

Written Submission to Planning Inspectorate

Highfield Environmental Limited (**Highfield**) are the proprietor of land with leasehold title CE222458 (**Property**) (official copies attached at Appendix 1).

The Property and surrounding land had historically been operated for landfill purposes for many years prior to Highfield's occupation, a use Highfield has continued to operate as part of their business since 2016.

Highfield directly employs 5 permanent staff on this site with 20 more employees across the Tees Valley Area.

This written objection has been prepared to summarise concerns which Highfield have in respect of the CPO as drafted.

For the avoidance of doubt Highfield do not fundamentally object to the principle or objectives of the scheme rather they seek variation of the order to preserve the balance between the intentions of STDC and the interests of those with interests in land including Highfield.

Highfield do not object to the CPO as a whole, rather Highfield are seeking clarity and alteration of the order so that their business will not be landlocked and that operational land will not be adversely affected by the CPO.

Chronology

Highfield received a letter from STDC dated 10 May 2018 informing Highfield of the proposed CPO and requesting information regarding any interest Highfield had in the Property or surrounding land.

Muckle LLP acting on behalf of Highfield responded to this letter on 17 May 2018 (Appendix 2) informing STDC that the letter had been served incorrectly and as such, Highfield required further information from STDC.

Gowling WLG acting on behalf of STDC responded on 7 August 2018 (Appendix 3) to confirm their client did not intend to purchase any of the Property and that their client would be issuing a revised requisition for information notice by post. This revised requisition was never received by either Muckle LLP or Highfield.

Gowling WLG confirmed via a letter dated 10 April 2019 (Appendix 4) that STDC were proceeding with the CPO.

Muckle LLP responded on 1 May 2019 stating Highfield's concerns regarding the potential effects to the Property (Appendix 5) and confirmed Highfield's objections until the issues raised were resolved.

From the date of this letter to the date of this Inquiry Highfield and STDC have been in without prejudice correspondence via their respective representatives with the aim of resolving the outstanding issues and to allow Highfield to withdraw their objection.

Whilst progress was made during these without prejudice negotiations, a settlement was not reached between the parties before the deadline for submission of evidence.

The following issues are still outstanding:

Boundary

1. The majority of the Property appears to be shaded yellow on the CPO plans provided by STDC (indicating such land is not within the CPO) however there are some areas of the Property shaded pink which would indicate part of the Property will be within the CPO (see plans at Appendix 6).
2. Highfield therefore request that the Inspector recommend that the CPO boundary be amended in order that STDC are not granted powers to acquire any of the Property.

3. A survey conducted by Wardell Armstrong on behalf of Highfield (Appendix 7) confirmed that the boundary of the title plan (shown in red at page 10 of Appendix 7) for the Property is in some areas significantly narrower than the physical boundary of the Property (shown in pink shown in red at page 10 of Appendix 7). Land Registry title plans which have been formed using plan(s) from a conveyance rather than plotted from physical boundaries on the land (as indicated by the dotted line boundaries) create a margin of error, as the report has confirmed in the case of the Property. STDC are proposing to acquire the land forming the discrepancy.
4. There are also historical boundary issues caused by proprietors of neighbouring land which STDC are proposing to acquire. The current proprietor (Sahaviriya Steel Industries UK Limited) of freehold title CE210446 (located to the west of the Property) is believed to have disposed of environmental waste beyond their land's boundaries and consequently such waste is located within the legal boundaries of the Property. The historical issue of the discrepancy between the legal and physical boundary described at point 3 has also resulted in slight overspill from the Property beyond its legal boundary. The precise areas of the overspill are identified at page 13 of the report at Appendix 7.
5. As STDC are the proposed successive proprietor of freehold title CE210446, Highfield requested clarification as to how STDC propose to deal with the environmental waste interfering with the Property.
6. As a solution to both points 3 and 4 above, Highfield propose a transfer of such land to their landlord for no consideration which can be subsequently leased back to Highfield for no consideration by way of a lease co-terminus with their current lease. This proposal is the only practical solution to avoid future disputes between all parties (and therefore costs and time for all parties). Please note, as Highfield are a leasehold proprietor, Highfield's landlord (being North Tees Landfill Sites (Teesport) Limited) would need to be party to such agreement. They have agreed to this in principle.
7. Highfield therefore request that the Planning Inspectorate confirm STDC will enter into an agreement which rectifies these historical issues should STDC acquire such land. Highfield appreciates STDC may require adjustments to the Property's physical boundary features to accommodate STDC's proposals for the surrounding land as part of the CPO. Highfield confirm they will assist STDC with such adjustments where it is reasonable and practical for them to do so and are willing to support the CPO process in the interests of building a good working relationship between all parties.
8. If the solution proposed by Highfield above is beyond the power of the Inspector then as an alternative Highfield would like to request the Inspector make an amendment to the order so that STDC provide a waiver for historic overspill and any liability arising thereof should STDC acquire such land.

Access

9. Highfield currently exercise two separate pedestrian and vehicular access routes to the public highway. Being routes between points A and B (Appendix 8) and between points W and Y (Appendix 9).
10. The Property benefits from a right of way over areas of land within the CPO as noted on the official copy of the register of title (Appendix 1) comprising the route between points W and Y. The Property benefits from a deed of exchange dated 28 March 1977 together with a deed of variation dated 18 December 2001 (collectively Appendix 10) which grants a right of way between points W and Y on the plan attached at Appendix 9.

11. STDC are proposing to acquire the land shown on this plan therefore we would request STDC grant a right of way from W to Y as identified at Appendix 9 to ensure that Highfield's interest is not landlocked or ransomed and continuity of business operation is maintained.
12. Highfield and its tenant (Renewable Power Systems Limited) regularly use the route between A and B as identified on Appendix 8 as part of their respective operations. Whilst not all of this route between A and B falls within the CPO, Highfield requests that if the order were confirmed, rights of access for pedestrians and vehicles are maintained in order to avoid land locking of the property and creating a threat to employment.
13. It is imperative the Property is granted such rights of way so that it enjoys a continuity and permanent right of way to a public highway and so to avoid any adverse effect to Highfield or it's tenant's day to day operation.
14. Highfield confirm they are happy to accept alternative routes to the public highway provided such routes are as convenient for their operation (leaving Highfield's position unchanged). It is important to highlight that due to the nature of Highfield's business, Highfield regularly use such routes with heavy goods vehicles therefore STDC may have a preferred route(s) which is more appropriate in light of their proposals for the surrounding land. As above, Highfield confirm they are understanding of this fact and are happy to discuss such routes.

Conclusion

Highfield and their representatives (Muckle LLP and Sanderson Weatherall) have always responded promptly and reasonably incurring both considerable time and costs in an attempt to reach an agreement acceptable by all parties. Highfield are not seeking to profit or gain any material advantage from the CPO procedure and has made this clear to STDC from the outset. The proposals above will only have the effect of correcting historical errors which both parties have inherited not caused and secure Highfield and it's tenants ability to operate without disruption by way of the right of way.

As drafted, the Order interferes with the property interests of Highfield and adjacent property interests. There is no provision of access equivalent to that currently enjoyed by the Highfield.

The uncertainly inflicted upon a viable and long-established business providing an environmentally important service to the wider community and business of Teesside contradicts the primary justification of regeneration and reaction of employment in STDC Statement of Reasons.

Highfield invite the Inspector to recommend confirmation of a revised Order which protects the rights of access enjoyed by their business and in so doing avoid the risk of landlock and maintain the facility and employment generated by Highfield's business.

Muckle LLP on behalf of Highfield Environmental Limited

Appendices

Appendix 1: Official Register and Title Plan of leasehold title CE222458

Appendix 2: Muckle LLP letter to STDC dated 17 May 2018

Appendix 3: Gowling WLG letter dated 7 August 2018

Appendix 4: Gowling WLG letter 10 April 2019

Appendix 5: Muckle response 1 May 2019

Appendix 6: CPO Plans

Appendix 7: Wardell Armstrong Survey

Appendix 8: Right of Way Plan (A to B)

Appendix 9: Right of Way Plan (W to Y)

Appendix 10: Deed of Exchange dated 28 March 1977 and Deed of Variation 18 December 2001