

NEW MARITIME LIMITED

David McPherson, Director

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Secretary of State for Communities and Local Government
National Planning Casework Unit
5 St Philips Place
Colmore Row
Birmingham
B3 2PW

Sent Recorded Delivery

16th July 2014

Dear Sirs,

**The London Borough of Barnet (West Hendon Regeneration Area)
Compulsory Purchase Order No 1 2014 (the Order)**

Canal & River Trust, land at Brent Reservoir and Cool Oak Lane, Barnet

I refer to the above Order sealed dated 5th June 2014 and the subsequent amendment dated 18th July 2014 notices for which have been served upon Canal and River Trust at their Head Office at 500 Eldergate, Milton Keynes, MK9 1BB. Notices have also been served upon New Maritime Limited as Land Agent to Canal & River Trust.

New Maritime Limited, as an expert in canals, inland waterways, adjoining land and assets and navigation matters, has been appointed by Canal and River Trust (CRT) to represent their interests in raising an objection to the Order and resolving this objection by discussion and negotiation with the acquiring authority.

Whilst Canal & River Trust are generally supportive of the regeneration proposals behind this Order and continues its discussions with The London Borough of Barnet (the Council) it remains necessary for me to lodge an objection on its behalf. The Trust needs to protect its position, such that it can fulfil its' aims, duties and statutory obligations. It is anticipated that continuing discussion with the acquiring authority will resolve the issues behind the objection, provide acceptable solutions and enable this objection to be withdrawn at as early a date as is possible and hopefully prior to any possible Public Inquiry.

The reasons for the objection are:

- 1) The Order proposes to acquire rights in respect of plot 41 which is owned by my client. This involves the placing of a bridge within the airspace of a reservoir that is essential to providing a canal water supply and which furthermore provides a land drainage function for the areas around and remote from the reservoir. It is considered this will have an impact on the statutory obligations of the Trust and reservoir operations and management. Whilst the Council advises in its Statement of Reasons that the Council is satisfied that the purchase of new rights can be acquired without serious detriment to CRT's Undertaking there has not been any detailed discussion or agreement reached with the CRT as to the design, construction and maintenance of the bridge. Details that my client would in the normal course of business require would for example include, though not be limited to:
 - i. Surveys, site investigations, designs and plans
 - ii. Test piling to determine potential impact on the reservoir structure;
 - iii. Construction proposals, headroom above water level, contractor proposals, warranty, indemnity and insurance proposals, method statements and risk assessments.

- iv. The extent of temporary and permanent works remains to be resolved, as does any impact on the use of reservoir.
- v. Agreement to CRT's Code of Practice for working on its property

CRT has offered to negotiate an appropriate Agreement by private treaty with the Council and Developer which would contain suitable safeguards to the interests of CRT as it is common practice to do so with public and private bodies in respect of its waterways throughout England and Wales.

The above list is by no means exhaustive and to this end the statutory interests of my client have been insufficiently considered and the inclusion of CRT's property within the Order unnecessary.

- 2) Plots 41A, 41B, 42, 43 and 43A are all contained within a lease that CRT has granted to the Council and which is dated 27th July 1983. The lease is for a term of years expiring 28th February 2101. Because this property may also be treated as essential infrastructure property the lease is subject to a number of provisions that are necessary to enable CRT to perform its statutory obligations and duties. The lease does not permit the building of a footbridge on this property. The Council has not approached CRT to amend or vary this lease to accommodate their requirements as specified in the Order. CRT is perfectly willing to negotiate amendments and variations to this lease that would both accommodate the Council's requirements and provide terms that would enable CRT to meet its aims, duties and statutory obligations. The Council is aware that CRT is willing to enter into private treaty negotiations and conclude appropriate Agreements and so avoid the need for an Order.

To this end the inclusion of CRT property within the Order is unnecessary and the aims, duties and statutory interests of CRT have been insufficiently considered.

- 3) Plots 38, 38A39, 40, 40A and 44 are all contained within a lease that CRT has granted to the Council and which is dated the 26th October 1971. The lease is for a term of years expiring 28th September 1991. Not with standing that the lease has passed its expiry date CRT has permitted and continues to permit the Council to hold over under the terms of the lease even though the property is no longer put to the original intended use as stated in the lease, that of a sailing base for the training of young people and connected car parking. By way of a separate licence dated the 12th January 2011 and exchanged by way of correspondence with the Council my client consented to the use of the property by Barratt Homes, the Council's development partner in its regeneration scheme, for the purposes of constructing and operating a marketing suite with associated parking intended to promote the sales of property being constructed by this development partnership within the West Hendon Regeneration Area Scheme.

Because this property may also be treated as essential infrastructure property the lease is subject to a number of provisions that are necessary to enable CRT to perform its statutory obligations and duties. The lease does not permit the building of a footbridge on this property. The Council has not approached CRT to amend or vary this lease to accommodate their requirements. CRT is perfectly willing to negotiate amendments and variations to this lease that would both accommodate the Council's requirements and provide terms that would enable CRT to meet its aims, duties and statutory obligations. The Council is aware that CRT is willing to enter into private treaty negotiations and conclude appropriate Agreements and so avoid the need for an Order.

To this end the inclusion of CRT property within the Order is unnecessary and the aims, duties and statutory interests of CRT have been insufficiently considered.

- 4) The Order as drawn seeks to acquire both the freehold and rights over CRT property that can be considered as Infrastructure Property. As such CRT is only in a position to make transfers and grant rights acting as Trustee for The Waterway Infrastructure Trust (WIP). To make such transfers and grants CRT on behalf WIP my client is required by Agreement to secure the written approval of the Secretary of State for the Environment. Insufficient information has been provided, or detail agreed so as to enable a report to be provided to the Secretary of State requesting his written permission. The Secretary of State's approval to canal infrastructure land being transferred or rights granted over it requires to be secured prior to an Order being confirmed. In securing such permission my client is required to demonstrate that there are no objections from the public to the granting of any rights. Insufficient information has been provided to enable a Charities Act Report to be made and for a Report to the Secretary of State to secure the approvals required.

To this end the inclusion of CRT property within the Order is premature and unnecessary, the aims, duties and statutory interests of CRT having been insufficiently considered.

- 5) The Canal & River Trust and the Waterway Infrastructure Trust are regulated by the Charities Act 2011. Prior to entering into transfers or granting rights to use and occupy infrastructure property and approving any works that might impact on the use of the reservoir it is necessary for the Trustees to receive a Charities Act (Qualified Surveyors) Report confirming the full extent and nature of rights to be granted and how the Charities interests have been protected and met. Furthermore, it is necessary to publish a notice to determine if there are any objections from the general public to proposals put forward by the Charities and to consider those prior to providing any agreement to use the waterway infrastructure.

To this end the aims, duties and statutory interests of CRT have been insufficiently considered.

- 6) When my client provides rights to developers and highway authorities for highway bridge crossings in airspace over its waters it is normally and invariably done by way of a Deed of Grant so as to provide a binding contract between the parties and to ensure the interests of CRT are fully recognised. My client CRT has been endeavouring to engage both the Council and their development partner in negotiations for such a grant for a number of years. Not until notice of this Order was given to my client has the Council sought to engage my client in serious negotiation and we are now only in the early stages of discussion.

To this end the promotion of the Order is both premature and ill-advised because the aims, duties and statutory interests of CRT have been insufficiently considered.

- 7) The Order proposes the transfer of plots 40 and 42 both of which can be considered as infrastructure property. In the interests of promoting the use of open space, recreation and outdoor activity pursuits CRT and its predecessors have traditionally granted leases to the Council of its infrastructure property around the reservoir. Virtually all CRT ownership around the reservoir is held on a lease by the Council. In addition to the 2 leases referred to in paragraphs 2 and 3 the Council has further leases of land surrounding the reservoir dated 21st April 1975 and 28th November 2003. Other remaining land around the reservoir is leased to a sailing club. The granting of long term leases enables CRT land to be put to the public use whilst retaining the freehold and on terms and conditions that enables CRT to retain a degree of control that is necessary in respect of infrastructure property. Whilst the Council has been aware of its requirements over CRT's property for a number of years and has been made aware of the need to reach agreement with CRT they failed to engage CRT in any negotiation prior to making notice of this Order.

My client has made the Council aware that it is fully open to negotiation and the Council is fully aware of the nature of controls that CRT requires within its leases by virtue of their existing leases.

To this end the inclusion of CRT property within the Order is unnecessary and the aims, duties and statutory interests of CRT have been insufficiently considered.

- 8) The Council has identified that it has a development partner, Barratt Metropolitan LLP (the developer). The developer is required under the terms of the Development Agreement to finance the delivery of the proposed footbridge across CRT property. The developer is further obliged to provide the footbridge under the terms of a Section 106 Planning Agreement dated 19th November 2013. The developer has been aware of the bridge requirements for a number of years and prior to an earlier Section 106 Agreement dated 12th June 2008. CRT has endeavoured to engage the developer in negotiations for the bridge over a number of years but has been totally rebuffed. The Council has also repeatedly advised CRT not to engage with the developer over such negotiations and since giving notice of the Order to CRT has advised negotiation should only be with the Council. Instead of taking the opportunity to negotiate by private treaty the Council and Developer chose to include the CRT property in the Order on the understanding that the developer indemnifies the Council in respect of costs incurred as recorded in a CPO Indemnity Agreement dated 5th February 2014.

As CRT has been indicating a willingness to negotiate by private treaty for a number of years the inclusion of CRT property within the Order is wholly unnecessary.

To this end the inclusion of CRT property within the Order is unnecessary and the aims, duties and statutory interests of CRT have been insufficiently considered.

- 9) Under the terms of the planning permission if the developer can demonstrate to the Council that having used its reasonable endeavours it has been unable to secure consent from CRT for the bridge crossing over CRT property then the developer and the Council shall agree necessary revisions to the planning permission to take account of the fact that Cool Oak Lane Pedestrian and Cycle Bridge cannot be provided and instead an alternative use will be found for the sum approved by the Council for the bridge.

This planning provision indicates that the provision of the bridge whilst desirable is not essential and can be foregone. Consequently the promotion of an Order that includes CRT property intended for the bridge construction is both unnecessary and inappropriate.

- 10) Under the terms of the Development Agreement between the Council and the developer the interests to be acquired under the Order by the Council will be transferred to the developer. The planning permission requires the developer to then construct the bridge and maintain the bridge proposed over CRT Infrastructure Property for a period of 3 years following practical completion. The developer then may choose to continue maintaining the bridge or request the Council to adopt the bridge. There is however no obligation upon the Council to adopt the bridge.

In the absence of a negotiated agreement with either the developer or the Council CRT has no contractual safeguards for its infrastructure property in the event that the developer fails to: build the bridge safely and to proper and adoptable standards; complete the construction of the bridge satisfactorily; fails to maintain the bridge properly and satisfactorily; in the event that the developer falls into receivership or liquidation. The developer may pass on their obligations to a Management Company, or assign to another party. CRT has no contractual safeguards in the event that the developer proposes to pass these obligations onto an inappropriate party or fails in the same ways that the developer might fail.

Under the terms of the planning permission the developer is required to agree an estate management plan with the Council and which includes the proposed bridge. CRT is not party to this arrangement and so cannot properly safeguard its interests. In the majority of cases involving a bridge crossing over Infrastructure Property CRT would contractually require that the bridge is adopted so that it can be assured an acceptable covenant in the form of a highway authority becomes responsible for ensuring the bridge meets an adoptable standard and is maintained to an adoptable standard. CRT would also normally require appropriate bonds and insurances to protect its statutory obligations in the event of failure in either the bridge construction or maintenance. The Order fails to recognise the concerns and requirements of CRT in this respect.

To this end the promotion of the Order is both premature and ill-advised because the aims, duties and statutory interests of CRT have been insufficiently considered.

- 11) The CRT land that is contained within the Order is public open space and the Council has not offered to replace this open space by agreement with CRT.

To this end the promotion of the Order is both premature and ill-advised because the aims, duties and statutory interests of CRT have been insufficiently considered.

- 12) In the event that agreement by private treaty cannot be secured and the Secretary of State looks to confirm the Order my client requires that appropriate safeguards to its interests are agreed and included as detailed provisions within a schedule to the Order. No such safeguards appear in the Order.

To this end the promotion of the Order is both premature and ill-advised because the aims, duties and statutory interests of CRT have been insufficiently considered.

- 13) CRT requires that, as is normal, details of the full measured extent of property plots required by the Council are provided to it by the Council. Furthermore CRT requires further detail as to the exact nature of rights required over its property whether of a permanent or temporary nature as the plans and details attached to the Order are insufficient for my client to consider the Council's requirements.

14) In conclusion, the property and interests that are included in the Order for the proposed Cool Oak Lane Foot and Cycle Bridge is wholly contained within the freehold ownership of CRT and other than the airspace over the reservoir is all contained in leases granted by CRT to the Council. CRT and its predecessor in title British Waterways have consistently worked with the Council by way of private treaty over many decades to provide leases that promote the use of open space and recreation at Welsh Harp Reservoir. CRT and its predecessor have participated in the Welsh Harp Joint Consultative Committee that included representation from the Council, and the drawing of the Welsh Harp/Brent Reservoir Management Plan marrying and managing the interests of a Site of Scientific Interest with its requirements to provide a canal water supply. CRT has supported the regeneration proposals by permitting the use of its land as a developer marketing suite. In connection with the regeneration scheme CRT has permitted entry onto its property on a number of occasions at Welsh Harp Reservoir to enable the developer to fulfil ecological, environmental and bio-diversity obligations within the planning permission. Neither the Council nor the developer should be concerned that CRT will be unreasonable in the requirements it necessarily needs to negotiate in respect of the bridge proposals and which enables CRT to meet its obligations.

To this end the promotion of the Order is both premature and ill-advised because the aims, duties and statutory interests of CRT have been insufficiently considered.

Yours Faithfully,

A handwritten signature in black ink, appearing to read 'David R Fisher', with a long horizontal flourish extending to the right.

David R Fisher
Director

6 Marriotts Close
West Hendon
London
NW9 7QB

15th July 2014

Secretary of State for Communities
and Local Government
National Planning Casework Unit
5 St Philips Place
Colmore Row
Birmingham
B3 2PW

Dear Sir,

re: **The London Borough of Barnet (West Hendon Regeneration Area)
Compulsory Purchase Order No. 1 2014**

Having a freehold interest in 6 Marriotts Close we wish to register our objection to the above Order, based on a few selected points in the Statement of Reasons.

The scheme whilst providing much needed new/upgraded homes needs to be scaled down.

- o Increasing the estate from 680 units to 2000 cannot be considered "in the public interest". Huge estates attract trouble and anti social behaviour.
- o The community feel will be lost. Many people have been living on the estate since it was built in the 70's. They will lose their network of support in good neighbours and friends and their feeling of safety and security in an area they are very familiar with. This applies particularly to the elderly residents.
- o There is no plan for increased medical facilities to cater for the 2000 units. This is not "in the public interest".
- o The transport system will be hard pressed to cope with the influx of people. Hendon Station supposedly "will benefit from the upgrade to Thameslink services". Thameslink services stopping at Hendon Station are quite regularly of 4 carriages and the platform is not long enough to cater for their new 12 carriage trains.

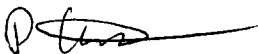
The Statement of Reasons states "...the Welsh Harp Reservoir SSSI is currently hidden from view due to the imposing nature of the estate...". Increasing the estate capacity threefold and adding high rise tower blocks will not change the situation.

An important area of concern is one of health and safety whilst these works are being carried out; we are on the periphery (within 100ft) of the area covered by the CPO Order.

- o Dust pollution, noise pollution and damage to remaining properties caused by vibration. To have to sustain the expected high level of noise and dust generated by these works is unacceptable, especially to the elderly/housebound who will have no escape.
- o Whilst some of the properties remain empty (as the rehousing is due to take place in stages) these will be susceptible to break-ins, squatters, etc.
- o The black hoarding (as used at present) will make the estate dark and closed in and represents a hazard to residents' safety (particularly during winter months) having to walk through a dark estate.
- o The whole scheme, due to its vast size, and based on the current timetable, is not due to be completed until 2025 and the quality of life of the residents will be affected greatly in the meantime.

We would be grateful if consideration could be given to our objections.

Yours faithfully,



P.M. COOKE