

**THE CITY OF LINCOLN COUNCIL
LAND AT WESTERN GROWTH CORRIDOR, LINCOLN
COMPULSORY PURCHASE ORDER 2022**

**THE TOWN AND COUNTRY PLANNING ACT 1990,
S13 MISCELLANEOUS PROVISIONS ACT 1976
AND THE ACQUISITION OF LAND ACT 1981**

**STATEMENT OF REASONS
OF
THE CITY OF LINCOLN COUNCIL**

OCTOBER 2022

DRAFT

Prepared by the City of
Lincoln Council

**Section
No**

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1 INTRODUCTION

- 1.1 The City of Lincoln Council ("**CLC**" or "**The City Council**") has made the City of Lincoln Council (Land at Western Growth Corridor, Lincoln) Compulsory Purchase Order 2022 ("Order") pursuant to section 226(1) (a) of the Town & Country Planning Act 1990 ("**Planning Act**") and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 ("**Miscellaneous Provisions Act**") and it is about to submit it to the Secretary of State for confirmation.
- 1.2 The Order has been made for the purpose of acquiring currently unregistered land(s) within the Western Growth Corridor development area which are required to be developed for infrastructure use as part of the scheme
- 1.3 The areas of land in the Order total 12,953 square metres comprising two parcels of unregistered land measuring 657 square metres and 12,296 square metres respectively ("**Order Lands**") and are required in order to facilitate the wider development described in section 4 of this Statement of Reasons ("**Western Growth Corridor**" or "**the Development**").
- 1.4 The land included in the Order (the "Order Land") is identified in the schedule to the Order which refers to the map accompanying the Order (the "Order Map").
- 1.5 The details of known ownership of relevant interests in the Order Land are provided in the Schedule to the Order and summarised below in paragraph 3.1.

2 EXECUTIVE SUMMARY

- 2.1 The Compulsory Purchase Order application is to acquire two strips of currently unregistered Order Lands, one adjacent to Skellingthorpe Road, Lincoln and another adjacent to the Boultham Catchwater (Annex plan xxx) to enable the infrastructure to be constructed as part of the development of a strategic Sustainable Urban Extension of local importance as evidenced by grant funding support from Homes England.
- 2.2 The Statement of Reasons sets out the history of the unregistered land with clear history of reasons that the Order Lands have become unregistered and provides justification for the Compulsory Purchase against the three criteria of economic, social and environmental wellbeing improvements of the area.
- 2.3 With the evidence provided and enclosed, the underlying reason for the Order Lands to be unregistered is borne from historic conveyancing transactions in the 1960's and perceived 'mapping errors'. An exhaustive

search has been conducted of the titles of land splintered into after the 1961 conveyance sale (tabulated 1961 sale land search in appendix xxx) for the land at the Catchwater. The land registry have been contacted for their records and all documents reviewed to in the title of parcel LL95920, which shed no further light on the ownership of the unregistered strip of land and therefore all reasonable steps have been undertaken to establish ownership.

- 2.4 For the Order Land adjacent to the Skellingthorpe Road, required as part of infrastructure works to service the development, the unregistered strip sits between the ownership of the Mormon Church (which was sold by the HG Barrett esq 13th September 1962,, land owned by the County Highways as public land and land owned by City of Lincoln council as shown on plan appendix XXX.
- 2.5 Based on the intention of the 1962 sale agreement, the fact that the CJCLS for a period of at least 12 years have maintained and enclosed this strip of land during this time, for all intents and purpose have acted in ownership of the title.

3 LOCATION AND DESCRIPTION OF THE ORDER LAND INCLUDING THE INTERESTS TO BE ACQUIRED.

- 3.1 The Order Lands are two areas of unregistered land and are located
 - a) on the northern side of Skellingthorpe Road, Lincoln between the highway and the land registered at HM Land Registry under title number LL404375 (presently occupied by the Church of Jesus Christ of Latter-day Saints) and Title LL95920 freehold owned by City of Lincoln Council, with a total area of 657 square metres; and
 - b) at the Boutham Catchwater Drain, Lincoln bounded by the land registered at HM Land Registry under title numbers LL257980, LL383424, and LL95920 on the south-eastern side, and on the north-western side under title numbers LL260133, with a total area of 12,296 square metres.
- 3.2 The wider development area comprises 236.41 hectares of land (extents of planning application 2019/0294/RG3). The area lies to the west of Lincoln and is bounded by the Fosdyke Navigation to the north, the railway line, Tritton Road and the core city centre to the east, Skellingthorpe Road, a large residential area to the south and by farmland and the A46 highway to the west.
- 3.3 The two small pieces of unregistered land within the Order are required solely for infrastructure in order to facilitate the commencement of works of the wider development area, in accordance with the planning permission. Without these two pieces of unregistered land, the development would be unable to proceed as the new traffic junction to open up the site from Skellingthorpe Road and the new road/bridge

over the Boultham Catchwater (with more formalised footpaths along it) could not be provided in accordance with the planning permission.

- 3.4 In opening up the site any rights in relation to Skellingthorpe services will be diverted and documented. For the purposes of this Development we are not seeking to acquire new rights and will maintain the status quo in relation thereof.

4 THE LINCOLN WESTERN GROWTH CORRIDOR DEVELOPMENT.

a) Introduction

- 4.1 The Western Growth Corridor (WGC) development is the single largest sustainable urban extension within the city of Lincoln and is the primary focus for housing and economic growth over the next 20 years based on a robust set of broad policy objectives and quality place-making principles.
- 4.2 The development area is being brought forward jointly by the two landowners City of Lincoln Council (Council) and Lindum Western Growth Community Limited (Lindum) who are part of a well-established Lincoln based developer/construction company.
- 4.3 The vision and masterplan for the development sets out the phasing proposals for a new community delivering 3,200 new homes of all types and tenure to meet existing and future housing need. As the development is nestled between the vibrant city centre, the high-performing University of Lincoln, Lincoln's high-growth Science & Innovation Park and a large residential area, the development will provide much needed new employment, commercial and leisure investment opportunities, and is uniquely placed to deliver new efficient, sustainable multi-modal transport links through the development into the city centre.
- 4.4 As joint applicants, the Council and Lindum obtained outline planning consent for the whole development and detailed planning consent for the two main access points into the development at Skellingthorpe Road to the south and Tritton Road to the east, on 12 January 2022 (ref number 2019/0294/RG3).
- 4.5 Both the Council and Lindum are continuing to work jointly as master developers to bring forward the development. The first phase of development will be the new access into the site from Skellingthorpe Road to enable delivery of 300 new homes.

b) History of the Scheme

4.6 This development site has been identified for development for over a hundred years. The first phase of residential development was Swanpool Garden Village (now a conservation area) in 1919 which created over 100 new homes. Further development proposals were thwarted by the inability at that time to find a deliverable solution for crossing the railway line into the site. There have been numerous attempts since to bring forward the development including:

- a) 1990s Consortium of national housebuilders attempted to produce a development scheme as a result of the site allocation within the 1996 Lincoln Local Plan but were unable to overcome infrastructure challenges at that time.
- b) 2006 Taylor Woodrow acting on behalf of the landowners submitted an outline planning application for 4,500 homes which because of the extent of development and the proposed solution for water management was not able to satisfy the flood risk concerns of the Environment Agency and other agencies. The application was eventually withdrawn prior to determination.

4.7 The development scheme that has now obtained outline planning approval includes:

- Housing Development of up to 3200 new homes including 640 affordable homes and a wide range of type, mix and tenure to meet substantial amounts of the identified current and future housing needs of the city.
- Local centre comprising community, retail (E, F.2 and Pub or drinking establishment/ takeaway).
- A Primary School.
- 8HA of land for up to 40,000m² of commercial/office development.
- Up to 12HA of land for sport, recreation, leisure and health.
- A hotel with food and drink outlets.
- A new community football stadium with conferencing for Lincoln City Football Club.
- Areas of formal and informal public open space.
- A network of public footpaths and cycleways.
- New transport and footpath bridges to Tritton Road and Beevor Street connecting into the city centre, the Lincoln Science & Innovation Park, Lincoln University and the surrounding neighbourhoods.

c) Current Partnership Position

4.8 The delivery of the scheme is formalised within a Delivery Agreement between CLC and Lindum Western Growth Corridor Limited dated the 3rd April 2019. Within this Delivery Agreement the Council and LWGC

have agreed to work together as adjoining landowners of the development area known as the western growth corridor (“WGC”), to facilitate the promotion and development of the WGC to deliver the policy objectives as set out in the Central Lincolnshire Local Plan 2012-2036 (particularly Policy LP28 and LP30).

- 4.9 The Council and Lindum continue to work closely together as landowners and master developers including joint board meetings, jointly funding and commissioning work to deliver the first phase and develop proposals for the wider scheme.

d) Funding the scheme

- 4.10 The first phase of the development which is relevant to the Order Land will require a new access from Skellingthorpe Road to enable the first 300 homes to be built. The costs of the infrastructure required is in the region of £10million and is fully funded as follows:
- i. The Council was awarded the sum of 2,132,376 (two million one hundred and thirty-two thousand, three hundred and seventy six) from Homes England under the Local Authority Accelerated Construction fund to help bring forward this first phase of development.
 - ii. The Council agreed at its Executive meeting on 20 March 2019 to the funding it is required to put into this first phase and that funding commitment and associated budget remains in the Council’s capital programme and financial strategy.
 - iii. Lindum have also committed their funding contribution to the first phase of development.

5 PLANNING STATUS OF THE ORDER LAND

a) Development Plan

- 5.1 The Order Land is part of the wider development area identified within the adopted Central Lincolnshire Local Plan 2017 as one of four sustainable urban extensions for the Lincoln area required to meet the housing and growth needs of the City.
- 5.2 The current review of the Local Plan which is due for an examination in public by the Planning Inspectorate later in 2022 is proposed to be retained as a sustainable urban extension.

b) Planning History

- 5.3 The Order Land has always been identified as part of the access and infrastructure requirements of the wider development.

c) Current Planning Permission

- 5.4 Outline planning permission with detailed consent for the opening up access infrastructure was granted for the scheme on the 12th January 2022, and it is this permission ref number *is 2019/0294/RG3* which is relevant to the proposed compulsory purchase order.

6 UNREGISTERED LAND/JUSTIFICATION FOR CPO

- 6.1 As part of the title checks to ascertain precise ownership of the land in order to secure planning permission for the development site, it became clear that there were 2 areas of land in the development area which were unregistered. It appears from the checks and the on site investigation that this is likely to be as a result of a scaling/administrative error.
- 6.2 The Acquiring Authority along with Lindum Western Growth Community (adjoining landowners) have undertaken significant research into ownership of the two unregistered pieces of land.
- 6.3 The unregistered order land at the Boultham Catchwater Drain originally formed part of OS field reference 334 (see annex XXX), this field reference covered both the catchwater drain and banks to the north and south side of the watercourse and is shown as being 4.938 acres in size. The bank to the south side of the catchwater drain now forms part of title number LL95920 and is the ownership of the city of Lincoln Council with the remainder of the land unregistered.
- 6.4 A detailed search has revealed no records of ownership of the unregistered field 334, save for a sale of farmland in liquidation by auction on 23rd June 1961 (see annex xxx). The auction records part of field 334 being for sale 2 acres in size.
- 6.5 At the Auction land to the north of the Catchwater Drain was sold to Frank Scarborough and land to the south was sold to Herbert George Barrett.
- 6.6 In relation to the northern area adjacent to the Catchwater Drain (now title reference LL383424), The Registered Land was (along with other land), prior to its registration, transferred to Robert Scarborough ("**Robert**") pursuant to a 1961 Conveyance. Robert subsequently gifted that land to the Scarborough farming partnership ("**Scarboroughs**"), who then some years later transferred the Registered Land to LWGC by virtue of the Transfer.

- 6.7 Whilst we have not been able to locate the original of the 22nd August 1961 Conveyance to Scarborough, we have located and reviewed a copy of it. We attach a copy of the 1961 Conveyance at Annex xxxx. This shows that part of the Strip (which appears to comprise part of the catchwater drain and part of OS number 334), approx 2 acres, was included in the area shaded pink (and identified as conveyed) on the plan to the 1961 Conveyance.
- 6.8 The 1961 Conveyance referred to the land being identified shaded pink on the plan "*for identification purposes only*". This means that the written description of the land is supreme in the 1961 Conveyance and takes precedence over the plan where the two conflict. In the first schedule to the 1961 Conveyance the land conveyed was described by reference to OS numbers. OS number 334 was not included in that list.
- 6.9 Therefore, Robert did not acquire any part of the Strip by virtue of the 1961 Conveyance. Part of the Strip being shaded pink on the 1961 Conveyance plan appears to us to have been a 'mapping error' in 1961 because as explained the written description of the conveyed land in the 1961 Conveyance did not include any part of OS number 334.
- 6.10 For the purposes of history and clarity, what the deeds we located did show, was that Robert agreed to purchase the land at auction on 23 June 1961 from Walter Edward Moore. Robert agreed to purchase all the land comprised in a 1945 Conveyance (which included part of OS 334, approx 2 acres) together with an individual named Herbert Barrett. However, it appears that the land may have then been carved up between Robert and Herbert Barret after the auction, because Robert only ended up acquiring part of the land sold at auction (as per the 1961 Conveyance) in his sole name.
- 6.11 The Land Registry have confirmed that they do not possess the 1961 conveyance of the sale to Herbet Barrett (see correspondence in annex xxx), without this conveyance, this has led us to believe there has been an administrative error.
- 6.12 Exhaustive further due diligence has been undertaken on neighbouring titles to ascertain reference of the sale to Herbert Barrett on 334. With c.190 titles and conveyances scanned for reference / ownership (Appendix XXX). The results have been reviewed by an independent legal solicitor who agrees that the investigations have been thorough, and no further reasonable searches or investigations can be undertaken to discover the owner of the unregistered land.
- 6.13 It has also been confirmed that Lincolnshire County Council, Environment Agency and Anglian Water do not own nor retain any interest save for the Environment Agency maintaining the watercourse. This is also evidenced by adjacent landowners owning the catchwater and its banks to the west and to the east of the Order Land.

- 6.14 In relation to the land adjacent to Skellingthorpe Road, the Council has negotiated the sale of the freehold land bordering the site registered to The Church of Jesus Christ of Latter-day Saints (CJCLS). CJCLS previously held itself out as being the owner of the unregistered land. Upon enquiries from CLC the unregistered area of land was shown to be outside the original conveyance of land from Herbert George Barrett to CJCLS on 13 September 1962.
- 6.15 The relevant land appears to have been enclosed by CJCLS for a period of at least 12 years and maintained by CJCLS during that time. CJCLS appears therefore to have dealt with the land in such a way as to make its acquisition of the land by means of adverse possession likely. CLC has negotiated the transfer of any rights held by CJCLS in the land to CLC.
- 6.16 The unregistered land sits between the land owned by CJCLS and land in the Public Highway ownership boundary (Annex plan xx). Barrett sold the freehold land to CJCLS in the 1962 conveyance and is shown to abut the highway boundary (annex xxx), it leads to the conclusion that the unregistered strip is an administrative or scaling error as the hypothesis for this would be the freehold was intended to abut the highways boundary and demise.

7 JUSTIFICATION FOR COMPULSORY PURCHASE

- 7.1 The Council has powers under section 226 of the Town and Country Planning Act 1990 to acquire land compulsorily. These powers may be used to acquire compulsorily land if it thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land provided that it thinks that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objects:
- 7.1.1 the promotion or improvement of the economic well-being of their area.
 - 7.1.2 the promotion or improvement of the social well-being of their area.
 - 7.1.3 the promotion or improvement of the environmental well-being of their area.
- 7.2 The Council believes that the Western Growth Corridor development meets all three of these objects, as set out in the following paragraphs.
- 7.3 In terms of the economic wellbeing of the area, the scheme will provide;
- 7.3.1 A total of up to 3,200 high quality new homes will be delivered on a phased basis. A range of house types, sizes and tenures are proposed to meet the current and future housing needs of the city.

- 7.3.2 The creation of a local centre/high street will provide new local services and facilities to the wider community including a primary school and other community uses such as shops, health centre, community building, pub/ restaurant, and business units (small scale/start up).
- 7.3.3 Local economic stimulus of between £500m-£1bn over 25 years benefitting job creation and supply chain.
- 7.3.4 The development will create employment opportunities throughout both the 20-year phased construction period and after completion, with the proposals providing a total of 40,000m², of commercial space consisting of mixed-use office and light industrial space. The local centre will have a retail and small business focus with a number of small scale / start up business units provided.
- 7.3.5 The creation of a leisure complex situated on the former tip, which will be re-mediated during the development process, will provide new local services and facilities to the wider community including a new community stadium, leisure centre and swimming pool and other community uses such as a health centre, food and drink establishments and a hotel.
- 7.4 In terms of social wellbeing the development has committed to exemplar high quality areas to improve the community's social wellbeing. These include sports playing fields, allotments (community led), Community spaces within the hub of the site, a new Primary School, common green spaces for recreation and walking/cycling trails through open green expanses.
- 7.5 In terms of environmental well-being of the area the scheme has made the following commitments:
 - 7.5.1 Proposed new road link and bus route between Skellingthorpe Road and Beavor Street with existing bus routes to be extended into the site, enabling reduced traffic on the eastern end of Skellingthorpe Road. New pedestrian and cycle routes will be provided within the site which will connect to the surrounding area. These routes will be separated from busy roads in safe, attractive green corridors, where possible.
 - 7.5.2 In furtherance of the objective above we have included a detailed framework Travel Plan to support active travel by providing real alternatives to car travel between the development/neighbouring area and the city centre and within the development itself.
- 7.6 Whilst the Council has sought to acquire by agreement all the land necessary for the scheme, it is simply not possible to act with certainty in relation to past ownership of the areas of unregistered lands identified in the Order. Whilst as indicated above a significant amount of research has taken place concerning the past ownership of these areas of land

there is no evidence to prove conclusively that these interests in the lands may not be there or subsequently arise.

- 7.7 The Council has therefore made the Order to ensure that the significant benefits of Western Growth Corridor can and will be brought forward, and the site opened-up for development within a reasonable timescale. The use of compulsory purchase powers is considered to be necessary and justifiable in the public interest.
- 7.8 The Council has given careful consideration to the need to include the parcels of land shown on the Order map. The Council is satisfied that the Order is necessary and in the public interest and that the Order Land and the Order Rights are required to facilitate the development of Western Growth Corridor.
- 7.9 The Council is satisfied that there are no planning or financial impediments to the scheme proceeding and that the scheme will proceed if the Order is confirmed.

8 STATUTORY UNDERTAKERS

- 8.1 Therefore, for the purposes of Part III of the Acquisition of Land Act 1981 the City of Lincoln Council will enter into negotiations seeking agreement with the Statutory Undertakers not to object to the Order or for the Secretary of State for Transport to issue a certificate under Section 16 of that Act.

9 SPECIAL CONSIDERATIONS AFFECTING THE ORDER LAND

- 9.1 None specifically to this unregistered land

10 HUMAN RIGHTS ACT

- 10.1 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights (the "Convention"). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 10.2 In resolving to make the Order the Council has carefully considered the rights of property owners under the Convention against the wider public interest.
- a) Article 1 of the First Protocol to the Convention
- This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in

the public interest and subject to the relevant national and international laws.

b) Article 2

This protects the right to life. It means that the likely health impacts of the Scheme will need to be taken into account when evaluating the proposals.

c) Article 6

This entitles those affected by the Scheme to a fair and public hearing. This includes property rights and can include opportunities to be heard in the consultation process.

d) Article 8

This protects private and family life, home, and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interest of national security, public safety, or the economic well-being of the country.

e) Article 14

This protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or social origin.

- 10.3 The European Court of Human Rights has recognised that "regard must be had to the fair balance that has to be struck between competing interests of the individual and of the community as a whole". Both public and private interests are to be taken into account in the exercise of the Council's powers and duties as a local planning authority. Any interference with a Convention right must be necessary and proportionate.
- 10.4 The Council is therefore required to consider whether its actions will infringe the Human Rights of anyone affected by the making of the CPO. The Council must carefully consider the balance to be struck between individual rights and the wider public interest. It is considered that any interference with the Convention rights caused by the CPO will be justified in order to secure the economic, social, physical and environmental regeneration that the Scheme will bring. Appropriate compensation will be available to those entitled to claim it under the relevant provision of the National Compensation Code.
- 10.5 In light of the significant public benefit which would arise from the implementation of the Scheme, the Council has concluded that it would

be appropriate to make the Order. It does not regard the Order as constituting any unlawful interference with individual property rights.

- 10.6 In addition to the publicity and consultation on the planning application for the Scheme, all the known owners and occupiers of land within the Order Land have been contacted regarding the Scheme. Further representations can be made by way of objections to the Order in the context of any public inquiry that the Secretary of State decides to hold in connection with the Order. Those parties, whose interests are acquired under the Order, will be able to claim compensation under the relevant provisions of the Compensation Code.

11 CONCLUSION

- 11.1 The City of Lincoln Council has a clear and detailed plan of how it is intending to use the land it seeks to acquire as identified in the scheme now granted planning permission. All funding and resources to carry out its plans are in place. Finally, there is no known impediment to implementation but the ability to start on site is dependent upon confirmation of this Order.
- 11.2 For the reasons summarised above and set out more fully in this statement, the Council considers the Order to be within the necessary statutory powers and that a compelling case exists in the public interest for the making and confirmation of the Order. This then justifies interfering with the human rights of those with an interest in the land affected.

a) Additional information

- 11.3 Persons requiring further information regarding the Order should contact Oladipo Sobowale on 07480977775, email: Oladipo.OSobowale@lincoln.gov.uk address: City of Lincoln Council, City Hall, Beaumont Fee, Lincoln, LN1 1DD
- 11.4 Owners and tenants of properties, and any other parties with interests affected by the Order, who wish to negotiate a sale or discuss matters of relocation or compensation should also contact Oladipo Sobowale, as above.
- 11.5 This Statement of Reasons for making the Order is not intended to discharge the Council's statutory obligations under the Compulsory Purchase by Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990.
- 11.6 Copies of the Order, Order Map and this Statement of Reasons can be inspected during normal office hours at the Council's offices at:
City Hall, Office Reception, City of Lincoln Council, Beaumont Fee, Lincoln, LN1 1DD

12 LIST OF DOCUMENTS

- 12.1 This Council relies on the following documents in support of its case for confirmation of the Order. It reserves the right to add to the list of documents as it sees fit.

1. Compulsory Purchase Order and Supporting Documents

The Order

Order Map

Order Schedule

Report to COCL Executive meeting held on.....and minute

Report to COLC Executive meeting held on..... and minute

WGC CPO - Plan Index:

Unregistered Land Plan 1
Area = 657 square metres

Unregistered Land Plan 2
Area = 12,296 square metres

3. Land Ownership Plan - Red line Plan

2. Title Documentation.

Particulars of Delivery Agreement between the City of Lincoln Council and the LWGCL dated 3rd April 2019

Land Registry office copies and plans of title to surrounding land to the Order Lands.

3. Planning Documents

Report COLC Planning Committee meeting 12th January 2022

Decision notice for planning permission

4. Legal Documents and guidance

Town and Country Planning Act 1990

Local Government (Miscellaneous Provisions) Act 1976

The Acquisition of Land Act 1981

Section 1 Compulsory Purchase (Vesting Declarations) Act 1981

The Compulsory Purchase Act 1965

Compulsory Purchase (Inquiries Procedure) Rules 2007

Circular 06/04 Compulsory Purchase and the Criche Down Rules

City of Lincoln Council

October 2022

DRAFT