

**THE DŴR CYMRU CYFYNGEDIG (LAND AT MALPAS WASTE WATER TREATMENT WORKS)  
COMPULSORY PURCHASE ORDER 2023**

**STATEMENT OF REASONS**

**1. INTRODUCTION**

- 1.1 This is the Statement of Reasons of Dŵr Cymru Cyfyngedig ("the Acquiring Authority") for making the Land at Malpas Waste Water Treatment Works Compulsory Purchase Order 2023 ("the Order").
- 1.2 In preparing this statement, the Acquiring Authority endeavours to provide sufficient information so that its reasons for making the Order can be fully understood.
- 1.3 This document has been prepared pursuant to and in accordance with the "Guidance on Compulsory purchase process and The Crichel Down Rules" ("the CPO Guidance"), issued by the Ministry of Housing, Communities & Local Government (now the Department for Levelling Up, Housing and Communities) in July 2019.

**2. DESCRIPTION OF THE CPO LAND**

- 1.4 The land proposed to be compulsorily acquired pursuant to the Order ("the CPO Land") comprises approximately 1,740 square metres of land which is located adjacent to the Malpas Waste Water Treatment Works ("the WWTW"). The WWTW are owned by the Acquiring Authority.
- 1.5 The extent of the CPO Land is illustrated on the CPO map appended to the CPO. The land proposed to be acquired is shown coloured **pink**.
- 1.6 The CPO Land is not registered at HM Land Registry and is almost entirely enclosed by land comprised in Land Registry title number CH586450, which is owned by the Acquiring Authority and where the WWTW are sited. This registered parcel is flat and comprises the WWTW as well as an area of overgrown vegetation, which surrounds the WWTW and is fenced off from it, which is not currently used for any purpose by the Acquiring Authority.
- 1.7 The CPO Land is also flat, overgrown, and not occupied or used for any purpose. In terms of appearance, one would assume that the CPO Land forms part of the Acquiring Authority's land, as there is no boundary or fence between the overgrown sections and nothing to differentiate them. The CPO Land essentially comprises a continuation of the land already owned by the Acquiring Authority.
- 1.8 The CPO Land does not include areas of public open space, common land, or allotment land, and is not within a Conservation Area.

### 3. PURPOSE OF THE CPO AND THE CPO SCHEME

- 1.9 The CPO Land is required by the Acquiring Authority in order to construct works on it which will improve and upgrade the WWTW. The WWTW currently comprise an oxidation ditch and final settlement tank serving a Population Equivalent (PE) of 2163. The WWTW will be subject to a Water Framework Directive (WFD) P Scheme meaning that a new total phosphorus consent is proposed for the WWTW whereby the current consent will be reduced from 1.0 mg/l to 0.4 mg/l for delivery by December 2024. Without the proposed improvement works, the revised Total P standard will not be met. Additionally, the total phosphorus standard is likely to be further reduced to 0.25 mg/l in AMP8 (2025-30).
- 1.10 Flows from the Acquiring Authority's existing site at No Man's Heath will also be pumped to the WWTW for treatment. Population growth is expected in No Man's Heath and Malpas, resulting in increased capacity requirements at the WWTW.
- 1.11 In addition, in 2019 and 2021, the WWTW were non-compliant with regulations relating to iron levels, due to of high solids. The upgrading works will also address this issue.
- 1.12 To achieve the required standards, substantial site improvements and tertiary treatment will be required. The proposals include improvements to the existing WWTW, as well as significant additional development, which is proposed to take place partly on the Acquiring Authority's land, and partly on the CPO Land.
- 1.13 The scheme will comprise the construction of a tertiary solids removal (TSR) and kiosk for TSR compressed air, new thickened and unthickened sludge holding tanks, a new wash water booster set, a new 4 metre wide access road, and a security fence and gate.
- 1.14 The proposed scheme will target the AMP8 limit of 0.25 mg/l Total Phosphorous. Once the improvement works have been undertaken the WWTW will meet a number of Measures of Success (MOS) set by the Acquiring Authority.
- 1.15 Not addressing the existing shortfalls would result in the failure of compliance MOS alongside reputational damage for the Acquiring Authority. The solution has been designed and costed with a design horizon of 2040, as the Local Development Plan runs until 2030, and there is planned growth in the catchment of 19% for Malpas (growth 366 PE) with a projection of additional 230 PE to 2040 and 4% for No Man's Heath (23 PE) with a projection of an additional 33 PE to 2040.
- 1.16 The proposed works cannot be wholly accommodated within the land owned by the Acquiring Authority, and the CPO Land is also therefore required.
- 1.17 Permanent development will be constructed on part of the CPO Land. All of the CPO Land has been included because all of it will be used during construction to give the Acquiring Authority sufficient space e.g. to store plant and machinery, and spoil, to

receive deliveries, and provide safe working areas etc. In addition, that part of the CPO Land which is not utilised for permanent development at this stage is likely to be required for that purpose in the future to facilitate further improvement/expansion of the WWTW.

- 1.18 Several alternative options for the upgrading of the WWTW were considered, including optimising the primary ferric dosing & Mecana. However, this was rejected due to the uncertainty surrounding current Mecana costs, as other installations have been undersized. Another option was to optimise the primary ferric dosing and tertiary ferric dosing & MBF (Brightwork); however, that was rejected because it is unknown technology and would require a larger filter structure than what is proposed. Optimising the primary ferric dosing and ARMPHos Reed Bed was also rejected because the site area which would be required for a reed bed is not available. Also, optimisation of ferric dosing in isolation cannot guarantee the required P removal. There is insufficient space at the No Man's Heath site to facilitate the improvement works.
- 1.19 The option which has been chosen is being proceeded with because there is confidence in the technology as it is being used successfully at another site occupied by the Acquiring Authority.
- 1.20 The scheme will have minimal visual impact, due to the relatively small nature of the proposed operational development, and because the site is screened by mature trees which the Acquiring Authority will retain so far as they are able.

#### **4. OWNERSHIP**

- 1.21 It is not known who owns the CPO Land.
- 1.22 The fact that the CPO Land is almost surrounded by land which is known to be owned by the Acquiring Authority suggests that it may already own the CPO Land. However, the Acquiring Authority has not been able to find documentation or deeds which confirm that it owns the CPO Land.
- 1.23 In April 2023 the Acquiring Authority contacted Cheshire West and Chester Council to enquire as to whether it may own the CPO Land. The Council confirmed that it could not find any documentation or records which suggest that it does.
- 1.24 Aside from the land owned by the Acquiring Authority, the only other land which touches the CPO Land is to the north west of it and is registered at the Land Registry under title number CH638742 ('the Adjacent Land'). The title register says that the Adjacent Land is jointly owned by (i) Adrian Paul Dodd of The Goodmoors, Hollies Farm, Malpas SY14 7JJ, (ii) Charles Hassall Dodd of Hollies Farm, Malpas SY14 7JJ, (iii) Celia Margot Davies of 18 Oathills, Malpas SY14 8HX, and (iv) Rosamund Ida Hughes of Reed Barn, Hobb Hill, Tilston, Malpas SY14 7DU.

- 1.25 The Acquiring Authority contacted the land agent representing the owners of the Adjacent Land in November 2022 to ask whether they own the CPO Land. The agent responded to confirm that the owners had taken legal advice and had not found any documentation which suggested that they own the CPO Land.
- 1.26 The Acquiring Authority has not therefore been able to identify the owner, or to find any documentary evidence to suggest who might own it.
- 1.27 The Acquiring Authority's investigations do not suggest that any party has any rights over or under the CPO Land.

## **5. POWERS UNDER WHICH THE ORDER IS MADE**

- 1.28 The Acquiring Authority is an appointed water and sewerage undertaker under Part 1 of the Water Industry Act 1991 (WIA 1991) and has made the CPO under section 155 of the Water Industry Act 1991, which provides that the Secretary of State may authorise a water or sewerage undertaker to compulsorily purchase any land required for the purposes of, or in connection with, the carrying out of its functions.
- 1.29 The Acquiring Authority considers that in line with the requirements of section 155(1) of the WIA 1991 the land proposed to be compulsorily acquired is required by it to facilitate the construction of additional apparatus, including processing units, on the CPO Land which will connect to the existing WWTW to allow the Acquiring Authority to carry out its necessary functions.
- 1.30 Failure to provide the CPO scheme will result in the Acquiring Authority being unable to meet its targets in respect of phosphorus levels.
- 1.31 Without ownership and control of the CPO Land it is not possible to deliver the CPO scheme as currently proposed. There are no suitable viable or available alternative schemes or sites.
- 1.32 In pursuing this CPO, the Acquiring Authority has carefully considered the balance to be struck between individual rights and the wider public interest. Regard has been had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights (First Protocol). The Acquiring Authority has also had regard to Articles 6 and 8 of the First Protocol.
- 1.33 The CPO will affect the Article 1 rights of the present owner/occupiers if confirmed by the Secretary of State. However, the owner is currently unknown, and the Acquiring Authority does not expect any purported owners to come forward. It has not therefore been possible to reach a private agreement with the landowner, and is unlikely to become possible. Even if a purported owner does come forward there will be no violation of those rights as the Acquiring Authority is content that the steps taken are in the public interest and lawful as required by Article 1 of the First Protocol. If any genuine owners do come forward, they will be entitled to compensation as provided

by law, such compensation to be settled in the absence of agreement by the Upper Tribunal of the Lands Tribunal.

- 1.34 The CPO has been made pursuant to section 155 of the WIA 1991 which authorises the Acquiring Authority to acquire land compulsorily in the circumstances set out in article 8(2) of the First Protocol.
- 1.35 The Acquiring Authority is not a Public Authority for the purposes of Schedule 19 of the Equality Act 2010. However, it exercises a function which is of a public nature and therefore may be regarded as being bound by the obligations in section 149 of the Equality Act 2010. As such the Acquiring Authority must have due regard to the need to (i) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (ii) advance equality of opportunity between persons who share a relevant protected characteristic (as defined in the Act) and persons who do not share it; and (iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 1.36 Having regard to the nature and limited scale of the scheme the Acquiring Authority considers the impacts are contained, and given the limited extent of the proposed upgrading WWTW and the public benefit arising, the Acquiring Authority does not believe that people of protected characteristics have been or will be disadvantaged.
- 1.37 The Acquiring Authority is satisfied for the reasons set out that the CPO can lawfully be made.
- 1.38 The Acquiring Authority considers that the benefits of the CPO to the public provide a compelling case in the public interest for the use of compulsory purchase powers and outweigh the impact on the existing owner (whoever that may be). In these circumstances, the compulsory acquisition of the CPO Land will not conflict with Article 8 of the First Protocol.

## **6. PLANNING POSITION & DELIVERABILITY**

- 1.39 An application for planning permission for the proposed improvement works was submitted to Cheshire West and Chester Council in September 2023, and validated in October 2023. The application has been allocated the reference 23/02984/FUL ("the Planning Application).
- 1.40 It is not anticipated that there will be any reason why planning permission will not be granted, or that there will be any planning impediments to the scheme proceeding.
- 1.41 It is estimated that the development cost for the improvement works will be c.£8 million. This will be funded by the Acquiring Authority.
- 1.42 The present intention is for construction to commence in Autumn 2023, in order for the WWTW to be updated to meet the Acquiring Authority's targets in this regard, with an anticipated build time of around 2 years.

- 1.43 In summary, the Acquiring Authority is satisfied that there are no financial, physical, planning or legal impediments to the CPO scheme proceeding and that there is a reasonable prospect that it will proceed.

## **7. VIEWS EXPRESSED BY GOVERNMENT DEPARTMENTS**

- 1.44 No views have been expressed by any Government Department about the development of the CPO Land.

## **8. DOCUMENTS**

- 1.45 The following documents are available for public inspection online on the Acquiring Authority's website and during normal office hours (Monday to Friday, between 9am and 5pm) at Aaron & Partners Solicitors LLP at 5-7 Grosvenor Court, Foregate Street, Chester CH1 1HG (by prior appointment with Mark Turner by email at [mark.turner@aaronandpartners.com](mailto:mark.turner@aaronandpartners.com));
- (a) CPO (including CPO Schedule);
  - (b) CPO map;
  - (c) Extract from the meeting of the Executive Committee of the Acquiring Authority on 7 March 2023; and
  - (d) The documents submitted with the Planning Application comprising (i) application form (ii) covering letter from Arup (iii) location plan (iv) existing site plan (v) proposed site plan (vi) site elevations (vii) planning statement (viii) arboricultural report (ix) biodiversity assessment (x) great crested newt survey and (xi) heritage assessment.

## **9. SPECIAL CONSIDERATIONS**

- 1.46 The CPO Guidance says that a Statement of Reasons should include any special considerations affecting the order site e.g. ancient monument, listed building, conservation area, special category land, consecrated land, renewal area, etc.
- 1.47 So far as the Acquiring Authority is aware, no part of the CPO Land is owned by another local authority, held by the National Trust inalienably, forms part of a common, open space or fuel or field garden allotment, is owned by the Crown, or is it subject to a Crown interest.

## **COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007**

- 1.48 This Statement is not intended to be a statement of case under Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 and the Acquiring Authority reserves the right to alter or expand it as necessary for the purpose of Rule 7.

## CONTACT DETAILS

- 1.49 For any enquiries related to the CPO the first point of contact is Llywelyn Jones BSc (Hons) MRICS, Senior Estates Surveyor at Dŵr Cymru Cyfyngedig by telephone on 07827 988183, by email on [llywelyn.r.jones@dwrcymru.com](mailto:llywelyn.r.jones@dwrcymru.com) or by post to Dŵr Cymru Welsh Water, Linea, Fortran Road, St Mellons, Cardiff CF3 0LT.

Executed as a deed by affixing the  
Common Seal of **DŴR CYMRU CYFYNGEDIG**  
In the presence of:

Authorised Signatory



Date: 19 October 2021



