



Compulsory Purchase Order Decision

Inquiry held on 19 June 2019 and 17 July 2019

Site visit made on 17 July 2019

by Mr J P Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2019

Case Ref: APP/PCU/CPOH/W4705/3217053

118 Cecil Avenue, Bradford, West Yorkshire BD7 3BS

- The City of Bradford Metropolitan District Council (118 Cecil Avenue, Bradford, West Yorkshire BD7 3BS) Compulsory Purchase Order 2018 was made under section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981 by the City of Bradford Metropolitan District Council (the Acquiring Authority).
The purpose of the acquisition is to bring the property back into use for housing.
 - There is one objection, from Mr Liaquat.
 - The main grounds of objection are as follows: the objector has had difficulties bringing the property into use due to an on-going party-wall dispute; he has had health issues that have affected his activities; he has had a higher offer for the house; and despite having done everything requested of him he received the CPO without consultation.
-

Procedural matters

1. When the Inquiry opened neither the objector nor a representative of his were present. The Inquiry was therefore adjourned to allow him opportunity to attend, but on the second day he was once again absent. The Inquiry therefore proceeded in his absence.
2. At the Inquiry the Council confirmed that there had been compliance with all the statutory procedures and formalities.

Decision

3. The Compulsory Purchase Order 2018 is confirmed.

Reasons

Background

4. No 118 was a semi-detached bungalow when it was bought by the objector in 2009. In 2011 he obtained planning permission to form accommodation in the roof space of the original property and erect a 2-storey extension on the rear. Work soon started on this but stopped in 2012 when the scheme was partly built following a party-wall dispute with the owners of the adjoining house, No 116. This dispute concerned not just the trespass of the building works onto the neighbouring land but also water ingress into No 116 giving rise to problems of dampness. Since then little if any work has been undertaken at the property. It therefore still has unfinished work on the existing building as well as a partially built extension to the rear and the house sits in a heavily overgrown garden. I understand No 118 has been unoccupied since it was bought by the objector, and although I did not undertake an internal inspection it appears to be currently uninhabitable

5. In December 2018 the Courts found against the objector in relation to the party-wall issue. Following on from that he now has an adverse judgement against him for a significant financial sum.

Is there policy support and justification for the acquisition?

6. Through its submissions the Council has demonstrated that there is a shortage of housing in the district as a whole and in this part of the city in particular. To assist in addressing such issues, the *National Planning Policy Framework* says Councils should promote and support the development of under-utilized land and buildings, especially if it would help to meet identified needs for housing. It adds that as part of this approach empty homes should be brought back into use supported by compulsory purchase powers where appropriate.
7. To my mind the Order would assist in tackling these shortfalls in housing and so comply with national guidance. Moreover, this length of Cecil Avenue is a pleasing and established residential street that is well-located in relation to various services and facilities yet does not seem to experience noise and disturbance from industry, roads and the like. It is therefore a suitable place to promote housing.
8. The acquisition would also bring wider benefits. At the moment the property detracts from both the character and the appearance of the road as it is visually unattractive and attracts antisocial behaviour. It is reasonable to assume both of these concerns would be overcome if a residential use resumed. Furthermore, the dampness being caused to No 116 would be addressed thereby improving the living conditions for those residents.
9. I therefore find there is support and justification for the acquisition.

Is there a reasonable prospect of the residential reuse occurring?

10. To bring the property back into residential use, the extension would need to be completed and, as it has been exposed to the elements for over 6 years, it may indeed be necessary to repair or rebuild some of the fabric there now. Furthermore, both the trespass onto the property of No 116 and the problems of dampness in that house would need to be resolved. Works are also needed to the original building to complete the alterations authorised by the planning permission and, quite possibly, to repair damage that has resulted from it being vulnerable to the weather for a considerable time. These works, when taken together, would therefore be both costly (with the Council estimating they would exceed £73,000) and complex.
11. Despite having started the work over 7 years ago the objector has not managed to complete it yet or to make the house habitable again. Indeed, in his objection while he highlighted why the scheme had not progressed, he gave no indication as to his future intentions or when it would be finished. I am also aware the costs are sizeable and no doubt increasing, and there is nothing to show he has the necessary expertise to manage such a complicated and complex project. I am therefore not confident that, if left to him, the residential use would resume within a reasonable timescale.
12. I realise that since the objection was made the party-wall dispute, which the objector highlighted has one of the impediments to selling, has been before the courts. However, as the judgement found against him and as he is now subject to an adverse judgement concerning a significant financial sum, I

consider the resolution of this matter does not put him in a stronger position to re-establish the residential use at No 118.

13. In assessing this aspect, I have had due regard to the objector's health issues and, mindful of my obligations under the Public Sector Equality Duty, I have given them great weight in my reasoning. However, I have no clear indication as to when he will recover, and indeed the on-going problems with the property seem to be contributing to them. Therefore I see no reason why those concerns should lead me to a different view in this instance.
14. In contrast the Council showed it had a proven track-record of tackling schemes such as this, with a variety of approaches and options that could be followed depending on how events unfolded. For example, the Council could renovate the house itself. Another option would be for the Council to sell the property to preferred bidders who had the capabilities to undertake such a project, with the imposition on any such sales of a 'buy-back' clause in the event that the dwelling was not habitable within 12 months. It also showed it had the money available to pay for the works, and whilst it hoped its costs would be covered when it eventually sold the property on, that was not essential. I therefore conclude that if acquired by the Council there would be a more than reasonable prospect of the residential reuse occurring.

Have the CPO powers been used as a last resort?

15. Government guidance says a CPO should only be made as a last resort but the objector considered it had come 'out of the blue'. However, he was told of the granting of authority for the CPO in April last year, and in June he was informed of the offer price by the Council. In both letters he was invited to get in touch with the Council to discuss the matter if he so wished. As the Council was aware of no such contact being made the Order was confirmed in November 2018.
16. The service of the CPO therefore took over 6 months and so in that regard could not have come as a surprise by the objector. In any event, I am aware that the Council has been working with him unsuccessfully for many years beforehand to bring the house back into use.
17. Given the lack of progress made by the objector in this regard and the timescales involved, it is therefore reasonable to assume the serving of the CPO was not used prematurely but was used as a last resort.

Was the offer too low?

18. The objector said he had had the property valued at a figure that was twice as much as that offered by the Council. In assessing whether or not the Order should be confirmed it is not for me to consider the merits of the actual amount offered. However, notwithstanding that point, I know nothing of the objector's valuation beyond the figure quoted. As a result, even if I were to consider it the weight it could be afforded is limited.

Conclusion

19. Acquisition of the property, and its subsequent re-sale and refurbishment (in whichever order) would achieve a quantitative and qualitative housing gain in line with national policy, by returning this long-term empty property to beneficial and needed residential use, improving the character and appearance of the road, and addressing the living conditions of those at No 116. Having regard to the submissions and mindful the objector has not been able to

resolve the situation for many years I have no reason to consider the dwelling will be brought back into use in the foreseeable future unless the Order is confirmed. I therefore find there is a compelling case in the public interest that sufficiently justifies interfering with the objector's human rights as land owner and supports acquiring the property through CPO powers.

20. For the reasons given above, and having regard to all matters raised, I therefore confirm the Order.

J P Sargent

INSPECTOR

APPEARANCES

FOR THE ACQUIRING AUTHORITY

Mr P Riley-Smith

Instructed by Shereen Sheikh, Legal Office, City of Bradford MDC

He called

Ms L Frost BSc

Mr R Hallam MA MRTPI

Environmental Health Officer with the Council

Planning Officer with the Council

FOR THE OBJECTOR

No one appeared

DOCUMENTS

(all submitted by the Acquiring Authority)

1. Opening submissions
2. Formalities bundle
3. Examples of properties brought back into use by Bradford Council through the use of compulsory purchase powers or purchase by agreement
4. Funding Commitment to the Compulsory Purchase and subsequent disposal of 118 Cecil Avenue
5. Letter from Mark Brearley & Company to Sue Warden dated 11 April 2019
6. Letter from Atkinson Firth Solicitors to the City Solicitor dated 14 December 2018
7. General Form of Judgement or Order for Claim Number C85YM327 dated 10 April 2019
8. Interim Charging Order for Claim Number C85YM327 dated 9 July 2019