

# Compulsory Purchase Order decision

Inquiry held on 20-21 February 2024

Site visits made 20 and 21 February 2024

**by Stephen Wilkinson BA BPI DIP LA MBA MRTPI**

**Inspector appointed by the Secretary of State**

**Decision date: 25 March 2024**

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## **Case Ref: APP/PCU/CPOP/T5720/3303017**

### **The London Borough of Merton (Eastfields No.1) Compulsory Purchase Order 2022**

- The Compulsory Purchase Order was made under s226(1)(a) of the Town and Country Planning Act 1990, the Acquisition of Land Act (1981), s203 of the Housing and Planning Act 2016 and under section 13 of the Local Government (Miscellaneous Provisions) Act 1976, by the London Borough of Merton.
- The purpose of the Order is to facilitate the carrying out of development on or in relation to the land or otherwise required for the purposes of carrying out the demolition of existing buildings to facilitate development, redevelopment or improvement on or in relation to the land together with implementation of associated infrastructure and services thereby achieving the promotion and/or improvement of the economic, social and environmental wellbeing of the area.
- When the Inquiry opened there were no remaining objections.

## **Case Ref: APP/PCU/CPOP/T5720/3303018**

### **The London Borough of Merton (High Path No.1) Compulsory Purchase Order 2022**

- The Compulsory Purchase Order was made under s226(1)(a) of the Town and Country Planning Act 1990, the Acquisition of Land Act (1981), s203 of the Housing and Planning Act 2016 and under section 13 of the Local Government (Miscellaneous Provisions) Act 1976, by the London Borough of Merton.
  - The purpose of the Order is to facilitate the carrying out of development on or in relation to the land or otherwise required for the purposes of carrying out the demolition of existing buildings to facilitate development, redevelopment or improvement on or in relation to the land together with implementation of associated infrastructure and services thereby achieving the promotion and/or improvement of the economic, social and environmental wellbeing of the area.
  - When the Inquiry opened there were 8 remaining objections.
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**Case Ref: APP/PCU/CPOP/T5720/33030120**  
**The London Borough of Merton (Ravensbury No.1) Compulsory Purchase Order 2022**

- The Compulsory Purchase Order was made under s226(1)(a) of the Town and Country Planning Act 1990, the Acquisition of Land Act (1981), s203 of the Housing and Planning Act 2016 and under section 13 of the Local Government (Miscellaneous Provisions) Act 1976, by the London Borough of Merton.
  - The purpose of the Order is to facilitate the carrying out of development on or in relation to the land or otherwise required for the purposes of carrying out the demolition of existing buildings to facilitate development, redevelopment or improvement on or in relation to the land together with implementation of associated infrastructure and services thereby achieving the promotion and/or improvement of the economic, social and environmental wellbeing of the area.
  - When the Inquiry opened there were no remaining objections.
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**Decisions**

1. For the reasons given below and having regard to all matters raised I confirm the Compulsory Purchase Order Eastfields No.1 as modified by the Schedule dated 21 December 2023.
2. For the reasons given below and having regard to all matters raised I confirm the Compulsory Purchase Order High Path No.1 as modified by the Schedule dated 6 October 2023.
3. For the reasons given below and having regard to all matters raised I confirm the Compulsory Purchase Order Ravensbury No.1 as modified by the Schedule dated 21 December 2023.

**Procedural matters**

4. The Secretary of State has delegated the decision in this case to an appointed Inspector.
  5. A Pre-Inquiry Note dated 29 January 2024, was sent to the parties which addressed procedural matters relating to the management of the Inquiry.
  6. I undertook an unaccompanied site visit to each of the three estates which form the Compulsory Purchase Orders (CPOs) identified by the Acquiring Authority (AA) on the 19 February 2024 in advance of the Inquiry opening. Accompanied site visits were carried out on 20 February to the Ravensbury estate and to the High Path and Eastfields estates on 21 February 2024.
  7. The AA confirmed at the Inquiry that all the statutory formalities had been complied with.
  8. No objections were before me at the start of the Inquiry for the CPOs for the Eastfields and Ravensbury estates. There were seven outstanding objections for the High Path estate although none of the objectors attended the Inquiry.
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9. The AA has suggested a large number of modifications to each Order<sup>1</sup>. This reflects Clarion's original precautionary approach when drafting each Order pending further studies which were completed during 2023. Many of the properties and rights originally included are no longer necessary prompting the modifications.
10. I address the circumstances of each estate and the reasons underpinning the AA's case below.

## **Reasons**

### **Background**

11. The Eastfields, Ravensbury and High Path estates were included in a Stock Transfer Agreement (STA) completed in 2010 between the London Borough of Merton and the Clarion Housing Group (Clarion) involving the transfer of the Council's entire housing stock. As part of the STA Clarion accepted an obligation to improve all stock to at least the Decent Homes Standard.
12. Following a suite of surveys examining issues such as physical structure and dwelling condition on each of the estates three options were considered for their future. These were:
  - Refurbishment to the Decent Homes (Merton) Standard covering mainly internal works to improve the quality of the existing accommodation
  - Refurbishment to an enhanced standard involving both internal works but also external works such as new cladding and roofs to address thermal performance, and
  - Full redevelopment involving demolition of all existing properties and re provision on each estate aiming to deliver new modern energy efficient and high quality schemes, new community spaces, open spaces, landscaping and car parking. The intention that these would be completed at higher densities than existing.
13. The selection of the preferred option was informed with reference to a range of factors set out below:
  - Planning Policy - increasingly informed by requirements from Central Government to meet housing targets which the Council was having difficulty in achieving. Options 1 and 2 whilst enabling the stock improvement would not have allowed for an increase in stock and in particular in the stock of affordable dwellings.
  - Social economic factors – these include a need to ensure that housing provision meets local needs. This would not be possible if Options 1 and 2 were pursued which involved retention of the existing stock. Furthermore, Option 3 could have additional benefits through the allocation of the New Homes Bonus for the Council and increased spending power supporting local shops and services. There would be other benefits for the High Path estate with 5,000m<sup>2</sup> of new commercial space.

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<sup>1</sup> CD 8.5 and CD 8.6

Both the Ravensbury and High Path estates lie in the London Plan's (2021) Wimbledon/South Wimbledon/Colliers Wood Opportunity Area which seek to increase housing numbers and employment opportunities.

- Environmental and Place Making Standards – issues such as energy efficiency and the quality of the external environment of each estate could not be addressed by Options 1 and 2. Option 3 involving full redevelopment would be the only way in which these matters could be fully realised.
- Economic factors – in each case Option 3 was determined as the most sustainable option which could deliver the greatest regeneration benefits in a cost effective way.
- Public consultation – although it would appear that the outcomes of the Council's extensive consultation programme did not provide a clear steer in favour of one option for each estate.

14. In July 2014, the AA agreed to Option 3 involving the regeneration of each estate. The AA and Clarion agreed to place residents at the heart of this process through the adoption of ten commitments<sup>2</sup>.
15. The extent of each of the Orders which are the subject of this decision are part of a stepped delivery programme for each estate. It is understood that the AA will be seeking confirmation of other orders in the future to complete the redevelopment of the Eastfields and High Path estates.
16. The Council adopted the Estates Local Plan in 2018 which forms part of its Development Plan. This is designed to shape and guide development proposals for each of the three estates as they come forward. Integral to the plan are requirements that all three estates should be delivered together through a linked financial and delivery model. This allows for the surplus generated by the redevelopment of the High Path estate to cross subsidise the regeneration of Eastfields and Ravensbury.
17. Outline planning permission has been granted for the redevelopment of each estate and reserved matters has been approved for each of the phases included in the Orders before me. The reserved matters were granted subject to a single overarching S106 Agreement which includes specific provisions for each estate and includes covenants relating to the funding/delivery model.

### **The Orders' Lands and the surrounding areas**

#### *Eastfields – Phase 1*

18. Eastfields is located around 300m from Eastfields Station and within a ten minute walk of Mitcham Town centre. The Estate is bounded to the north by Acacia Road, opposite St Marks School and a purpose built BMX track, to its east, a recreation ground and to the south by Streatham Park Cemetery and to the west by residential properties.

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<sup>2</sup> CD8.1

19. The estate was built during the 1960s and completed in the 1970s and comprises three storey town houses and three storey blocks of flats. These are designed to enclose areas of open space within the estate. The estate was constructed with the Wimpey No-Fines method involving cast in-situ concrete. The estate includes large continuous areas of flat roof which are now considered as 'life expired'.
20. Thermal Surveys indicate that there is evidence of chronic heat loss, cold bridging and water ingress from the internal soil and surface water down pipes. Window and kitchens and bathrooms have become life expired requiring remedial repair. Around 51%, 47% and 2% of properties included in Phase 1 have EPC ratings of C, D and E respectively.
21. The Order Schedule<sup>3</sup> includes properties in Clay Avenue, Pains Close, Potter Close and Thrupp Close together with land for a replacement ball court and play area.
22. Development has already commenced with Phase 1A which involves decanting existing residents to housing owned by Clarion in Colliers Wood to allow the 'kickstart' of the estate's regeneration.
23. Outline planning permission with a S106 Agreement was granted on 29 April 2019 for Phases 1-3. This was subsequently varied through a Section 73 application. Reserved Matters for Phase 1 (Phase 1A-1E) involving the redevelopment of the estate and provision of 201 dwellings was approved in April 2022.
24. The S106 Agreement requires reprovision of existing on-site recreation facilities, a refuse strategy, traffic calming measures and the provision of a district heating network.

#### *Ravensbury – Phases 2-4*

25. The Ravensbury estate is located around 600m to the southeast of Morden Town Centre. It is bound by the A239 Morden Road, the National Trust's Morden Hall Park with Ravensbury Park and the River Wandle to the site's southern and eastern edges.
26. The estate was originally built during the 1940s and 1950s. There are a range of housing types from flats included in Ravensbury Court, a four storey block, two storey blocks of flats and two storey semi-detached dwellings in Hengelo Gardens, Hatfield Close and Morden Road.
27. The Orlit housing in Hatfield Gardens was constructed using pre-fabricated reinforced concrete and is deemed unfit by the Defective Premises Act 1972. Whilst these properties do not exhibit the structural problems often associated with this housing type, surveys indicate levels of carbonation and water ingress within their concrete frames. These problems are indicative of the poor standards of quality within the original construction.
28. Around 35% and 65% of properties included in Phases 3 and 4 fall within EPC ratings of D and E respectively. It should be noted that the existing brick built flats and maisonettes are retained as the surveys indicate that they can be refurbished to meet the Decent Homes Standard.

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<sup>3</sup> CD3.1

29. Planning permission for the kickstart phase was granted planning permission in May 2017. Outline planning permission was granted in 2019 for Ravensbury Phase 2-4 involving the redevelopment of the existing buildings and provision of 180 homes in blocks of 2-4 storeys.
30. The S106 Agreement includes reprovision of the existing community centre, traffic calming measures, cycle route improvements and a footbridge over the River Wandle.
31. Of the 192 dwellings which originally comprised the estate, 97 are included in the Order proposed for demolition. Ninety one dwellings will be retained within the four storey blocks of maisonettes and two storey semi-detached properties. These are of brick construction and considered to be in a sufficiently good condition allowing for their refurbishment to the Decent Homes Standard.
32. Phase 1 of the estate's redevelopment has already been completed with the construction of Phase 2 being delayed due to the building contractor going out of business.

#### *High Path - Phases 2-3*

33. The High Path estate is located to the east of South Wimbledon tube station and is bounded by Morden Road to its west, Merton High Street to its north side, Abbey Road on its east side and High Path to the south. The estate was built from the 1950s to 1980s and comprises 608 dwellings in three tower blocks, flats, terraced houses and maisonettes.
34. The three tower blocks and four storey blocks have poor thermal standards and require major refurbishment to bring them up to acceptable standards. Those dwellings dating from the 1970s and 1980s require concrete repairs and repointing. Walkways, balconies and window lintels lead to cold bridging causing damp mould and condensation. Around 68%, 30% and 2% of properties included in Phases 2 and 3 fall within EPC ratings of C, D and E respectively.
35. The Estates Local Plan identifies that the regeneration will be based on a vision to achieve a new London vernacular creating a new neighbourhood with traditional streets and improved links to its surroundings. This design would support the area's local economy drawing on the area's diverse heritage and strong sense of community.
36. A detailed application for the kickstart phase of redevelopment was granted permission in 2017. This has now been built out and is substantially occupied. Outline planning permission was granted for phases 2-7 of the estate in 2019 with all matters reserved apart from the parameter plans. This identifies how the demolition of the whole estate could provide 1,570 new homes and up to 9,900m<sup>2</sup> of commercial and community floorspace, a new large park within the centre of the proposed estate, play areas with landscaping and public realm enhancements.
37. The outline permission includes provision for a combined heat and power centre to support energy supply. It is proposed that there would be an underground refuse storage and waste collection facility.
38. The S106 Agreement which accompanied the outline permission provides for a range of obligations including bus stop relocation, pedestrian and cycle route

improvements, waiting and loading bays, a refuse strategy, EV charging points, travel plans and provision of the district heating network.

39. Reserved Matters were approved for Phase 2 in October 2019 with Phase 2A approved in March 2022 and in December 2022 for Phase 3A involving the provision of the multi-use games area, landscaping and highway works. An application for Reserved Matters for Phases 3B and 3C remains outstanding subject to the Government confirming the requirements of the fire safety regulations for buildings over 18m in height; this relates to the provision of second staircases. Assurances<sup>4</sup> were given during the Inquiry that a second staircase, if required, could be inserted into the blocks without affecting the parameters of the outline permission with only limited impacts on the total numbers of flats.
40. Further work is underway on revisions to the extant outline permission for the redevelopment of the whole estate given the requirements, linked to the funding model, to provide an additional 568 dwellings above that originally included. This has also necessitated variations to the original S106 Agreement.

### **Detailed objections**

41. There are 8 outstanding objections to the High Path Order only. I address the statutory and non statutory objections in turn below.

### **Statutory Objections**

#### ***Objectors 8, 9 and 28 (CD 11.7, 11.8 and 11.9)- Flat 18, Gilbert Close, Morden Road***

42. These objectors from this property raise the same grounds which are addressed below.

*New tenants being introduced to the estate with flats requiring redecoration despite the Order being made*

43. The Council confirmed that as flats are vacated as part of the decanting strategy newly created assured shorthold tenancies allow for their re-occupation. This allows housing need to be satisfied in the short term without undermining the programme of decanting of long term residents which could affect the delivery of the whole scheme. Furthermore, whilst this may have led to instances of a single occupant being allocated a three bed flat, occupancy allows for some degree of security and surveillance to reduce anti-social behaviour and vandalism during the period of transition. This has in some instances required interim measures of flat re-decoration.

44. This is consistent with the overall strategy for the estate's regeneration.

*Lack of Community Engagement*

45. The AA through the body of evidence it presented to the Inquiry<sup>5</sup> demonstrated that from inception of the whole regeneration project the local community was

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<sup>4</sup> Mr Ham EIC

<sup>5</sup> PoE Ms McConnell



involved. This commenced when residents were surveyed on their views of the estate, involvement into the future options and during regular intervals throughout the process to date involving estate meetings and leaflet drops. Meetings were held with local youth groups and the AA used the EBrik on line modelling tool allowing residents to view images of the proposals.

46. One to one discussions were held with leaseholder/owners on the options available to them on redevelopment including whether they wished to be relocated away from the area or on the estate.
47. Furthermore, the Estates Local Plan and the submission of the outline and reserved matters planning applications involved local consultation.
48. I am satisfied that the AA has engaged the residents/leaseholders throughout the process to date.

*Different ethnic communities have been treated differently*

49. Evidence from Ms McConnell demonstrates that correspondence was translated into 8 languages and where written translations were not available, interpreters were made available for one to one meetings.
50. Evidence was presented during the Inquiry that the objectors had taken an active part in a public meeting.
51. An Equalities Impact Assessment was completed for the programme which demonstrates how the AA sought to address the range of impacts arising from the estate's regeneration which can have different outcomes for people with protected characteristics.

*No valuation completed*

52. Evidence from the AA<sup>6</sup> identifies that despite the concerns expressed by the objectors many attempts have been made to contact the occupiers to gain entry and complete the valuation. A kerbside valuation was completed instead.

*Lack of suitable replacement property*

53. The AA has provided evidence stating that it has offered a replacement property for the leaseholders of Flat 18. Given the difficulties involved in making contact and the imperative to rehouse other families it was offered to another household. However, the objectors have been informed that another vacant flat in the recently completed phase is now available for occupation.

**Objector 25 Flat 3 Kent House CD 11.16**

54. The objector's property occupies the first floor of a property on the corner of Hardy Road with Merton High Street. The property does not have windows which face south directly towards the estate. The objection relates to the right to both daylight and sunlight and impacts on value.

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<sup>6</sup> PoE Mr Vallance



55. A detailed technical analysis<sup>7</sup> involving three dimensional computer modelling of the scheme's impacts on properties on the north side of Merton High Street including the objector's property concludes that only a slight reduction in light would occur which would be imperceptible to the occupants.
56. There is no evidence from the objector demonstrating how the proposed scheme would affect daylight and sunlight to the property and how this would affect the value of their property.

**Objector 19 On behalf of occupants of Nos. 42-58, 64 and 72 Abbey Road CD 11.13**

57. A single objector co-ordinated the response of residents of properties along this short terrace. For this reason, they are treated as one objection.
58. The properties lie on the east side of Abbey Road which face west towards Lovell House which is included in Phase 2.
59. The original objection was based on a concern that the proposed redevelopment of Lovell House would have involved a taller building being stepped closer to these properties than the existing building. This would have resulted in a loss of both sun light and day light.
60. A series of photographs included as evidence from the residents identified the extent of shadow arising from the location of the existing building on the Abbey Road properties demonstrating their concerns that a taller building located closer to them would have even greater impacts.
61. Analysis of the plans for this part of the scheme<sup>8</sup> submitted for approval of the reserved matters identifies that the proposed design of the new building (a terrace of three storey townhouses) would be broadly set within the parameters of Lovell House although the 'crest' of the roof profile to each new property would marginally exceed the height of Lovell House.
62. The detailed technical analysis identifies that the impacts of the scheme on rights to light would be so low as to be imperceptible to occupiers of these properties.

*Dane Road*

63. Objector 19 also refers to the likely impact on properties in Dane Road although no evidence is presented to substantiate this point.
64. It is unclear the nature of this objection given that residential properties in this road do not face directly towards the site. The detailed technical analysis does not identify a right to light which would be impacted by the scheme.

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<sup>7</sup> CD7.25

<sup>8</sup> CD 3.2

## **Non statutory objections**

### ***Objectors 10 and 21, 46 Priory Close***

65. Although recorded as two objectors in substance they are being treated as one and the same given that they make the same points.
66. Their objection is one of principle to the redevelopment of their property which they do not intend to sell in any circumstances.
67. Whilst the nature of the objection is understood no evidence has been provided on why an exception should be made in this case.

### ***Objector 24 Flat 8, Hudsons Court, Pincott Road and 22 Ryder House***

68. The objector is a lessee of two properties on the estate. The objection is made on the potential grounds of loss of light to the property and disruption during building works.
69. The technical analysis indicates that there will be no interference with the rights to light and the AA is not intending to acquire any rights to light enjoyed by each of these properties as part of this Order. The planning permissions for the redevelopment of the estate include conditions requiring details of construction methods to reduce the potential adverse impacts which could arise from construction activities.

## **Statutory provisions and factors to be addressed in determining whether to confirm the Orders made for each estate under Section 226**

70. The AA's case in favour of confirmation of the Orders is common to each estate and is addressed below.

### *National and Local Planning Policy*

71. The CPO seeks to acquire rights and ownership as described on the Orders' Maps and as detailed in the Orders' Schedules, for the purpose of securing the carrying out of development, redevelopment or improvement of each of the estates within which the Order Lands are situated.
72. These are each made under Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004) (the 1990 Act).
73. The power granted is intended to assist a local authority to fulfil its duties defined by Section 2 of the Local Government Act 2000 of promoting the economic, social and environmental wellbeing of the area.
74. Section 226(1A) of the 1990 Act confirms that a local planning authority must not exercise this power unless they consider that the development, redevelopment or improvement is likely to contribute to the achievement of the promotion of one or more of the economic, social or environmental well-being of the area.
75. The Department for Levelling Up, Housing and Communities Guidance on compulsory purchase process and the Crichel Down Rules (the Guidance) identifies the factors which are to be considered for the purposes of each Order

made under Section 226(1)(a). Accordingly, my conclusions for each Order are framed around the following considerations:

- Whether the purpose for which the land is being acquired complies with the Development Plan;
- The extent to which the proposed purpose will contribute to the achievement of the promotion of improvement of the economic, social or environmental wellbeing of the area;
- Whether the purpose for which the AA is proposing to acquire the land could be achieved by any other means; and
- The potential financial viability of the scheme for which the land is being acquired.

***Whether the purpose for which the land is being acquired complies with the Development Plan***

76. The Development Plan comprises the Greater London Plan 2021 (LP), the London Borough of Merton Core Strategy 2011, Sites and Policies Plan 2014 and the Estates Local Plan 2018. An emerging Local Plan is currently in Examination.
77. The National Planning Policy Framework (NPPF) although not part of the development plan is an important material consideration. The schemes underpinning each CPO accord with NPPF policies related to the delivery of the objectives of sustainable development and boosting good quality housing. The NPPF also recognises the need to bring forward land that may be suitable for meeting development needs - if necessary, using compulsory purchase powers.
78. Threaded through each of these planning documents is a requirement to deliver more housing. The LP requires Merton to deliver around 9,180 dwellings in the period 2019/20- 2028/29. The LP identifies a series of Opportunity Areas (OA) across London where housing and employment opportunities should be realised. The Wimbledon/South Wimbledon/Colliers Wood OA has an overall target of 5,000 new homes and 6,000 new jobs and includes the High Path estate. Furthermore, the London Plan requires that densities should be raised in areas with high public transport access levels (PTAL) for example at the High Path estate located by the South Wimbledon tube station.
79. The Core Strategy's objectives seek to deliver regeneration in Morden, Mitcham and South Wimbledon and states that this could be achieved through the high-density new homes and social infrastructure that respects the local character of the area.
80. Policy OEP1 of the Estates Local Plan sets out a clear vision for the regeneration of each estate. Eastfields is to be developed as a contemporary compact neighbourhood, High Path as new London vernacular and Ravensbury as a suburban parkland setting. Specific policies for each estate address townscape, the street network, movement access, building heights and open space.
81. The outline and reserved matters permissions for each phase of the CPO for each estate are in accordance with the Development Plan. The overarching S106 Agreement includes covenants in favour of the Council reflecting specific matters which need addressing for each estate.

82. In conclusion the CPOs for each estate are consistent with the policies of the Development Plan.

***The extent to which the proposed purpose will contribute to the achievement of the promotion of improvement of the economic, social or environmental wellbeing of the area***

83. Consideration of the economic, social and environmental issues has been central to the Council's option analysis which informed its decision to proceed to redevelop each estate.

*Economic*

84. The AA's option analysis included consideration of the costs of an incremental programme of repairs to extend the life of the existing stock. For example, surveys of the tower blocks on the High Path estate identify that the costs of remediation would be around £100m averaging at around £165,000 per dwelling. However, this figure is now likely to be an underestimate given that the surveys are around 8 years old and would not accurately reflect the recent inflation of the costs of labour and materials.

85. Whilst the costs of redevelopment would be considerable, they would deliver estates which have a significant range of benefits which can only be achieved through complete redevelopment.

86. The proposed increases in housing numbers proposed for each estate would lead to increased spending power in shops and services surrounding each of the three estates. This could, for example, be a significant benefit for the shops which lie on the north side of Merton High Street which lie opposite the High Path estate leading to wider regeneration benefits.

87. Furthermore, the provision of modern employment space on the High Path estate could lead to additional employment opportunities to directly support the local economy.

88. In contrast to the broader economic case in support of regeneration for individual households a new home with EPC rating of B would lead to less household income spent on energy bills than at present.

89. In conclusion the CPOs for each estate would deliver economic improvements to the local area.

*Social and Environmental*

90. Of critical importance to the merits of each CPO is the inclusion in their respective planning permissions of additional market and affordable housing. The whole regeneration programme would deliver 3,725 dwellings compared to the 1,175 which currently exist. The net increase in housing numbers for those areas which are the subject to the Orders are as follows:

- Eastfields – a net gain of 152 dwellings
- High Path – a net gain of 82 dwellings
- Ravensbury – a net gain of 321 dwellings

91. Whilst this represents a quantitative benefit the housing stock would also better fit the housing needs of the Borough's population. For example, the Eastfields estate currently has high levels of overcrowding with many families living in 1 bed accommodation. Two bed units will increase from 33 to around 331 dwellings. Critically for estates which suffer from chronic levels of overcrowding, their regeneration would deliver significant increase in the numbers of bedrooms.
92. These units will be designed to meet the London Plan internal space standards.
93. Furthermore, each estate is suffering from a range of physical issues caused by their age and in some cases defective workmanship arising during their original construction. These include issues of cold bridging, damp and mould leading to health problems for residents. The new homes would be built to modern energy efficient standards with a minimum EPC rating of B and would have lower running costs and carbon emissions.
94. Evidence from Clarion<sup>9</sup> refers to savings for the NHS based on the provision of warm and healthy homes which reduces risks of asthma and mental health conditions developing.
95. Other benefits could only be addressed by the proposed redevelopment of each estate. For example, the site visit identified that access into the Eastfields estate is through narrow and restricted points from surrounding streets. These do not allow for surveillance from common areas or neighbouring properties leading to a risk of crime and anti-social behaviour. The estate also has deeply recessed doorways which are dark and uninviting.
96. The physical condition of the common areas in each estate is poor reflecting their development over several decades. Redevelopment informed by a clear vision, articulated through the Estates Local Plan 2018, requires the creation of a unique sense of place for each estate. So for example, whilst the comprehensive development is programmed over several phases the achievement of good design would be reinforced by high environmental standards throughout. This would lead to improved well-being for residents.
97. The permitted scheme for each estate includes new communal facilities. These include community spaces or improved outdoor play spaces, e.g. the MUGA<sup>10</sup> on the Eastfields estate. Again, these would lead to improved outcomes related to well-being and health.
98. Taken together these measures provide a clear social and environmental benefit for the residents of each estate.

**Whether the purpose for which the AA is proposing to acquire the land could be achieved by any other means**

99. There is no evidence before me to indicate that the very substantial benefits accruing from the proposals for each estate could be achieved by any other means than the agreed programme. The retention of any of the existing buildings would be inconsistent with the objectives of the Estates Plan and would fail to deliver the substantial range of benefits. Even a partial delay to the initial

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<sup>9</sup> PoE Mr Ham

<sup>10</sup> Multi Use Games Area

phases for each estate would substantially impede the rolling decanting programme to the detriment of existing residents.

100. Progress on each scheme has been continuing for over 10 years, during which time the AA has continued to negotiate the acquisition of all relevant rights, easements, restrictions and land interests by way of private treaty.
101. It is therefore clear that the purpose for which the Council is proposing to acquire the land cannot be achieved by any other means.

**The potential financial viability of the scheme for which the land is being acquired.**

102. The Guidance states that the potential viability of a scheme should be considered in the context of an assessment as to whether there is a reasonable prospect that the scheme will proceed and that a general indication of funding intentions and of any commitments from third parties will usually suffice. The necessary resources should be "likely" to be available.
103. The Clarion Housing Group will deliver the schemes for each estate on behalf of the AA over a development programme extending until the mid-2030s. The Council requires that the programme for each estate is to be delivered together requiring a linked financial and delivery model. This involves the redevelopment of the High Path estate subsidising the Eastfields and Ravensbury estates which would be unviable primarily due to their relative isolation. The S106 Agreement includes covenants which reinforce the delivery mechanism.
104. Furthermore, given the scale of investment required and the length of the development programme the Council has employed independent financial consultants to scrutinise the financial strategy.
105. By the end of November 2023 Clarion had spent £204m on the scheme primarily related to the acquisition of new homes in advance of confirmation of the CPOs. A further £34.5m has been contracted on Eastfields Phase 1A and completion of Ravensbury Phase 2. Clarion have confirmed that the CPO remains the only obstacle to awarding development contracts for Eastfields Phase 1 and High Path Phase 2.
106. This situation is dynamic and the Council recognised at its meeting on 6 September 2021 that significant risks to financial viability remain. Furthermore, it was noted in the same report that standards of repair and maintenance on existing properties fall well below expectations for both residents and the Council.
107. In part to address these matters the Council agreed that the requirement included in the STA for a 5% 'clawback' on the sale of Council properties would be suspended as long as the wider regeneration programme remains on track. A fallback position has now been agreed with Clarion requiring a commitment to delivery of the Decent Homes Standard for existing homes in the event that the wider programme fails to deliver as originally anticipated in July 2014.
108. In order to support delivery across all three estates the Council has agreed that a further 568 homes (including 227 affordable homes) should be included in Phases

4-7B of the High Path Estate. A resolution to grant permission for these changes was agreed by the Council's Development and Planning Applications Committee in June 2023. This is still awaiting the GLA's Stage 2 approval.

109. Until the Stage 2 approval is received the whole programme remains at risk. However, the Clarion Group is the UK's largest affordable housing landlord with a turnover of around £1bn and liquidity of around £1.02bn which has considerable experience of delivering estate regeneration programmes.
110. Clarion have confirmed that the Merton Estates Regeneration Project is included in its 30 year business strategy submitted to the Regulator of Social Housing<sup>11</sup>. The extract from the Board meeting presented at the opening of the Inquiry (I.D1) demonstrates the full commitment of the Clarion Board to deliver the regeneration of each of the estates. Furthermore, the Council have retained SQW, financial analysts, to scrutinise Clarion's financial strategy for this programme. These measures assuage my concerns on this point and demonstrates that the schemes for which the Orders have been made are viable.

#### *Impediments to the Scheme*

111. The Guidance states that the AA should be able to show that the scheme would be unlikely to be blocked by any physical or legal impediment.
112. Planning permissions have been granted and uncontested written evidence has been provided as to the phasing of the development. No evidence of impediments to the delivery of the programme has been presented.

#### *Human Rights and Equality issues*

113. The European Convention on Human Rights (ECHR) would be engaged by the confirmation of the CPO. In particular, this relates to the provisions of Article 1 of the First Protocol to the ECHR which provides that no one should be deprived of possessions except in the public interest. This is not an unqualified right and interference may be justified in accordance with the law, providing that the interference is proportionate to the public interest being achieved. The public interest in this case has been set out above and it is considered that there is a fair balance between the public interest and the private rights which will be affected by the Orders. The implementation of the scheme underlying the CPOs justifies the interference with the human rights of those with an interest in the land.
114. In addition, Article 6 of the ECHR provides that everyone is entitled to a fair and public hearing. This has been met by the procedures for objection and confirmation of the CPOs. I am satisfied that the Council managed the consultation programme and involved all communities from across each estate in the processes to date.
115. Overall, interference with human rights does not represent a reason for not confirming the CPOs.

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<sup>11</sup> CD8.32



116. The Public Sector Equality Duty (Equality Act 2010) applies in this case. The regeneration of each estate has been informed by an Equalities Impact Assessment (EIA) which identifies how proposed actions will impact upon those with protected characteristics and enables consideration of mitigation. These EIAs conclude that given that people with protected characteristics suffer disproportionately from poor housing through conditions such as overcrowding, the outcomes delivered through regeneration would make a significance positive impact.
117. I am satisfied that the AA has discharged its PSED as required by the Act.

***Conclusion and decision***

118. The schemes underpinning each CPO are wholly in accordance with the development plan and have the benefit of planning permission. There are no alternative proposals and the evidence is that resources are in place to ensure timely delivery.
119. The only objections relate to the redevelopment of the High Path estate. The absence of evidence to support each objection and the fact that many relate to amenity considerations which had already been considered through the determination of the applications for planning permission, requires balance against the overwhelming socio-economic and environmental case in favour of its redevelopment.
120. Overall, it is concluded that there is a compelling case in the public interest for each CPO to be confirmed with the suggested modifications, and that there are no impediments to the regeneration of the Orders' Lands. There are very good prospects of the programme being delivered within a reasonable time scale and there is no realistic prospect of it being realised without the CPOs.
121. For the reasons given the above and having regard to all matters raised, I therefore confirm the Compulsory Purchase Orders as modified as included in the Appendices to this decision.

*Stephen Wilkinson*

INSPECTOR

**APPENDICES TO THIS DECISION INCLUDED ON CD8.5 and CD8.6**

1. Modifications to the Order for Eastfields No.1
2. Modifications to the Order for High Path No.1
3. Modifications to the Order for Ravensbury No.1

**APPEARANCES**

Mr A. Booth KC for the Acquiring Authority instructed by Ms J Backhouse, Solicitor of Trowers and Hamlins and the Clarion Housing Group	
He called:	
Mr B Ham	Project Director, Clarion Housing
Ms T Butler	Head of Future Merton, London Borough of Merton
Mr M Kidd	Partner, Delva Patman Redler
Ms I McConnell	Head of Merton Regeneration for Clarion Housing
Mr C Vallance	Director Savills
Mr M Robbins	Regional Planned Investment Manager for Clarion Housing Group

**INQUIRY DOCUMENTS**

I.D1	Letter from Clarion dated 14 February 2024
I.D2	Opening statement from the Acquiring Authority
I.D3	Email from Objector dated 20 February 2024
I.D4	Closing statement from the Acquiring Authority