

# Environment Agency (Oxford Flood Alleviation Scheme) Compulsory Purchase Order 2023

## Explanatory note on proposed modifications to the CPO



### 1 INTRODUCTION

- 1.1 The Environment Agency (“the Agency”) is promoting a Compulsory Purchase Order (“CPO”) as part of the process of consenting the Oxford Flood Alleviation Scheme (“the Scheme”).
- 1.2 The CPO was made on 16 February 2023 and will empower the Agency to compulsorily acquire land and interests in land in order to construct the Scheme.
- 1.3 Since that time, a number of minor technical corrections to the CPO have been identified (as explained further below).
- 1.4 The purpose of this explanatory note is to:
  - (a) Detail the modifications which are proposed to the CPO and the reasons for those modifications (**Sections 2 and 3**);
  - (b) Outline the applicable law and guidance on modifications to a CPO (**Section 4**);
  - (c) Explain how the Agency will seek approval of the proposed modifications as part of the Inquiry process (**Section 5**).
- 1.5 This note is being provided to the Inspector so that it is made available to objectors through the Inquiry process.

### 2 PROPOSED MODIFICATIONS

- 2.1 The changes to the CPO are proposed to reflect information provided by objectors and landowners, such as changes in ownership of land or new information about interests, since the CPO was originally made.
- 2.2 These amendments include:
  - (a) updates to landowner details or interests in land as a result of consultation with landowners and as provided through objections and other responses to the Agency; and
  - (b) minor corrections to plot descriptions, which do not affect the land/interests in land being acquired.
- 2.3 **Table 1** in **Section 3** below outlines the amendments to the Schedule to the CPO. These amendments do not affect what is proposed to be acquired through the CPO.

- 2.4 The updates to the Schedule to the CPO will be clearly shown in track change in a modified version of the CPO that will be forthcoming during the course of the inquiry.
- 2.5 As explained in **Section 4** below, the '*Guidance on Compulsory Purchase processes and the Crichton Down Rules*' published by the Department for Levelling Up, Housing and Communities in 2019 (**CD4.10**) ("the CPO Guidance") does not require that any changes to landownership/address details are updated in a CPO when confirmed. However, it is considered that inclusion of these amendments is useful for transparency to those affected by the CPO.

### 3 EXPLANATION OF PROPOSED MODIFICATIONS

**TABLE 1 – Amendments to CPO Schedule**

Description	Reason for modification	Summary of Modification
<b>Drafting amendments to the CPO Schedule</b>	<ul style="list-style-type: none"> <li>Minor modification to description of interest for accuracy.</li> <li>Correction of typo.</li> </ul>	<ul style="list-style-type: none"> <li>Various updates to the details of landowners and those with an interest in land (Schedule 1 Table 1, Schedule 1 Table 2, Schedule 2 Table 1 and Schedule 2 Table 2) including: <ul style="list-style-type: none"> <li>Added <b>[PERSONAL NAME REDACTED]</b> as rights interest to plot 02/065 “in respect of right of access” in Schedule 1 Table 2;</li> <li>Removed Oxford Global Marketing Limited as a rights interest from plot 03/003 “in respect of right of way” from Schedule 1 Table 2;</li> <li>Change of name from “Custodian Reit PLC” to “Custodian Property Income Reit PLC” in plots 03/040 and 03/041 in Schedule 1 Table 1 and plots 03/001, 03/003 and 03/036 in Schedule 1 Table 2;</li> <li>Change of Proper Officer for HSBC UK Bank PLC in plot 011/08 from “The Company Secretary” to “The Chief Executive” in Schedule 1 Table 2;</li> <li>Change of address for <b>[PERSONAL NAME REDACTED]</b> in plot 03/001 from “<b>[PERSONAL ADDRESS REDACTED]</b>” to “<b>[PERSONAL ADDRESS REDACTED]</b>”.</li> </ul> </li> <li>Updated plot descriptions in CPO Schedule (Schedule 1, Table 1) for plot 04/047 to refer to HMLR Title Number “ON1325” rather than “ON1235”.</li> </ul>

### 4 MODIFICATIONS TO A CPO – LAW AND GUIDANCE

#### Law

- 4.1 The Secretary of State is able to confirm the CPO either with or without modifications where it has considered objections and caused a public inquiry to be held (section 13A(5) of the Acquisition of Land Act 1981).

4.2 The Secretary of State is not, unless all persons with an interest in the relevant plot of land consent, able to authorise the acquiring authority to purchase compulsorily any land which the order would not have authorised that purchase compulsorily if it had been confirmed without modification (section 14 of the Acquisition of Land Act 1981). This means that any change to the scope of a CPO must be reductive in extent, unless express consent is secured.

4.3 **Guidance**

4.4 There is further guidance provided in the CPO Guidance.

4.5 The guidance states the following:

*44. The confirming minister may confirm a compulsory purchase order with or without modifications. Section 14 of the Acquisition of Land Act 1981 imposes limitations on the minister's power to modify the order. This provides that an order can only be modified to include any additional land if all the people who are affected give their consent.*

*There is no scope for the confirming minister to add to, or substitute, the statutory purpose (or purposes) for which the order was made. The power of modification is used sparingly and not to rewrite orders extensively. While some minor slips can be corrected, there is no need to modify an order solely to show a change of ownership where the acquiring authority has acquired a relevant interest or interests after submitting the order.*

*If it becomes apparent to an acquiring authority that it may wish the confirming minister to substantially amend the order by modification at the time of any confirmation, the authority should write as soon as possible, setting out the proposed modification. This letter should be copied to each remaining objector, any other person who may be entitled to appear at the inquiry (such as any person required by the confirming authority to provide a statement of case) and to any other interested persons who seem to be directly affected by the matters that might be subject to modification. Where such potential modifications have been identified before the inquiry is held, the inspector will normally wish to provide an opportunity for them to be debated.*

4.6 It is relevant when considering whether a modification should be made to take into account the views of those persons affected by the proposed modification and whether they support or oppose the change. The table above indicates where modifications are being made to accommodate requests made by landowners.

## 5 THE AGENCY'S REQUEST FOR MODIFICATIONS

### The position of the Agency

5.1 The amendments proposed are all technical in nature or minor corrections and updates which do not affect the scope or extent of the CPO.

- 5.2 The Agency considers that these modifications are all capable of being made by the Secretary of State upon confirmation of the CPO, in accordance with the applicable law and guidance.

**Next steps for consideration of modifications**

- 5.3 The Inquiry programme includes a roundtable session on proposed modifications to the CPO, which will provide a further opportunity for affected persons' views to be heard on the proposed modifications to the CPO.
- 5.4 The Agency will ask that the Inspector recommends the modified version of the CPO to the Secretary of State for confirmation.

**Burges Salmon**  
**14 November 2023**