

THE NORFOLK COUNTY COUNCIL
(A1042 Heartsease Fiveways Roundabout Junction Improvement Scheme)
COMPULSORY PURCHASE ORDER 2023

NOTICE IS HEREBY GIVEN that the Norfolk County Council (“the Council”) on 18th December 2023 executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 (“the Act”) vesting the land described in the Schedule to this notice (“the land”) in themselves as from the end of the period of 3 months from the date on which the service of the notices required by section 6 of the Act is completed.

The Council will in due course tell you the date on which the service of the notices was completed.

The effect of the general vesting declaration is as follows:-

On the first day after the end of the period referred to in the first paragraph of this notice (“the vesting date”) the land, together with the right to enter upon and take possession of it, will vest in the Council.

Also, on the vesting date the Acts providing for compensation will apply as if, on the date on which the general vesting declaration was made (namely, 18th December 2023) a notice to treat had been served on every person on whom, under section 5 of the Compulsory Purchase Act 1965, the Council could have served such a notice (other than any person entitled to a “minor tenancy” or a “long tenancy which is about to expire”. These expressions are defined in Appendix A to this notice).

If the land includes any land in which there is a minor tenancy or a long tenancy which is about to expire, the right of entry will not be exercisable in respect of that land unless, after serving a notice to treat in respect of that tenancy, the Council having served on every occupier of any of the land in which the tenancy subsists a notice stating that, at the end of a specified period (at least 3 months from the date of the service of the notice) they intend to enter upon and take possession of the land specified in the notice, and that period has expired: the vesting of the land will then be subject to the tenancy until that period expires, or the tenancy comes to an end, whichever happens first.

Schedule A1 and 1 to the Act contain supplementary provisions as to general vesting declarations. If a counter-notice is served under paragraph 2 of Schedule A1 within the period referred to in the first paragraph of this notice, the vesting date for the land which is the subject of the counter-notice will be determined in accordance with that Schedule. The provisions of Schedules A1 and 1 are set out in Appendix B to this notice.

A copy of the general vesting declaration to which this notice refers and of the plan annexed to the declaration can be inspected at the offices of Norfolk County Council, County Hall, Martineau Lane, Norwich, Norfolk, NR1 2DH and may be seen at all reasonable hours. It can also be viewed online at: <https://www.norfolk.gov.uk/heartsease>

SCHEDULE

All interests in land at Heartsease, Plumstead Road, Norwich (NR1 4JZ) (having an area of 2 m²) and being registered at the Land Registry with title number NK140168

Appendix A

“minor tenancy” means a tenancy for a year or from year to year, or any lesser interest,

“long tenancy which is about to expire”, in relation to a general vesting declaration, means a tenancy granted for an interest greater than a minor tenancy, but having on the vesting date a period still to run which is not more than the specified period (that is to say, such period, longer than one year, as may for the purposes of this definition be specified in the declaration in relation to the land in which the tenancy subsists).

In determining for the purposes of this subsection what period a tenancy still has to run on the vesting date it shall be assumed:-

- (a) that the tenant will exercise any option to renew the tenancy, and will not exercise any option to terminate the tenancy, then or thereafter available to him,
- (b) that the landlord will exercise any option to terminate the tenancy then or thereafter available to him.

Appendix B

SCHEDULE A1

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN GENERAL VESTING DECLARATION

Part 1

COUNTER-NOTICE REQUIRING PURCHASE OF ADDITIONAL LAND

1. (1) This Schedule applies where an acquiring authority have executed a general vesting declaration in respect of part only of a house, building or factory.

(2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
2. A person able to sell the whole of the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the whole.
3. A counter-notice under paragraph 2 must be served before the end of the period of 28 days beginning with the day the owner first had knowledge of the general vesting declaration.

4. In a case where this Schedule applies by virtue of a general vesting declaration executed after a counter-notice has been served under paragraph 4 or 17 of Schedule 2A to the Compulsory Purchase Act 1965, that counter-notice is to have effect as a counter-notice served under this Schedule.
5. In this Schedule—
“additional land” means the part of the house, building or factory not specified in the general vesting declaration;
“house” includes any park or garden belonging to a house;
“land proposed to be acquired” means the part of the house, building or factory specified in the general vesting declaration;
“notice to treat” means a notice to treat deemed to have been served under section 7(1);
“original vesting date” is the first day after the end of the period specified in the general vesting declaration in accordance with section 4(1).

Part 2

CONSEQUENCES OF COUNTER-NOTICE

Acquiring authority must respond to counter-notice within three months

6. (1) On receiving a counter-notice the acquiring authority must decide whether to—
 - (a) withdraw the notice to treat in relation to the land proposed to be acquired,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.(2) But the acquiring authority may not decide to withdraw the notice to treat if the counter-notice was served on or after the original vesting date.
7. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
8. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
9. (1) This paragraph applies if the acquiring authority do not serve notice of a decision within the decision period.
(2) If the counter-notice was served before the original vesting date, the authority are to be treated as if they had served notice of a decision to withdraw the notice to treat in relation to the land proposed to be acquired.
(3) If the counter-notice was served on or after the original vesting date, they are to be treated as if they had served notice of a decision to accept it.

No vesting if notice to treat withdrawn

10. If the acquiring authority serve notice of a decision to withdraw the notice to treat in relation to the land proposed to be acquired the general vesting declaration is to have effect as if it did not include that land.

No vesting if notice to treat withdrawn

11. (1) This paragraph applies where the acquiring authority serve notice of a decision to accept the counter-notice.
(2) The general vesting declaration and the notice to treat (and, where applicable, the compulsory purchase order) are to have effect as if they included the owner's interest in the additional land as well as in the land proposed to be acquired.
(3) The authority must serve on the owner a notice specifying the vesting date or dates for—
 - (a) the land proposed to be acquired (if the counter-notice was served before the original vesting date), and
 - (b) the additional land.
(4) The new vesting date for the land proposed to be acquired must not be before the original vesting date.
(5) The vesting date for the additional land must be after the period of 3 months beginning with the day on which the notice under subparagraph (3) is served.

Effects of referring counter-notice to the Upper Tribunal

12. (1) This paragraph applies where—
 - (a) the acquiring authority refer the counter-notice to the Upper Tribunal, and
 - (b) the counter-notice was served before the original vesting date.
(2) At any time before the Upper Tribunal make a determination under paragraph 14, the acquiring authority may serve notice on the owner specifying a new vesting date for the land proposed to be acquired.
(3) The new vesting date for the land proposed to be acquired must not be before the original vesting date.

Part 3
DETERMINATION BY THE UPPER TRIBUNAL

Introduction

13. This Part applies where, in accordance with paragraph 8, the acquiring authority refer a counter-notice to the Upper Tribunal.

Role of the Upper Tribunal

14. (1) The Upper Tribunal must determine whether the severance of the land proposed to be acquired would—
 - (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
 - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
(2) In making its determination, the Upper Tribunal must take into account—
 - (a) the effect of the severance,
 - (b) the proposed use of the land proposed to be acquired, and

(c) if that land is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

15. If the Upper Tribunal determines that the severance of the land proposed to be acquired would have either of the consequences described in paragraph 14(1) it must determine how much of the additional land the acquiring authority ought to be required to take in addition to the land proposed to be acquired.

Effect of determination that more land should be acquired

16. (1) This paragraph applies where the Upper Tribunal specifies in its determination that the acquiring authority ought to be required to take the whole or part of the additional land (“the specified land”).
(2) The general vesting declaration and any notice to treat (and, where applicable, the compulsory purchase order) are to have effect as if they included the owner's interest in the specified land.
(3) The Upper Tribunal must order a vesting date for—
(a) the specified land, and
(b) any land proposed to be acquired which has not vested in the authority and for which no vesting date has been specified under paragraph 12.
(4) If the vesting date for the specified land is after the vesting date for any land proposed to be acquired, the Upper Tribunal's power to award compensation under section 7 of the Compulsory Purchase Act 1965 includes power to award compensation for any loss suffered by the owner by reason of the temporary severance of the land proposed to be acquired from the specified land.

Withdrawal of notice to treat following determination

17. (1) This paragraph applies where—
(a) the Upper Tribunal has specified in its determination that the acquiring authority ought to be required to take the whole or part of the additional land (“the specified land”), and
(b) the vesting date in relation to the land proposed to be acquired has not passed, and
(c) the vesting date in relation to the specified land has not passed.
(2) The acquiring authority may, within the period of 6 weeks beginning with the day on which the Upper Tribunal made its determination, withdraw the notice to treat in relation to the land proposed to be acquired together with the specified land.
(3) If the acquiring authority withdraws the notice to treat, the general vesting declaration is to have effect as if it did not include that land.
(4) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
(5) Any dispute as to the compensation is to be determined by the Upper Tribunal.

SCHEDULE 1


DIVIDED LAND

PART II

RENTCHARGES AND TENANCIES

11. (1) Where land specified in a general vesting declaration is, together with other land not so specified, charged with a rentcharge, such proportion of the rentcharge as may be apportioned under section 18 of the Compulsory Purchase Act 1965 to the first-mentioned land shall, subject to sub-paragraph (3) below, be treated as having been extinguished by virtue of Part III of this Act on the vesting of that land in an acquiring authority under that Part.
- (2) Where by virtue of sub-paragraph (1) above a portion of the rentcharge is treated as having been extinguished, the provisions of section 18 of the Compulsory Purchase Act 1965 shall have effect as if the extinguishment had taken place under that section.
- (3) If, in the circumstances described in sub-paragraph (1) above, the person entitled to the rentcharge and the owner of the land subject thereto enter into an agreement to that effect, the said section 18 shall have effect as if, at the time of the vesting of the land in the acquiring authority under Part III of this Act, the person entitled to the rentcharge had released that land from the rentcharge on the condition mentioned in subsection (2) of that section; and in that case no part of the rentcharge shall be treated as having been extinguished as regards the remaining part if the land charged therewith.
- (4) In this paragraph "rentcharge" has the same meaning as in section 18 of the Compulsory Purchase Act 1965.
12. Where land specified in a general vesting declaration is, together with other land not so specified, comprised in a tenancy for a term of years unexpired, section 19 of the Compulsory Purchase Act 1965 shall have effect in relation thereto as if for references to the time of the apportionment of rent therein mentioned there were substituted references to the time of vesting of the tenancy in the acquiring authority.

DATED this 18th day of December 2023



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