

# **SUMMARY PROOF OF EVIDENCE**

## **HENRY CHURCH MRICS**

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On behalf of

Mays Properties Limited

**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 Oxfordshire County Council (Didcot to Culham Thames Bridge) Scheme 2022**

**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) (Side Roads) Order 2022**

January 2024

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## 1.0 Introduction and Role

- 1.1 My name is Henry John Church. I am a Senior Director in the compulsory purchase and compensation team at CBRE Ltd. I am a Member of the Royal Institution of Chartered Surveyors, a Fellow of the Central Association of Agricultural Valuers and a member of the Compulsory Purchase Association (CPA).
- 1.2 I qualified as a chartered surveyor in 1996 and have over 25 years' experience in the valuation and assessment of compensation in respect of property that is subject to compulsory purchase.
- 1.3 Further details of my experience are set out in my main Proof.

## 2.0 Scope of Evidence

- 2.1 I was instructed by Mays Properties Limited ("MPL") on 3 February 2023.
- 2.2 I am instructed to provide compulsory purchase and compensation advice in relation to the scheme being proposed by Oxfordshire County Council ("OCC" or "AA").
- 2.3 My evidence will cover:
- My experience of advising bodies seeking to promote Compulsory Purchase Orders ("CPO") and how the conduct of the AA compares with that experience.
  - My understanding of the requirement for the land
  - A review of elements of the AA's justification for the Order, in the context of my experience as to what ought to happen when a CPO is being promoted.
  - My engagement with the AA.
  - Conclusions
- 2.4 I have read the following RICS Professional Statements
- *"Surveyors advising in respect of compulsory purchase and statutory compensation, 1<sup>st</sup> Edition"* published in April 2017, and
  - *"Surveyors acting as expert witnesses"*
- and consider that in both instances I am compliant with them.
- 2.5 In carrying out my instructions I have been assisted by MPL and its advisory team.

## **3.0 The Orders**

3.1 The Orders that are the subject of the CPO inquiry were made on 21 December 2022

## 4.0 Description of the Order Land

- 4.1 MPL is the freehold owner of 4.2 acres (1.74ha) of land fronting the A4130 registered under title BK90497 (“the Property”) in which the AA seeks to acquire interests. The land is level and roughly triangular in shape.
- 4.2 The land to be acquired is identified in the Order as plots 1/6a and 1/6b (“Order Land”).
- 4.3 The Property benefits from an implemented planning permission P14/V0087/FUL for a T Junction access directly onto the A4130 with loop road serving the Property (“the T Junction Access”).
- 4.4 MPL submitted a planning application (P22/V1121/O) in July 2022 seeking to develop its site for a supermarket scheme and referred to as the “Supermarket Scheme”.
- 4.5 MPL has prepared an application to make its supermarket scheme compatible with the CPO scheme (including revised access) (“the HIF1 Supermarket Scheme”) but it is awaiting a decision formally granting the Supermarket Scheme before it submits this application.

## 5.0 Prematurity

- 5.1 There is no planning consent for the scheme envisaged by OCC – the Planning Committee of OCC having voted to refuse consent and the application having then been subject to a call in by the Secretary of State.
- 5.2 Whilst the Guidance makes provision for the Order to be made prior to certainty over planning the situation here is such that the AA cannot make a compelling case. The timing of the Order is, therefore, premature.

## 6.0 Funding

- 6.1 It is necessary that the AA demonstrates that it has sufficient funding to implement the scheme.
- 6.2 There is no doubt that the costs have increased markedly since the CPO was made. Even if the scheme was fully funded when the CPO was made it is for the AA to demonstrate that it has sufficient funds to deliver the scheme at this time otherwise the confirmation of the CPO would be premature and would not meet the balance between the public interest (insofar as public interest arises) and private interest.



## **7.0 Attempts to acquire by private treaty**

- 7.1 I set out, in my main proof, details of the engagement between the AA and MPL prior to 14 February 2023
- 7.2 On 14 February Mr Miles responded to the HoTs in 'without prejudice' correspondence and therefore I cannot refer to any subsequent correspondence or meetings, if any.
- 7.3 Mr Miles advised me that he was leaving Gateley Hamer at the end of August 2023 with his role in negotiations taken by Steve Moon.
- 7.4 On 24 January 2024 the parties confirmed to the other their provisional agreement for a private treaty acquisition. This is in the process of being documented.

## 8.0 Land not required for the highway

- 8.1 The AA has clearly stated that it only requires access to plot 1/6a to facilitate construction rather than to construct the highway or anything ancillary to the highway on it. MPL accepts that OCC needs plot 1/6b permanently.
- 8.2 There is no case – compelling or otherwise – to compulsorily acquire plot 1/6a.

## 9.0 No requirement to acquire permanently

- 9.1 MPL recognises that there may be a requirement for the AA to take entry to plots to facilitate construction.
- 9.2 In this instance, however, there has been no attempt by the AA to justify the requirement to acquire plot 1/6a – be that for permanent or temporary acquisition.
- 9.3 The importance (to MPL) of plot 1/6a not being compulsorily acquired cannot be overstated.
- 9.4 In situations such as this – where land is required for construction only – the normal process is for the AA to enter into an agreement with the landowner permitting temporary access for construction purposes. The provisional agreement referenced makes provision for this and will become binding if the agreement is documented.

## 10.0 Loss of Rights

- 10.1 Compulsory purchase confers powers to acquire interests (including rights) in land – in this instance land that is the subject of an implemented planning consent for access. Once the Order land has been acquired MPL will not have rights of access to its land – it will be landlocked.
- 10.2 The implications of this are both obvious and significant. It will be impossible for MPL to complete its consented and part-implemented T Junction Access and will therefore render their consented and part-implemented development (or future development proposals) undeliverable unless an acceptable alternative access is provided.
- 10.3 OCC has presented plans showing a potential alternative access to MPL's T Junction Access but not only is this revised access yet to secure planning consent, it will be insufficient for the Supermarket Scheme (see above).
- 10.4 An offer of rights has the potential to address this shortcoming of the CPO.

## 11.0 Conclusion

11.1 It is clear from this Proof of Evidence that

1. MPL has interests in land which are very significantly impacted by the scheme
2. The attempt to secure powers prior to clarifying that there are no impediments to delivery – be that funding or planning – is premature
3. Notwithstanding that terms for a private treaty acquisition have been provisionally agreed until such time as this is documented there is no agreement.
4. The Orders make provision to acquire land that is not only not required permanently but which MPL has agreed to grant rights over to facilitate construction
5. The Order, if confirmed, will leave MPL's interest without rights of access

11.2 Accordingly my opinion is that the Orders be not confirmed.

## 12.0 Expert's Declaration

### Statement of truth

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

### Declaration

- a. I confirm that my report has drawn attention to all material facts which are relevant and have affected my professional opinion.
- b. I confirm that I understand and have complied with my duty to the Upper Tribunal as an expert witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.
- c. I confirm that I am not instructed under any conditional or other success based fee arrangement.
- d. I confirm that I have no conflicts of interest.
- e. I confirm that I am aware of and have complied with the requirements of the rules, protocols and directions of the Upper Tribunal
- f. I confirm that my report complies with the requirements of RICS – Royal Institution of Chartered Surveyors, as set down in the RICS Practice Statement Surveyors acting as expert witnesses.



Henry John Church MRICS FAAV

29 January 2024