

Case Name: *Foley v The County Council of the City And County of Cardiff* [2020] EWHC 2182 (Admin) (07 August 2020)

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Commentary:

In the High Court the Claimant, David Foley, challenged the making of a compulsory purchase order confirmed on 22 November 2019 (the CPO) by the County Council of the City and County of Cardiff (the Council) to acquire a two-storey dwelling owned by him, and which had stood empty since 1994, in east Cardiff (the Property).

The Council made the CPO under the Acquisition of Land Act 1981 (the 1981 Act) and the Housing Act 1985, and in accordance with its Cardiff Housing Strategy 2016-2021 which includes a policy that where a co-operative approach to bringing empty dwellings back into beneficial ownership fails, consideration will be given to compulsory purchase.

The Council's Statement of Reasons accompanying the CPO (and explaining the required compelling case in the public interest for the CPO) stated that the Property was in poor condition, unsuitable for occupation, and deteriorating through lack of maintenance. The Statement of Reasons also referred to Cardiff's high demand for housing, and to the Council's intention to auction the Property for refurbishment as a residential property.

The Claimant, under section 23 of the 1981 Act as a person aggrieved by the making of the CPO, challenged the CPO on the basis that the Council did not properly take into account his suffering for several years from the conditions of chronic depression and anxiety, including low energy levels and difficulties in dealing with day to day activities, concentration and social functioning. The Claimant's case was partly that these conditions amount to protected characteristics under sections 4 and 6 of the Equality Act 2010 (the 2010 Act), and that the Council had breached its duties under the 2010 Act in relation to those characteristics; such duties include the duty not to discriminate, the duty to make reasonable adjustments, and the duty to have due regard to the need to eliminate discrimination. The Claimant also claimed that the Council had breached his rights under the Human Rights Act 1998 (the 1998 Act).

His Honour Judge Jarman QC dismissed the Claimant's challenge. He held that the Council's decision to make the CPO, as explained in the Statement of Reasons, was a balanced consideration against the Claimant's interest and in the public interest beneficially to control the use of the Property, and compliant with the stringent requirements for compulsory purchase. He held that the Council had not breached any of its duties under the 2010 Act, finding that the Council's decision to make the CPO was proportionate to achieve a legitimate aim of increased housing provision in Cardiff, and that the Council had been entitled to come to the decision, after many years of attempting a cooperative approach with the Claimant to restore the Property for housing purposes, that the lack of progress was mainly attributable to the Claimant's

lack of funds, which was unlikely to be resolved within a reasonable time. He also held that the Council's decision to make the CPO had not been in breach of its duties under the 1998 Act, and was compatible with the European Convention on Human Rights.

Case summary prepared by George Morton Jack