Neutral Citation Number: [2016] EWHC 2997 (Admin)

Case No: CO/1900/2016

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 23/11/2016

Before:

MR JUSTICE KERR

Between :

MAPELEY BETA ACQUISITION COMPANY LIMITED	**Claimant**
- and -	
SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT	**Defendant**
and	
SWINDON BOROUGH COUNCIL	**Interested Party**

David Forsdick QC (instructed by **Gateley plc**) for the **Claimant**
Martin Carter (instructed by **Government Legal Department**) for the **Defendant**
Anthony Crean QC and Killian Garvey (instructed by **Swindon Borough Council**) for the **Interested Party**

Hearing date: 3rd November 2016

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this judgment and that copies of this version as handed down may be treated as authentic.

Mr Justice Kerr:

1. The claimant is aggrieved that a strip of its land in the centre of Swindon has been compulsorily purchased by the interested party (the council). The Secretary of State confirmed the compulsory purchase order (CPO) on 16 February 2016. The claimant says the decision to agree to the CPO is unlawful. It has exercised its statutory right to question the validity of the CPO by applying to this court. It does so on two grounds. First, it contends (relying on section 23(1) of the Acquisition of Land Act 1981 (the 1981 Act)) that "the authorisation … granted is not empowered" under the relevant legislation. Secondly, it contends that a "relevant requirement has not been complied with" (section 23(2) of the 1981 Act).

2. The law jealously guards the right of a property owner to enjoy its property, which has been called a constitutional right. A compelling case that the purchase is necessary in the public interest must be made out to take the right away without consent. The Secretary of State may only endorse the destruction of the owner's property right if it is "clear that the Secretary of State has allowed those rights to be violated by a decision based upon the right legal principles, adequate evidence and proper consideration of the factors which sway his mind into confirmation of the order sought": per Watkins LJ in *Prest v. Secretary of State for Wales* [1983] 81 LGR 193, 211-2, cited by Laws J in *Chesterfield Properties plc v. Secretary of State for the Environment* (1997) 76 P&CR 131, 128.

3. In the same judgment Laws J, as he then was, noted at 128 that *Prest* and another previous case were considered by Slade LJ in *De Rothschild (Evelyn) v. Secretary of State for Transport* (1988) 57 P&CR 330, 336, as examples of challenges on conventional judicial review grounds, but coupled with a warning that "the draconian nature of the Order will itself render it more vulnerable to successful challenge on *Wednesbury/Ashbridge* grounds unless sufficient reasons are adduced affirmatively to justify it on its merits".

4. The power of compulsory purchase may be exercised by a local authority if "the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land" (Town and Country Planning Act 1990 (TCPA), section 226(1)(a)). The authority cannot exercise the power unless they think that the development, re-development or improvement is likely to contribute to achieving one or more of three defined objectives: promoting or improving the economic, social, or environmental well-being of the authority's area (TCPA, section 226(1A)).

5. As for the application of the Human Rights Act 1998 and article 1 of the first protocol to the European Convention, it is common ground that the question is whether the decision of the Secretary of State to accept the recommendation of the inspector and confirm the CPO was a proportionate interference with the rights of the objector and no more than necessary to accomplish the objective of the CPO; see, for example, the discussion of proportionality in the judgment of Maurice Kay LJ in *R (Clay's Lane Housing Co-operative) v. Housing Corporation* [2005] 1 WLR 2229, CA, at paragraphs 11-25.

6. In this case, the Secretary of State accepted the report of the inspector, recommending that the CPO be confirmed. He did so without elaboration; it was the inspector's report that was the target of the claimant's criticisms. In *Hall v. First Secretary of State* [2007] EWCA Civ 612, Carnwath LJ considered the extent to which the Secretary of State must consider alternative options to the compulsory purchase proposal advanced by the local authority. It was not disputed that the same considerations apply to an inspector's report that is uncritically accepted by the Secretary of State, as in this case.

7. Carnwath LJ (with whom Chadwick and Ward LJJ agreed), discussed the question of alternative proposals. He noted that the Secretary of State's "primary task is to consider the issues raised by objections to the CPO, not to search for alternatives". But fairness may require him to "consider at least any obvious alternatives" (paragraph 21). He commented that if there had been a "credible package" put forward by way of alternative to the CPO, "it might have thrown serious doubt over the need for the CPO". Where, however, there is no such package before the inquiry, "the inspector was under no duty to devise one" (paragraph 22).

8. Mr Forsdick QC, for the claimant, drew my attention to departmental guidance dating from October 2015 (between the inquiry and the inspector's report), entitled (so far as material) *Guidance on Compulsory purchase process ...* . That guidance includes an uncontroversial summary of the principles mentioned above, derived from the case law. Mr Forsdick asked me to note in particular that paragraph 76 includes among the "factors which the Secretary of State can be expected to consider":

> whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land, or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired.

That passage is in line with what Carnwath LJ said in *Hall*'s case, cited above. It also accords with ordinary judicial review principles which require the decision maker to take account of relevant considerations.

9. To do so requires an evaluation of the principal contested issues, including the viability of any proposed alternative advanced by the objector. Adequate and intelligible reasons must be given: *South Bucks DC v. Porter (no. 2)* [2004] 1 WLR 1953, per Lord Brown at paragraph 36. While there is only one standard of adequacy, the degree of particularity required to meet it will vary according to the nature of the issues falling for decision. Thus, fuller reasoning may need to be given where the inspector's recommendation is rejected than where it is accepted (see the authorities discussed in *Horada v. Secretary of State for Communities and Local Government* [2016] EWCA Civ 169, per Lewison LJ at paragraphs 37-40).

10. The land compulsorily acquired by the council (the CPO land) comprised nine plots at Kimmerfields, in Swindon town centre, for the purpose of a regeneration scheme adopted as part of an action plan adopted by the council in 2009 and in the council's 2015 local plan. The parties agree that the regeneration scheme is, in general,

desirable and in accordance with the council's stated policies. The CPO land includes plots 4, 5 and 6, in which the claimant has interests. Those plots comprise land around the edges of an office block called the Tri-Centre.

11. Plot 4 is a paved area providing pedestrian access to part of the Tri-Centre (known as Tri-Centre 2), and forms part of the claimant's freehold interest in Tri-Centre 2. Plots 5 and 6 comprise paved space or highway adjacent to other parts of the Tri-Centre (Tri-Centre 1 and Tri-Centre 3). They form part of the claimant's leasehold interests in the Tri-Centre 1 and Tri-Centre 3. Plot 4 protrudes into part of the planned route of a pedestrian walkway referred to as the Link, intended to enable pedestrians to walk from the station and, after turning right towards the south west, to continue down a broad pedestrian avenue in a straight line to a central area populated by shops and purveyors of refreshments.

12. The claimant did not oppose the concept of the regeneration scheme, as developed through the local planning process and first adopted in 2009. Outline planning permission for the Kimmerfields site was granted on 3 May 2012. The claimant did not oppose that planning permission. The council intended to use its powers of compulsory purchase to acquire the rights it needed to implement the regeneration scheme over land covered by the outline planning permission which it did not already own.

13. In March 2014, the council's surveyor, Mr Christopher Hitchings, met representatives of a firm acting as receivers in respect of the Tri-Centre properties leased from the council by the claimant. There were discussions about a negotiated acquisition from the claimant of plots 4, 5 and 6 in return for the creation of new car parking spaces nearby. In December 2014, the receivers wrote setting out the claimant's terms, which included an extension of both leases by 50 years, and an "open user" clause permitting change of use without the council's consent. The council was not interested in this proposition.

14. The council made the Swindon Borough Council (Kimmerfields) Compulsory Purchase Order (the CPO) on 12 November 2014. The claimant objected. The main ground of objection is recorded in the inspector's subsequent report thus: "the compulsory acquisition of Plots 4, 5 and 6 is not necessary as the redevelopment scheme can be delivered without them as proposed or under a policy compliant alternative proposal". An inquiry was held on 29 and 30 September 2015. The inspector appointed by the Secretary of State was Mr Richard McCoy. He visited the site on the second day of the inquiry.

15. At the inquiry, the council relied on a 29 page statement from Mr David Dewart, the council's planning manager who had long worked on the scheme and was familiar with it and the site. He explained the nature of the regeneration scheme for which outline planning permission had been granted. He stressed that when submitting applications for "reserved matters", the council was required under the outline planning permission to adhere to the "development parameters". He appears to have regarded these as including a "Design & Access Statement" and a "Public Realm Strategy", which "set the context for the submission of all the reserved matters applications".

16. In separate sections of his statement, Mr Dewart sought to explain the necessity for acquiring plots 4, 5 and 6. The claimant does not in these proceedings complain of any defect in the decision to confirm the CPO in so far as that decision relates to the acquisition of plots 5 and 6. Its objection is confined to the decision in so far as it relates to plot 4. It is therefore not necessary to say much about the treatment of plots 5 and 6 in the arguments at the inquiry.

17. By way of preface, Mr Dewart referred to the design principles of connectivity (connecting a new development with the existing surrounding area); permeability (ensuring ease of movement within and across the development); and legibility (a clear and logical structure making it easy to find one's way around). He referred to various policy statements from the local plans dealing with, among other things, a high quality, safe and continuous pedestrian network through the town centre.

18. He then explained why the council needed to acquire plot 4. The reason was to "enable the pedestrian route from the railway station to the town centre to be realigned as shown on the approved masterplan drawing". It was essential that there should be strong "connectivity" between the scheme and wider central Swindon. The simple point was that plot 4 stood in the way and encroached into the planned route for the Link. There needed to be a "strong visual connection" from the scheme into the heart of the existing town centre. There was, he said, "no potential alternative, legible route from the railway station into the heart of the town centre".

19. His evidence was supported by a statement from a consultant on transport issues, Mr Keith Mitchell. He commented that the transport proposals included "key pedestrian routes between the railway station and the Parade"; and that "[t]he legibility and direct nature of this key connection will be affected by Parcel 4 and 6 if the areas are not available as part of the scheme. He pointed out that the proposals for the route provided that in the "pedestrianised streetscape" the walkway should be at least 15 metres wide; and that if plot 4 were not secured, "this route would need to be redesigned to avoid it", by "the route being located further east".

20. He objected that this would be "outside of the development parameters and the terms of the current planning permission", and would "adversely affect the legibility and quality of the connection between the Kimmerfields Public Square and the Parade, as well as affecting the development layout and reducing development quantum" (a phrase not further defined). He went on to say that there was no alternative legible route from the railway station towards the Parade and the town centre. His evidence was that plot 4 was needed:

> to provide an attractive route through the heart of Kimmerfields Scheme within the development parameters, which will optimise quality and connectivity along the primary route between the railway station and the central town centre area.

21. The council's surveyor, Mr Hitchings, also provided a statement. He had been working on the Kimmerfields project since 2004. He made the same point:

> Those objecting to the CPO are suggesting that areas 4 and 6 … are not essential to the Scheme. These areas are needed to enable the pedestrian route from the railway station to the town centre to be realigned providing the essential more direct visual connection between these key town centre locations whilst parcel 5 is required to provide sufficient space for the new bus facility….
> …
> It will not be possible to fully realise the objectives of the Scheme if compromises have to be made resulting in an inadequate bus facility or a continuing lack of any satisfactory clear access route between Kimmerfields, the town centre and the railway station.

22. The claimant countered with a statement from Mr John David Francis, dated August 2015. Mr Francis is a planning consultant based in Manchester. His brief was to provide expert evidence supporting the case against the compulsory acquisition of plots 4, 5 and 6. In the sixth section of his statement, he set out "Planning Reasons why the Order is not Justified …". He argued that a compelling case for the acquisition of plots 4, 5 and 6 could not be made out as they were:

> not fundamental to the success of the Proposed Scheme by which I mean the land is not required to deliver it. If the land is not acquired it has no real impact on the integrity of the scheme or whether it will happen or not. This is in the sense that the land in question does not play a critical role in the success or otherwise of the Proposed Scheme when it is considered as a whole… .

23. Specifically dealing with plot 4, he went on to say its acquisition would produce "little more than minor public realm improvements", and "a more appropriate way to deliver such improvements/proposals would be through discussion and agreement with the land owner. … the Objector would be willing to agree to new public realm being implemented on its land by (and at the cost of) the Council/Developer". The rest of Mr Francis' statement was devoted to, among other things, advocating an alternative route for the walkway, rather than the Link route.

24. The alternative route (the Tri-Centre route) would be through the middle of the Tri-Centre office block, between its blocks 1, 2 and 3 (thus missing plots 4, 5 and 6) rather than the Link route going round it on its east side (passing through plot 4). He said the Tri-Centre route, already in use, "could hardly be described as unattractive or unappealing", and was more direct as it did not involve a "dog leg" (i.e. a right turn if coming from the station end). He went on to extol the planning virtues, as he saw them, of the Tri-Centre route at some length, with the assistance of charts and plans.

25. In rebuttal statements, the council's three witnesses rejected the alternative Tri-Centre route. It was not part of the scheme as envisaged. The claimant had not objected to the scheme at outline planning permission stage and the proposals to develop the Tri-Centre instead did not relate to the scheme that had been granted outline planning permission and were therefore irrelevant. They dismissed Mr Francis' evidence as an attempt to rewrite the development plan that had been the subject of extensive consultation and outline planning permission.

26. They took issue also with the proposition that the claimant had not been adequately brought into the discussions and was willing to engage in constructive talks that would avoid the need to take plots 4, 5 and 6 into public ownership. Mr Hitchings drew attention to the claimant's unacceptable terms for surrendering those plots, suggested in the 2014 discussions, which he described as "an attempt to hold the Council to ransom". He argued that the claimant should have advanced its alternative case at outline planning permission stage, but had not done so.

27. Mr Andrew Piatt of Gateley plc, the claimant's solicitors, wrote the closing submissions of the claimant, dated 28 September 2015, the day before the inquiry started. He argued that the planning framework and the outline planning permission were flexible enough to accommodate "iterations" of the development scheme which did not involve the acquisition of plots 4, 5 and 6. The main battleground in the debate was unchanged: whether the Tri-Centre route should be adopted instead of the Link route. Mr Piatt submitted that Mr Francis' evidence was compelling and that of the council's witnesses, flawed.

28. Specifically dealing with plot 4, he stated that while it could be "added to another adjacent area to make a wider strip … its exclusion makes no real difference to the Council's ability to deliver what it wants to achieve. Further, in any event, it is the Objector's case that there is a much better alternative through the central piazza of the Tri-Centre". He went on, once again, to echo Mr Francis' reasons for advocating the Tri-Centre route in preference to the Link route. He did not mention any proposal for shared use of plot 4, nor of discussions for a negotiated transfer of its ownership to the council.

29. Mr Crean QC and Mr Garvey (who also appeared before me) produced the council's written closing submissions dated 30 September 2015, the second and last day of the inquiry. They submitted that the expert evidence (other than from Mr Francis) contradicted the suggestion that the scheme and outline planning permission could accommodate use of the Tri-Centre route instead of the Link route. They argued that the claimant was seeking to mount a collateral attack on the planning permission to which it had not, at the time, objected.

30. They pointed to the evidence that the Tri-Centre route, while capable of some improvement, would never escape being of poor design quality and unattractive, "requires pedestrians to take multiple turns, produces a wind-tunnel effect, … requires pedestrians to walk between office buildings and … fails to contribute to the new square." As such it was "not fit for purpose" and does not satisfy the relevant planning policies. To try to improve it would be "as futile as trying to put lipstick on a gorilla", they vividly submitted.

31. They went on to argue under the heading "Other Matters of Dispute", that Mr Hitchings' oral evidence had included the point that he lacked confidence in the claimant's willingness to enter into reasonable negotiations about the site, having showed no inclination to become involved in the scheme during its earlier stages. They submitted that it was inconsistent for the claimant to propose its own alternative redevelopment of the site, and at the same time to expressing willingness to negotiate for involvement in the council's scheme. The history showed that the

claimant's interest lay in securing a high price for its agreement to part with plots 4, 5 and 6, again described as a "ransom".

32. By the time the inspector reported on 20 January 2016, the October 2015 guidance document, mentioned above, had come into being, as Mr McCoy noted at paragraph 42 of his report. Earlier, he set out in summary form the case for the council, the case advanced by the claimant, and the council's reply to it. Not surprisingly, much of this exposition reiterated and restated the contest between the Tri-Centre route and the Link route and whether, as the claimant maintained, the former could be accommodated within the scheme and the outline planning permission.

33. On the subject of possible voluntary acquisition of plots 4, 5 and 6, the inspector summarised the council's position thus (at paragraph 18):

> The Council, shortly after the completion of the Kimmerfields Development Agreement in 2008, began discussions with [the claimant] regarding the acquisition of their interests in Plots 4, 5 and 6. At no time during these lengthy discussions did [the claimant] express an interest in becoming involved in the Kimmerfields scheme.

34. In setting out the claimant's position, the inspector included the contention (at paragraph 23) that "Plot 4 is not required to deliver the scheme, particularly as the final detailed scheme has not been approved and it should be possible to move the route by 4 or 5 metres to avoid Plot 4." The inspector went on in the next paragraph to record the claimant's argument that:

> public realm improvements in Plot 4 … could be delivered by the Council entering into discussions and seeking agreement with [the claimant], rather than compulsory [sic] acquiring the land. More to the point, the Council has no need of Plot 4 as it already owns the Tri-Centre piazza which could be improved as part of the most direct link between the town centre and the station. … .

35. The inspector's conclusions were set out at paragraphs 42 to 53. On the main issue, he accepted the council's case that the land acquisition, including that of plots 4, 5 and 6 which were the subject of the objection, was "essential to the successful implementation of the scheme". Plots 4 and 6 were, he decided, "needed to redirect pedestrians through the heart of the redeveloped area in order to bring the more peripheral areas into the core". He was unimpressed by the alternative Tri-Centre route, observing that it was "uninviting and unclear in terms of where it leads to". He found that plots 4 and 6 were "an integral part of the proposed primary route without which the aims of the [Swindon Central Area Action Plan] would not be realised" (paragraph 48).

36. He affirmed that the scheme was viable and could be implemented. He dismissed the claimant's argument that "the purposes for which the land is required could be achieved by … other means"; reasoning that there was no evidence to demonstrate that proposition: "the objector's alternative scheme is indicative, not having been subject to scrutiny (including financial viability), consultation and examination (paragraph 50). He expressed confidence (in paragraph 51) that relevant matters for the Secretary of State to take into account had been "comprehensively addressed".

37. He went on to state in the same paragraph that the interference with the claimant's rights "is proportionate and represents a balanced approach to individual rights in light of the wider public interest to be gained from the scheme progressing". He added that the claimant "did not express an interest when approached regarding involvement in the Kimmerfields scheme", cross-referring back to the numbered paragraph (18) where the council had made that point. He declared himself "therefore persuaded that the CPO has been used as a last resort".

38. On 16 February 2016, the Secretary of State confirmed the CPO. In the decision letter it was explained that he had carefully considered the inspector's report, accepted the inspector's findings and agreed with his conclusions. The Secretary of State did not add any new points or develop the inspector's reasoning any further. The parties are agreed that the adequacy of the decision therefore turns on an examination of the report, to which the claimant's criticisms, and the other parties' defence, are therefore directed.

39. Mr Forsdick QC contends that the inspector and the Secretary of State erred in law by (to quote from his skeleton):

> (1) failing to take into account and address the principal controversial issue raised by [the claimant] as to the ability of the Link to be provided in this broad location consistent with the development plan framework and outline planning permission without the need to take Area [plot] 4;
>
> (2) failing to consider alternative means to achieve the desired objective – namely moving it slightly to the east, or (if that was not possible) providing a slightly narrow Link in this location still consistent with the Parameter Plan or (if that was not possible) seeking agreement with [the claimant] for the upgrading of Area 4 without taking title to it;
>
> (3) failing to give any or any adequate reasons as to why it was necessary to the delivery of an appropriate Link that Area 4 be taken in the light of [the claimant's] objections. That failure to give proper reasons causes substantial prejudice … .

40. The first of those contentions is that the inspector did not adequately address the viability of the Link route without plot 4 being taken by the council. The claimant does not seek to attack that part of the inspector's reasoning which rejected the alternative Tri-Centre route. Mr Forsdick submits that while the inspector stated his "bald conclusion" in the last sentence of paragraph 48, that plot 4 is integral to the Link route and to the scheme, he did not carry out any specific assessment of what it was that made plot 4 integral to that route and to the scheme.

41. In oral submissions, he explained that while it was not contended that a "least intrusive alternative" test had to be satisfied in order to justify the degree of interference with the claimant's property right which the CPO entails, any less intrusive alternatives to outright compulsory purchase were highly material considerations and must be addressed and evaluated as such, which he submitted the inspector did not do.

42. It was not the case, he submitted, that the claimant's opposition to the acquisition of plot 4 was founded entirely on opposition to the Link route *per se*. It was necessary for the inspector also to address the other points raised by the claimant, even if those points were subsidiary to its main argument. Those other points, as relied on by the claimant before me, were the three points comprised within Mr Forsdick's second ground of challenge, namely (i) the possibility of moving the Link route slightly to the east (ii) the possibility of narrowing the Link route where it meets plot 4, so as to exclude plot 4 from the walkway along the Link route, and (iii) the possibility of including plot 4 within the walkway but on negotiated terms that would preserve the claimant's ownership of plot 4.

43. The Secretary of State and the council, through Mr Carter and Mr Crean respectively, submitted that the inspector's reasoning and conclusions are unimpeachable. They submitted that he clearly addressed the single principal contested issue before him: whether the CPO was rendered unnecessary by the availability of the alternative Tri-Centre route. The other three points, just mentioned, were not principal contested issues at all. They were at best subsidiary and, in any event, adequately addressed by the inspector, whose reasons were amply sufficient.

44. I do not accept the claimant's submission that the inspector failed to address adequately all the principal contested issues in the case. The main issue was the contest between the two routes, as already explained. There can be no criticism of the inspector's reasoning and conclusions on that main issue. Broadly speaking, he accepted the "lipstick on a gorilla" argument and he clearly stated in his report why he accepted that argument. Indeed, I do not understand the challenge to be founded on the inadequacy of his reasoning on that main issue.

45. A secondary and less important issue was whether the Link route was achievable without ownership of plot 4. The claimant did touch quite briefly on that subsidiary issue in its evidence and submissions. I can find no express submission or evidence from the claimant to the inspector that the purchase of plot 4 was avoidable because the Link route could be moved a few metres to the east. Rather, Mr Mitchell *objected* in his evidence that if plot 4 were not acquired, the Link route would have to be "redesigned to avoid it" and that would mean "the route being located further east".

46. Mr Piatt did state in his closing submissions that plot 4 could be "added to another adjacent area to make a wider strip … its exclusion makes no real difference to the Council's ability to deliver what it wants to achieve." There was evidence, to put the point in its proper context, that the width of the Link walkway was not yet set in stone: it could be anything from 15 to 26 metres wide and the final width, while intended to be constant, was not yet decided upon.

47. One interpretation of Mr Piatt's remark might be that the width of the Link walkway could be preserved by excluding plot 4 from it and moving its opposite side to the east at the point where it would need to change direction eastward in order to avoid plot 4. Or did Mr Piatt perhaps mean rather that the Link walkway could be narrowed at the point where it came up against plot 4? If he did, it would

not be of constant width unless the constancy of its width were achieved at the expense of a "kink" or "wiggle".

48. The inspector recorded as part of the claimant's case the submission that "[p]lot 4 is not required to deliver the scheme, particularly as the final detailed scheme has not been approved and it should be possible to move the route by 4 or 5 metres to avoid Plot 4" (paragraph 23). That reflected Mr Piatt's submission that the exclusion of plot 4 "makes no real difference to the Council's ability to deliver what it wants to achieve". The council's riposte was recorded at paragraph 39: "[p]lot 4 lies on the direct line of the proposed primary route. .... Any alternative *alignments* [my emphasis] would be detrimental to the scheme as a whole".

49. I am in no doubt that the inspector implicitly rejected Mr Piatt's suggestion that the walkway could somehow skirt its way round plot 4. Rejection of that suggestion follows from the same logic as that which led the inspector to reject the viability of the Tri-Centre route as an alternative. As the inspector put it at paragraph 48, plots 4 and 6 "are needed to redirect pedestrians through the heart of the redeveloped area in order to bring the more peripheral areas into the core". The inspector accepted, in substance, that the chosen walkway had to be a broad, straight avenue, of constant width, after the right turn. He plainly understood and accepted that its majesty would be lost if it had to wiggle or narrow in order to avoid plot 4. I do not regard Mr Piatt's makeweight argument as a principal contested issue at the inquiry. It was a subsidiary issue, and was adequately dealt with.

50. That leaves the submission of the claimant that the inspector did not adequately address his mind to the option of preserving the claimant's ownership of plot 4 through negotiation, presumably by the claimant permitting the council to use plot 4 as part of the Link walkway, on terms acceptable to both parties. I accept that the willingness of the claimant to negotiate and discuss this was put to the inspector as part of the claimant's case for preserving its ownership of plot 4.

51. The difficulty for the claimant is that the inspector was fully alive to this issue and, in my judgment, adequately addressed it in his report. He recorded the claimant's historic lack of interest in involvement in the scheme as part of his exposition of the council's case (at paragraph 18). He recorded the claimant's contrary case (at paragraph 24) that the "public realm improvements in Plot 4 ... could be delivered by the Council entering into discussions and seeking agreement with [the claimant]".

52. The inspector's finding (at paragraph 51) that the interference with the claimant's property rights is proportionate, was supported in the penultimate sentence of the same paragraph by the observation that the claimant had chosen not to express interest when approached about involving itself in the scheme. He cross-referred that observation back to the paragraph (18) where he had recorded the council's case on the point, which he clearly accepted. That became the foundation for the inspector being persuaded, in the last sentence, that the CPO "has been used as a last resort". It follows that he was unpersuaded by the claimant's protestation of its willingness to engage in reasonable negotiations to avoid the need for the CPO.

53. The reasoning of the inspector which I have just examined, was sufficient comfortably to pass the test set by Lord Brown in *South Bucks DC v. Porter (no. 2)*, at paragraph 36. I accept Mr Carter's point that the compelling public interest requirement in the case of a CPO does not generate any different or higher duty to give reasons than in other cases. The claimant's arguments set much too exacting a requirement for detailed reasons, considerably beyond that which Lord Brown's formulation requires, where reasons are addressed to an audience already very familiar with the issues in the case.

54. There is no want of adequate reasons here. The claimant knows why it lost the arguments and why the CPO was confirmed. There is therefore no need to consider a further argument advanced by the council: that if the reasons were not adequate, the decision would, inevitably, have been the same even if the reasons had been adequate. That issue does not arise for decision. The challenge must fail and is dismissed.