



Caudwell & Sons Limited

**THE OXFORDSHIRE COUNTY COUNCIL (DIDCOT GARDEN TOWN HIGHWAYS
INFRASTRUCTURE – A4130 IMPROVEMENT (MILTON GATE TO COLLETT
ROUNDBOUT), A4197 DIDCOT TO CULHAM LINK ROAD, AND A415 CLIFTON
HAMPDEN BYPASS) COMPULSORY PURCHASE ORDER 2022**

THE HIGHWAYS ACT 1980

AND

THE ACQUISITION OF LAND ACT 1981

Statement of Case of Caudwell & Sons Limited

Pursuant to Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007

1. BACKGROUND

Introduction

- 1.1 This is the Statement of Case of Caudwell & Sons Limited (“**Caudwell**”) in its capacity as a statutory objector pursuant to Rule 7 of the Compulsory Purchase (Inquires Procedure) Rules 2007 (**the “Rules”**). The acquiring authority for the purposes of this statement is Oxfordshire County Council (“**the Council**”)
- 1.2 This Statement of Case is prepared in connection to the above mentioned Compulsory Purchase Order 2022 (“**the Order**”), which was made by the Council on 21 December 2022. Caudwell gave objection to the Order in written correspondence to the Secretary of State of Transport in a letter dated 17th March 2023.

The Ownership

- 1.3 Caudwell are the owners of land south of the River Thames and north of Appleford Road (B4016) as shown on Sheet 13 of the River Thames Bridge Crossing section, land west of Appleford Crossing as shown on Sheet 11 and land to the north of Thame Lane and west of Oxford Road (B4015) as shown on Sheets 17-19 of the Clifton Hampden Bypass section in the Draft Order.
- 1.4 Caudwell is a major farming contractor responsible for the farming of some 1,800 acres in the South Oxfordshire District. The primary business of Caudwell is farming.

The Order

- 1.5 The Order, together with the Oxfordshire County Council (Didcot to Culham Thames Bridge) Scheme 2022 and the Oxfordshire County Council (Didcot Garden Town Highways Infrastructure – A1430 Improvement (Milton to Collett Roundabout), A4197 Didcot to Culham Link Road and A415 Clifton Hampden Bypass (Side Roads) Order 2022, are made to facilitate the delivery of the Access to the Didcot Garden Town Highway Improvements (“**the Scheme**”).
- 1.6 The Scheme consists of a new highway approximately 11km in length, new cycling and pedestrian infrastructure and three over bridges including a new structure over the River Thames.
- 1.7 Caudwell do not object to the scheme in principle, but they object to the way the Council has conducted its consultation and public engagement.
- 1.8 In addition, Caudwell objects to the way the Council has attempted to negotiate the acquisition of land and rights required by private treaty.
- 1.9 Lastly, Caudwell also objects to the extent of their land included within the Order where the Council has failed to minimise the extent of the proposed compulsory acquisition and failed to explain the need to acquire the land.

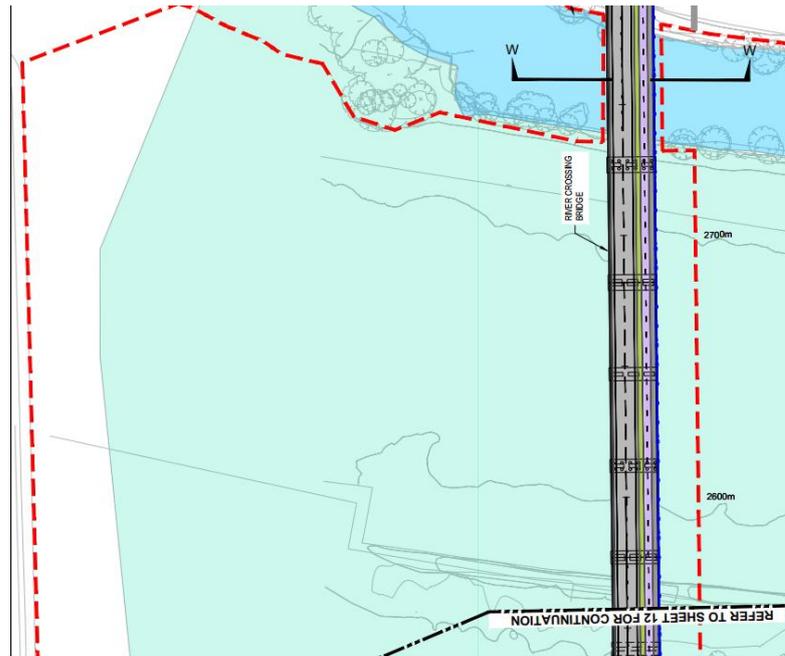
Objection

1.10 This statement sets out the basis of Caudwell's case for refusal of the Order as will be put forward at inquiry.

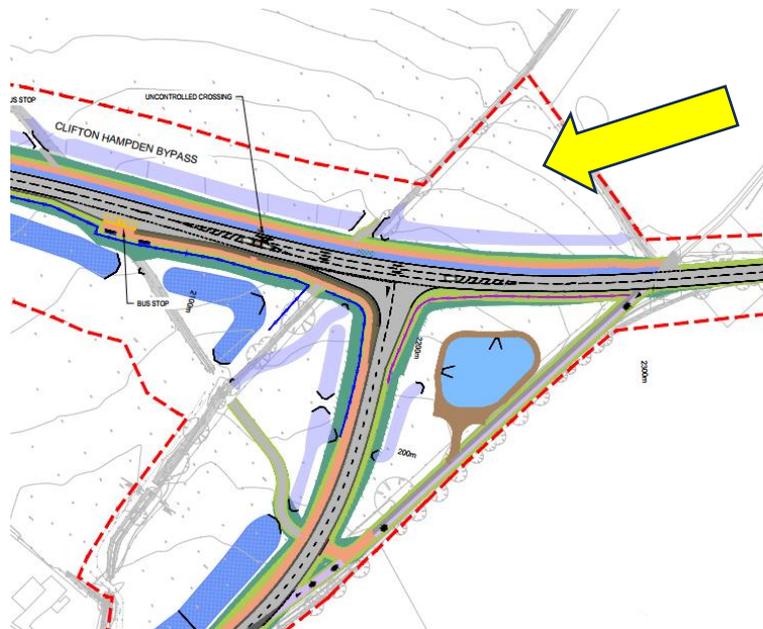
2. Reasons for objection

Reason 1: The Compulsory Purchase of the Land is not required or justified.

- 2.1 The Council have failed to fully demonstrate that the compulsory purchase of Caudwell's land ("**the Land**") is necessary and justified through engagement with Caudwell and their advisors in explaining the reason for the inclusion of the Land within the Order.
- 2.2 In respect of the Land affected by River Thames Bridge which lies south of the River Thames (plots 13/3a, 13/3c and 13/3d) the Council's Statement of Reasons document states this land is required for a length of the new A4197, associated new side roads and improvements to existing side roads, mitigation of adverse effects of the highways upon their surroundings, new private means of access to premise and construction working space/use land.
- 2.3 The General Arrangement Plans (sheet 13) submitted with the Order which covers the River Thames Bridge area identifies a substantial part of the Land being a new "Wetland Area". Further, the Revised Landscape Masterplans submitted with the Planning Application identify a new 'pond', marsh and wet grassland and areas of woodland. However, it is not until Paragraph 16.68 of the Council's Statement of Case where the Council finally confirm the requirements for the Land being for the "purposes of construction of the River Crossing Bridge and modifications to the restoration lakes".
- 2.4 Whilst it is useful to have sight of this information to identify the proposed use of the Land now, this information was not provided to Caudwell prior to the Council applying for the Orders and furthermore the Council has not explored whether the land required for this Wetland Area could be delivered by other means.
- 2.5 The map extract below identifies the Wetland Area in light blue being to the south west of the River Crossing Bridge. As can be seen from the map extract this is a substantial parcel of land extending to 9 acres in size which could continue to be in Caudwell's ownership subject to the ecological mitigation requirements of the Scheme.



2.6 Similarly for the Clifton Hampden Bypass section of the scheme, Sheet 19 of the General Arrangement Plans show the intended works affecting the Land including for the main carriageway, swales and new water bodies. However, there are significant areas of Caudwell where there are no identified works (i.e. they are blank but within the CPO red line) but where the Council are proposing to permanently acquire the Land. This is demonstrated by the map extract below which identifies an area of land (yellow arrow) where there are no identified works but the Land is proposed for permanent acquisition.



2.7 It has not been demonstrated why there is a need to acquire this Land related to the Scheme and whether any consideration has been given to alternatives to CPO.

- 2.8 In support of this, Caudwell rely on *Sharkey and Another v Secretary of State for the Environment and South Buckinghamshire District Council* (1992) 63 P. & C.R. 332, which found a compulsory purchase must be necessary in the circumstances of the case.
- 2.9 The Statement of Reasons and documents accompanying the Order fail to make a compelling case in the public interest for inclusion of all the Caudwell land. In many cases no information was provided by the Council during engagement with Caudwell and their advisors and it was only following the receipt of the Order documents were Caudwell made aware of the inclusion of their land within the CPO.
- 2.10 The recent Inspector's Report in the Vicarage Fields Compulsory Purchase Order highlighted that full information regarding the scheme was not provided at the outset and was critical of this approach.
- 2.11 It should be noted that the comments made in paragraphs 2.1 to 2.7 are made specifically in relation to the Caudwell land and their experiences rather than the Scheme as a whole.

Reason 2: Reasonable steps to acquire by agreement not taken.

- 2.12 The Council's Statement of Reasons confirms they have taken all reasonable steps to acquire the land and rights required to deliver the Scheme by agreement and are working with landowners to identify means to mitigate the impacts of the Scheme.
- 2.13 However as stated in the Caudwell objection this is incorrect.
- 2.14 Heads of Terms were issued by the Council's agents, Gateley Hamer, on 6th June 2023 some six months after the submission of the Order. Negotiations ensued but were paused following the July 2023 Planning Committee meeting Caudwell's agent met with Gateley Hamer on 19th September 2023 to recommence negotiations but are still waiting for a response on proposed amendments to the Terms.
- 2.15 Paragraph 11.11 of the Council's Statement of Case suggests the Council has been working with landowners to identify means of mitigating the impacts of the Scheme proposals on property, where possible. However, interaction between respective agents has been sporadic and at the instigation of Caudwell's agent. For example, Paragraph 11.23.14 of the Council's Statement of Case confirms that a site visit took place in March 2023 with Caudwell and their agent to discuss concerns and the impact of the Scheme proposals on the land. This was the case but none of the concerns or proposals to mitigate the Scheme were captured in the Heads of Terms issued by the Council's agents.
- 2.16 The original Heads of Terms issued by Gateley Hamer in June 2023 were lacking in detail, contained several omissions, did not constitute a formal offer for the Council to acquire the Land and did not offer any means to mitigate the impact of the Scheme on Caudwell's retained land.

- 2.17 In consideration of the CPO Guidance (being Government Circular Guidance on Compulsory Purchase Process and The Crichel Down Rules), the onus on the acquiring authority to demonstrate that they have taken reasonable steps to acquire all the land and rights included in the Order by agreement and prior to the submission of a CPO. The above demonstrates the Council has failed to take reasonable steps to acquire by agreement in advance of using its CPO powers. This is contrary to Paragraph 11.13 of the Council's Statement of Case which references the Council has fully considered paragraphs 17-19 of the Guidance. Caudwell disagrees with this position. Paragraph 17 of the Guidance states that undertaking negotiations in parallel with preparing for a CPO can help build a good working relationship. This is certainly true, however as demonstrated above Heads of Terms were not issued by the Council until after the submission of the CPO and were lacking sufficient detail enabling Caudwell to consider the impact of the Scheme on the Land. Paragraph 19 of the Guidance sets out over steps which should be considered to help those affected by a CPO including providing full information from the outset which is something the Council have failed to do.
- 2.18 Whilst Caudwell recognises the Public Inquiry is not concerned with disputes of compensation it is aware of the criticism laid at the door of other acquiring authorities who have frustrated negotiations by issuing Heads of Terms in a tardy manner and not offering market value for the required Land.

Reason 3: Alternatives to compulsory purchase have not been considered.

- 2.19 The compulsory purchase has not been justified in relation to the Caudwell Land and alternatives to CPO have not been considered or properly attempted. A private treaty agreement could have been entered into between the Council and Caudwell negating the need to use CPO powers to acquire the Land.
- 2.20 In respect of the River Thames Crossing Plots and land required for off-site mitigation creation, CPO powers are not required because they could be achieved using lesser powers such as acquisition of rights of maintenance and management plan with the landowner. In other instances, CPOs have used rights to achieve similar outcomes rather than outright acquisition.

Reason 4: Risk of disruption to business

- 2.21 The construction of the Scheme will lead to large parts of land being unavailable to Caudwell for an undefined period of time.
- 2.22 This will have consequences on Caudwell's business operations and will lead to avoidable business losses which could be mitigated if the Council's had been willing to engage on the design of the Scheme and alternative use of CPO powers.

Costs

- 2.23 Given the multiplicity of reasons and failure of the Council to enter into meaningful negotiations, Caudwell shall be seeking their costs of participation and preparation for the inquiry.

3. CONCLUSIONS

- 3.1 Caudwell will demonstrate that the Council has failed to:
 - 3.1.1 Justify the CPO land is required or necessary
 - 3.1.2 Enter into proper, timely and reasonable negotiations in a proactive manner and make reasonable steps to acquire by agreement.
 - 3.1.3 Consider alternatives to the Order.
 - 3.1.4 Failed to adhere to Government Circular guidance on the use of CPO powers.
 - 3.1.5 Consider how to mitigate the impact of the Scheme on Caudwell's business operations.
- 3.2 Caudwell reserves the right to introduce such additional documents as may be relevant to inquiry in respect of the Order and will endeavour to notify the relevant parties of any such documents as soon as possible prior to the opening of such inquiry.