



Department
for Transport

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Your Ref:

Our Ref:

Date: 16 March 2023

Dear Ms Coulson

THE BRISTOL AIRPORT LIMITED (LAND AT A38 AND DOWNSIDE ROAD) COMPULSORY PURCHASE ORDER 2020

THE AIRPORTS ACT 1986 AND THE ACQUISITION OF LAND ACT 1981

SECRETARY OF STATE'S DECISION – ORDER TO BE CONFIRMED WITHOUT MODIFICATION

1. I refer to your application, submitted on behalf of Bristol Airport Limited (“BAL”), for confirmation of the above-named Compulsory Purchase Order (“the Order”). The Secretary of State for Transport (“the Secretary of State”) has decided to confirm the Order without modification and this letter constitutes his decision to that effect.

2. The confirmed Order will authorise BAL to compulsorily purchase land for the purpose of delivering highway improvement works to allow for the expansion of Bristol Airport.

CONSIDERATIONS FOR DECISION

3. As objections were received to the Order it was decided that a Public Local Inquiry (“the Inquiry”) should be held for the purposes of hearing those objections. The Inquiry opened on 20 July 2021 along with the linked Planning Inquiry into the appeal by BAL against the decision of North Somerset Council to refuse planning permission. The evidence for the Inquiry was programmed to start following the close of the Planning Inquiry and the main Order Inquiry took place on 12 October 2021 before a panel of three Inspectors; Phillip Ware BSc DipTP MRTPI, Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC and Dominic Young JP BSc (Hons) MPlan MRTPI MIHE.

4. The panel of Inspectors considered all representations and objections about the Order during the Inquiry and has since submitted a report to the Secretary of State, a copy of which is enclosed with this decision letter. The Secretary of State has given careful consideration to the Inspectors’ report and also to a number of relevant issues, as set out in *Guidance on Compulsory purchase process and The Crichel Down Rules and the Airports Act 1986*, in reaching his decision on the Order. Namely that:

- i) there should be a compelling case in the public interest to acquire all the land and that this should sufficiently justify interfering with the human rights of those with an interest in the land affected;
- ii) the acquiring authority should have a clear idea of how it intends to use the land that it wishes to acquire;
- iii) sufficient resources should be available to complete the compulsory acquisition within the statutory period following confirmation of the Order, and to implement the scheme;
- iv) there should be a reasonable prospect of the scheme going ahead and it should be unlikely to be blocked by any impediment to implementation; and
- v) the acquiring authority has taken reasonable steps to acquire the interests by agreement.

CONCLUSION

5. The Secretary of State has considered carefully all the objections to, and representations about, the Order (paragraphs 81-128). He has carefully considered whether the purposes for which the Order is required sufficiently justify interfering with the human rights of those with an interest in the Order and is satisfied that they do. In particular, consideration has been given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights. In this respect, the Secretary of State agrees with the Inspectors' conclusions at paragraph 159 and is satisfied that in confirming the Order a fair balance has been struck between the public interest and interests of those with an interest in the land.

6. The Secretary of State notes, from paragraph 160, that the Public Sector Equality Duty contained in section 149 of the Equality Act 2010 was considered as part of the Planning Appeal decision and that related to the highway works there would be no known negative impacts on those who may have a protected characteristic.

7. In agreement with the Inspectors' conclusions at paragraphs 142 and 152 and noting the details of the proposed use of the land to be acquired provided at paragraph 45, the Secretary of State is satisfied that BAL has a clear idea of how it intends to use the land to be acquired and that the necessary resources are likely be available to carry out the proposals within a reasonable timescale.

8. The related planning application was allowed on appeal on 2 February 2022 (paragraph 26). This decision was subject to a High Court Challenge which was heard on 8 and 9 November 2022. The High Court judgment was received on 31 January 2023 and the judicial review has been dismissed. The Secretary of State is mindful that the appeal process regarding the planning permission has not yet been exhausted, but is satisfied that the scheme, for which the Order land is required, has the benefit of valid planning permission and that there is no reason to believe that there will be a legal impediment to implementation in this regard.

9. The Secretary of State notes the intention of the Secretary of State for Environment, Food and Rural Affairs to issue a Certificate under section 19(1)(b) of the Acquisition of Land Act 1981 in respect of Common Land which is to be acquired under the Order (paragraph 76). The Secretary of State is satisfied, in light of this decision, that there are no special parliamentary procedure considerations which will apply to the Order in relation to its special category land.

10. The Secretary of State is content that the scheme is unlikely to be blocked by any physical or legal impediments to implementation (paragraph 147) and agrees with the Inspectors' conclusions at paragraph 151 that BAL has taken reasonable steps to acquire the interests by agreement with the Order being promoted as the last resort.

11. Having considered all aspects of the matter the Secretary of State is satisfied that there are no compelling reasons brought forward which would justify not confirming the Order. Accordingly, the Secretary of State agrees with the Inspectors' recommendation at paragraph 166 and has decided to confirm 'The Bristol Airport Limited (Land at A38 and Downside Road) Compulsory Purchase Order 2020' without modification.

12. In confirming the Order the Secretary of State has relied on the information that BAL and others have provided, as contained in the Order and any related plans, diagrams, statements or correspondence, as being factually correct. Confirmation is given on this basis.

13. Where not otherwise stated in this letter, the Secretary of State can be taken to agree with the findings, conclusions and recommendations set out in the Inspectors' report and the reasons given for the Secretary of State's decision are those given by the Inspectors in support of the conclusions and recommendations.

COMPENSATION

14. Details of compensation arising as a consequence of confirmation of a CPO are a matter for negotiation with the acquiring authority and not the Secretary of State. Accordingly, qualifying persons in relation to the land included in the Order will need to be approached by BAL about the amount of compensation payable to them in respect of their interests in the land. If the amount cannot be agreed the matter may be referred for determination by the Upper Tribunal (Lands Chamber) under the Lands Tribunal Act 1949 and the Land Compensation Act 1961 and 1973, as amended by the Planning and Compulsory Purchase Act 2004.

AVAILABILITY OF DOCUMENTS

15. A copy of this letter, together with a copy of the Inspectors' report, has been sent to those parties who appeared at the Order Inquiry, other interested parties and relevant Members of Parliament. Copies will be made available on request to any other persons directly concerned.

16. Please arrange for a copy of the Inspectors' report and of this letter to be made available for inspection at <https://gateleyhamer-pi.com/en-gb/bristol-airport/> and www.bristolairport.co.uk/CPO. Any person entitled to a copy of the Inspectors' report may apply to the Secretary of State for Transport, at this address within 6 weeks of the receipt of

this letter, to inspect any document, photograph or plan submitted by the Inspectors with the Inspectors' report.

RIGHT OF CHALLENGE

17. Notice is to be published of confirmation of the Order. Any person who wishes to question the validity of the confirmed Order, or any particular provision contained therein, on the grounds that the Secretary of State has exceeded his powers or has not complied with the relevant statutory requirements in confirming it may, under the provisions of section 23 of the Acquisition of Land Act 1981, do so by application to the High Court. Such an application must be made within six weeks of publication of the notice that the Order has been confirmed. The High Court cannot entertain an application under section 23 before publication of the notice that the Secretary of State has confirmed the Order.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Dave Candlish", with a long horizontal flourish extending to the right.

DAVE CANDLISH

Authorised by the Secretary of State for Transport
to sign in that behalf