

DRAFT

**THE LICHFIELD DISTRICT COUNCIL (GRANGE LANE, LICHFIELD)  
COMPULSORY PURCHASE ORDER 2018**

**SECTION 226(1)(a) OF THE TOWN AND COUNTRY PLANNING ACT 1990**

**AND**

**THE ACQUISITION OF LAND ACT 1981**

---

**STATEMENT OF REASONS**

**of**

**LICHFIELD DISTRICT COUNCIL**

---



Pinsent Masons

## CONTENTS

	<b>Page</b>
1 INTRODUCTION	1
2 THE ENABLING POWERS FOR THE CPO	2
3 THE ORDER LAND	2
4 BACKGROUND TO SCHEME	3
5 DESCRIPTION OF THE SCHEME	4
6 THE COUNCIL'S JUSTIFICATION IN MAKING THE ORDER	5
7 SPECIAL CONSIDERATIONS AFFECTING THE ORDER LAND	12
8 HUMAN RIGHTS CONSIDERATIONS	12
9 EQUALITY	14
10 CONTACT INFORMATION	14
11 INSPECTION OF DOCUMENTS	15
12 INQUIRY PROCEDURE RULES	15
13 INQUIRY DOCUMENTS	15
APPENDIX 1 – PLANNING POLICY	16

## 1. INTRODUCTION

- 1.1 On **[x]** 2018 the Lichfield District Council (the "**Council**") resolved to make the Lichfield District Council (Grange Lane, Lichfield) Compulsory Purchase Order 2018 (the "**Order**").
- 1.2 The Order has been made under section 226(1)(a) of the Town and Country Planning Act 1990 ("**1990 Act**"), as the Council considers that there is a compelling case in the public interest to acquire land to facilitate development, redevelopment or improvement of land at Grange Lane for the provision of approximately 12 new residential dwellings together with associated works ("**the Scheme**") and that the proposed acquisition is likely to contribute to the achievement of the promotion or improvement of the economic, social and/or environmental well-being of Lichfield.
- 1.3 Planning permission has been granted for the Scheme which comprises demolition of existing (vacant) public house and construction of 12 three bedroom dwellings and associated works, as detailed in **Section 5** below.
- 1.4 The land proposed to be compulsorily acquired and/or used pursuant to the Order comprises approximately 346 square metres of grassland to the north east of the former Windmill Public House, Grange Lane, Lichfield together with private access serving the former public house premises (the "**Order Land**"), as detailed in **Section 3** below.
- 1.5 The Scheme will provide development on previously used land, new housing, new landscaping and the removal of a vacant and dilapidated building, providing a positive impact on the character and appearance of the area. The Scheme will deliver much needed housing as well as bringing economic and social benefits to the town. The purpose of the Order is to secure the acquisition of all relevant interests in the Order Land to facilitate delivery of the Scheme.
- 1.6 The Scheme is being promoted by the Council and Phase 7 Properties Limited ("**Phase 7**"). Phase 7 is an experienced developer. Further information on Phase 7 is contained in Section 6 below.
- 1.7 The schedule to the Order (the "**Schedule**") does not list any owners, lessees, tenants or occupiers of the Order Land as the land is, or is reputed to be in, unknown ownership. As there is no known owner (or owners) with whom to negotiate, the only means of securing the Order Land for the purposes of the Scheme is through compulsory acquisition.
- 1.8 The Schedule has been based on information gathered through enquiries made by Phase 7 and the Council with adjoining land owners and other bodies and a land referencing exercise undertaken by TerraQuest on behalf of the Council. There has been an extensive enquiry to identify land interests, but to date no owners, lessees, tenants or occupiers have been identified in relation to the Order Land. Phase 7 and the Council have therefore concluded that the land proposed to be acquired is, or is reputed to be in, unknown ownership. The Council has therefore promoted the Order to enable the Order Land to be acquired compulsorily.
- 1.9 The map to the Order (the "**Order Map**") identifies the Order Land and highlights the land proposed to be acquired in pink. Individual plot boundaries and numbers on the Order Map correspond with the Schedule.
- 1.10 The Order has been submitted to the Secretary of State for Housing, Communities and Local Government for confirmation pursuant to the Acquisition of Land Act 1981. If confirmed by the Secretary of State, the Order will enable the Council to acquire compulsorily the land included in the Order.
- 1.11 This Statement of Reasons has been prepared pursuant to and in accordance with the "Guidance on Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion" prepared by the Department for Communities and Local Government, October 2015 and amended in February 2018 (the "**CPO Guidance**").

## 2. THE ENABLING POWERS FOR THE CPO

- 2.1 Section 226(1)(a) of the 1990 Act enables the compulsory acquisition of land where an acquiring authority considers the acquisition will facilitate the carrying out of development, redevelopment, or improvement on or in relation to land and where the acquiring authority considers the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social, and/or environmental well-being of the authority's area.
- 2.2 The Council has made the Order pursuant to its powers under section 226(1)(a) of the Town and Country Planning Act 1990 for the following reasons:
- 2.2.1 to facilitate the redevelopment of the Order Land for the purposes of the Scheme; and
- 2.2.2 it is not possible to acquire by agreement all interests that are required for the Scheme as the Order Land is, or is reputed to be in, unknown ownership and it is therefore not possible to acquire the interests required by agreement, to enable comprehensive delivery of the Scheme;
- 2.2.3 without development, the land and building will continue to have a significant adverse affect on the local environment. The Scheme's site has been vacant for a considerable number of years and is located within a predominately residential area. It is a source of anti social behaviour and its dilapidated state detracts from the residential suburb.
- 2.3 The purpose of the Order is therefore to secure the acquisition of all relevant interests in the Order Land to facilitate delivery of this important housing scheme.
- 2.4 The Council is satisfied that section 226(1)(a) is the appropriate enabling power to rely upon pursuant to paragraphs 10 and 11 of the CPO Guidance.
- 2.5 The Council recognises that a compulsory purchase order can only be made if there is a compelling case in the public interest (paragraphs 2 and 12 of the CPO Guidance) which justifies the interference with the human rights of those with interests in the Order Land.
- 2.6 The Council is satisfied that it may lawfully exercise its powers of compulsory purchase under the powers set out above and, for the reasons set out in **Section 6** below, that there is a clear and compelling case in the public interest for such exercise and that the public interest is sufficiently important to justify the interference with human rights of those holding interests in the Order Land. The Council is satisfied that the Order may lawfully be made.

## 3. THE ORDER LAND

### 3.1 Topography and use

- 3.1.1 The land for the Scheme (the "**Site**") which includes the Order Land is located within a residential suburb of Lichfield. The Site occupies a prominent corner plot at the junction of Grange Lane with Wheel Lane/Western Road. It is bound on its north west elevation by residential development and its southern boundary by residential development on High Grange. Across the road, on its northern boundary, is further residential development. A parade of shops, which includes a Post Office and convenience store, is located to the east/south east on Wheel Lane.
- 3.1.2 The Site sits at a higher level than Grange Lane and Wheel Lane and comprises the former Windmill Public House and associated car parking. The land use for the Site falls within A4 Use Class.

### 3.2 The Order Land

- 3.3 The Order Land proposed to be acquired forms part of the Site and is shown coloured pink on the Order Map and described in the Schedule to the Order. The Order Land comprises of

approximately 346 square metres of grassland to the north east of the former Windmill Public House, at Grange Lane, Lichfield, together with private accesses leading to the premises.

3.4 In the vicinity of the Order Land, there is an existing group of trees along the western boundary of the Site. The existing building is located towards the south western corner of the Site with car parking to the north and east of the building. The car park is bound at its perimeter by a low brick built dwarf wall. The wall sits upon a grass bank which slopes down to Grange Lane and Wheel Lane. There are two existing vehicular access points to the Site providing direct access onto Grange Lane. Pedestrian steps from the Site are located on its eastern boundary.

3.5 The Council is seeking powers to acquire the Order Land and all interests in it to enable the Scheme to proceed.

3.6 No new rights are required in order to facilitate the Scheme.

#### 4. **BACKGROUND TO SCHEME**

4.1 The Scheme is consistent with national and local planning policies for the area. The Council is supportive of Phase 7's scheme to deliver much needed housing and associated development on the Site which includes the Order Land. A detailed consideration of relevant planning policy is contained at **Section 6** below.

4.2 The existing Public House has been vacant for a number of years. Planning Permission was first granted in October 2013 for the demolition of the existing Public House and the erection of 6 no. 3-bedroom dwellings and 6 no. 2-bedroom apartments with associated works.

4.3 A subsequent planning permission was granted in July 2014 for the demolition of the existing Public House and erection of 12 no. 3-bedroom dwellings with associated works.

4.4 The Site lies within the settlement boundary and outside the Lichfield City Conservation Area. The Site is to be considered a brownfield site in a highly sustainable location within the limits of the settlement. The loss of the building as a community facility is to be considered against the significant benefits of providing new housing in a sustainable location and in achieving a significant enhancement to the local built and natural environment.

4.5 The latest planning permission effectively renews an earlier permission granted in 2014; that permission having expired in July 2017. Residential development on this sustainable brownfield land accords with the District Council's Spatial Strategy which seeks to deliver a minimum of 10,030 dwellings between 2008 and 2029 within the most sustainable settlements whilst making best use of and improving existing infrastructure.

4.6 By making efficient use of land and prioritising the use of previously developed (brownfield) land the Scheme is considered to promote sustainability by minimising pressure on the natural, built and historic environment. Against that overarching Spatial Strategy, as set out within Core Policy 1 of the Local Plan Strategy, residential development on the land accords with the key aim to make best use of previously developed land in sustainable sites to assist in delivering the housing needs of the District. Specifically, the proposals contribute to achieving approximately 30% of the District's housing requirement to be located within, or at the edges, of Lichfield City. In that respect the delivery of housing upon the Site accords with Core Policy 6 of the Local Plan Strategy which seeks to focus housing development within the key urban and rural settlements.

4.7 The emerging Site Allocations Plan (SAP) proposes to allocate the Site for housing under Policy LC1 (site reference L16). The emerging SAP envisages the Site will come forward for approximately 12 dwellings.

4.8 Lichfield is a key settlement within the Local Plan Strategy and is planned to take at least 38% of the proposed housing requirement for the District. With an emphasis on providing homes for the District within Lichfield, or at its edges within Strategic Development Locations, and with both a local and national policy preference for the redevelopment of previously developed sites, the Site is

considered to be one suitable for residential development as a matter of principal. This is further supported by virtue of its proposed allocation for housing within the emerging SAP.

## 5. DESCRIPTION OF THE SCHEME

- 5.1 The existing, vacant, Public House, which is located to the south west of the Site is to be demolished as part of the development proposals. The Site is currently served by two vehicular access points onto Grange Lane. The access point located closest to the junction with Wheel Lane is closed as part of the development proposals with the access point to the north remaining as the sole vehicular access. The existing pedestrian steps located on the eastern boundary to Wheel Lane will be retained as part of the development to facilitate good access for residents of the development to access the wider area, including the nearby parade of shops. A new footpath is provided within the Site allowing pedestrian access to each of the new homes.
- 5.2 In using the northern access to serve the development, the Order Land is crossed by vehicles entering and leaving the development. The Order Land is therefore required to provide unimpeded vehicular and pedestrian access, to facilitate and have control over the visibility splays and enable drainage and other services to be brought to the Site without restriction.
- 5.3 The development comprises of 12 no. 3-bed dwellings. The dwellings are situated to front the road with car parking for 24 no. cars located to the rear. The dwellings are therefore sited to the front of the Site. Plots 1-6 and 9-12 have a gross internal area of 80 square metres. The dwellings measure 4.6 metres to eaves and 9.1 metres to the ridge. Plots 7 and 8 have a gross internal area of 112 square metres and measure 4.6 metres to eaves and 7.5 metres to the ridge.
- 5.4 The demolition of the existing Public House will achieve a significant enhancement to the built environment. The existing Public House is in a reasonable state of disrepair and is considered to have a negative impact on the character and appearance of this part of Lichfield. The Site is largely bereft of any landscape planting. Those trees that exist are situated on the boundaries of the Site. Environmentally, therefore, the development will remove an unsightly building from the area and replace it with a well formed and attractive series of residential properties in keeping with the scale and character of the surrounding area. The development will also remove large areas of hardstanding and allow new areas to be landscaped on the street frontage.
- 5.5 Through this new landscaping, coupled with new habitat creation i.e. installation of bat boxes, bat bricks/tiles etc, it is considered that the development will result in net gains to biodiversity. The development is therefore considered to have a significant environmental benefit.
- 5.6 The existing Public House has been vacant for a number of years. It does not contribute to the economy in any meaningful way. There has been no local employment and no money spent on the premises for a number of years. The demolition of the existing Public House and its replacement with 12 new homes will provide an economic benefit during the construction of these new homes. Once occupied, the new housing will generate additional footfall in close proximity to the existing parade of shops. It is considered the new housing will have a benefit to the revenue of exiting retailers within the local parade. The new homes will also generate a New Homes Bonus. The development will therefore have a positive effect on the local economy and is preferable than the current non-use of this sustainable brownfield site within the settlement boundary.
- 5.7 The Local Plan Strategy, which is informed by the Strategic Housing Market Assessment (SHMA), encourages new residential development to comprise of two and three bedroom dwellings. The emphasis on delivering smaller properties is to address a shortfall of smaller properties across the District. The development will deliver 12 no. 3-bedroom properties in a highly sustainable area close to shops and services and public transport routes. It will deliver new homes within Lichfield which is planned to take a minimum of 30% of the overall homes required to meet the District's housing need. It is therefore considered the development will have significant social benefits insofar as assisting the Council boost their housing supply in a manner which reflects an identified need.
- 5.8 The development will also remove a potential "non-conforming use". Whilst the vacant Public House has been present for a significant period of time, it is nonetheless located close to a number

of residential properties. The close proximity of the Public House to residential properties may give rise to detrimental effects to neighbouring amenity should it reopen for business. Moreover, restrictions may be placed on the licence thereby limiting the ability of the pub to trade viably. The demolition of the existing Public House will therefore represent a social benefit in these terms.

- 5.9 Insofar as the loss of a community facility, a number of planning permissions have been granted thereby accepting that the loss of a community facility does not outweigh the benefits to delivering housing on a brownfield site in a sustainable location. There are a number of Public Houses within Lichfield City Centre and its suburbs. The pub has long been vacant and earmarked for residential development and is not listed as an Asset of Community Value. Given the benefits that will ensue in terms of housing delivery (social), environmental benefits and the economic benefits it is considered that the loss of a community facility in this location will not cause a significant and demonstrable adverse affect, such to outweigh the substantial benefits of delivering homes in a sustainable location.
- 5.10 In respect of housing need, the Local Plan Strategy plans to deliver at least 10,030 homes within the District across the plan period. A number of these houses are planned to come forward through Strategic Development Allocations (SDAs). In addition to the SDAs, the Local Plan Strategy plans for a number of homes to be delivered within the urban area. The Scheme will make a contribution to the delivery of much needed new housing.
- 5.11 The emerging SAP seeks to deliver the balance of homes not allocated within the Local Plan Strategy. Policy LC1 allocates sites within and at the edge of Lichfield for housing. The Site is a proposed housing allocation (emerging site L16) and is shown to accommodate up to 12 dwellings. It is therefore the case that sites within the settlement boundary of Lichfield are acceptable for housing as a matter of principal and supported through the Local Plan Strategy.

## 6. THE COUNCIL'S JUSTIFICATION IN MAKING THE ORDER

### 6.1 Paragraph 106, CPO Guidance – What factors will the Secretary of State take into account in deciding whether to confirm an order under section 226(1)(a)?

*"Any decision about whether to confirm an order made under section 226(1)(a) will be made on its own merits, but the factors which the Secretary of State can be expected to consider include:*

- whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework*
- the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area*
- whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land, or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired*
- the potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be. The timing of any available funding may also be important. For example, a strict time limit on the availability of the necessary funding may be an argument put forward by the acquiring authority to justify proceeding with the order before finalising the details of the replacement scheme and/or the statutory planning position."*

### 6.2 These factors are considered in turn as follows:-

***Whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework***

- 6.2.1 The Site is located within the urban area of Lichfield wherein residential development accords with Core Policy 6 of the Local Plan Strategy, along with the National Planning Policy Framework. The redevelopment of this previously developed site accords with the emerging Site Allocations Plan which allocates the Site for housing (emerging Policy LC1).
- 6.2.2 The development comprises of 12 no. 3-bedroom dwellings which accords with Policy H1 of the Local Plan Strategy which seeks to rebalance the housing stock in the District by increasing the number of 2 and 3-bedroom properties across the District.
- 6.2.3 The development involves the demolition of an existing Public House which, in planning terms, is considered to be a community facility. Notwithstanding, there are a wide range of similar facilities within the city that provide equivalent alternative facilities. A number are located a short walk away to the south and south west along Beacon Street. The loss of the Public House is therefore not considered to amount to a loss of a facility which has a key function in the operation of the existing community in the local area.
- 6.2.4 Having regard to the wider Spatial Strategy and, specifically, to how the District Council plan to deliver their housing need, it is evident that Lichfield City is to play a significant role. The Local Plan Strategy identifies that a significant number of the housing requirement will be delivered within the urban area of Lichfield and therefore brownfield sites such as this form a crucial part in delivery of the Councils Spatial Strategy. It is therefore considered that the development is consistent with the Local Plan Strategy.
- 6.2.5 The Local Plan Strategy sets out “The Vision for the District”. That vision, along with a series of 15 strategic priorities, gives direction to the Local Plan Strategy. They together set out how the Council seeks to achieve its well being objectives. The vision states that residents of the District will continue to be proud of their community and will experience a strong sense of local identity, of safety and of belonging. It states that residents of Lichfield District have opportunities to keep fit and healthy and will not be socially isolated and that people will be able to access quality homes and local employment which suits their aspirations and personal circumstances.
- 6.2.6 The Site is close to a small parade of shops providing convenience retail within 100 metres. The Site is close to a number of bus stops providing public transport to Lichfield City Centre and other service centres beyond. Beacon Park is located only a short walk and cycle away to the south and south east. Large employment areas are located across the city, all accessible on foot, cycle or via public transport. The Lichfield City Railway Station and the Lichfield City Bus Station are all located a reasonably short distance away within the City Centre. The Site is sustainable.
- 6.2.7 Further details of the compliance with planning policy of the development for which planning permission has been obtained are set out below.

***The extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area***

The Council's well-being objectives

- 6.2.8 The Council considers the Scheme will contribute significantly to the improvement of the economic, social and environmental well-being of the area for reasons as follows.

**Economic well-being**

- 6.2.9 The Site has been under-used, and the Public House vacant, for a considerable period. No investment has been made on the Site in recent years and there has been no



employment. Continuing in this manner will create no economic value to the District and, arguably, may detract from house prices in the area to the detriment of nearby residents.

- 6.2.10 The redevelopment of the Site will create direct employment through the construction process. Such is the modest size of development, it is likely that this employment will be local tradesman and those with local connections. Indirect employment, through the supply chain and local spending in nearby shops by construction workers, will also generate benefits in the economy.
- 6.2.11 Once constructed, first occupation expenditure will have a modest benefit on the local and regional economy through spending on goods and services. There is a recognised economic impact on people spending to make new homes 'feel like home'. Finally, New Homes Bonus and additional Council Tax revenue will benefit the local economy insofar as additional spending on local services.

### **Social well-being**

- 6.2.12 The Local Plan Strategy plans to deliver the District's housing need, in large part, within and at the edges of Lichfield. Approximately 1,794 dwellings are planned to be built within the urban area. In order for the District Council to meet the identified housing need, land such as this need to come forward in a timely and well planned manner.
- 6.2.13 In addition to the significant contribution Lichfield will make to meeting the District's housing need, there is a policy objective (Policy H1 of the Local Plan Strategy) to re-balance the District's housing stock. This places a policy preference for 2 and 3-bedroom dwellings. The development is wholly aligned with these policy objectives and will represent a meaningful addition to the housing supply.
- 6.2.14 Whilst the loss of the Public House removes a community facility from the area, there are equivalent alternatives within a short walk and cycle from the Site. A number of Public Houses are located along Beacon Street and within the City centre. The demolition of the existing Public House will not result in the inability for the community to function and the benefits in delivering housing and removing building out of character and in a poor state of repair outweigh and limited harm.
- 6.2.15 The redevelopment of the Site will also remove an opportunity for vandalism within the area. The vacant site, being close to residential properties and a popular parade of shops, increases the perceived risks of crime and anti-social behaviour.

### **Environmental well-being**

- 6.2.16 The Site comprises of a large former public house which has been vacant for a number of years. It is not a building of high architectural merit or historic significance that renders it a building worthy of retention. The land and building are in a derelict state and are a source of anti social behaviour. The location within a residential suburb of Lichfield and the derelict state cause significant harm to the visual amenity of the local environment. Given the residential environment and the close proximity to a parade of shops, the visual impact of the vacant derelict site is increased by virtue of it being particularly prominent to a large part of the local community. There is little landscape planting within the Site to soften the appearance of the land and building. The redevelopment of the Site for a high quality housing development will afford an opportunity to enhance the natural and built environment. New landscape planting and a comprehensive management regime will ensure these benefits are well maintained and long lasting.
- 6.2.17 Given the increase opportunities for habitat creation and planting, the development will generate no net loss to biodiversity. Measures to further boost the natural environment, for example, through the installation of bat boxes/tile/bricks, will provide a net gain to biodiversity.

### **Conclusion**

- 6.2.18 The Scheme will contribute significantly to the improvement of the economic, social and environmental well-being of the Council's area.

***Whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land, or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired.***

- 6.2.19 The purpose of acquiring the Order Land is to facilitate delivery of the Scheme providing the demolition of the existing (vacant) public house and, in its place, the construction of 12 no. 3-bedroom dwellings in accordance with the Development Plan. The Order Land is required to provide unimpeded vehicular and pedestrian access, to facilitate and have control over the visibility splays and enable drainage and other services to be brought to the Site without restriction. Planning permission for the Scheme has been granted.
- 6.2.20 Core Policy 1 of the Local Plan Strategy states that the District Council will deliver a minimum of 10,030 dwellings between 2008 and 2029 within the most sustainable settlements whilst making best use of and improving existing infrastructure. Core Policy 1 reads on to state that development proposals will be expected to make efficient use of land and to prioritise the use of previously developed land. As part of this strategy the District Council will direct the majority of future development to Lichfield City Centre and its urban area, amongst other places.
- 6.2.21 Core Policy 6 sets out the strategy of how the District Council's housing need will be delivered across the plan period. It states that Lichfield District will provide 70% of housing on previously developed land to 2018 and 50% thereafter. It reads on to say that housing development will be focused on a number of key urban and rural settlements including Lichfield City and that, apart from four large SDA's, at the edge of Lichfield, a significant proportion of the Districts housing need will be provided within the urban area of Lichfield.
- 6.2.22 Policy H1 of the Local Plan Strategy seeks to secure an enhanced housing market and states that the District Council will "actively promote" the delivery of smaller properties including 2 and 3-bed houses, in order to increase local housing choice.
- 6.2.23 Policy Lichfield 4 re-confirms that approximately 38% of the District's housing growth will take place in and around Lichfield City, with around 46% of this being located within the urban area. This amounts to approximately 1,794 homes being provided within the urban area of Lichfield.
- 6.2.24 Insofar as the loss of a community facility, Core Policy 4 sets out that the District Council will seek to protect and where appropriate, improve services and facilities that provide a key function in the operation of existing communities. It reads on to state that development proposals resulting in the loss of a key facility from a settlement, which is essential to the sustainable functioning of that settlement, will not be supported unless a replacement facility of improved quality is provided for that community in a sustainable location.
- 6.2.25 In this context, the development accords with the Development Plan and emerging Site Allocations Plan. It represents sustainable development and the recycling of previously developed land. There are substantial environmental, social and economic benefits that will arise through the development and occupation of the Site for housing and its commencement should be encouraged without delay.
- 6.2.26 As the Order Land is in unknown ownership, it is not possible to secure the land and interests in land required by agreement. Compulsory purchase powers are therefore essential to enable the scheme to proceed.

- 6.2.27 The Council has considered whether redevelopment in accordance with planning policy might be achieved by individual landowners without the need for compulsory purchase. However, owing to the comprehensive nature of the Scheme and the fact that the Order Land is, or is reputed to be in, unknown ownership, redevelopment by individual owners is not considered to be a practicable option.
- 6.2.28 Sub-division of the Scheme into separate components controlled by different developers is unviable and unworkable commercially as the Scheme requires a comprehensive and sequential design and delivery which cannot be achieved without control of the Order Land.
- 6.2.29 It is considered that the Order Land is not capable of redevelopment in isolation, due to its nature, size and location and can only be brought into beneficial use as part of a comprehensive development scheme as proposed by Phase 7.
- 6.2.30 Overall, it is concluded that there is no credible alternative scheme for the redevelopment of the Order Land which could deliver such a comprehensive Scheme meeting the planning policy objectives within a reasonable timeframe.

***The potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be. The timing of any available funding may also be important. For example, a strict time limit on the availability of the necessary funding may be an argument put forward by the acquiring authority to justify proceeding with the order before finalising the details of the replacement scheme and/or the statutory planning position***

- 6.2.31 The developer has the necessary funding to deliver the Scheme and acquire the necessary Order Land and interests in land. Viability of the Scheme is not in doubt.

6.3 **Paragraph 14 – What information about the resource implications of the proposed scheme does an acquiring authority need to provide?**

*"In preparing its justification, the acquiring authority should address:*

*a) **sources of funding** - the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required. If the scheme is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty that the necessary land will be required, the acquiring authority should provide an indication of how any potential shortfalls are intended to be met. This should include:*

- the degree to which other bodies (including the private sector) have agreed to make financial contributions or underwrite the scheme; and*
- the basis on which the contributions or underwriting is to be made*

*b) **timing of that funding** - funding should generally be available now or early in the process. Failing that, the confirming minister would expect funding to be available to complete the compulsory acquisition within the statutory period (see section 4 of the Compulsory Purchase Act 1965) following the operative date, and only in exceptional circumstances, would it be reasonable to acquire land with little prospect of the scheme being implemented for a number of years.*

*Evidence should also be provided to show that sufficient funding could be made available immediately to cope with any acquisition resulting from a blight notice."*

6.4 Phase 7 is responsible for construction costs of the scheme and has given an undertaking to the Council under which it has agreed to meet all land and compensation costs relating to the purchase of the Order Land. Phase 7 is also responsible for reimbursing the Council for all costs relating to the making and implementation of the Order.

6.5 The Council is therefore confident that funds will be available for the Scheme and satisfied that there are no financial impediments to the Scheme proceeding.

6.6 **Paragraph 15, CPO Guidance – How does the acquiring authority address whether there are any other impediments to the scheme going ahead?**

*"The acquiring authority will also need to be able to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation. These include:*

- *the programming of any infrastructure accommodation works or remedial work which may be required; and*
- *any need for planning permission or other consent or licence*

*Where planning permission will be required for the scheme, and permission has yet to be granted, the acquiring authority should demonstrate to the confirming minister that there are no obvious reasons why it might be withheld. Irrespective of the legislative powers under which the actual acquisition is being proposed, if planning permission is required for the scheme, then, under section 38(6) of the Planning and Compulsory Purchase Act 2004, the planning application will be determined in accordance with the development plan for the area, unless material considerations indicate otherwise. Such material considerations might include, for example, a local authority's supplementary planning documents and national planning policy, including the National Planning Policy Framework."*

6.7 Planning permission has been granted for the Scheme and therefore there is no impediment to implementation in this regard.

6.8 The Council is therefore satisfied that there are no physical or legal impediments to the Scheme proceeding.

6.9 **Paragraph 12, CPO Guidance – How does an acquiring authority justify a compulsory purchase order?**

6.10 The overarching consideration for the Council when making the Order and for the Secretary of State in deciding whether the Order should be confirmed, is set out in paragraph 12 of the CPO Guidance which states:-

*"A compulsory purchase order should only be made where there is a compelling case in the public interest.*

*An acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention."*

6.11 Section 6 of the Human Rights Act 1998 prohibits a public authority from acting in a way which is incompatible with the rights and fundamental freedoms set out in specified provisions of the European Convention on Human Rights. Article 1 of the First Protocol provides the right to peaceful enjoyment of possessions and that no one shall be deprived of his possessions except in the public interest, Article 8 provides the right to respect for private and family life including a person's home and Article 6 provides the right to a fair and public hearing.

6.12 The European Court of Human Rights has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole". Both public and private interests are to be taken into account in the exercise of the

Council's powers and duties as a local planning authority. Any interference with a Convention right must be necessary and proportionate. Compulsory purchase and overriding private rights must be justified by sufficiently compelling reasons in the public interest and must be a proportionate means of achieving the objectives of the Order. Similarly, any interference with rights under Article 8 must be "necessary in a democratic society" and proportionate.

6.13 The Order, if confirmed, would strike an appropriate balance between public and private interests. Interference with Convention rights, to the extent that there is any, is considered to be justified in order to secure the economic, social and environmental well-being benefits the Scheme will bring. Appropriate compensation will be available to those entitled to claim it under the relevant provisions of the statutory compensation code.

6.14 The requirements of Article 6 are satisfied by the statutory procedures under which this Order is being prepared and confirmed, which include for the right to object, the right to be heard at any public inquiry and by the right to statutory challenge under the Acquisition of Land Act 1981.

6.15 For the reasons set out in this Statement of Reasons, the Council considers that there is a compelling case in the public interest for the Order to enable this much needed housing scheme to be delivered, thus meeting the requirements of the Convention.

6.16 **Paragraph 13, CPO Guidance – How will the confirming minister consider the acquiring authority's justification for a compulsory purchase order?**

*"The minister confirming the order has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest. The more comprehensive the justification which the acquiring authority can present, the stronger its case is likely to be.*

*However, the confirming minister will consider each case on its own merits and this guidance is not intended to imply that the confirming minister will require any particular degree of justification for any specific order. It is not essential to show that land is required immediately to secure the purpose for which it is to be acquired, but a confirming minister will need to understand, and the acquiring authority must be able to demonstrate, that there are sufficiently compelling reasons for the powers to be sought at this time.*

*If an acquiring authority does not:*

- have a clear idea of how it intends to use the land which it is proposing to acquire; and*
- cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale*

*it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest, at any rate at the time of its making."*

6.17 The Council considers it has demonstrated in this Statement of Reasons that there are sufficiently compelling reasons for the powers to be sought at this time to enable the Scheme and the benefits it will bring to be delivered. Phase 7 and the Council has more than a clear idea of how it intends to use the Order Land which it is proposing to acquire; the detail of which is set out in **Section 5** above. Further and as demonstrated above the necessary resources are in place to enable the Scheme to be delivered by the Council and Phase 7 within a reasonable timescale.

6.18 **Paragraph 2, CPO Guidance - When should compulsory purchase powers be used?**

*"... The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Where acquiring authorities decide to/arrange to acquire land by agreement, they will pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market.*

*Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. ..."*

- 6.19 Since February 2017 Phase 7 has been making enquiries regarding ownership and other interests in the Order Land but without success. In the absence of any party or parties to negotiate with it is not possible for the Order Land and interests in land to be secured by agreement. In the circumstances compulsory acquisition is the only means of securing the Order Land so that the Scheme can be implemented.
- 6.20 The Council considers that both it and Phase 7 has taken more than reasonable steps to establish ownership and to acquire all of the land included in the Order by agreement. However on the basis of the enquiries made to date, it seems unlikely that it will be possible to acquire the Order Land by agreement and thus CO powers will need to be employed. The Council is making this Order to secure the assembly of all the land needed for the implementation of the Scheme.
- 6.21 Phase 7 and the Council will continue to make enquires to establish ownership of the Order Land and interests in the Order Land and will seek to acquire these by agreement, should ownership or other interests in the Order Land be established.

## 7. **SPECIAL CONSIDERATIONS AFFECTING THE ORDER LAND**

- 7.1 There are no special considerations affecting the Order Land nor does the Order include any special category land.

## 8. **HUMAN RIGHTS CONSIDERATIONS**

- 8.1 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the European Convention on Human Rights. The parts of the Convention rights which have been and continue to be considered in the course of the making of the Order and leading up to the confirmation of the Order include those set out below: Article 1 of the First Protocol and Articles 6 and 8 of the Convention are of particular relevance.

- 8.2 Relevant parts of **Article 1 of the First Protocol of the Convention** provide that:

*"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*

*"The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest ...."*

- 8.3 If confirmed by the Secretary of State, the Order will affect the Article 1 rights of the present leaseholders/occupiers resident within the Order Land. However, there will be no violation of those rights where the steps taken are in the public interest and are lawful, as is required by Article 1 of the First Protocol (above) and Article 8 of the Convention (below).

- 8.4 Relevant parts of **Article 6 of the Convention** provide that:-

*"In the determination of his civil rights and obligations.....everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law".*

- 8.5 The Order proposals have been extensively publicised and consultation has taken place with the communities that will be affected by the Order.

- 8.6 All those affected by the Order have been notified of its making and have the opportunity to make objections to the Order and to be heard at a public inquiry before a decision is made on whether or not the Order should be confirmed by the Secretary of State. Those persons directly affected by the

Order will also be entitled to compensation proportionate to any losses that they may incur as a result of any compulsory acquisition made pursuant to the Order.

8.7 Relevant parts of **Article 8 of the Convention** provide that:

*"(1) Everyone has the right to respect for his private and family life, his home and his correspondence.*

*"(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others".*

8.8 Article 8(1) is a qualified right and interference with it may be justified in appropriate cases by reference to Article 8(2).

8.9 The Order has been made pursuant to section 226(1)(a) of the 1990 Act which authorises the Council to acquire land compulsorily subject to following the procedures laid down in the Acquisition of Land Act 1981. The Council considers that there is a compelling case in the public interest such that if the Order Land is acquired the public benefit will outweigh the private loss arising from that acquisition. In the circumstances, the compulsory acquisition of the Order Land will not conflict with the rights provided by Article 8(1) of the Convention as the qualifications in Article 8(2) apply.

#### **Application of the principle that interference with Convention rights must be proportionate and justified in the public interest**

8.10 In promoting this Order the Council has carefully considered the balance to be struck between individual rights and the wider public interest.

8.11 To the extent that the Order would affect those individual rights, the Council considers that proposed interference with them would be in accordance with the law, necessary in the public interest and proportionate as very much needed homes will be delivered. The Scheme will also bring the other benefits described in this Statement at sections 5 and 6.

8.12 All of those persons whose rights under Article 8 of the Convention and under Article 1 of the First Protocol of the Convention would be affected by the Order will have an opportunity to object to the Order and to have their objection considered at a fair and public hearing, in accordance with their rights under Article 6 of the Convention.

8.13 Appropriate compensation will be made available to all those entitled to claim it under the relevant provisions of the statutory Compensation Code.

8.14 In addition, having regard to the provisions of the 1990 Act and the Guidance, the Council considers that the Order Land is both suitable for and will facilitate the carrying out of development, redevelopment and improvement and will, for the reasons explained in this Statement, make a positive contribution to the promotion or achievement of the economic, social and environmental wellbeing of its area. The Council therefore has a clear idea of how it intends to use the land which it is proposing to acquire compulsorily. Further, the necessary resources are in place to achieve delivery of the Scheme within a reasonable timescale. Subject to confirmation of the Order (assuming the Order is to be confirmed by the Secretary of State) there are no impediments to its delivery.

8.15 The Council believes that there is a compelling case in the public interest for confirmation of the Order and that the Order, if confirmed, would be necessary, proportionate and would strike the appropriate balance between public and private interest. The Council is of the view that the Order would be lawful, in the public interest and proportionate as the Scheme would will facilitate much needed housing and bring other benefits to the area. In the view of the Council, the public interest

that is to be served by the development and the wider benefits it will bring outweigh the necessary interference with the private rights and interests in the Order Land.

- 8.16 It is therefore considered that the Scheme and the Order will not unduly infringe the rights of individuals which are provided by the European Convention on Human Rights. The Council is also satisfied that the requirements of the Guidance are met.

## 9. EQUALITY

### 9.1 Paragraph 6, CPO Guidance – How should the Public Sector Equality be taken into account in compulsory purchase regime?

*"All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. Throughout the compulsory purchase process acquiring authorities must have regard to: (a) eliminate unlawful discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. In performing their public functions, acquiring authorities must have due regard to the need to meet these three aims of the Equality Act 2010.*

*For example an important use of compulsory purchase powers is to help regenerate run-down areas. Although low income is not a protected characteristic, it is not uncommon for people from ethnic minorities, the elderly or people with a disability to be over-represented in low income groups. As part of the Public Sector Equality Duty, acquiring authorities must have due regard to the need to promote equality of opportunity between person who share a relevant protected characteristic and persons who do not share it. This might mean that the acquiring authority devises a process which promotes equality of opportunity by addressing particular problems that people with certain protected characteristics might have (e.g.making sure that documents are accessible for people with sight problems or learning difficulties and that people have access to advocates or advice)."*

- 9.2 The Council therefore has a statutory duty under section 149 of the Equality Act 2010 to have due regard to the need to:-

9.2.1 eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

9.2.2 advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

9.2.3 foster good relations between persons who share a 'relevant protected characteristic' (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation) and persons who do not share it.

- 9.3 A full Equality and Diversity Assessment has been carried out to ensure that the proposals accord with Council Policy on such matters. This will be monitored and reviewed throughout the promotion and implementation of the Order to ensure that any impact can be measured and mitigated against as necessary.

- 9.4 Having had full regard to its duty under section 149 of the Equality Act 2010, the Council considers there is a compelling case in the public interest sufficient to justify the making of the Order.

## 10. CONTACT INFORMATION

- 10.1 Those parties affected by the Order who wish to discuss planning matters should contact:

Helen Bielby  
Property and Projects Manager  
Lichfield District Council

01543 308252

Helen.Bielby@lichfielddc.gov.uk



10.2 Those parties affected by the Order who wish to discuss CPO process matters should contact:

Richard Foster  
Pinsent Masons LLP

0121 200 1050

Richard.Foster@pinsentmasons.com

## 11. INSPECTION OF DOCUMENTS

11.1 A copy of the Order, Order Map and other documents may be seen at:

11.1.1 Lichfield District Council, District Council House, Frog Lane, Lichfield, Staffs, WS13 6YY, Monday to Friday between 9am and 5pm.

## 12. INQUIRY PROCEDURE RULES

12.1 This Statement of Reasons is not intended to be a statement of case in accordance with the Compulsory Purchase (Inquiries Procedure) Rules 2007.

## 13. INQUIRY DOCUMENTS

13.1 The following documents may be referred to or put in evidence in the event of an inquiry. These may be inspected at the same venues and times as the Order (see **Section 11** above).

### List of Documents:

13.1.1 Planning decision notice for the scheme with reference number 17/01477/FULM granted on 19 February 2018.

13.1.2 Guidance on Compulsory Purchase (February 2018);

13.1.3 National Planning Policy Framework (March 2012);

13.1.4 National Planning Practice Guidance (2015) (this is only available for inspection via the following web-link - <http://planningguidance.communities.gov.uk>);

13.1.5 Local Plan Policy and Guidance (see Appendix 1).

13.1.6 The Council's Equality Impact Assessment;

13.1.7 The Council's Equality and Diversity Policy; and

13.1.8 The Council's Equality Objectives 2012-16.

## 14. CONCLUSION

14.1 In conclusion, for the reasons set out in this Statement of Reasons, the Council considers that there is a compelling case in the public interest for compulsory acquisition of the interests and rights referred to in the Order.

**Pinsent Masons LLP**

Dated [x] 2018

## **APPENDIX 1 – PLANNING POLICY**

### **NATIONAL PLANNING POLICY**

#### **The National Planning Policy Framework ("NPPF") (2012)**

1. The NPPF provides the Government's overarching planning policy guidance and its overriding principle is the presumption in favour of sustainable development. Its purpose is to send a strong signal to all those involved in the planning process about the need to plan positively for appropriate new development so that both plan-making and development management are proactive and driven by a search for opportunities to deliver sustainable development, rather than frustrated by unnecessary barriers. In relation to decision taking, this means "approving developments that accord with the development plan without delay"<sup>1</sup>.
2. Paragraph 17 of the NPPF identifies twelve core planning principles of which the following are of particular relevance:-
  - 2.1 Proactively drive and support sustainable economic development to deliver the homes, business units, infrastructure and thriving local places that the country needs. Every effort should be made to identify and meet housing, business and other development needs of an area, and respond positively to wider opportunities for growth;
  - 2.2 Encourage the effective use of land by reusing brownfield land; and
  - 2.3 Take account of land and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

#### **National Planning Practice Guidance ("NPPG") (2014)**

3. There are no policy changes of significance in the NPPG which would affect the decision made to make the Order.

### **LOCAL PLANNING POLICY**

1. The Lichfield District Local Plan Strategy (including saved policies) was adopted in February 2015 and sets the spatial strategy and strategic planning context for Lichfield District to 2029. The Local Plan Strategy seeks to deliver sustainable development within the District across the plan period including the provision of new development to meet the identified needs within the area.
2. The Local Plan Strategy identifies Lichfield City as the most sustainable settlement within the District and Core Policies 1, 6 and Policy Lichfield 4 are clear that the urban area of the city will play an important role in the delivery of new dwellings to meet the housing requirements for the District. This includes a focus on brownfield sites within the urban area.
3. The Lichfield District Local Plan is to be made up of two documents, the first being the Local Plan Strategy, the second being the Local Plan Allocations document which is currently emerging. The draft Local Plan Allocations document seeks to identify further allocations to meet the requirements established within the adopted Strategy. The site of the Windmill Public House is identified within the allocations document as a proposed residential allocation.
4. The Lichfield City Neighbourhood plan was 'made' and adopted as part of the development plan within the District on 17 April 2018. The neighbourhood plan covers the designated neighbourhood area which is contiguous with the civil parish of Lichfield City.

---

<sup>1</sup> National Planning Policy Framework, Paragraph 14 (March 2012)