 1/6a temporarily.
9. The relevant test for the acquisition of this land pursuant to sections 239 and 240 of the Highways Act 1980 is that the entirety of the Land to be Acquired, including Plots 1/6a, is required for those purposes.

### **Grounds of Objection**

10. MPL are happy to make clear that they do not object to the principle of the acquisition of some of the Property in order to provide highway improvements. The acceptance should not be taken

as acceptance that there is a compelling case in the public interest for the land acquisition proposed at the Property.

### **Ground 1: Prematurity**

11. The making of the Order is premature because the scheme is not subject of an implementable planning consent.
12. It follows that, at the date of the making of the Order, and also now, there was/is a clear impediment to scheme delivery.

### **Ground 2 – Funding**

13. It is a necessary requirement that the Acquiring Authority demonstrates that it has sufficient funding to implement the scheme.
14. There is no doubt that the costs have increased markedly since the making of the CPO. Until such time as the Acquiring Authority can demonstrate it has sufficient funds to deliver the scheme the confirmation of the CPO would be premature and not meet the balance between the public interest (insofar as public interest arises) and private interest.

### **Ground 3: Attempts to acquire by private treaty.**

15. Compulsory acquisition is a last resort - that is that the purpose of the CPO cannot be achieved in a way that is less interfering with the property rights of MPL.
16. The requirements to take reasonable steps to acquire the required land by agreement and to progress compulsory acquisition as a last resort are engaged throughout the compulsory acquisition. The intention is that through negotiation the land required to be included within the Order for compulsory acquisition can be reduced. There is no timing imperative in this case that justified the inclusion of land which landowners were willing to provide by way of a licence. It is the Acquiring Authority's failure to negotiate in a timely fashion that has led to the inclusion in the Order of an extent of land taken from MPL that goes beyond what is permanently required to deliver the Scheme.
17. For approximately 2 years MPL has actively sought to reach agreement with OCC for them to acquire the land by private treaty through a Conditional Land Sale Agreement ("CLSA"), but no CLSA has yet been Exchanged. This draft agreement encompasses all of the issues raised in

this Statement of Case and the parties are very close to reaching full agreement. Should OCC Exchange on an acceptable final draft of this agreement with MPL on or before 31<sup>st</sup> January 2024 MPL, MPL would be prepared to withdraw its objection to the CPO.

**Ground 4 – Land not required for the highway.**

18. The Acquiring Authority has failed to demonstrate why access to plot 1/6a is required given that it is not intended to construct any part of the highway on this plot.

**Ground 5 – No requirement to acquire permanently.**

19. MPL recognizes that there may be a requirement for the Acquiring Authority to take entry to plot 1/6a (although MPL is still waiting for OCC to set out the extent of this requirement) and, insofar as that requirement arises and MPL can facilitate then it has indicated a willingness to agree terms for the temporary occupation.
20. This position has been made clear from the outset – dating back as far as early 2020 when MPL agreed with OCC a sacrosanct line (the "Sacrosanct Line") south of which OCC agreed not to build any highways infrastructure and north of which MPL agreed not to construct any of its development. This culminated in agreed drawing GH-132861001-LOLP-MPL P01.1. which clearly shows the Sacrosanct Line in purple and this cross references with the key which refers to the "Mays Sacrosanct Boundary".
21. OCC made issued its CPO and Side Roads Order plans. These do not reflect the principle previously agreed with OCC as 1/6b and 1/6a are both shown on these CPO plans as being acquired permanent by the local authority. This is clearly in breach of both the agreement reached in the design process with OCC and CPO principles.
22. MPL rejects any suggestion that the land take can be justified by reliance on the *Crichel Down* rules for reasons including that:
- (1) The Crichel Down Rules are non-statutory and cannot be relied upon;
  - (2) The Crichel Down rules are only engaged where the Government department expressly wishes to dispose of land – there is no requirement on the relevant department to declare land surplus even if it is;
  - (3) The Crichel Down rules do not provide for the return of the land to the owners where the character of the land has "materially changed";
  - (4) There are also a number of exceptions to the general obligation to offer land back to the former owners;

## **Ground 6 – Loss of rights**

23. The acquisition of land and rights by the Acquiring Authority will make it impossible for MPL to complete its consented and part implemented T Junction Access and will therefore render their consented and part implemented development and current development proposals undeliverable unless an acceptable alternative access is provided.
24. Compulsory purchase is about acquisition of interests in land. It does not grant affected parties rights and, as drafted, the CPO shows an access to the consented development being re-provided. It is, however, unclear what rights MPL will be granted in terms of full and unfettered rights of access to the public highway and how these rights will be secured. Also, re-alignment of this access link is required to correctly align with MPL's preferred access.

## **Conclusion**

25. For the above reasons, MPL object to the CPO as made maintain that it should not be confirmed – or that significant modifications are made to the CPO to address the above grounds. Those grounds are, in summary, that:
  - (1) Prematurity - The making of the Order is premature because the scheme is not subject of an implementable planning consent.
  - (2) Funding - the Acquiring Authority needs to demonstrate it has sufficient funds to deliver the scheme.
  - (3) Attempts to acquire by private treaty – the acquiring authority has made inadequate attempts to acquire by private treaty.
  - (4) Land not required for the highway - The Acquiring Authority has failed to demonstrate why access to plot 1/6a is required given that it is not intended to construct any part of the highway on this plot.
  - (5) No requirement to acquire permanently - MPL has indicated a willingness to agree terms for the temporary occupation.
  - (6) Loss of rights - The acquisition of rights by the Acquiring Authority will remove MPL's consented access.
26. For these reasons, the Order should not be confirmed as presently drafted. In the alternative to non-confirmation of the CPO, MPL seek the following modifications:
  - (1) Re-formulating of the CPO to exclude that land required only for temporary purposes in exchange for the grant by MPL of a licence;

- (2) An undertaking to ensure that full and unfettered rights of access can be taken from the new Backhill Roundabout access arm to MPL's retained land to facilitate the development of that land. and so that MPL can pass on those rights of access to their tenants and/or successors in title.
  - (3) An undertaking by OCC to amend their scheme to deliver the physical access links from the Backhill Roundabout access arm to MPL's preferred development scheme - the "Supermarket Development".
  - (4) An undertaking from OCC to ensure that MPL has full and unfettered construction access from implementation of CPO, through the HIF1 Scheme construction period and right up to the point where OCC provided the completed access from the MPL land through to the 4130 via the fully complete HIF1 road improvements.
27. The MPL evidence will show that MPL have significant concerns that OCC has not found the right balance in their CPO and Side Roads Order between achievement of their aims and acting in the public interest or between achievement of their aims and respecting the rights of the individual property owner (MPL). It will show that, without OCC amending the scheme as set out above, an Enterprise Zone site within the Didcot Growth Accelerator, which would otherwise be generating commercial rates for South and Vale District Council and creating local jobs would be frustrated by OCC's current proposal for access links to the MPL development land and in particular the inability, at present, to formally agree the issues (the "Conditions") raised in the CLSA. MPL will confirm that all of these factors are essential in securing MPL's preferred development scheme for their land. MPL will refer individually to the outstanding 'conditions' and explain how these could be addressed and resolved. These 'conditions' include:
- (1) OCC safeguarding the 'sacrosanct line' previously agreed with MPL below which no highway infrastructure is to be built and above which MPL has agreed not to construct development and OCC acquiring only the land on which their highway infrastructure with will sit.
  - (2) OCC respecting MPL's part implemented planning permissions and its new application for the revised mix of uses with access from Backhill Roundabout.
  - (3) OCC abiding by CPO and Community Infrastructure Levy principles so as not to undermine the commercial value of the MPL land and consented road infrastructure.
  - (4) OCC providing unfettered and appropriate access links from the Backhill Roundabout to their land and preferred development scheme.

## 28. **List of Documents**

MPL will refer to the following:

- (1) Drawings prepared by Aecom (and issued by OCC to MPL prior to the CPO and Side Roads Order) which incorporate the agreed "Sacrosanct Line".
- (2) A drawing issued by OCC to MPL prior to the CPO and Side Roads Order showing OCCs intention at the time to acquire land parcel 1/6a temporarily.
- (3) Representations submitted in response to OCC's CPO and Side Roads Order
- (4) Negotiations with OCC in relation to the CLSA
- (5) Planning applications and approvals for the development of MPL site including application for revised mix of uses with access from the Backhill Roundabout
- (6) A Statement of Common Ground between MPL, Minscombe Properties Ltd, Anthony Mockler, OCC and South and Vale District Council demonstrating that OCC prior to promoting the HIF1 Scheme were very keen to see the "T Junction access" built in order to provide access to the MPL commercial development, the Minscombe Properties Ltd commercial development and the Mockler NWVP housing development.
- (7) Strong demand from supermarket, EV forecourt and drive thru operators.

Should MPL want to refer to any other documents as part of its case, it will promptly advise the Planning Inspectorate and the other parties of this.