

**RE: OXFORDSHIRE COUNTY COUNCIL (DIDCOT GARDEN TOWN HIGHWAYS
INFRASTRUCTURE – A4130 IMPROVEMENT (MILTON GATE TO COLLETT
ROUNABOUT) A4197 DIDCOT TO CULHAM LINK ROAD AND A415 CLIFTON
HAMPDEN BYPASS) CPO 2022**

CASE REF: NATTRAN/SE/HAO/286 (DPI/U3100/23/12)

**STATEMENT OF CASE ON BEHALF OF
THAMES WATER UTILITIES LIMITED**

INTRODUCTION

1. This is the Statement of Case on behalf of Thames Water Utilities Limited (“**TWUL**”). TWUL is a statutory water and sewerage undertaker. TWUL owns and operates the Culham Sewage Treatment Works, Abingdon Road, Culham, Abingdon, OX14 3DD (“**the Culham Works**”) as part of its statutory undertaking.
2. TWUL is a statutory objector to 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 Order**”). The Order was made by Oxfordshire County Council (“**the Acquiring Authority**”) on 21 December 2022 pursuant to sections 239, 240, 246, 250 and 260 of the Highways Act 1980 (“**the 1980 Act**”). The Order is made for the purpose of facilitating the construction of the ‘Access to Didcot Garden Town Highway Improvements’ (“**the Scheme**”).
3. TWUL is the freehold owner of plots contained within the Order Land. If confirmed, the Order would authorise *inter alia* the compulsory purchase of operational land comprising part of the Culham Works, which has been identified as required in order to accommodate future growth. As explained below, land owned by TWUL has been identified for both temporary and permanent acquisition. TWUL’s objection relates solely to the permanent acquisition of its land at the Culham Works.

4. TWUL submitted its objection to the Order to the Acquiring Authority on 17 March 2023.
5. This Statement of Case is submitted in accordance with the revised Rule 7(3) Notice dated 19 October 2023. This Statement of Case has been prepared in accordance with Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 (“**the Rules**”). It sets out the basis of TWUL’s objection to the confirmation of the Order as will be put forward at the inquiry.

SUMMARY OF OBJECTION

6. TWUL’s objection to the Order (as set out in its objection of 17 March 2023) is summarised as follows:
 - (a) **There is other suitable land:** the Culham Works are an important strategic asset for TWUL as a statutory undertaker. TWUL has forecast an increase in the operational performance of the Culham Works such that the availability of the land currently owned by TWUL is necessary in meeting that increased growth. TWUL considers that with appropriate reconsideration and redesign, it is not necessary for the Acquiring Authority to acquire TWUL’s plots for the purposes of the Scheme. TWUL also considers that either the land is not required or that more suitable land can be utilised.
 - (b) **There has been a lack of consultation:** the Acquiring Authority has not adequately sought to negotiate the acquisition of the land. TWUL has not, therefore, been provided with sufficient detail about the proposals. TWUL wishes to ensure that its assets are protected and that they remain fully operational during the construction works. TWUL also considers that there is a compelling need to ensure that its assets are not compromised in the longer term by the works. TWUL is concerned that, in the absence of consultation and agreement with the Acquiring Authority, it will be unable to fulfil its statutory obligations as a statutory undertaker.
7. Accordingly, TWUL’s position is that the Acquiring Authority has not demonstrated a compelling case in the public interest for the compulsory acquisition of TWUL’s land, and that the confirmation of the Order would unreasonably interfere with the Culham Works and TWUL’s obligations as a statutory undertaker.

8. It should be noted that, as confirmed at the Pre-Inquiry Meeting, TWUL's objection has not been made in accordance with section 16 of the Acquisition of Land Act 1981 ("**the 1981 Act**"). This is because the objection was not received by the Department for Environment, Food and Rural Affairs ("**DEFRA**") until after the deadline for making a section 16 objection. Notwithstanding this, TWUL considers that the substance of its objection is material to the determination of whether or not to confirm the Order.
9. TWUL proposes to call evidence in respect of its objection from Mr Robert Smith of Bruton Knowles (Chartered Surveyors), in respect of the negotiations with the Acquiring Authority, and John Paton, in respect of the operational impact of the acquisition on the statutory undertaking.
10. For the avoidance of doubt, TWUL does not object to the Side Roads Order or the Bridge Scheme promoted by the Acquiring Authority.

BACKGROUND/CONTEXT

11. The Order relates to 135.732 hectares and relates to the acquisition of land and new rights. TWUL has a freehold interest in ten registered plots (plots 17/11a, 17/11b, 17/11c, 17/11d, 17/11e, 17/11f, 17/11g, 17/11h, 17/11i, and 9/24), and two unregistered plots (plots 17/14a and 17/14b).
12. The land in which TWUL has an interest will be either permanently or temporarily acquired (the vast majority of those plots will be permanently acquired). TWUL also has either apparatus or other rights in approximately 200 other plots of land.
13. Apart from plot 9/24, the land owned by TWUL forms part of the same parcel of land as TWUL's operational equipment at the Culham Works, from which it operates as a statutory undertaker. The land proposed to be permanently acquired is therefore operational land for the purposes of the undertaking, notwithstanding that it does not presently contain operational equipment (save for plot 17/11i which contains monitoring equipment). Plot 17/11i is currently used as part of TWUL's daily Operational activity, as final effluent sampling is carried out and the final effluent flow monitor is also situated in this area and

24/7 access is required to this apparatus. This land has been identified as being required for the expansion of the Culham Works, which is necessary to respond to increased growth in the catchment area.

14. The purposes for which the TWUL's land is to be acquired is set out in the Acquiring Authority's Statement of Case, as follows:

- a. Plots 17/11a, 17/11b, 17/11c, 17/11d, 17/11e, 17/11f, 17/11g, 17/11h, 17/11i and 9/24 *"comprise of 3,334 sqm of shrubland north western curtilage of, and length of private access road to, the Culham Sewage Treatment Works, lying to the south east and off Thame Lane private access road, and of a grassland/shrubland area of land lying to the west of the Cherwell Valley Railway Line and east of Level Crossing Cottage (9/24), required for the construction of a new length of the A415, mitigation of adverse effects of the highway, private means of access and construction working space/use land (including 9/24)"* (paragraph 10.10.40).
- b. Plots 17/14a and 17/14b *"comprise of 373 sqm of shrubland and hard standing, lying to the northeast of the access road to Culham Sewage Treatment Works, required for the construction of a length of the new A415 and mitigation of adverse effects of the highway upon its surroundings"* (paragraph 10.10.43).

TWUL'S OPERATIONS AT THE CULHAM WORKS

15. The Culham Works currently treats the flow of an approximate population equivalency ("PE") of 4,000 from the villages of Berinsfield, Culham and Clifton Hampden, as well as the Culham Science Centre.

16. The Culham Works currently operates with sufficient headroom for the PE which it serves so as to meet the key sanitary parameters set out in its operating Permit TH/CSSC.2374 ("the Permit"). Those are: biochemical oxygen demand; suspended solids; and ammoniacal nitrogen. The key sanitary parameters provide a measure of the permitted 'load' entering the river, which has an impact on the health of the river and water quality.

17. The Process Model for the Culham Works indicates that between 2021 and 2026, which is the start of Asset Management Period 8 ("AMP8"), the Culham Works currently has

enough treatment capacity to remain compliant with the sanitary parameters for the projected growth up to 2026.

FUTURE NEED FOR DEVELOPMENT AT THE CULHAM WORKS AND GROWTH PROJECTIONS

18. The expansion of the Culham Works will be required in order to meet projected growth within the catchment of the Culham Works.
19. There are two large development locations within the catchment, namely, Culham Science Centre and Berinsfield Garden Village. Both development sites have been allocated within the Local Plan for housing development. The land around the Culham Science Centre has been released from the Green Belt to enable the land to deliver approximately 3,500 new homes with occupation starting in 2029. Land at Berinsfield has also been released from the Green Belt and was awarded Garden Village status in 2019. The land will be developed to provide around 1,700 new homes with occupation starting in 2030. The delivery of development at these locations will be facilitated by the Scheme and as such is anticipated to come forward after completion of the Scheme.
20. The population within the Culham Works catchment area is expected, therefore, to increase by approximately 46% by 2031. This means that the PE for the Culham Works will increase from circa 4,000 PE to over 5,800.
21. The planned growth in the population of the catchment is projected to further increase during asset management plan period 9. The PE for the Culham Works is expected, therefore, to be circa 10,500 by 2036. This represents an increase of 162% from the current estimated PE for the Culham Works. This is the highest growth projection of any asset within TWUL's estate.
22. Major upgrades of the Culham Works is required to meet this increased growth. Upgrades are required, in order to respond to the growth projections, to:
 - (a) The volume of treated, final effluent discharging to the environment.
 - (b) The ability to treat flows to the required quality parameters as set out in the Permit.

- (c) The Flow to Full Treatment (to ensure that the Flow to Full Treatment permit is sufficient to not increase the number or duration of storm overflow events).
 - (d) The storm tank capacity so that in the event of rainfall or snow melt, premature discharges to the environment do not occur.
23. TWUL has carried out a process of designing solutions to meet the projected growth as part of producing its AMP8 Business Plan (PR24 (Price Review 2024)). The preferred solution is for an extension of the existing equipment at the Culham Works. This upgrade has been included in the draft business plan submitted by TWUL to the Water Services Regulation Authority (“Ofwat”) in October 2023.
24. The upgrade of the Culham Works has the following operational and financial advantages:
- a. It would enable TWUL to accommodate the projected growth by making use of approximately 90% of the land that is already owned by TWUL at the Culham Works;
 - b. The design of the proposed expansion works would secure capacity for 10 years up to the 2036 design horizon, which is the most appropriate timeframe to design growth upgrades;
 - c. It delivers the most efficient solution for TWUL customers by ensuring efficient expenditure of customer money.
25. If the Order were confirmed, TWUL would have no alternative but to acquire additional land adjacent to the Culham Works (subject to such land being suitable) in order to implement its preferred solution. If such land could not be acquired by agreement, TWUL would have to rely on its powers of compulsory acquisition. The consequence of such a process would be a delay of 2 to 2.5 years caused by assembling the land required for the upgrades.
26. In order to accommodate the projected growth, the proposed upgrades will commence within the next 2 to 5 years in order to ensure that the upgrades are delivered ahead of 2031. If the Order is confirmed, such that TWUL has to acquire alternative land through

compulsory acquisition to facilitate the upgrades, TWUL would not be able to meet this timeframe.

THE IMPACT OF THE SCHEME ON OPERATIONS

27. Developers are entitled to connect to TWUL's sewerage network regardless of capacity. TWUL, as the statutory undertaker, has a responsibility to provide upgrades to the Culham Works to accommodate increased demand and growth. Confirmation of the Order will result in the permanent acquisition of the land identified for the upgrade of the Culham Works, thereby preventing the implementation of TWUL's preferred solution for meeting forecast growth within the catchment.
28. Confirmation of the Order could delay TWUL's ability to ensure an adequate sewerage system for the Culham Works catchment area. If development were to be delivered as planned within the catchment, the inability to upgrade the Culham Works as proposed could result in the following:
- a. Flooding of land surrounding the Culham Works as a result of increased flows within the catchment without adequate treatment capacity;
 - b. Internal and external property flooding as a result of foul water flows surcharging the network, for example, at manholes;
 - c. Storm overflow events;
 - d. Events that result in breaches of the site's statutory permits, impacting TWUL's performance rating and resulting in financial penalties; and
 - e. Non-compliance with the site's quality parameters in each year that upgrades are delayed, resulting in financial penalties.
29. As explained above, TWUL's objection is not made under section 16 of the 1981 Act. DEFRA has, however, offered to provide a written conclusion as to whether sections 16(2)(a) or (b) of the 1981 Act would have been satisfied if a section 16 objection had been received from TWUL. TWUL submitted a section 16 representation to DEFRA on 14 December 2023 and at the time of finalising this Statement of Case, DEFRA's conclusion has not yet been received. TWUL considers that the Inspector should consider the application of the test in section 16 as part of her determination into whether to confirm the

Order. This approach would be consistent with the purpose underlying the statutory test, which reflects the importance of avoiding serious detriment to a statutory undertaking.

30. Contrary to the Acquiring Authority's position at paragraphs 15.26 – 15.27 of its Statement of Case, TWUL considers that the confirmation of the Order will result in serious detriment to the carrying on of TWUL's undertaking at the Culham Works and would result in real environmental risks resulting from delays to the upgrade of the facility.

ALTERNATIVE ALIGNMENT

31. TWUL considers that the Scheme could be amended to avoid the need for permanent acquisition of TWUL's land.
32. The Acquiring Authority, in responding to response to TWUL's objection at paragraphs 16.42 to 16.44 of its Statement of Case, states that "*A realignment of the Scheme to avoid the acquisition of land from the Works is not possible due to the limited suitable land available on either side of the current road alignment*".
33. TWUL considers that there are no insurmountable technical issues from an engineering perspective which would mean that the layout of the section of the road proposed to be constructed using TWUL's land could not be moved 50m further to the north so as to avoid any interaction with the Culham Works. The Acquiring Authority has not, at the stage of submitting this Statement of Case, provided details of why land to the north of the current alignment is considered to be "*limited*".

ADEQUACY OF ENGAGEMENT AND NEGOTIATIONS

34. The Acquiring Authority failed to engage with TWUL at an early stage.
35. There was no engagement with TWUL prior to the making of the Order, at which point the red line for the Scheme was fixed. The first correspondence between the Acquiring Authority and TWUL was in January 2023, some six months after the Acquiring Authority resolved to make the Order. The timing of this engagement means that any potential

solutions to the impact on TWUL's operations are necessarily limited to what can be done within the red line boundary of the Order.

36. The failure to engage at an early stage means that the Acquiring Authority has failed to consider and appreciate the significant impact of the Order on TWUL and the operation of the Culham Works (contrary to paragraph 17 of the Guidance).
37. In July 2023, in response to TWUL's objection to the Order, the Acquiring Authority proposed a reduced land acquisition, part of which would involve a greater percentage of the land being acquired temporarily. This does not, however, adequately address TWUL's concerns as set out in this Statement of Case and in its Objection as the proposed re-design would still compromise the expansion of the Culham Works.
38. The Acquiring Authority has also failed to engage in a genuine and sufficient manner in order to attempt to purchase the land by agreement, as required by the Guidance. Nor has the Acquiring Authority identified suitable alternative land adjacent to the Culham Works that could be provided to TWUL to allow the expansion of the Works.

CONCLUSIONS

39. It is clear that the Culham Works are an important strategic asset for TWUL as a statutory undertaker. The projected growth as set out in this Statement of Case means that the required operational performance of the Culham Works will increase in the future. This requires, therefore, the expansion of the Culham Works. Key to that expansion, however, is the availability of the land which is currently owned by TWUL. This land is, however, proposed for acquisition by the Acquiring Authority if the Order is confirmed.
40. In deciding whether or not to confirm the Order, the Secretary of State has to "*take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest*" (paragraph 13 of the Guidance). A CPO "*should only be made where there is a compelling case in the public interest*" (paragraph 12 of the Guidance).

41. In light of the serious and detrimental impact which the Order, if confirmed, would have on the Culham Works, and on TWUL as a statutory undertaker, it cannot be said that the compulsory acquisition of TWUL's land is justified in the public interest. The Order ought not, therefore, be confirmed unless modified to exclude from the Order the land required by TWUL to facilitate the necessary upgrade of the Culham Works.

15 DECEMBER 2023