

REP 1-035 PARK BARN FARM (“PBF”) – ALDERSON

SUBMISSIONS FOR DEADLINE 12 (10/7/20)

Reply to PINS Rule 17 letter dated 2 July 2020: Request for comments on possible Replacement Land options

The ExA has invited the Applicant, APs and IPs to comment on the appropriateness of applying ratios for RL under the following three scenarios:

- 1) a RL ratio of 1:1 for both the Common Land and the Open Space that the Applicant proposes to acquire and a RL ratio of 1:1 for the parts of the SCL that the Applicant proposes to acquire permanent rights over;
- 2) a RL ratio of 1.5:1 for both the Common Land and the Open Space that the Applicant proposes to acquire and a RL ratio of 1:1 for the parts of the SCL that the Applicant proposes to acquire permanent rights over;
- 3) a RL ratio of 2:1 for both the Common Land and the Open Space that the Applicant proposes to acquire and a RL ratio of 1:1 for the parts of the SCL that the Applicant proposes to acquire permanent rights over.

Objector’s comments in response

Full supporting reasons and justification for the points made below are provided within our submissions for deadline 11 together with the additional comments we have made at deadline 12 in respect of the permanent acquisition of rights (See “*Comments in response to REP11-011: 9.121 Applicant's note for Action points 1, 2, 4 and 5 (CAH Session 2 Part 3 Special Category Land and Replacement Land)*”):-

- 1) 1:1 ratio for both permanent land acquisition & acquisition of permanent rights**

This scenario is an appropriate benchmark ratio *for permanent land acquisition* only. It is the minimum level of provision required by statute (s.131(12) PA 2008) in that

regard. However, it would not be appropriate to apply the same ratio for the acquisition of permanent rights on top. This would be excessive in view of the following points:-

- i. It is a different statutory definition of RL which applies to the acquisition of permanent rights (s.132(12) PA 2008). This does not *require* 1:1 RL to be provided in any circumstances;
- ii. The actual evidence does not point to any significant loss or disadvantage associated with the acquisition of permanent rights over parts of the SCL¹, especially when the countervailing benefits are fully and properly weighed in the balance: see further response for deadline 12;
- iii. By applying the required 1:1 ratio for SCL that is to be permanently acquired the resultant RL provision for the scheme is *already* sufficient to give adequate compensation for the acquisition of permanent rights (i.e. it is sufficient to satisfy the statutory definition under s.132(12) PA 2008). This is because, on the specific facts of this case, the overwhelming weight of evidence indicates that each and every parcel of RL would provide very significant added advantages (to members of the public using the common land and open space) on an equal area basis when compared to the disadvantage that would arise as a result of the permanent loss of SCL. The minor disadvantage arising from the acquisition of permanent rights over *some* parts of the SCL (see comments at (ii) above) warrants nothing more to be provided;
- iv. The provision of RL at a ratio in excess of 1:1 would fail to satisfy the second statutory condition at least to the extent that any RL at Park Barn Farm ('PBF') were to be included within any final Order that is confirmed. No evidence has been presented to justify the serious human rights interference with that would be caused in relation to PBF interests, especially where other suitable alternative land parcels are available to meet any properly evidenced requirements instead.

¹ The ExA is reminded that this is the view the applicant has expressed itself in respect of certain rights to be acquired.

2) 1.5:1 (permanent land acquisition) & 1.1 (acquisition of permanent rights)

There are insufficient grounds to justify RL provision on the basis of these ratios (see comments above). Any fair and reasonable exercise of discretion in the public interest would seek to apply a lower ratio.

The ratios are inappropriate given that what is required is to be carried out is an objective evaluative assessment of the evidence. This indicates that the advantages of the RL easily outweighs any loss or disadvantage of the SCL. The final decision in respect of RL provision must also satisfy the requirement for, not just any case, but a *compelling* case in the public interest to justify the compulsory acquisition.

3) 2:1 (permanent land acquisition) & 1.1 (acquisition of permanent rights)

The ratios are inappropriate for the same reasons as explained at (2) above.

Additional comments in respect of all three scenarios

There *might* still be a justification for applying a higher overall ratio provided that it does not involve interference with PBF interests, and that it can be demonstrated that it would be in the overall public interest to authorise compulsory acquisition of that additional RL. This is primarily a matter for other parties and the Secretary of State to consider, and so the objector need not be drawn to express a view of its own.

**KEYSTONE LAW
(ON BEHALF OF MR ALDERSON)**