



# CHEL TENHAM

## BOROUGH COUNCIL

### Notice of a meeting of Cabinet

**Tuesday, 9 December 2014**  
**6.00 pm**  
**Pittville Room - Municipal Offices**

<b>Membership</b>	
<b>Councillors:</b>	Steve Jordan, John Rawson, Rowena Hay, Peter Jeffries, Andrew McKinlay, Jon Walklett and Chris Coleman

### Agenda

	<b>SECTION 1 : PROCEDURAL MATTERS</b>	
<b>1.</b>	<b>APOLOGIES</b>	
<b>2.</b>	<b>DECLARATIONS OF INTEREST</b>	
<b>3.</b>	<b>MINUTES OF THE LAST MEETING</b> Minutes of the meeting held on 11 November 2014.	(Pages 1 - 6)
<b>4.</b>	<b>PUBLIC AND MEMBER QUESTIONS AND PETITIONS</b> These must be received no later than 12 noon on the fourth working day before the date of the meeting	
	<b>SECTION 2 :THE COUNCIL</b> <i>There are no matters referred to the Cabinet by the Council on this occasion</i>	
	<b>SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE</b> <i>There are no matters referred to the Cabinet by the Overview and Scrutiny Committee on this occasion</i>	
	<b>SECTION 4 : OTHER COMMITTEES</b> <i>There are no matters referred to the Cabinet by other Committees on this occasion</i>	
	<b>SECTION 5 : REPORTS FROM CABINET MEMBERS AND/OR OFFICERS</b>	
<b>5.</b>	<b>TREASURY MID-TERM REPORT 2014/15</b> Report of the Cabinet Member Finance	(Pages 7 - 16)

6.		<b>LAND ACQUISITION TO FACILITATE BREWERY DEVELOPMENT PHASE II, 233-243 (INCLUSIVE) HIGH STREET, CHELTENHAM</b> Report of the Cabinet Member Development and Safety	(Pages 17 - 70)
7.		<b>PITTVILLE SCOUTS HUT IN PITTVILLE PARK</b> Report of the Cabinet Member Finance	(Pages 71 - 76)
8.		<b>LAND ADJACENT TO 6 SAVILLE CLOSE</b> Report of the Cabinet Member Finance	(Pages 77 - 82)
9.		<b>COUNCIL TAX DISCOUNTS ON EMPTY PROPERTIES</b> Report of the Cabinet Member Finance	(Pages 83 - 90)
10.		<b>RECYCLING MATERIALS BULKING AND SALES</b> Report of the Cabinet Member Clean and Green Environment.	(Pages 91 - 124)
11.		<b>BRIEFING FROM CABINET MEMBERS</b>	
		<b>SECTION 6 : BRIEFING SESSION</b> • Leader and Cabinet Members	
		<b>SECTION 7 : DECISIONS OF CABINET MEMBERS</b> Member decisions taken since the last Cabinet meeting	
		<b>SECTION 8 : ANY OTHER ITEM(S) THAT THE LEADER DETERMINES TO BE URGENT AND REQUIRES A DECISION</b>	
		<b>SECTION 9 : LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS</b>	
12.		<b>LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS</b> The Cabinet is recommended to approve the following resolution:-  “That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraphs 1, 2 and 3, Part (1) Schedule (12A) Local Government Act 1972, namely:  Paragraph 1; Information relating to any individual.  Paragraph 2; Information which is likely to reveal the identity of an individual  Paragraph 3; Information relating to the financial or business affairs of any particular person (including the authority holding that information)	

<b>13.</b>		<b>EXEMPT MINUTES</b> Exempt minutes of the meeting held on 11 November 2014.	(Pages 125 - 126)
<b>14.</b>		<b>ST PAULS PHASE 2 - TRANSFORMATION IMPROVEMENTS TO 49 PROPERTIES ON FOLLY LANE - REVISED AND FINAL BUDGET PROPOSALS</b> Report of the Cabinet Member Housing	(Pages 127 - 168)

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### Cabinet

**Tuesday, 11th November, 2014  
6.00 - 6.30 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Steve Jordan (Leader of the Council), Rowena Hay (Cabinet Member Healthy Lifestyles), Peter Jeffries (Cabinet Member Housing), Andrew McKinlay (Cabinet Member Development and Safety), Jon Walklett (Cabinet Member Corporate Services) and Chris Coleman (Cabinet Member Clean and Green Environment)

### Minutes

- 1. APOLOGIES**  
Councillor John Rawson
  
- 2. DECLARATIONS OF INTEREST**  
There were no declarations of interest.
  
- 3. MINUTES OF THE LAST MEETING**  
The minutes of the meeting held on 14 October were approved and signed as a correct record.
  
- 4. PUBLIC AND MEMBER QUESTIONS AND PETITIONS**  
None.
  
- 5. ONE LEGAL- EXPANSION AND BREAK CLAUSE REVIEW**  
The Cabinet Member Corporate Services introduced the report which would facilitate the inclusion of Gloucester City Council to join One Legal. He explained that in November 2009 the council entered into a section 101 agreement with Tewkesbury Council and the new shared service of One Legal commenced on 30 November 2009.

The Cabinet Member explained that the creation of One Legal had delivered savings which have increased to £80 000 annually for the council. It was anticipated that an expanded service would continue to deliver potential cashable savings from service rationalisation, external spend reduction and maximise opportunities for undertaking third party work. The business case for the expanded service would also consider the key objectives which were likely to include continuing to provide an excellent legal service, adding value and providing supportive influence when required, refreshing and embedding robust processes and procedure to ensure good communication including a case management system, refreshing and enhancing specific core services standards against which service performance may be monitored and to tailor the case and file management processes to meet clients' needs.

In terms of governance the Cabinet Member reported that the Joint Monitoring and Liaison Group which monitored and reviewed One Legal performance

would continue. He reported that Gloucester City had resolved at its Cabinet meeting on 15 October that it would, subject to a business case, join One Legal. The Monitoring Officer role is intended to be retained by Gloucester City. The ambition would be for the new shared service to be implemented on 1 April 2015 subject to the approval of Tewkesbury and Cheltenham. Discussions were also ongoing with Gloucestershire County Council.

The Cabinet Member explained that this opportunity should allow One Legal to be a leading player as the largest shared legal service in the South West with excellent prospects for being the public sector legal supplier of choice in the region, with significant reputational benefits for partner authorities.

The Leader added that this was good news and positive arrangements were in place with One Legal. Members needed to be assured that the business case would deliver the improvements outlined and, as such, further discussions would take place before April. The current service arrangements with TBC should be continued.

**RESOLVED THAT**

- 1. The One Legal shared service arrangement with TBC be continued and**
- 2. Subject to the approval of a Business Case (including the financial case) by the Director of Resources in consultation with the Cabinet Member Corporate Services:**
  - the joining of Gloucester City Council's legal services with One Legal be approved.**
  - the delegation of Gloucester City Council's legal service functions and the transfer of staff to Tewkesbury Borough Council, as host authority be noted.**
  - Authority be delegated to the Director Resources in consultation with the Cabinet Member Corporate Services, to enter into the s101 Agreement, other legal documentation and to take all necessary steps to implement the above mentioned resolutions.**

**6. MOBILE HOMES ACT 2013**

The Cabinet Member Development and Safety introduced the report and explained that the Mobile Homes Act 2013 introduced new powers allowing local authorities to charge fees for their licensing functions in respect of mobile home parks and to charge for enforcement under the Act.

The Cabinet Member reported that previously local authorities did not charge and funded activities through rate funding arrangements. Charging for licensing and enforcement action therefore would allow the council to recover costs with carrying out functions under the Act and for the deposit of site rules by the site owner. The Cabinet Member referred to Appendix 2 of the report which outlined the fees payable as from 1 January 2015 which were based on the amount of time it was expected to take for inspection. In terms of enforcement charges

there was no specific fee but it was proposed that costs would be recovered on a case by case basis according to the actual costs incurred by the Council in taking enforcement action. The Cabinet Member explained that the income to be generated was modest but it was important that the public were assured that the Council properly licensed and maintained mobile home sites in a formalised process.

### **RESOLVED THAT**

- 1. the charging of licence fees as laid out in appendix 2, which will be reviewed annually, be approved.**
- 2. the charging for enforcement action to recover associated costs, which will be calculated on a case by case basis, be approved.**
- 3. the charge for depositing of site rules under the Mobile Homes (Site Rules) (England) Regulations 2014 Section 16 as contained in appendix 2 be approved.**

### **7. ALLOCATION OF HEALTH INEQUALITIES AND POSITIVE ACTIVITIES FUND 2014**

The Cabinet Member Healthy Lifestyles introduced the report which outlined the funding allocations under the Health Inequalities Fund and Positive Activities Fund 2014.

The Cabinet Member Healthy Lifestyles explained that last year the Health Inequalities Fund had been allocated via the Cheltenham partnership structure. This year a grants round went live on 18 August and 17 applications had been received totalling £71 000 for a total of £40 000 of funding. Not all bids were successful and this was outlined in Appendix 2 of the report. A number of these bids had other funding streams and some had been requested to resubmit their bids for the remaining £19 786. The successful projects covered both the young, elderly, socially isolated and mental health. All of these projects were likely to become sustainable in the future.

The Cabinet Member reported that the three Positive Activities Funding projects had come back due to further information being sought. The Panel wanted to be sure that the Naunton Park Pavillion project funding could be used for outreach work should the refurbishment take place in the next year. In terms of the County Community Projects youth café the Panel had met with the contact and then requested further information but this had not been received from the applicant. It was therefore recommended that this application was not approved at this time. The Hesters Way Neighbourhood Project proposal to deliver youth work activities in Springbank was recommended for approval of £5000 funding further to monitoring information being received by the Panel.

Members welcomed the proposals and highlighted the innovative ways in which some of the funding was proposed to be used. The Leader added that whilst the funding was modest the projects played an important role locally.

### **RESOLVED THAT**

- 1. the allocation of the Health Inequalities Fund and Positive Activities Fund as set out in appendix 2 be agreed.**
- 2. Authority be delegated to the Strategy and Engagement Manager, in consultation with the Cabinet Member Healthy Lifestyles, to award any remaining funds via a second grants round that will go live at the end of November.**

**8. LGA PEER REVIEW FEEDBACK AND ACTION PLAN**

The Leader introduced the report on the LGA peer review feedback and action plan and took the opportunity to thank those officers and members who had been involved in the process.

The Leader reminded members that the peer challenge had been requested by the Council and particular attention was given to governance, decision-making, scrutiny and the council's future. He reported that positive feedback had been received although there were some issues, these were identified in Appendix 2 and Appendix 3 of the report. He highlighted that as an organisation CBC was changing rapidly and the Peer Review Team highlighted that it was important that strategies and plans were in line with the corporate strategy being developed for 2015-18 and communicated effectively to all. The Leader acknowledged that public consultation was an issue. There had not been a detailed budget consultation for some time but he suggested that the new corporate strategy may be an opportune time to engage.

The Leader referred to the recommendation that scrutiny would benefit from targeting its effort on key projects and that the use of members' skills be maximised collectively. There were also key examples where project management had not been effective and it was important to learn the lessons from this. The review team also recognised that there were ongoing issues with the council's ICT and as the Forest of Dean/West Oxfordshire and Cotswold were working on a platform for more stability as part of the long term investment in the service.

The Leader reported that Overview and Scrutiny had considered the report at its meeting on 3 November but had not yet taken a view on a more formalised way to be involved in implementing the recommendations.

He also reported that the LGA would be requested to undertake a follow up review in six months time.

**RESOLVED THAT**

- 1. the draft action plan as set out in appendix 3 be approved**
- 2. the LGA be requested to undertake a follow up review in six months' time**
- 3. the Overview and Scrutiny Committee be requested to oversee the monitoring of the action plan.**



**9. BRIEFING FROM CABINET MEMBERS**

The Cabinet Member Development and Safety said that in the context of concerns regarding enforcement by the council in terms of planning and licensing he was pleased to report that today the Council had issued that day two cautions to premises in Cheltenham for breaches in licensing regulations. This represented a clear statement of intent from the Council that it would not compromise on safety and would take appropriate action against offenders.

The Cabinet Member Healthy Lifestyle referred to the "Reclaim the night" march on 25 November which aimed to raise awareness of domestic abuse.

Following the retirement of the Director of Commissioning, Jane Griffiths, the Leader wished to put on record his thanks, on behalf of the Cabinet, to her valuable contributions to the work of the Council.

The Leader reported that the Joint Core Strategy would be potentially formally submitted to the Secretary of State on 20 November. A briefing note would shortly be issued to Members informing them of progress made since the JCS was adopted in April 2014. He explained that only minor changes had been made to date with no significant changes in evidence coming forward. Authority had been delegated to the Chief Executive in consultation with Group Leaders to submit the formal JCS.

**10. LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS RESOLVED**

**That in accordance with Section 100A(4) Local government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1 and 2, Part (1) Schedule (12A) Local Government Act 1972, namely :**

**Paragraph 1 : Information relating to any individual**

**Paragraph 2 : Information which is likely to reveal the identity of an individual**

**11. DECISIONS MADE BY CABINET MEMBERS**

On behalf of the Cabinet Member Finance the Leader informed that a decision had been taken with regard to accepting the tender from Bowater Projects Ltd for the supply and installation of replacement PVCu windows and private balcony PVCu doors at the three adjacent blocks of flats; Hobart House, 33-55 Shelley Road.

**12. COMPULSORY PURCHASE 30 PENNINE ROAD**

The Cabinet Member Development and Safety introduced the report which recommended the Compulsory Purchase of 30 Pennine Road, a privately owned property which had been vacant since approximately 2008 and had deteriorated significantly. Whilst compulsory purchase was seen as the last resort it was now being considered as a means to bring the property back into

residential use and allow renovation to improve its appearance and prevent further loss of amenity to the area.

Members supported the recommendation.

**RESOLVED THAT**

1. the making of a Compulsory Purchase Order ('the Order') under section 226 (1)(a) of the Town and Country Planning Act 1990 to acquire 30 Pennine Road, Cheltenham, as shown edged red on the attached plan (Appendix 2) (the Order Land) be authorised.
2. the Borough Solicitor be authorised to seal the Order and take all necessary steps, including the publication of all statutory notices and to represent the Council at Public Inquiry if necessary, to secure confirmation of the Order and the vesting of the Order land in the Council.
3. the Head of Property and Asset Management if the owner(s) can be traced be authorised to negotiate with them to secure a purchase of the Order Land in advance of confirmation of the Order.
4. the Head of Property and Asset Management be authorised to arrange for a valuation in respect of the Compulsory Purchase of the Order Land and to make any minor or technical amendments to the boundary of the Order Land.
5. In the event that the Secretary of State notifies the Council that it has been given power to confirm the Order, the Borough Solicitor be authorised to confirm the Order and carry out the necessary work to allow the property to be sold.
6. In the event that the Secretary of State confirms the Order, the vesting of the Order Property in the Council and the carrying out of the necessary work to allow the property to be sold be authorised.

**Chairman**

### Cheltenham Borough Council Cabinet – 9<sup>th</sup> December 2014 Council – 15<sup>th</sup> December 2014 Treasury Mid-Term Report 2014/15

<b>Accountable member</b>	Finance, John Rawson
<b>Accountable officer</b>	Director Resources , Mark Sheldon
<b>Accountable scrutiny committee</b>	Overview and Scrutiny
<b>Ward(s) affected</b>	None
<b>Key Decision</b>	Yes
<b>Executive summary</b>	<p>The Treasury Management Strategy for 2014/15 has been determined by the adoption of the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2009 (revised 2011), which includes the requirement for determining a treasury strategy on the likely financing and investment activity for the forthcoming financial year. The Code also recommends that members are informed of Treasury Management activities at least twice a year. This report therefore ensures this authority has adopted the code and complies with its requirements.</p> <p>An amendment to the 2014/15 Treasury Management Strategy is required in relation to sovereign support for the current approved lending list. The main rating agencies (Fitch, Moody's and Standard and Poor's) may remove some of the institutions' sovereign support following evolving regulatory changes. This process may commence during this financial year. The actual timing of the changes is still subject to discussion, but this does mean immediate changes to the credit methodology are required. As a result of these rating agency changes, the credit element of Capita's future methodology will focus solely on the Short and Long Term ratings of each institution. Furthermore, Capita will continue to utilise Credit Default Swaps (CDS) prices as an overlay to ratings in their new methodology.</p>
<b>Consultation</b>	The Treasury Management Panel considered this report on 17th November 2014.
<b>Recommendations</b>	<p><b>Cabinet approve the following recommendation to Council:</b></p> <ol style="list-style-type: none"> <li><b>1. Note the contents of the summary report of the treasury management activity during the first six months of 2014/15.</b></li> <li><b>2. Approve the changes to the credit methodology whereby viability, financial strength and support ratings will not be considered as key criteria in the choice of creditworthy investment counterparties.</b></li> </ol>

<b>Financial implications</b>	All financial implications are detailed throughout the report  <b>Contact officer: Andrew Sherbourne,</b> <b>andrew.sherbourne@cheltenham.gov.uk, 01242 264337</b>
<b>Legal implications</b>	None specific arising from the report recommendations.  <b>Contact officer: Peter Lewis,</b> <b>peter.lewis@teWKesbury.gov.uk, 01242 264216</b>
<b>HR implications (including learning and organisational development)</b>	No direct HR implications arising from this report  <b>Contact officer: Julie McCarthy,</b> <b>julie.mccarthy@cheltenham.gov.uk. 01242 264355</b>
<b>Key risks</b>	see appendix 2
<b>Corporate and community plan Implications</b>	None
<b>Environmental and climate change implications</b>	None

## 1. Background

1.1 The Treasury Management Strategy for 2014/15 has been developed by the adoption of the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2009 (revised 2011), which includes the requirement for determining a treasury strategy on the likely financing and investment activity for the forthcoming financial year. The Code also recommends that members are informed of Treasury Management activities at least twice a year. This report therefore ensures this authority has adopted the code and complies with its requirements, one of which is the provision of a mid-year report to Members.

## 2. Economic update for the first six months

2.1 The following key points have been provided by the Council's Treasury Advisors, Capita Treasury Solutions.

2.2 After strong UK GDP quarterly growth in the last three quarters of 2013 and quarters one and two of 2014, it appears very likely that strong growth will continue throughout the remaining part of 2014 and into 2015 as forward surveys for the services and construction sectors, are very encouraging and business investment is also strongly recovering.

2.3 The strengthening in economic growth appears to have supported the labour market with unemployment falling much faster through the initial threshold of 7%, set by the Monetary Policy Committee (MPC) in August 2013, before it said it would consider any increases in the Bank Rate. The MPC has therefore subsequently broadened its forward guidance by adopting five qualitative principles and looking at a much wider range, of at least eighteen indicators in order to form a view on how much slack there is in the economy and how quickly it is being used up.

- 2.4 Also encouraging has been the sharp fall in inflation (CPI) reaching 1.2% in September, the lowest for five years and it is possible it could go as low as 1% later on this year. Overall markets are expecting that the MPC will be cautious in raising Bank Rate but a first increase is expected in Quarter 2 of 2015 and they expect rates to increase at a slow pace to lower levels than prevailed before 2008 as increases will have a much bigger effect on heavily indebted consumers than they did before 2008.

### 3. Portfolio position 1/4/2013 to 30/9/2013

Movements in the Council's borrowing during the first six months of 2013/14 financial year can be seen in the table below. Long term loans are deemed to be those repayable over a period of more than one year.

Source of Loan	Balance at 1 April 2014 £	Raised during Apr-Sept £	Repaid during Apr-Sept £	Balance at 30 Sept 2014 £
<b>Temporary Borrowing</b>				
- Local Authorities	0	4,200,000	4,200,000	0
Temporary Investment	20,000	0	0	20,000
<b>Total Short Term Borrowing</b>	<b>20,000</b>	<b>4,200,000</b>	<b>4,200,000</b>	<b>20,000</b>
<b>Long Term Borrowing</b>				
- Public Works Loan Board	41,808,880	1,400,000	178,156	43,030,724
- Market Loans	15,900,000	0	0	15,900,000
<b>Long Term Borrowing</b>	<b>57,708,880</b>	<b>1,400,000</b>	<b>178,156</b>	<b>58,930,724</b>
<b>Total External Borrowing</b>	<b>57,728,880</b>	<b>5,600,000</b>	<b>4,378,156</b>	<b>58,950,724</b>

- 3.1 In February 2014 the Council's borrowing costs for 2014/15 was set to be £2,014,300. This is now forecast to come under by approximately £2,500 against budget. Average temporary borrowing of £148k at an average interest rate of 0.33% has occurred between 1<sup>st</sup> April and 30<sup>th</sup> September 2014. Of the £59.04m borrowing outstanding as at 30<sup>th</sup> September 2014, the HRA share of this is £44.7m, leaving the General Fund with £14.34m in which £6.7m are loans taken out for third parties which are cost neutral to the Council.
- 3.2 The PWLB remains an attractive source of borrowing for the Council as it offers flexibility and control. Due to downward moves in gilt yields in the first quarter, this resulted in PWLB rates falling across all maturities. In May 2014 a loan of £1.4m was taken out with the PWLB for forty years at

a rate of 4.22% on behalf of Cheltenham Borough Homes. The loan is cost neutral for the Council as Cheltenham Borough Homes are repaying the Council in line with the repayment schedule.

## 4. Investments

The DCLG's Guidance on Local Government Investments in England gives priority to security and liquidity and the Council's aim is to achieve a yield commensurate with these principles.

Security of capital remained the Council's main investment objective. This was maintained by following the Council's counterparty policy as set out in its Treasury Management Strategy for 2014/15 approved by Council on the 14th February 2014 and then again on 21<sup>st</sup> July 2014 when amendments were made to the lending list. This restricted new investments to the following

- T-Bills and the Debt Management Office (DMO)
- Other Local Authorities
- AAA-rated Money Market Funds
- UK Banks & Building Societies – Minimum long term rating of A or equivalent across all three rating agencies (Fitch, Standard & Poors and Moody's)
- Other - Cheltenham Festivals, Gloucestershire Airport Company, Everyman Theatre, Ubico and Cheltenham Borough Homes

Counterparty credit quality is assessed and monitored with reference to :-

- Credit ratings
- Credit Default Swaps
- Share Price
- GDP of the country in which the institution operates

**4.1** It is a very difficult investment market in terms of earning the level of interest rates commonly seen in previous decades as rates are very low and in line with the 0.50% Bank Rate. Indeed, the introduction of the Funding for Lending scheme has reduced market investment rates even further. The potential for a prolonging of the Eurozone sovereign debt crisis, and its impact on banks, prompts a low risk and short term strategy. As part of the 2014/15 Treasury Management Strategy investments have only been made to UK based banks/building society which met the lending criteria set, and up to a maximum period of one year. Treasury officers have kept to this strategy for the period reported on. Given this risk environment, investment returns are likely to remain low.

**4.2 Investments - Movements in the Council's investment portfolio during the first six months of 2014/15 can be seen in the table below.**

<b>Source of Loan</b>	<b>Balance at 1 April 2013 £</b>	<b>Raised during Apr-Sept £</b>	<b>Repaid during Apr-Sept £</b>	<b>Balance at 30 Sept 2013 £</b>
Bank – Term Deposit	3,000,000	11,000,000	4,000,000	10,000,000
Building Societies	2,000,000	13,600,000	8,800,000	6,800,000
Bank of Scotland Call A/C	5,315,000	47,025,000	50,580,000	1,760,000
Santander Uk Call A/C	5,645,000	12,255,000	17,900,000	0
Glos Airport Ltd	280,000	0	35,000	245,000
Money Market Funds	830,000	4,760,000	5,090,000	500,000
<b>Total Short Term Lending</b>	<b>17,070,000</b>	<b>88,640,000</b>	<b>86,405,000</b>	<b>19,305,000</b>
<b>Icelandic Banks in administration</b>	<b>Balance at 1 April 2013 £</b>	<b>Raised during Apr-Sept £</b>	<b>Repaid during the year £</b>	<b>Balance at 30 Sept 2013 £</b>
- Kaupthing Singer & Friedlander	553,205	0	0	553,205
- Glitnir	572,400	0	0	572,400
<b>Total Icelandic Banks</b>	<b>1,125,605</b>	<b>0</b>	<b>0</b>	<b>1,125,605</b>
<b>Total External Investments</b>	<b>18,195,605</b>	<b>88,640,000</b>	<b>86,405,000</b>	<b>20,430,605</b>

- 4.3** In February 2014 the Council's Investment income for 2014/15 was budgeted to be £41,400. The average cash balances representing the council's reserves and working balances, was £17.2m during the period this report covers. The Council anticipates an investment outturn of £111,400 at a rate of 0.63% for the whole year. Security of capital has remained the Council's main investment objective. This has been maintained by following the Council's counterparty policy as set out in its Treasury Management Strategy Statement for 2014/15.
- 4.4** Included within the investments of £20.43m as at 30<sup>th</sup> September 2014, the Council has £1.126m deposited in the collapsed Icelandic banks.
- 4.5** Glitnir's Winding – up - Board made a distribution to priority creditors back in March 2012, which amounted to 78p in the pound. The remaining balance is held in an escrow account in Iceland. The Central Bank of Iceland is controlling the movement of Icelandic Krona's, so the Council has been unable to gain access to these funds. The Council is working with the Local Government Association (LGA) and Bevan Brittan (appointed solicitors) to recover the remaining amount. 100% is expected to be recovered

4.6 Kaupthing Singer & Friedlander administrators have made distributions of 81.5p in the pound to date. Administrators currently estimate a total return of 85p-86.5p in the pound. The next dividend is expected to be paid out in early December 2014 and is estimated to be a 1p in the pound.

## 5. Prudential Indicators

5.1 During the financial year to date the Council has operated within the treasury limits and Prudential Indicators set out in the Council's Treasury Policy Statement and Annual Treasury Strategy Statement. Appendix 1 attached highlights the major indicators.

## 6. Outlook

6.1 Capita Asset Services undertook a review of its interest rates in mid - August and then again in October 2014. The latest forecast includes a first increase in Bank Rate in quarter 2 of 2015. Downside risks to rates rising would be that the UK strong economic growth is currently dependent on consumer spending and the unsustainable boom in the housing market. The boost from these sources is likely to fade after 2014. Also a weak rebalancing of UK growth to exporting and business investment causing a weakening of overall growth beyond 2014 as well as a return to weak growth in the US and China, UK's two main trading partners could suspend any future Bank Rate rises.

	Sep-14	Dec-14	Mar-15	Jun-15	Sep-15	Dec-15	Mar-16	Jun-16	Sep-16	Dec-16	Mar-17	Jun-17
Bank rate	0.50%	0.50%	0.50%	0.75%	0.75%	1.00%	1.00%	1.25%	1.25%	1.50%	1.50%	1.75%
5yr PWLB rate	2.70%	2.50%	2.70%	2.70%	2.80%	2.90%	3.00%	3.10%	3.20%	3.30%	3.40%	3.50%
10yr PWLB rate	3.40%	3.20%	3.40%	3.50%	3.60%	3.70%	3.80%	3.90%	4.00%	4.00%	4.10%	4.20%
25yr PWLB rate	4.00%	3.90%	4.00%	4.10%	4.30%	4.40%	4.50%	4.60%	4.70%	4.70%	4.80%	4.80%
50yr PWLB rate	4.00%	3.90%	4.00%	4.10%	4.30%	4.40%	4.50%	4.60%	4.70%	4.70%	4.80%	4.80%

## 7. Performance management

7.1 In compliance with the requirements of the Treasury Management CIPFA Code of Practice this report provides members with a summary report of the treasury management activity during the first six months of 2014/15. None of the Prudential Indicators have been breached and a prudent approach has been taken in relation to investment activity with priority being given to security and liquidity over yield.

<b>Report author</b>	<b>Contact officer: Andrew Sherbourne, andrew.sherbourne@cheltenham.gov.uk</b>  <b>01242 264337</b>
<b>Appendices</b>	Risk Appendix 1  Prudential Indicators Appendix 2
<b>Background information</b>	Treasury Management Strategy, Council 8th February 2014



The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	I	L	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	LOBO Loans - If £7m of these loans is recalled by the banks if they choose to exercise their option then we would need to have the resources on the day to repay. Alternative borrowing arrangements at today's current rates would be favourable for the Council	Director for Resources Mark Sheldon	24 <sup>th</sup> January 2012	1	2	2	Accept	If the loans are recalled the council could take out temporary borrowing which is currently much lower than the rates on these loans. Any capital receipts available could also be used to repay debt.	March 2015	Section 151 Officer Mark Sheldon	

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## The Council's Capital Position (Prudential Indicators)

This part of the report is structured to update:

- The Council's capital expenditure plans;
- How these plans are being financed;
- The impact of the changes in the capital expenditure plans on the prudential indicators and the underlying need to borrow; and
- Compliance with the limits in place for borrowing activity.

### Prudential Indicator for Capital Expenditure

This table shows the revised estimates for capital expenditure and the changes since the capital programme was agreed at the Budget.

<b>Capital Expenditure by Service</b>	<b>2014/15 Original Estimate</b>	<b>Current Position As at 30<sup>th</sup> Sept 2014</b>	<b>2014/15 Revised Estimate</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>
General Fund	4.237	1.909	8.984
HRA	8.249	3.996	8.249
<b>Total</b>	<b>12.486</b>	<b>5.905</b>	<b>17.233</b>

### Changes to the Financing of the Capital Programme

The table below draws together the main strategy elements of the capital expenditure plans (above), highlighting the original supported and unsupported elements of the capital programme, and the expected financing arrangements of this capital expenditure. The borrowing element of the table increases the underlying indebtedness of the Council by way of the Capital Financing Requirement (CFR), although this will be reduced in part by revenue charges for the repayment of debt (the Minimum Revenue Provision). This direct borrowing need may also be supplemented by maturing debt and other treasury requirements.

<b>Capital Expenditure</b>	<b>2014/15 Original Estimate</b>	<b>2014/15 Revised Estimate</b>
	<b>£m</b>	<b>£m</b>
Financed by:		
Capital receipts	1.670	2.756
Capital grants	320	829
Capital reserves	6.189	7.036
Third Party Contribution	50	146
Revenue	1.957	1.958
<b>Total financing</b>	<b>10.186</b>	<b>12.725</b>
<b>Borrowing need</b>	<b>2.300</b>	<b>4.508</b>

### Changes to the Prudential Indicators for the Capital Financing Requirement, External Debt and the Operational Boundary

The table shows the CFR, which is the underlying external need to incur borrowing for a capital purpose. It also shows the expected debt position over the period. This is termed the Operational Boundary.

### Prudential Indicator – Capital Financing Requirement

We are on target to achieve the original forecast Capital Financing Requirement

## Prudential Indicator – External Debt / the Operational Boundary

	2014/15 Original Estimate	Current Position As at 30 <sup>th</sup> Sept 2014	2014/15 Revised Estimate
	£m	£m	£m
<b>Prudential Indicator – Capital Financing Requirement</b>			
CFR – non housing	37.194	18.597	37.194
CFR – housing	35.400	17.700	35.400
Total CFR	72.594	36.297	72.594
<b>Net movement in CFR</b>	-		-
<b>Prudential Indicator – External Debt / the Operational Boundary</b>			
Borrowing	101.000	101.000	101.000
Other long term liabilities*	-	-	-
<b>Total debt 31 March</b>	<b>101.000</b>	<b>101.000</b>	<b>101,000</b>

## Limits to Borrowing Activity

The first key control over the treasury activity is a prudential indicator to ensure that over the medium term, net borrowing (borrowings less investments) will only be for a capital purpose. Gross external borrowing should not, except in the short term, exceed the total of CFR in the preceding year plus the estimates of any additional CFR for 2014/15 and next two financial years. This allows some flexibility for limited early borrowing for future years. The Council has approved a policy for borrowing in advance of need which will be adhered to if this proves prudent.

	2014/15 Original Estimate	Current Position As at 30 <sup>th</sup> Sept 2014	2014/15 Revised Estimate
	£m	£m	£m
Gross borrowing	71.774	68.270	71.774
CFR* (year end position)	72.235	72.235	72.235

The Director of Resources reports that no difficulties are envisaged for the current or future years in complying with this prudential indicator.

A further prudential indicator controls the overall level of borrowing. This is the Authorised Limit which represents the limit beyond which borrowing is prohibited, and needs to be set and revised by Members. It reflects the level of borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term. It is the expected maximum borrowing need with some headroom for unexpected movements. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003.

<b>Authorised limit for external debt</b>	2014/15 Original Indicator £m	Current Position As at 30 <sup>th</sup> Sept 2014 £m	2014/15 Revised Indicator £m
Borrowing	61.274	59.018	61.274
Other long term liabilities*	0	0	0
Total	61.274	59.018	61.274

## Cheltenham Borough Council

**Cabinet – 9<sup>th</sup> December, 2014**

### Compulsory Purchase Resolution

#### **Land acquisition to facilitate Brewery development phase II, 233-243 (inclusive) High Street, Cheltenham**

<b>Accountable Member</b>	<b>Cabinet Member Development and Safety, Cllr Andrew McKinlay</b>
<b>Accountable Officer</b>	<b>Mike Redman, Director of Environmental and Regulatory Services</b>
<b>Ward(s) Affected</b>	<b>St Paul's</b>
<b>Key Decision</b>	<b>Yes</b>
<b>Executive Summary</b>	<p>This report explains the reasons and justification for making the Cheltenham Borough Council (233-243 Cheltenham High Street) Compulsory Purchase Order 2014 (the <b>Order</b>) under section 226(1)(a) of the Town and Country Planning Act 1990 (the 1990 Act) which will need to be submitted to the Secretary of State for Communities and Local Government (the <b>Secretary of State</b>) to request its confirmation.</p> <p>The Order is required to facilitate the comprehensive redevelopment and regeneration of a significant part of Cheltenham High Street, from numbers 233 to 269 inclusive, and the adjoining area to contribute towards significant social, economic and environmental improvements in the area.</p> <p>This will be achieved through the demolition and redevelopment of the commercial units fronting the High Street and the immediately adjoining commercial interests to the north, together with the stopping-up of Baynham Way which will support the improvement of the commercial offer and deliver connectivity of the High Street to the leisure based Brewery scheme.</p> <p>The proposed redevelopment has the potential to bring substantial economic, environmental, retail and social benefits to the Western end of Cheltenham High Street, and critically, will assist with uplifting the Lower High Street too. The area has had a range of uses over the last century, but in common with many High Streets its defining feature has been its retail offer. The current arrangement was built in the 1960's and replaced a more traditional High Street of individual units from varying time periods. The current single unit is very much "of its time" with a brutalistic architecture presenting a slab-like façade with limited articulation and critically no opportunity to penetrate to the spaces behind as was previously the case with a former access to the historic Brewery. The regeneration of this area is a high order priority for the Council as a means of improving the appearance of this area, and creating better connectivity between the main</p>

<p><b>Recommendations</b></p>	<p>High Street thoroughfare and the currently physically separated leisure quarter, based in the Brewery complex.</p> <p>In conclusion, it is considered that there is a compelling case in the public interest for the making of the CPO and interfering with the human rights of those affected by the scheme.</p> <p><b>Cabinet is recommended:-</b></p> <ol style="list-style-type: none"><li><b>1. To authorise the making of a Compulsory Purchase Order ('the Order') under section 226 (1)(a) of the Town and Country Planning Act 1990 to acquire 233 to 243 High Street (inclusive), Cheltenham, as shown edged red on the attached plan (Appendix 2) (the Order Land), provided that the Costs Indemnity Agreement has been entered into between NFUM and the Council.</b></li><li><b>2. To authorise the Borough Solicitor to seal the Order and take all necessary steps, including the publication of all statutory notices and to represent the Council at Public Inquiry if necessary, to secure confirmation of the Order and the vesting of the Order Land in the Council.</b></li><li><b>3. To authorise the Head of Property and Asset Management if the owner(s) can be traced to negotiate with them and take all necessary steps to seek to acquire the necessary interests in the Order Land by agreement or by utilising compulsory acquisition powers.</b></li><li><b>4. To authorise the Head of Property and Asset Management to arrange for a valuation in respect of the Compulsory Purchase of the Order Land and to make any minor or technical amendments to the boundary of the Order Land. Such amendments would only be to reduce rather than increase the size of the Order Land.</b></li><li><b>5. To authorise the Borough Solicitor under Section 6(4) of the Acquisition of Land Act 1981 to dispense with individual service of notices in respect of areas of land where the Council is satisfied that it has not been possible following proper enquiry to establish the ownership of the land in question and for the service of notices in the manner set out in Section 6(4) of the Acquisition of Land Act 1981.</b></li><li><b>6. In the event that the Secretary of State notifies the Council that it has been given power to confirm the Order, to authorise the Borough Solicitor to confirm the Order to allow the Order Land to be transferred to a third party for redevelopment.</b></li><li><b>7. In the event that the Secretary of State confirms the Order, authorise the vesting of the Order Land in the Council and the carrying out of any necessary work to allow the Order Land to be transferred to a third party for redevelopment.</b></li><li><b>8. To authorise the Borough Solicitor to utilise, where appropriate either the General Vesting Declaration procedure under the Compulsory Purchase (Vesting Declarations) Act 1981 or the</b></li></ol>
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	<p align="center"><b>notice to treat procedure under Section 5 of the Compulsory Purchase Act 1965.</b></p>
<p><b>Financial Implications</b></p>	<p>The Council must have sufficient funds to meet all the expenses including legal costs and fees associated with Order Lands purchase and onward transfer; any compensation claims associated with the acquisition and to meet any other heads of claim as appropriate.</p> <p>Circular 06/04 highlights that the Secretary of State will want to be reassured that there is a realistic prospect that the Order Lands will be brought into beneficial use within a reasonable timeframe. Paragraph 20 states that in preparing its justification, the acquiring authority should provide as much information as possible about the resource implications of acquiring the land and implementing the scheme, though it is acknowledged that projects may not be intended to be commercially viable or that it may not be possible to finalise details until there is certainty regarding assembly of the land. In such instances the authority should provide an indication of how any potential shortfalls are to be met.</p> <p>Paragraph 21 states that, even more importantly, the confirming Minister would expect to be reassured that it was anticipated that adequate funding would be available to enable the authority to complete the compulsory acquisition within the statutory period following confirmation of the order.</p> <p>Officers are satisfied that the necessary resources are available to achieve the regeneration of the Order Lands, whereby the Order powers would be implemented and land will be developed within the 3 year statutory period. Under the terms of a Costs Indemnity Agreement which will be entered into by NFUM and the Council if the recommendation to make the Order is approved, NFUM fully underwrites all costs of process, acquisition and compensation resulting from the preparation, confirmation and implementation of the Order.</p> <p>NFUM have total Funds under management of over £14 billion and a property portfolio of £1.5 billion. £31 million has been allocated to this specific project and therefore the Council is assured that any compensation claims arising from a Order can be met.</p> <p>It is not considered that there are any financial impediments to the scheme, and particularly Phase 2b, proceeding.</p> <p>Phase 2a of the scheme is already on-site with initial enabling works and demolition being carried out. The construction contract is for both phases so subject to securing the Order Lands, there is certainty that the Order Lands will be brought into beneficial use within a reasonable timescale.</p> <p>Given the assurances regarding the re-imbursement of costs, the council will not be required to make a budgetary provision, hence there are no financial implications for the council.</p> <p><b>Contact officer: Nina Philippidis (<a href="mailto:nina.philippidis@cheltenham.gov.uk">nina.philippidis@cheltenham.gov.uk</a>) 01242 264121</b></p>
<p><b>Legal Implications</b></p>	<p>Section 226(1)(a) of the Town and Country Planning Act 1990 enables Local Authorities to acquire land compulsorily to facilitate development,</p>

	<p>redevelopment or improvement of land. Such authorities can exercise their compulsory purchase powers if they think that acquiring the land in question will contribute to the achievement of promoting or improving the economic, social or environmental well-being of an area.</p> <p>A Public Inquiry may be held if there are objections to the CPO but if none are submitted or are withdrawn, the Secretary of State may authorise the Council to confirm the CPO itself or decide to confirm it himself.</p> <p>If, after sufficient and diligent investigations have been carried out, any owner of the Order Land cannot be found the Council can make a Compulsory Purchase Order with an “unknown/absent owner” notice. This involves a similar procedure to that with identified owners, but with more emphasis on notices being attached to the relevant Order Land. If the owner cannot be traced, any compensation payable would generally be paid into court and if not claimed will be repaid to the Council after a period of time, generally after 12 years, although there are other practical ways of dealing with the compensation.</p> <p>If the Owner is merely not replying to enquiries, then the notices can be served on the last known address and the normal procedure followed.</p> <p>There are human rights implications that must be considered before making a compulsory purchase order. More information is contained in section 7 of this report.</p> <p><b>Contact officer: Donna Ruck ( <a href="mailto:donna.ruck@teWKesbury.gov.uk">donna.ruck@teWKesbury.gov.uk</a> ) 01242 775074 or 01684 272696</b></p>
<p><b>HR Implications (including learning and organisational development)</b></p>	<p>None arising directly from this report.</p> <p><b>Contact officer: Richard Hall, HR Business Partner West, GOSS ( <a href="mailto:richard.hall@cheltenham.gov.uk">richard.hall@cheltenham.gov.uk</a> )</b></p>
<p><b>Key Risks</b></p>	<p>See Appendix 1</p>
<p><b>Corporate and Community Plan Implications</b></p>	<p>Under the objective ‘Cheltenham has a strong and sustainable economy’ the Council has a stated aspiration to work with developers to enable the extended development of the Brewery site, to link the existing Phase 1 scheme with the High Street. This was originally set out in the action plan for 2013-14 relating to the Council’s Corporate Strategy 2010-15, under ‘Strategic Projects’ ECD3 on Page 10. This document was approved by the Council on 25 March 2013. This document stated that a key milestone is to ‘work with developers to enable them to start construction work on the Brewery/ High Street site’.</p> <p>This position was restated in the Council’s published Action Plan for 2014-15:-</p> <p><b>ECON 1</b> - We will continue to support Cheltenham Development Task Force</p> <p>Provide support for the private sector Brewery development Phase 2 which will link Phase 1 directly to the High Street, improving the economic performance of the centre and securing a significant street scene</p>



	improvement.
<b>Environmental and Climate Change Implications</b>	The redevelopment of the Order Land to modern standards is likely to improve the site in terms of its relative energy efficiency and will help to improve the vibrancy of this part of the town centre, contributing to housing targets and supporting the general environmental well-being of the area.
<b>Property/Asset Implications</b>	There are no direct property/asset implications as any acquired interests will be transferred to NFUM, who it has been agreed will cover the Council's costs of promotion of the Order and payment of compensation claims.  <b>Contact officer: David Roberts@cheltenham.gov.uk</b>

## 1 Background

- 1.1** It is widely accepted that the relevant area of the High Street to which this report relates has been in decline for more than a decade.
- 1.2** Phase 1 of the redevelopment of the Old Brewery site comprising leisure, retail and residential accommodation is complete and opened in 2006. Phase 2a of the redevelopment includes the demolition of units 255 to 269 of the High Street, together with a pedestrian link to the Phase 1 Brewery development and public realm works. Phase 2a of the development has already commenced. Phase 2b of the redevelopment (for which the Order is recommended) involves the demolition of units 233 to 253 of the High Street and the construction of retail and residential uses.
- 1.3** The National Farmers Union Mutual (**NFUM**) is the developer and freehold owner of all of the land within the Scheme, and by definition within the sub-area affected by this Order (the **Order Lands**).
- 1.4** In accordance with the ODPM Guidance Circular 06/04 'Compulsory Purchase and the Crichel Down Rules' (Circular 06/04), NFUM and the Council have sought to acquire the land and interests in land necessary to deliver Phase 2b by agreement and the majority of occupational interests within Phase 2b have been acquired by private treaty. However, the Council needs to secure acquisition of all remaining leasehold property interests currently held by third parties, as well as other rights and easements to ensure that the remainder of the Scheme may be implemented in a comprehensive manner within an appropriate timeframe.
- 1.5** The Council will continue to negotiate (through NFUM and its agents) in order that the outstanding interests can be acquired by mutual agreement if possible, in accordance with the guidance set out within Circular 06/04. However, the Order needs to be promoted to ensure that the full programme of development can be achieved within a reasonable timeframe in order to achieve the intended regeneration benefits if such agreement cannot be reached.
- 1.6** The extent of the Order Lands is shown on the attached plan at Annex 2 outlined in red and shaded pink.
- 1.7** NFUM and its agent (Martin Commercial Properties) have already secured detailed planning consent for the Scheme including Phase 2b. The redevelopment is consistent with the current Cheltenham Local Plan and has full planning consent (Ref: 14/00182/FUL). Planning Permission was granted on 2 July 2014.
- 1.8** The proposed Scheme of regeneration, taken as a whole, has the potential to bring substantial economic, environmental, retail and social benefits to the western end of Cheltenham High

Street, and will also assist with uplifting the Lower High Street. The area has had a range of uses over the last century, but in common with many High Streets its defining feature has been its retail offer. The current arrangement was built in the 1960's and replaced a more traditional High Street of individual units from varying time periods. The current single unit is very much "of its time" with a brutalist architecture presenting a slab like façade with limited articulation and critically, no opportunity to penetrate to the spaces behind as was previously the case with the former access to the historic Brewery site. The regeneration of this area is a high order priority for the Council as a means of improving its appearance and of creating better connectivity between the main High Street thoroughfare and the currently physically separated leisure quarter, based in the Brewery complex. The site was clearly identified as a target for the Cheltenham Development Task Force (CDTF) which was set up in early 2010 by CBC, as an arm's length delivery vehicle with a specific remit to help unlock challenging sites, such as this one.

- 1.9 There is a clear and compelling case in the public interest for compulsory purchase powers as sought in the Order.

## 2 Purpose of acquisition and Justification for use of Compulsory Purchase Powers

- 2.1 In January 1999, the Council published a Development Brief (adopted as Supplementary Planning Guidance) for land including the Order Lands. The Development Brief (amongst other things) aimed to revitalise the High Street, increase the attraction of the town centre to residents and visitors, facilitate local safe and stress-free circulation for pedestrians, cyclists, buses and cars and to achieve high standards of development. The Development Brief specifically identified a need to link the High Street to the Brewery Phase 1, stating:

"The main problem with the [Brewery] site in this context is the lack of a direct link with the High Street and opportunities to create this should be explored."

- 2.2 The aspirations of the Development Brief are echoed by the conclusions of the Retail and Leisure Study carried out by DPDS in 2006. The study recognised that the area continued to attract less investment than other parts of the town centre notwithstanding the recent Brewery redevelopment. It considered that development to improve linkages should be encouraged.
- 2.3 In early 2010, the CDTF was established, following a full Council resolution in December 2009 which was supported unanimously (bar one abstention). One of its first priorities was to publish its challenges and opportunities leaflet identifying key town centre sites that had eluded delivery. Phase 2 of the Brewery Scheme was listed amongst those sites.
- 2.4 The Council has a stated aspiration to work with developers to enable the extended development of the Brewery site, to link the existing Phase 1 scheme with the High Street. This is set out in the action plan for 2013-14 relating to the Council's Corporate Strategy 2010-15, under 'Strategic Projects' ECD3 on Page 10. This document was approved by the Council on 25 March 2013. This document states that a key milestone is to 'work with developers to enable them to start construction work on the Brewery/ High Street site'.
- 2.5 The High Street, not unsurprisingly, is considered by the Council to be a vitally important component of the town centre and the relative fragility of this section through lack of investment and severance at Boots Corner is viewed as having a detrimental impact on the wider economic and social performance of the town centre as a whole. The Council promoted the regeneration of this High Street frontage as a way of ensuring the long term survival and success of both the High Street and the leisure quarter created by Phase 1 of the Brewery Scheme.
- 2.6 The economic case for regeneration and potential contribution to Gross Value Added was set out in an independent assessment for a bid application to the Department for Transport, titled 'An Economic Impact Assessment of Boots Corner and King's Quarter Schemes' in support of a Local Sustainable Transport Fund (LSTF) Bid Application. (The Boots Corner assessment includes the Brewery scheme as well as another scheme in Gloucester.) The assessment was

carried out by DC Research who specialise in economics & regeneration and was completed in line with Treasury Green book guidance. It contributed to a successful LSTF bid which aims to tackle the existing severance of the Cheltenham High Street at Boots Corner. This Scheme was also recognised as a catalyst and part of a wider effort to better integrate Phase 1 of the Brewery development with the High Street. Phase 2b of the redevelopment plays its part in promoting the LSTF ambition by supporting modal shift and creating a better public realm and bus access zone along this part of the High Street.

- 2.7** The LSTF scheme is much wider than Boots Corner and has been the subject of several tiers of public consultation. It is anticipated that GCC as the highways authority will be holding a Traffic Regulation Order Committee in January 2015 as part of the process to determine the implementation strategy of the LSTF backed Cheltenham Transport Plan. If fully implemented it aims to reduce severance at Boots Corner and better connect the High Street into a seamless and cohesive commercial zone.
- 2.8** As a result of active collaboration between CDTF and Martin Commercial Property, a planning application (with reference 12/00319 FUL) was submitted to the Council as local planning authority and planning permission granted at planning committee in July 2012. A revised application for planning permission (allocated reference 14/00182/FUL) was subsequently granted on 2 July 2014. The rationale for the revised application was to provide improved vehicular access between Oxford Passage and Bennington Street as a result of NFUM purchasing some additional land from 27-33 Bennington Street. The additional land purchased also allowed for the provision of an additional 5 parking spaces within the application site which was welcomed by GCC's Highways Department.
- 2.9** The redevelopment of the existing Cheltenham High Street retail frontage proposed as part of the Scheme (at units 233-269 inclusive), which was built in the 1960's, will deliver significant improvements to the area, promoting renewed retail use of the Order Lands, whilst also providing direct pedestrian access to Phase 1 behind.
- 2.10** The regeneration Scheme will support the local community through increased employment through construction and enterprise opportunities, diversity of the housing stock and the protection and enhancement of the diversity of the retail offer in the area, thereby increasing consumer spending in the local economy. The provision of better public spaces and movement within the town centre and the integration of the Order Lands with neighbouring properties will improve the environmental wellbeing of the area. The additional housing units will also contribute to high quality town centre living in an area dominated by commercial use, adding to the mixed use nature of the Scheme, and the hotel use will aid tourism in the town. The Scheme will secure environmental benefits as the new pedestrian link from the High Street to the Brewery Phase 1 encourages pedestrian movement, and new modern BREEAM rated buildings are to replace tired existing run-down units.
- 2.11** The presence of the hotel with an agreed pre-let by the promoter, will increase the use of the West end of High Street and bring in investment from outside of the town, which will recognise one of Cheltenham's key sectors which shows the most potential for growth in accordance with the Cheltenham Economic Development Strategy 2007.
- 2.12** The Scheme as a whole will add to the vibrancy of this part of the town centre, and Phase 2 in particular will provide a much stronger visual link with Boots' Corner, where the Council has further plans for pedestrianisation, linking to major changes to traffic circulation and bus priority measures. These changes are currently the subject of statutory consultation by the Highway Authority in relation to Traffic Regulation Orders associated with the Cheltenham Transport Plan.
- 2.13** The Scheme will deliver improvements to the public realm via the Section 106 obligation secured as part of the planning permission. New hard surfacing is proposed to create an improved pedestrianised zone along High Street, to match with that existing immediately to the east of the

site. New paved areas will be created along the High Street and into the new link with the existing Brewery development constructed as Phase 1.

- 2.14** The new development will act as a destination for local shopping and leisure use, and will improve the economic and social well-being of the area for the benefit of residents, local businesses and visitors to the area.
- 2.15** There has been widespread support for the Scheme in the town since it was unveiled and the response from attendees to the public exhibitions for the planning application for the Scheme was that local people and stakeholders wanted to see the site redeveloped and that it was in need of regeneration.
- 2.16** The Scheme represents a comprehensive approach to the regeneration of this part of the High Street, with the additional bonus of greatly improving connectivity between the High Street and Brewery. Phase 2b will provide a good mix of commercial, hotel and housing in a sustainable location with identified new housing needs, close to local amenities and with excellent public transport connectivity.
- 2.17** Save for the temporary tenancies which have recently been granted on favourable terms as a result of the redevelopment (being Woody's Fruit and Veg Limited and Tam Emerali and Mohamed Barouk) all of the existing businesses can be accommodated within the Scheme and NFUM has committed to keeping as many traders open and operational throughout the development period as possible, by facilitating a phased delivery of the Scheme.
- 2.18** Furthermore, the expansion of the commercial space will create opportunities for additional new businesses to become established in the locality and thereby assist the growth of the local economy and widen the scope of services and facilities available to local people. In total, these measures are considered to be sufficient to achieve the intended regeneration objectives.
- 2.19** Without Phase 2b of the Scheme, there is a significant risk that the benefits to be accrued will be lost. The first phase will be delivered but will then sit amongst a sea of dereliction. An inability to deliver the second phase will create the juxtaposition of a brand new development set against the remnants of the 1960's brutalist architecture which in essence will be a building site until such time as the Order Lands can be released and the second phase delivered. Apart from the aesthetic and safety complications of such a situation it will not be possible to deliver the effective High Street – Brewery connection. Such a situation would equally have a drag impact on surrounding investment. Already new retailers have moved into this zone of the High Street as part of uplift and anticipation generated by the Brewery phase 2, but a half built scenario will seriously dent both their confidence and critically the performance of this zone. The Council should not tolerate such an option given that all other trading operations, bar one within 233-269 High Street have mutually relinquished their leases in order to facilitate the comprehensive scheme. In fact there have already been significant gains through this negotiated approach such as the relocation of the IPD dental surgery to the rear of the Brewery with a brand new 7 surgery NHS dental facility right in the heart of the town close to both public transport access and a car park.
- 2.20** The Council has given careful consideration to the need for each parcel of land included in the Order Lands. The Council is satisfied that all of the Order Lands are required to deliver this improvement to the economic, social and environmental well-being of this area, by ensuring that the Scheme delivered is comprehensive and not piecemeal.
- 2.21** Despite the number of third party interests within the wider Scheme and specifically the Order Lands, NFUM has made significant efforts to secure the necessary interests by private agreement over a lengthy timescale. Negotiations have been on-going prior to securing the first planning consent in July 2012. Having arrived at a position that the Scheme could stall as a result of the inability to secure units 233 – 235, which would effectively prevent the delivery of Phase 2b

of the Scheme, the Council considers that any further uncertainty would prevent the comprehensive regeneration proposals from coming forward.

### **3 Negotiations to acquire the Order Lands by private treaty**

- 3.1** The Order Lands measure approximately 0.23 hectares in size. The whole of the land the subject of the Scheme (therefore including the Order Lands) is owned freehold by NFUM (with the exception of Plot 6 which is in unknown ownership).
- 3.2** The Order Lands are subject to leasehold interests of 7 retail units, which will be replaced with new retail facilities with housing above as part of the Phase 2b redevelopment.
- 3.3** Agreements have been reached with all of the lessees of the retail units in the Order Lands apart from Units 233-235 which are leased to Tesco Stores Limited (**Tesco**).
- 3.4** The agreements reached between NFUM and the other lessees allow for continued occupation of the units until redevelopment takes place, often on short term leases with break clauses to secure timely vacant possession.
- 3.5** These interests have still been included in the Order to ensure that if any minor interests in the Order Lands such as easements, rights of way, restrictive covenants or similar interests are discovered that have not previously been negotiated away, or in addition if the agreements secured fall away or cannot be exercised due to incapacity or insolvency of the relevant holder of the interest, powers are available to override those interests to ensure that the redevelopment is not impeded. The reasoning for including land in the Order even where agreement has been reached has been explained to the lessees.
- 3.6** New locations for substations will be provided by the Scheme and the affected electricity undertakers will be provided with those sites, and the opportunity to relocate their apparatus before being required to give up existing sites.
- 3.7 Tesco Stores Limited**
  - 3.7.1** Tesco occupies units 233-235 Cheltenham High Street under the terms of a 29 year lease from 24.6.1989 (expiring 23.6.18) which is within the Landlord and Tenant Act 1954. Despite extensive attempts to negotiate a redevelopment break option with Tesco, agreement has unfortunately not been reached.

### **4 Unknown owners**

- 4.1** NFUM's solicitors have completed their title investigations, obtained information from the Land Registry and NFUM has confirmed that it will not be affecting any statutory undertakers. All reasonable enquiries were made to establish ownership, including notices being served on Tesco Stores Limited to request owner/ lessee/ tenant information in respect of plot 4.
- 4.2** Despite the investigations undertaken, plot 6 of the Order Land is subject to unknown interests.
- 4.3** Section 6(4) of the Acquisition of Land Act 1981 provides that if the Council is satisfied that diligent enquiry has been made and it is not practicable to ascertain the name or address of an owner, lessee or occupier on whom any document has to be served, the document may be served by addressing it to the "owner/lessee/tenant/occupier" and adding a description of the premises and delivering it to some person on the premises.

**4.4** If there is no person on the premises to whom it may be delivered, then the notice can be served by affixing a copy of it to some conspicuous part of the premises. In adopting this approach the Council must be satisfied that reasonable enquiries have been made to establish ownership.

**4.5** To proceed with the making of the Compulsory Purchase Order it is necessary for the Council to give authority to dispense with individual service of notice in respect of these areas of land mentioned in paragraph 4.2 above and to authorise the service of notices in accordance with the provisions of Section 6(4).

## **5 Enabling Powers**

**5.1** Section 226(1)(a) of the 1990 Act enables a local authority to exercise compulsory purchase powers if it thinks that acquiring the land in question will facilitate the carrying out of development, redevelopment, or improvement on, or in relation to, the land being acquired.

**5.2** Section 226(1A) of the 1990 Act requires a local authority not to exercise its powers under section 226(1)(a) unless the local authority thinks that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of its area.

**5.3** For the reasons set out in section 5 below, the Council considers that these statutory tests have been met.

**5.4** The Council first resolved to consider using its compulsory purchase powers on 15 April 2014 with the following minute recorded:

“The Cabinet Member Built Environment reported that he had taken a decision to support the request from the owner of the Brewery Site, NFU Mutual, for the authority to consider using its compulsory purchase powers, if necessary to acquire any third party interest to enable the development of the Brewery Site. The decision requested the Director of Environmental and Regulatory Services to undertake the preparatory work required for the compulsory purchase process, should this be necessary, subject to NFUM underwriting all of the Council’s reasonable and proper costs. He also noted that if it was considered by the Director of Environmental and Regulatory Services that it was necessary and appropriate for a compulsory purchase order to be made, that a report would be taken to Cabinet”.

**5.5** The condition precedent that the Council’s reasonable and proper costs will be underwritten will be discharged if the Council resolves to proceed to make the Order. A costs indemnity agreement has been agreed between NFUM and the Council which confirms that NFUM will cover the Council’s costs of promotion of the Order and payment of compensation claims. At the time of writing this report, the agreement is circulating for signature by both parties, and will be completed if the Council resolves to make the Order.

**5.6** Negotiations have been undertaken and will continue with owners of relevant interests to acquire them by private agreement wherever possible (see paragraph 3 for further information).

**5.7** Compulsory purchase will enable the regeneration to take place in accordance with a managed programme, providing certainty for site assembly and the implementation and delivery of the Scheme. This will enable the Council’s regeneration objectives for the Order Lands and the Borough to be achieved. The use of compulsory purchase powers is therefore considered by the Council to be necessary and justifiable in the public interest.

**5.8** The Council is aware that NFUM has been actively pursuing a line of dialogue with all leaseholders, as evidenced by the fact that, bar one, all leaseholders have agreed through negotiation to relinquish their interests. Acquisition by negotiation has been the strategy adopted by NFUM and the Council and the use of compulsory purchase powers is viewed by NFUM and the Council as a last resort.

## 6 Government Guidance

- 6.1 In promoting a compulsory purchase order, acquiring authorities need to have regard to government guidance, and the relevant government guidance is ODPM Circular 06/04. Matters which must be addressed are:
- 6.1.1 whether the scheme would contribute to the promotion or improvement of the economic, social or environmental well-being of the area;
  - 6.1.2 whether the scheme would contribute to the promotion or improvement of the economic, social or environmental well-being of the area;
  - 6.1.3 that the Council has a clear idea of how the land will be used;
  - 6.1.4 whether there are any unresolved impediments to implementation of the scheme;
  - 6.1.5 that the Council sought to acquire the land through negotiation as far as practicable;
  - 6.1.6 that the scheme is financially viable;
  - 6.1.7 that the public benefits will outweigh the private loss.
- 6.2 These considerations contribute to the overall issue of whether there is a compelling case in the public interest.
- 6.3 The Council must carry out an assessment to address these matters and in doing so it must consider that a compelling case exists before a decision is made.
- 6.4 Officers have carried out this assessment and are of the view that the regeneration of the area is a high order priority for the Council to improve the appearance of the area and to create better connectivity between the main High Street and the leisure quarter.
- 6.5 Therefore, there is a compelling case in the public interest for the making of the CPO and interfering with the human rights of those affected by the Scheme.

## 7 Human Rights

- 7.1 Circular 06/2004 "Compulsory Purchase and the Crichel Down Rules" states that a compulsory purchase order should only be made where there is a compelling case in the public interest. The Council must be sure that the purposes for which it is making the order sufficiently justify interfering with the human rights of those with an interest in the land affected.
- 7.2 The Human Rights Act 1998 requires that every public authority must act in a manner that is compatible with the European Convention for the Protection of Human Rights and Fundamental Freedoms (the **Convention**). This Convention contains Articles aimed to protect the rights of the individual.
- 7.3 The provisions of particular relevance to the determination as to whether an Order for compulsory purchase is made are as follows:
- 7.3.1 Relevant parts of Article 1 of First Protocol of the Convention provide:

“Every natural or legal person is entitled to peaceful enjoyment of his possessions” and “[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 ...”

- 7.4** Relevant parts of Article 6 provide that:
- 7.5** “In determining 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.”
- 7.6** The Order has the potential to infringe the public rights of persons who hold interests in the Order Land. Such infringement can be authorised by law provided that the appropriate statutory procedures for making the Order are followed and a compelling case in the public interest for compulsory purchase is made out and the interference with the Convention rights is proportionate.
- 7.7** The proposed regeneration of this section of the High Street through the Scheme has been publicised extensively and consulted upon by the Council and NFUM. Third parties likely to be affected by the proposals have been offered several opportunities to make representations to the Council, but have not done so through the usual planning process. So far as the Order is concerned, any owner, lessee or occupier of land included in the Order will have the opportunity to make an objection and to appear before a person appointed by the Secretary of State before a decision is made whether or not the Order should be confirmed.
- 7.8** The Order is 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 by the Acquisition of Land Act 1981.
- 7.9** The Council considers that there is a compelling case in the public interest that the Order Lands be compulsorily acquired in order to achieve the purposes described in this Statement of Reasons. The Council considers that there will be significant public benefit arising from the confirmation of the Order.
- 7.10** If the Secretary of State agrees with the Council that there is a compelling case in the public interest, he may confirm the Order. If there are no objections to the Order and/or all objections submitted are withdrawn, the Secretary of State may exercise his discretion and allow the Council to confirm the Order.
- 7.11** If the Order is confirmed, compensation may be claimed by persons whose interests in land have been acquired or whose possession of land has been disturbed in accordance with Statute and case law commonly referred to as the Statutory Compensation Code.
- 7.12** If the Order is confirmed, notwithstanding the provisions of Article 1 of the First Protocol, adequate provisions are in place to compensate those adversely affected. Moreover, there is a compelling case in the public interest for compulsory acquisition of each and every parcel of land comprised within the Order Lands. It is considered that the public interest that is to be served by the development and the improvements that will be achieved to the condition and performance of this part of the High Street outweighs the private interests held in the Order Lands. The use of the authority’s compulsory purchase powers to achieve its regenerative objectives for the Brewery Phase 2 and the town centre within which it sits are proportionate to the interference with human rights.

## **8 Legal Implications**

- 8.1** Please see the main body of report.



**8.2** In addition to the Human Rights Act 1998 the Council is required to comply with the Equalities Act 2010. Section 149 of the Equalities Act 2010 requires the Council to 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 and persons who do not share it;
- iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

**8.3** The Council has carried out an equality impact assessment and considers that the proposals do not have a direct impact on any groups with protected characteristics. The impact assessment is attached as Appendix 2.

## **9 Financial Implications**

Whilst liability will arise to pay compensation for interests acquired by way of the Order, the Costs Indemnity Agreement will ensure that all costs and liabilities of the Council will be met by NFUM.

## **10 Reasons for Recommendations**

**10.1** The proposals for the redevelopment of land for Phase 2b of the Brewery scheme accord with the Council's corporate strategy and support the delivery of a key component of the opportunities identified by the Cheltenham Development Task Force.

**10.2** Planning permission for Phase 2b has been granted and the Council is not aware of any planning impediments to the delivery of the redevelopment.

**10.3** There are clear and specific proposals for the use of the Order Lands.

**10.4** The requisite funds are available to meet any costs of land acquisition or compensation payable as a result of the use of powers of compulsory acquisition.

**10.5** Given the clear regeneration benefits of the Scheme, of which Phase 2b forms part, there is a compelling case in the public interest for the confirmation of the Order to allow delivery of the Scheme in a reasonable timeframe.

## **11 Alternative Options Considered**

**11.1** As outlined in this report, compulsory purchase is very much a last resort which will only be pursued to its ultimate conclusion if agreement cannot be reached with relevant parties.

**11.2** Officers have carefully considered the case for supporting the implementation of the development via the use of CPO powers and the impacts of a delay.

## **12 Consultation and Feedback**

**12.1** The development has been the subject of extensive consultation as an inherent part of the planning process and the scheme has the benefit of detailed planning consent, confirming its compliance with the local development plan and the National Planning Policy Framework (NPPF).

<b>Report Author</b>	<b>Contact officer: Mike Redman, Director of</b>
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	<p><b>Environmental and Regulatory Services</b>  <b>01242 264160</b>  <b>( <a href="mailto:mike.redman@cheltenham.gov.uk">mike.redman@cheltenham.gov.uk</a> )</b></p>
<p><b>Appendices</b></p>	<ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Communities/ equalities impact assessment</li> <li>3. Plan of land to be acquired</li> <li>4. CPO statement of reasons</li> <li>5. CPO compensation schedule – Not for publication by virtue of paragraphs (1) and (2), part (1) schedule (12A) Local Government Act 1972</li> </ol>
<p><b>Background Information</b></p>	<ul style="list-style-type: none"> <li>- s29 notice served under Local Government (Miscellaneous Provisions) Act 1982</li> <li>- Housing and Homelessness Strategy 2012-2017</li> </ul>

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible Officer	Transferred to risk register
1	If the Council does not resolve to make a Compulsory Purchase Order (CPO), or the CPO is not confirmed by the Secretary of State following objection, the Council will not be able to acquire the Order Land. This will lead to development delay and blighting of the High Street, with consequential impacts on the Cheltenham economy.	Director of Environmental and Regulatory Services	9/12/2014	4	2	8	Reduce	CBC resolves to make a CPO and ensures legal procedure and government guidance are followed in respect of the CPO.		Director of Environmental and Regulatory Services	
2	If NFUM fails to honour its commitment to acquire the land interests which CBC compulsorily purchases, the authority would	Director of Environmental and Regulatory Services	9/12/2014	4	2	8	Reduce	Whilst the likelihood of this is considered low due to the financial strength of NFUM, an indemnity		Director of Environmental and Regulatory Services	

	be financially exposed.							arrangement has been negotiated to offset the financial risk involved.			
3	If the Council's case for compulsory purchase is subject to legal challenge, this will lead to development delay and blighting of the High Street, with consequential impacts on the Cheltenham economy.	Director of Environmental and Regulatory Services	9/12/2014	4	2	8	Accept	<p>The case has been carefully considered with expert legal advice which considers there is a strong case for CPO in the public interest.</p> <p>Without CPO action it is considered that the risk of blighting of the High Street would be greater and timescales even less certain.</p>		Director of Environmental and Regulatory Services	

## Community impact assessments – for services, policies and projects

### What is a community impact assessment?

A community impact assessment is an important part of our commitment to delivering better services for our communities. The form will help us find out what impact or consequences our functions, policies, procedures and projects have on our communities, as well as employees and potential employees.

By undertaking an impact assessment, we are able to:

- Take into account the needs, experiences and circumstances of those groups of people who use (or don't / can't use) our services.
- Identify any inequalities people may experience.
- Think about the other ways in which we can deliver our services which will not lead to inequalities.
- Develop better policy-making, procedures and services.

### Background

<b>Name of service / policy / project and date</b>	<b>Compulsory Purchase Order (CPO) to secure leases of 233-243 High Street, Cheltenham, in order to facilitate re-development</b>
<b>Lead officer</b>	<b>Mike Redman</b>
<b>Other people involved in completing this form</b>	<b>Jeremy Williamson</b>

## Step 1 - About the service / policy / project

<b>What is the aim of the service / policy / project and what outcomes is it contributing to</b>	To deliver Brewery phase II
<b>Who are the primary customers of the service / policy / project and how do they / will they benefit</b>	General public
<b>How and where is the service / policy / project implemented</b>	233-243 High Street, Cheltenham being a subset of a wider scheme, known as the Brewery phase II
<b>What potential barriers might already exist to achieving these outcomes</b>	All issues resolved. Planning secured, “stopping-up” order obtained, all leases surrendered bar one and Kier Construction on site for phase IIa

## Step 2 – What do you know already about your existing / potential customers

<b>What existing information and data do you have about your existing / potential customers e.g. Statistics, customer feedback, performance information</b>	Acknowledgement that the Brewery scheme does not “connect” with the high Street. The opportunity to improve that connectivity has been recognised by the owner, operator, CBC, Task Force and general public
<b>What does it tell you about who uses your service / policy and those that don’t?</b>	Facilities at the Brewery widely used by a broad cross-section of the public given the family oriented offer
<b>What have you learnt about real barriers to your service from any consultation with customers and any stakeholder groups?</b>	Consultation as part of planning process saw positive public response to proposal to improve connectivity
<b>If not, who do you have plans to consult with about the service / policy / project?</b>	n/a



### Step 3 - Assessing community impact

How does your service / policy / project impact on different groups in the community?

Group	What are you already doing to benefit this group	What are you doing that might disadvantage this group	What could you do differently to benefit this group	No impact on this group
People from black and minority ethnic groups				Project delivery has general benefit – it does not favour or disadvantage this group.
Gender				Project delivery has general benefit – it does not favour or disadvantage this group
Gender Reassignment				Project delivery has general benefit – it does not favour or disadvantage this group
Older people / children and young people	The proposals will create an improved access to the Brewery which will help older people move about this part of town.			
People with disabilities and mental health challenges	The proposals will create an improved access to the Brewery which will help disabled people move about this part of town.			
Religion or belief				Project delivery has general benefit – it does not favour or disadvantage this group
Lesbian, Gay and Bi-sexual people				Project delivery has general benefit – it does not favour or disadvantage this group



<b>Marriage and Civil Partnership</b>				Project delivery has general benefit – it does not favour or disadvantage this group
<b>Pregnancy &amp; Maternity</b>				Project delivery has general benefit – it does not favour or disadvantage this group
<b>Other groups or communities</b>				n/a





### Step 4 - what are the differences

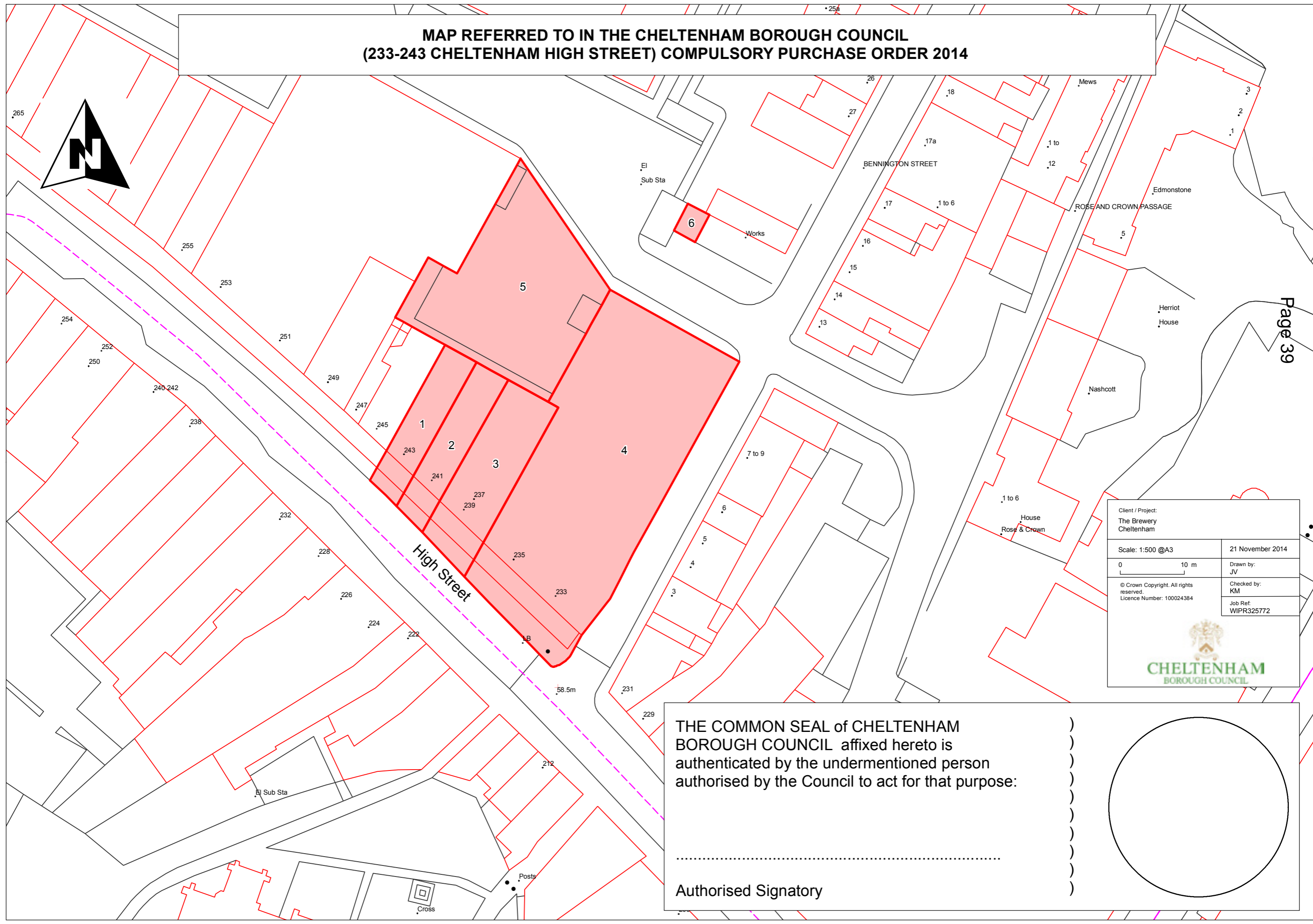
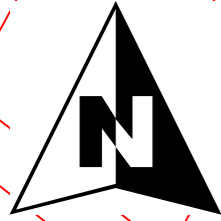
<b>Are any groups affected in different ways to others as a result of the service / policy / project?</b>	Project delivery has general benefit – it does not disadvantage any groups, and will have positive outcomes for older people and disabled people who might have struggled to access the Brewery complex
<b>Does your service / policy / project either directly or indirectly discriminate?</b>	No
<b>If yes, what can be done to improve this?</b>	n/a
<b>Are there any other ways in which the service / project can help support priority communities in Cheltenham?</b>	Commercial undertaking which will create job opportunities

### Step 5 – taking things forward

<b>What are the key actions to be carried out and how will they be resourced and monitored?</b>	Securing a CPO in order to deliver wider scheme. The resources required will be met through an indemnity
<b>Who will play a role in the decision-making process?</b>	Cabinet and full Council
<b>What are your / the project's learning and development needs?</b>	n/a
<b>How will you capture these actions in your service / project planning?</b>	Majority of preparation work already undertaken. Any representation will be by third party legal professionals who specialise in this type of work

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**MAP REFERRED TO IN THE CHELTENHAM BOROUGH COUNCIL  
(233-243 CHELTENHAM HIGH STREET) COMPULSORY PURCHASE ORDER 2014**



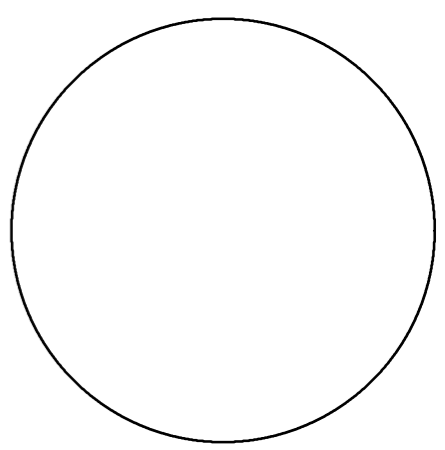
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© Crown Copyright. All rights reserved. Licence Number: 100024384	Checked by: KM
	Job Ref: WIPR325772

  
**CHELTENHAM**  
 BOROUGH COUNCIL

THE COMMON SEAL of CHELTENHAM BOROUGH COUNCIL affixed hereto is authenticated by the undermentioned person authorised by the Council to act for that purpose:

.....

Authorised Signatory



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**Cheltenham Borough Council**

**(233 – 243 Cheltenham High Street)**

**COMPULSORY PURCHASE ORDER 2014**

**STATEMENT OF REASONS**

Town and Country Planning Act 1990 – Section 226(1)(a)

Acquisition of Land Act 1981

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## 1 Summary

- 1.1 This is the Statement of Reasons of Cheltenham Borough Council (the **Council**) to explain the reasons and justification for making the Cheltenham Borough Council (233-243 Cheltenham High Street) Compulsory Purchase Order 2014 (the **Order**). The Order was made by the Council under section 226(1)(a) of the Town and Country Planning Act 1990 (the **1990 Act**) and will be submitted to the Secretary of State for Communities and Local Government (the **Secretary of State**) to request its confirmation.
- 1.2 The Order is required to facilitate the comprehensive redevelopment and regeneration of a significant part of Cheltenham High Street, from numbers 233 to 269 inclusive, and the adjoining area to contribute towards significant social, economic and environmental improvements in the area. These will be achieved through the demolition and redevelopment of the commercial units fronting the High Street and the immediately adjoining commercial interests to the north, together with the stopping-up of Baynham Way which will support the improvement of the commercial offer and deliver connectivity of the High Street to the leisure based Brewery scheme. It is widely accepted that this area of the High Street has been in decline for more than a decade.
- 1.3 Phase 1 of the redevelopment of the Old Brewery site comprising leisure, retail and residential accommodation opened in 2006. Phase 2a of the redevelopment includes the demolition of units 255 to 269 of the High Street together with a pedestrian link to the phase 1 Brewery development and public realm works. Phase 2b of the redevelopment (for part of which the Order is promoted) involves the demolition of units 233 to 253 of the High Street and the construction of retails and residential uses (**Phase 2b**). In this statement, Phases 1, 2a and 2b are collectively referred to as the **Scheme**.
- 1.4 The National Farmers Union Mutual (**NFUM**) is the developer and freehold owner of all of the land within the Scheme, and by definition within the sub-area affected by this Order (the **Order Lands**).
- 1.5 In accordance with the ODPM Guidance Circular 06/04 'Compulsory Purchase and the Crichel Down Rules' (**Circular 06/04**), NFUM and the Council have sought to acquire the land and interests in land necessary to deliver Phase 2b by agreement and the majority of occupational interests within Phase 2b have been acquired by private treaty. However the Council is now seeking to secure acquisition of all remaining leasehold property interests currently held by third parties, as well as other rights and easements to ensure that the remainder of the Scheme may be implemented in a comprehensive manner within the necessary timeframe.
- 1.6 The Council will continue to negotiate (through NFUM and its agents) in order that the outstanding interests can be acquired by mutual agreement if possible in accordance with the guidance set out within Circular 06/04. However, the Order needs to be promoted to ensure that the full programme of development can be achieved within a reasonable timeframe in order to achieve the intended regeneration benefits if such agreement cannot be reached.

- 1.7 The extent of the Order Lands is shown on the attached plan at Annex 2 outlined in red and shaded pink.
- 1.8 NFUM and its agent (Martin Commercial Properties) have already secured detailed planning consent for the Scheme including Phase 2b. The redevelopment is consistent with the current Cheltenham Local Plan and has full planning consent (Ref: 14/00182/FUL). Planning Permission was granted on 2 July 2014.
- 1.9 The Council believes that the proposed Scheme of regeneration, taken as a whole, has the potential to bring substantial economic, environmental, retail and social benefits to the Western end of Cheltenham High Street, and critically, will assist with uplifting the Lower High Street too. The area has had a range of uses over the last century but in common with many High Streets its defining feature has been its retail offer. The current arrangement was built in the 1960's and replaced a more traditional High Street of individual units from varying time periods. The current single unit is very much "of its time" with a brutalistic architecture presenting a slab like façade with limited articulation and critically no opportunity to penetrate to the spaces behind as was previously the case with the former access to the historic Brewery. The regeneration of this area is a high order priority for the Council as a means of improving the appearance of this area, and of creating better connectivity between the main High Street thoroughfare and the currently physically separated leisure quarter, based in the Brewery complex.
- 1.10 There is a compelling case in the public interest for compulsory purchase powers as sought in the Order.



**2 Introduction**

- 2.1 This document is the Council's Statement of Reasons explaining the reasons and justification for making the Order.
- 2.2 The Order was made by the Council under section 226(1)(a) of the 1990 Act and will be submitted to the Secretary of State to request its confirmation.
- 2.3 This Statement of Reasons has been produced with reference to the guidance set out in Circular 06/04.
- 2.4 The Order is required to deliver all of the land necessary for the redevelopment of Phase 2b to allow completion of the Scheme. Further details about the Scheme are provided in section 3. The purposes for which individual plots are required are described in section 5.

Structure of this Statement

- 2.5 Appendix R of Circular 06/04 sets out the matters that this Statement should address. The following sections of this Statement reflect Circular 06/04 and include:
  - 2.5.1 a description of the Scheme, the Order Lands and the proposals for its use and development (section 3);
  - 2.5.2 an explanation of the enabling power under the 1990 Act (section 4);
  - 2.5.3 a statement of the Council's purpose in seeking to acquire the Order Lands, justification for use of the enabling power and explanation of how regard has been given to the European Convention on Human Rights (sections 5 and 6);
  - 2.5.4 a statement about the planning position of the Scheme (section 7);
  - 2.5.5 a statement on the absence of impediments to the implementation of the Order and delivery of the Scheme (section 8); and
  - 2.5.6 any other information which would be of interest to persons affected by the Order (section 10).
- 2.6 Section 5 of this Statement describes the case for compulsory purchase, and section 9 provides conclusions on the Council's reasons for promoting the Order.
- 2.7 A list of the documents which the Council would intend to refer to in the event of an inquiry is provided at Annex 1.
- 2.8 A map showing the Order Lands is provided at Annex 2.

### 3 Description of the Order Lands and Phase 2b

#### The Order Lands

- 3.1 The Order Lands are located at numbers 233 – 243 High Street, Cheltenham lying immediately to the West of Bennington Street and fronting the High Street, within the Borough of Cheltenham.
- 3.2 The Order Lands are approximately 0.23 hectares in size and mark the western extent of the Central Shopping Area. The Order Lands are shown outlined in red and shaded pink on the Order Map at Annex 2. They comprise:
- the commercial units and upper parts occupying numbers 233 -243 High Street;
  - the service area and road to the rear of the parade;
  - a small parcel of unregistered land to the rear of 33 Bennington Street
- 3.3 The commercial businesses operating in these units reflect the limited trading potential of the existing 1960's development and the retail units are occupied by a mix of retail, café and value shop uses.
- 3.4 The major anchor unit is occupied by Wilkinson's, with whom agreement has been reached with NFUM and who are to be incorporated into the new Scheme following a temporary relocation for the duration of the works.
- 3.5 The immediate surrounding area of the Order Lands is commercial in character along the High Street and there is secondary retail to the East & West of the Order Lands in Bennington and Henrietta Street, along with predominantly 2-storey Victorian and Edwardian terraces. To the east of the Order Lands, the High Street comprises a pedestrianised zone with a dense retail frontage broken by the pedestrian crossing at the corner at which there is also a Boots store. This area is known as 'Boots Corner'. Boots Corner is part of a comprehensive proposal to reduce traffic movements in Cheltenham, referred to as the Cheltenham Transport Plan. Whilst this is being promoted by the Council, it relies upon Gloucestershire County Council (**GCC**) as highways authority for the powers to implement the comprehensive proposal. As a result GCC has carried out a statutory consultation and subject to further consultation will establish a Traffic Regulation Order Committee to consider the issues, with a view to making a formal decision on the wider proposals early in 2015.
- 3.6 Beyond Boots Corner to the east and the south is the majority of Cheltenham's prime retail floor space comprising frontages at the High Street and the Promenade as well as developments such as Cavendish House and the Regent Arcade.
- 3.7 The Order Lands are within the Cheltenham Central Conservation area, and are close to the commercial heart of the town at Boots Corner and the historic heart of the town, with St Mary's Minster being the key component. One of the strengths of the Scheme is that it takes the spire of the Minster as one of its visual reference points and that, coupled with greater visibility of the

Cupola Tower within the existing brewery complex, adds greatly to the better referencing of the historic landmarks impacted by the existing 1960's scheme.

- 3.8 The Order Lands are in a highly accessible location within Cheltenham town centre and are adjacent to a bus stop serving the town centre.
- 3.9 None of the Order Lands comprise listed buildings and whilst within the Central Conservation Area, planning consent has been granted for the redevelopment, which is described in more detail in section 7 below.
- 3.10 Without the Order Lands, the masterplan rationale and benefits of the Scheme (as described in section 5) are significantly diminished, as the Scheme would only be partially delivered.

### Phase 2B

- 3.11 The Scheme is comprised of three phases. Phase 1 is a mixed use town centre redevelopment of the existing Brewery complex, providing approximately 200,000 square feet of leisure, retail and residential accommodation. The complex was a redevelopment of the former brewery on Henrietta Street which opened in 1760 and closed in 1998. This part of the Scheme has been completed and opened in 2006. Additional facilities including an 11 screen multiplex cinema, gym, various restaurants, residential apartments and a ten pin bowl complex opened in November 2014 (**Phase 1**)
- 3.12 Phase 2a of the Scheme links Phase 1 to Cheltenham High Street and includes the demolition of units 255 to 269 of the High Street and the construction of Block A. Block A will provide approximately 40,000 square feet of retail space and a 104 bedroom hotel above, which has already been pre-let to Premier Inn. A pedestrian link will be provided from the High Street to the Brewery along with new public realm works to the High Street frontage (**Phase 2a**). Work on Phase 2a commenced in October 2014, and is due for completion in May 2016.
- 3.13 Phase 2b completes the linkage between Phase 1 and the High Street and includes the demolition of units 233 to 253 the High Street and the construction of Block B. Block B will provide approximately 70,000 square feet of retail accommodation with 34 one and two bedroom apartments located above. Work on Phase 2b is scheduled to commence in September 2015, with completion due in November 2016.
- 3.14 The Council has an aspiration to work with developers to facilitate the extended development of the Brewery site, to link the existing Phase 1 scheme with the High Street. The development has the potential to better connect the East and West of the High Street which has for the last few decades been marked by a divide at Boots Corner and a different nature of shopping offer in the two zones. Additionally, it will directly connect the High Street with the extant Brewery development, and as a consequence allow connectivity with North Place and St. Pauls. Finally the development has the opportunity to act as a catalyst for the Lower High Street which begins one block to the West at Ambrose Street.

- 3.15 The site of the Scheme is situated on several bus routes, and this access will continue post development. In fact, the Scheme links to the wider sustainable transport initiative being supported through the Department for Transport's Local Sustainability Transport Fund (**LSTF**). The bus services utilising this frontage include A, C, D & H providing connectivity to Government Communities Head Quarters with its workforce of 5,500 staff, Benhall, Springbank, Swindon Village, Wymans Brook, Hatherley and Warden Hill.
- 3.16 The Scheme proposes to improve pedestrian linkages with the town centre, to capitalise on the benefits of the proposed limiting of vehicular access to Boots Corner. The Scheme forms part of a series of upgrade works along the High Street, these being jointly planned and where no third party contribution exists, funded by GCC and the Council working in collaboration.
- 3.17 The Scheme, in conjunction with the transport changes proposed at Boots Corner, has recently attracted new retailers who have not historically been represented in this zone (for example Pandora, Patisserie Valerie and Crabtree & Evelyn). This is in anticipation of the increase in pedestrian footfall to the area and is tangible evidence of the power of regeneration. The Council are determined to build on this increased interest.
- 3.18 Even without the conjoined benefits as a result of the transport proposal proposed at Boots Corner, the comprehensive Scheme will bring significant regeneration benefits as explained at section 5 below.
- 3.19 With the substantial works planned both on the High Street and subject to the GCC's Traffic Regulation Order committee recommendation it is imperative that Phase 2b is delivered. Failing to do this will leave a hole in a strategy designed to benefit the whole town, and risks undermining the value of the intervention of Brewery Phase 2a.

### Ownership of the Order Lands

- 3.20 The whole of the land the subject of the Scheme (therefore including the Order Lands) is owned freehold by NFUM (with the exception of Plot 6 which is in unknown ownership).
- 3.21 The Order Lands are subject to leasehold interests of 7 retail units, which will be replaced with new retail facilities with housing above as part of the Phase 2b redevelopment.
- 3.22 Agreements have been reached with all of the lessees of the retail units in the Order Lands apart from Units 233-235 which are leased to Tesco Stores Limited (**Tesco**). The agreements reached between NFUM and the other lessees allow for continued occupation of the units until redevelopment takes place, often on short term leases with break clauses to secure timely vacant possession.
- 3.23 These interests have still been included in the Order to ensure that if any minor interests in the Order Lands such as easements, rights of way, restrictive covenants or similar interests are discovered that have not previously been negotiated away, or in addition if the agreements secured fall away or cannot be exercised due to incapacity or insolvency of the relevant holder of the interest, powers are available to override those interests to ensure that the redevelopment is

not impeded. The reasoning for including land in the Order even where agreement has been reached has been explained to the lessees.

- 3.24 Tesco's lease is due to expire in 2018, and agreement has unfortunately not been reached with Tesco despite extensive attempts to negotiate the acquisition by agreement.
- 3.25 New locations for substations will be provided by the Scheme and the affected electricity undertakers will be provided with those sites, and the opportunity to relocate their apparatus before being required to give up existing sites.

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**4 Enabling Powers**

4.1 Section 226(1)(a) of the 1990 Act enables a local authority to exercise compulsory purchase powers if it thinks that acquiring the land in question will facilitate the carrying out of development, redevelopment, or improvement on, or in relation to, the land being acquired.

4.2 Section 226(1A) of the 1990 Act requires a local authority not to exercise its powers under section 226(1)(a) unless the local authority thinks that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of its area.

4.3 For the reasons set out in section 5 below, the Council considers that these statutory tests have been met.

4.4 The Council first resolved to consider using its compulsory purchase powers on 15 April 2014 with the following minute recorded:

*"The Cabinet Member Built Environment reported that he had taken a decision to support the request from the owner of the Brewery Site, NFU Mutual, for the authority to consider using its compulsory purchase powers, if necessary to acquire any third party interest to enable the development of the Brewery Site. The decision requested the Director of Environmental and Regulatory Services to undertake the preparatory work required for the compulsory purchase process, should this be necessary, subject to NFUM underwriting all of the Council's reasonable and proper costs. He also noted that if it was considered by the Director of Environmental and Regulatory Services that it was necessary and appropriate for a compulsory purchase order to be made, that a report would be taken to Cabinet".*

4.5 The condition precedent that the Council's reasonable and proper costs will be underwritten has now been discharged. [A costs indemnity agreement has been entered into which confirms that NFUM will cover the Council's costs of promotion of the Order and payment of compensation claims.]

4.6 Negotiations will continue with owners of relevant interests to acquire them by private agreement wherever possible.

4.7 Compulsory purchase will enable the regeneration to take place in accordance with a managed programme, providing certainty for site assembly and the implementation and delivery of the Scheme. This will enable the Council's regeneration objectives for the Order Lands and the Borough to be achieved. The use of compulsory purchase powers is therefore considered by the Council to be necessary and justifiable in the public interest.

4.8 The Council is aware that NFUM has been actively pursuing a line of dialogue with all leaseholders, as evidenced by the fact that, bar one, all leaseholders have agreed through negotiation to relinquish their interests. Acquisition by negotiation has been the strategy adopted by NFUM and the Council and the use of compulsory purchase powers is viewed by NFUM and

the Council as a last resort.

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**5 Purpose of acquisition and Justification for use of Compulsory Purchase Powers**

5.1 In January 1999, the Council published a Development Brief (adopted as Supplementary Planning Guidance) for land including the Order Lands. The Development Brief (amongst other things) aimed to revitalise the High Street, increase the attraction of the town centre to residents and visitors, facilitate local safe and stress-free circulation for pedestrians, cyclists, buses and cars and to achieve high standards of development. The Development Brief specifically identified a need to link the High Street to the Brewery Phase 1, stating:

*"The main problem with the [Brewery] site in this context is the lack of a direct link with the High Street and opportunities to create this should be explored."*

5.2 The aspirations of the Development Brief are echoed by the conclusions of the Retail and Leisure Study carried out by DPDS in 2006. The study recognised that the area continued to attract less investment than other parts of the town centre notwithstanding the recent Brewery redevelopment. It considered that development to improve linkages should be encouraged.

5.3 In early 2010, the Cheltenham Development Task Force (CDTF) was established, following a full Council resolution in December 2009 which was supported unanimously (bar one abstention). One of its first priorities was to publish its challenges and opportunities leaflet identifying key town centre sites that had eluded delivery. Phase 2 of the Brewery Scheme was listed amongst those sites.

5.4 The Council has a stated aspiration to work with developers to enable the extended development of the Brewery site, to link the existing Phase 1 scheme with the High Street. This is set out in the action plan for 2013-14 relating to the Council's Corporate Strategy 2010-15, under 'Strategic Projects' ECD3 on Page 10. This document was approved by the Council on 25 March 2013. This document states that a key milestone is to *'work with developers to enable them to start construction work on the Brewery/ High Street site'*.

5.5 The High Street, not unsurprisingly, is considered by the Council to be a vitally important component of the town centre and the relative fragility of this section through lack of investment and severance at Boots Corner is viewed as having a detrimental impact on the wider economic and social performance of the town centre as a whole. The Council promoted the regeneration of this High Street frontage as a way of ensuring the long term survival and success of both the High Street and the leisure quarter created by Phase 1 of the Brewery Scheme.

5.6 The economic case for regeneration and potential contribution to Gross Value Added was set out in an independent assessment for a bid application to the Department for Transport, titled 'An Economic Impact Assessment of Boots Corner and King's Quarter Schemes' in support of a Local Sustainable Transport Fund (LSTF) Bid Application. (The Boots Corner assessment includes the Scheme as well as another scheme in Gloucester.) The assessment was carried out by DC Research who specialise in economics & regeneration and was completed in line with Treasury Green book guidance. It contributed to a successful LSTF bid which aims to



tackle the existing severance of the Cheltenham High Street at Boots Corner. This Scheme was recognised as a catalyst as part of a wider effort to better integrate the High Street. Phase 2b of the redevelopment plays its part in promoting the LSTF ambition by supporting modal shift and creating a better public realm and bus access zone along this part of the High Street.

- 5.7 The LSTF scheme is much wider than Boots Corner and has been the subject of several tiers of public consultation. It is anticipated that GCC as the highways authority will be holding a Traffic Regulation Order Committee in January 2015 as part of the process to determine the implementation strategy of the LSTF backed Cheltenham Transport Plan. If fully implemented it aims to reduce severance at Boots Corner and better connect the High Street into a seamless and cohesive commercial zone.
- 5.8 As a result of active collaboration between CDTF and Martin Commercial Properties, a planning application (with reference 12/00319 FUL) was submitted to the Council as local planning authority and planning permission granted at planning committee in July 2012. A revised application for planning permission (allocated reference 14/00182/FUL) was subsequently granted on 2 July 2014. The rationale for the revised application was to provide improved vehicular access between Oxford Passage and Bennington Street as a result of NFUM purchasing some additional land from 27 to 33 Bennington Street. The additional land purchased also allowed for the provision of an additional 5 parking spaces within the application site which was welcomed GCC's Highways Department.
- 5.9 The redevelopment of the existing Cheltenham High Street retail frontage proposed as part of the Scheme (at units 233-269 inclusive), which was built in the 1960's, will deliver significant improvements to the area, promoting the retail use of the Order Lands, whilst also providing direct pedestrian access to Phase 1 behind.
- 5.10 The regeneration Scheme will support the local community through increased employment through construction and enterprise opportunities, diversity of the housing stock and the protection and enhancement of the diversity of the retail offer in the area, thereby increasing consumer spending in the local economy. The provision of better public spaces and movement within the town centre and the integration of the Order Lands with neighbouring properties will improve the environmental wellbeing of the area. The additional housing units will also contribute to high quality town centre living in an area dominated by commercial use, adding to the mixed use nature of the Scheme, and the hotel use will aid tourism in the town. The Scheme will secure environmental benefits as the new pedestrian link from the High Street to Phase 1 encourages pedestrian movement, and new modern BREEAM rated buildings are to replace tired existing run-down units.
- 5.11 The presence of the proposed hotel will increase the use of the West end of High Street and bring in investment from outside of the town, which will recognise one of Cheltenham's key sectors which shows the most potential for growth in accordance with the Cheltenham Economic Development Strategy 2007.

- 5.12 The Scheme as a whole will add to the vibrancy of this part of the town centre, and Phase 2 in particular will provide a much stronger visual link with Boots' Corner, where the Council has further plans for pedestrianisation, linking to major changes to traffic circulation and bus priority measures. These changes are currently the subject of statutory consultation by the Highway Authority in relation to Traffic Regulation Orders associated with the Cheltenham Transport Plan.
- 5.13 The Scheme will deliver improvements to the public realm via the Section 106 obligation secured as part of the planning permission. New hard surfacing is proposed to create an improved pedestrianised zone along High Street, to match with that existing immediately to the east of the site. New paved areas will be created along the High Street and into the new link with the existing Brewery development constructed as Phase 1.
- 5.14 The new development will act as a destination for local shopping and leisure use, and will improve the economic and social well-being of the area for the benefit of residents, local businesses and visitors to the area.
- 5.15 There has been widespread support for the Scheme in the town since it was unveiled and the response from attendees to the public exhibitions for the planning application for the Scheme was that local people and stakeholders wanted to see the site redeveloped and that it was in need of regeneration.
- 5.16 The Scheme represents a comprehensive approach to the regeneration of this part of the High Street, with the additional bonus of greatly improving connectivity between the High Street and Brewery. Phase 2b, described in section 3 above, will provide a good mix of commercial, hotel and housing in a sustainable location with identified new housing needs, close to local amenities and with excellent public transport connectivity.
- 5.17 Save for the temporary tenancies which have been granted on short term tenancies as a result of the development (being Woody's Fruit and Veg Limited and Tam Emerali and Mohamed Barouk), all of the existing businesses can be accommodated within the Scheme and NFUM has committed to keeping as many traders open and operational throughout the development period as possible, by facilitating a phased delivery of the Scheme.
- 5.18 Furthermore, the expansion of the commercial space will create opportunities for additional new businesses to become established in the locality and thereby assist the growth of the local economy and widen the scope of services and facilities available to local people. In total, these measures are considered by the Council to be sufficient to achieve the intended regeneration objectives.
- 5.19 Without Phase 2b of the Scheme the comprehensive improvement to the urban environment will be lost. The whole development has been designed to enhance the retail function of Cheltenham High Street to include modern retail units with attractive frontages that will appeal to a number of modern retailers and bring significant economic and socio benefits to this part of the town. The existing 1960 block does not suit the modern retailers' requirements and is of no architectural merit to the town.

- 5.20 Without Phase 2b the numbers and range of employment opportunities that the regeneration Scheme would bring to the local workforce throughout the construction phase and following completion of the development would be lost.
- 5.21 The extension of the shared surface along the high street across the front elevation of the proposed building will also not be complete until Phase 2b of the scheme is constructed
- 5.22 Without Phase 2b the sustainability benefits that the new building will bring will be lost. A key design feature is the low carbon footprint of the proposed building that is substantially more environmentally friendly than the existing retail block.
- 5.23 The Council has given careful consideration to the need for each parcel of land included in the Order Lands. The Council is satisfied that all of the Order Lands are required to deliver this improvement to the economic, social and environmental well-being of this area, by ensuring that the Scheme delivered is comprehensive and not piecemeal.
- 5.24 Despite the number of third party interests within the wider Scheme and specifically the Order Lands, NFUM has made significant efforts to secure the necessary interests by private agreement over a lengthy timescale. Negotiations have been on-going prior to securing the first planning consent in July 2012. Having arrived at a position that the Scheme could stall as a result of the inability to secure units 233 – 235, which would effectively prevent the delivery of Phase 2b of the Scheme, the Council considers that any further uncertainty would prevent the comprehensive regeneration proposals from coming forward.

**6 Human Rights**

6.1 The Human Rights Act 1998 requires that every public authority must act in a manner that is compatible with the European Convention for the Protection of Human Rights and Fundamental Freedoms (the **Convention**). This Convention contains Articles aimed to protect the rights of the individual.

6.2 The provisions of particular relevance to the determination as to whether an Order for compulsory purchase is made are as follows:

6.3 Relevant parts of Article 1 of First Protocol of the Convention provide:

*“Every natural or legal person is entitled to peaceful enjoyment of his possessions” and “[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 ...”*

6.4 Relevant parts of Article 6 provide that:

*“In determining 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.”*

6.5 The Order has the potential to infringe the public rights of persons who hold interests in the Order Land. Such infringement can be authorised by law provided that the appropriate statutory procedures for making the Order are followed and a compelling case in the public interest for compulsory purchase is made out and the interference with the Convention rights is proportionate.

6.6 The proposed regeneration of this section of the High Street through the Scheme has been publicised extensively and consulted upon by the Council and NFUM. Third parties likely to be affected by the proposals have been offered several opportunities to make representations to the Council. So far as the Order is concerned, any owner, lessee or occupier of land included in the Order will have the opportunity to make an objection and to appear before a person appointed by the Secretary of State before a decision is made whether or not the Order should be confirmed.

6.7 The Order is 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 by the Acquisition of Land Act 1981.

6.8 The Council considers that there is a compelling case in the public interest that the Order Lands be compulsorily acquired in order to achieve the purposes described in this Statement of Reasons. The Council considers that there will be significant public benefit arising from the confirmation of the Order.

6.9 If the Secretary of State agrees with the Council that there is a compelling case in the public interest, he may confirm the Order. If there are no objections to the Order and/or all objections

submitted are withdrawn, the Secretary of State may exercise his discretion and allow the Council to confirm the Order.

- 6.10 If the Order is confirmed, compensation may be claimed by persons whose interests in land have been acquired or whose possession of land has been disturbed in accordance with Statute and case law commonly referred to as the Statutory Compensation Code.
- 6.11 If the Order is confirmed, notwithstanding the provisions of Article 1 of the First Protocol, adequate provisions are in place to compensate those adversely affected. Moreover, the Council is of the view that there is a compelling case in the public interest for compulsory acquisition of each and every parcel of land comprised within the Order Lands. It is also convinced that the public interest that is to be served by the development and the improvements that will be achieved to the condition and performance of this part of the High Street outweighs the private interests held in the Order Lands. The Council also believes that use of compulsory purchase powers to achieve its regenerative objectives for the Brewery Phase 2 and the town centre within which it sits are proportionate to the interference with human rights.

**7 Planning Policy and Planning Application**

- 7.1 The planning application for the Scheme allocated reference 12/00319/ FUL was approved in July 2012, and a revised application to improve vehicle access along Oxford Passage was approved in July 2014. The Scheme was described as a *“Regeneration scheme to include demolition of existing retail units and the erection of a mixed use scheme of approximately 10,000m<sup>2</sup> of retail floorspace (of which 350m<sup>2</sup> is available for A3 Restaurant and Cafe use), 34 residential apartments, a 104 bed hotel and associated works including the extension of the pedestrian High Street” located at 233 - 269 High Street, Cheltenham, Gloucestershire*.
- 7.2 The planning application was considered against a range of national, regional and local planning policy considerations.
- 7.3 The National Planning Policy Framework (**NPPF**) advises that the planning system should:
- a) plan for prosperity by using the planning system to build a strong, responsive and competitive economy, by ensuring that sufficient land of the right type, and in the right places, is available to allow growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
  - b) plan for people (a social role) by using the planning system to promote strong, vibrant and healthy communities, by providing an increased supply of housing to meet the needs of present and future generations; and by creating a good quality built environment, with accessible local services that reflect the community's needs and supports its health and well-being; and
  - c) plan for places (an environmental role) by using the planning system to protect and enhance our natural, built and historic environment, to use natural resources prudently and to mitigate and adapt to climate change, including moving to a low-carbon economy.
- 7.4 The NPPF also underlines the need for councils to work closely with communities and businesses and actively seek opportunities for sustainable growth to rebuild the economy; helping to deliver the homes, jobs, and infrastructure needed for a growing population whilst protecting the environment.
- 7.5 In particular the NPPF contains at paragraph 23 advice that local planning authorities should in drawing up Local Plans:
- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;
  - define a network and hierarchy of centres that is resilient to anticipated future economic changes;

- define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations;
- promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
- retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;
- allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability. Local planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites;
- allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre;
- set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres;
- recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites; and
- where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.

7.6 Furthermore whilst the NPPF was the overarching planning reference document in considering the Brewery Phase 2b proposal, it is worth noting that the Scheme also aligned with the key principles in relation to retailing set out in the Cheltenham Borough Local Plan Second Review: Adopted July 2006. This document was itself the subject of extensive consultation prior to adoption. Key references and phrases in that document, drawn from section 11 on Retailing are noted below:

- (11.6) out of centre retailing is only supported if the proposed floorspace cannot be located in the Core Commercial Area
- (11.6) local shopping facilities should be supported
- (11.21) The Central Shopping Area is based on a “T” shape formed by the High Street and Promenade. .... The Council wishes to see new retail development

consolidate the heart of the Central Shopping Area, rather than exacerbate its linear form with peripheral additions. The advantages of a compact shopping centre are reduced walking distances for customers, efficient and full use of buildings and sites, and greater benefit from improved parking facilities and pedestrianisation schemes.

- (11.22) In providing off highway servicing, developers should take advantage of opportunities to provide access to adjacent properties where this facility does not already exist. If access for servicing can only be obtained via adjacent properties, the possibility of doing so should be investigated. Maximising rear servicing will facilitate achievement of traffic management objectives for the town centre, including pedestrian priority. The Council will also encourage new Central Shopping Area developments to create as many cycle and pedestrian links to other parts of the centre as possible.
- (11.30) The town centre is the focus for a multiplicity of services and functions: trade, commerce, social and cultural activity. A clean, secure, efficient and attractive environment in which these activities can take place is a major factor in ensuring their continuation and, hence, an economically viable and socially vital town centre.
- (11.31) Many organisations and operators are involved in the town centre; including businesses, transport companies, the local authority, and the police. The co-ordination of the activities of these organisations on a day to day basis, and towards a long term development strategy, can benefit the town centre. The Cheltenham Business Partnership, comprising the Council and a range of business and commercial organisations, works to promote and enhance the economy of the town and employs a Business Partnership Manager, whose area of responsibility includes the town centre

7.7 From these references it can be seen that the Brewery Phase 2b adds significant impetus to the delivery of these aspirations, both in physical form – town centre retail, addressing servicing needs, improving pedestrian connectivity – but also in town centre management where NFUM are an active partner.

7.8 Paragraphs 5.1-5.2 above have already shown how the Scheme aligns with the 1999 Development Brief.

7.9 The CDTF (set up as an arm's length delivery agency) identified the Brewery site as a significant strategic opportunity in 2010 and has worked with the Council and developers on the delivery of this and the neighbouring North Place and Portland Street sites as separate but complementing schemes separated by St Margaret's Road. The Council has supported the ambitions of the CDTF which has enjoyed considerable success in bringing schemes forward. Schemes have either been site specific or related to wider town centre ambitions such as sustainable transport and public realm enhancements.



- 7.10 This Brewery Phase 2b Scheme embodies all of these ambitions, being site specific but also contributing to public realm enhancements and supporting sustainable transport.
- 7.11 The Phase 2b of the Scheme with its mix of retail, hotel and housing will add to the viability and vibrancy of this part of town especially as it enables better connectivity with the extant Brewery and its leisure offer. It is also anticipated that this High Street connectivity and the footfall linkage to the proposed new foodstore and 600 space car park on North Place will assist with the letting of some vacant space in the existing Scheme, created as a result of national retailers (Habitat & Dwell) ceasing to trade.
- 7.12 Towards an urban renaissance 1995 was a report written by the UK Task Force chaired by Lord Richard Rogan. This report resulted in the "Our Towns and Cities – The Future – The Urban White Paper" dated 2000. This white paper influenced the revised PPG3 (Planning Policy Guidance – Housing) in promoting higher density brownfield/urban sites wherever possible, steering away from the development of large spacious houses on Greenfield sites. Whilst PPG3 has been replaced by the NPPF, the same key threads are maintained, namely ensuring the vitality of town centres and the presumption in favour of sustainable development.
- 7.13 Additionally, the conclusion of the amended planning application 14/00182/FUL enabled the stopping-up of Baynham Way from 18 July 2014 (supported by both the Council and Gloucestershire County Council (the local highway Authority).
- 7.14 In addition, the consent is accompanied by a completed s106 Agreement, obligating the Developer to provide, inter alia, the following planning benefits:
- Transfer 6 one bedroom residential units to a registered provider for the use as affordable housing; and
  - A waste removal management plan to be agreed with the Council.

**8 Resources for land acquisition, delivery and implementation**

- 8.1 Circular 06/04 highlights that the Secretary of State will want to be reassured that there is a realistic prospect that the Order Lands will be brought into beneficial use within a reasonable timeframe. Paragraph 20 states that in preparing its justification, the acquiring authority should provide as much information as possible about the resource implications of acquiring the land and implementing the scheme, though it is acknowledged that projects may not be intended to be commercially viable or that it may not be possible to finalise details until there is certainty regarding assembly of the land. In such instances the authority should provide an indication of how any potential shortfalls are to be met. Paragraph 21 states that, even more importantly, the confirming Minister would expect to be reassured that it was anticipated that adequate funding would be available to enable the authority to complete the compulsory acquisition within the statutory period following confirmation of the order.
- 8.2 The Council is satisfied that the necessary resources are available to achieve the regeneration of the Order Lands, whereby the Order powers would be implemented and land will be developed within the 3 year statutory period. This is achieved through the Cost Indemnity Agreement entered into by NFUM and the Council. Under its terms NFUM fully underwrite all costs of process, acquisition and compensation resulting from the preparation, confirmation and implementation of the Order.
- 8.3 The NFUM have total funds under management of over £14 billion and a property portfolio of £1.5 billion. £31 million has been allocated to the Scheme and therefore any compensation claims arising from the use of compulsory purchase powers can be met.
- 8.4 It is not considered that there will be any impediments to the Scheme, and particularly Phase 2b, proceeding.

**9 Conclusion**

- 9.1 The proposals for the redevelopment of land for Phase 2b accords with the Council's corporate strategy and supports the delivery of a key component of the opportunities identified by the CDTF.
- 9.2 Planning permission for Phase 2b has now been granted and the Council is not aware of any planning impediments to the delivery of the redevelopment.
- 9.3 There are clear and specific proposals for the use of the Order Lands.
- 9.4 The requisite funds are available to meet any costs of land acquisition or compensation payable as a result of the use of powers of compulsory acquisition.
- 9.5 Given the clear regeneration benefits of the Scheme, of which Phase 2b forms part, there is a compelling case in the public interest for the confirmation of the Order to allow delivery of the Scheme in a reasonable timeframe.

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**10 Additional Information for Persons affected by the Order**

- 10.1 Owners and tenants of properties, and any other parties with interests affected by the Order, who wish to negotiate a sale should contact Bob Martin at Martin Commercial Property on 01242 588521, (BMartin@martincommercialproperties.co.uk).
- 10.2 Anyone who wishes to speak to a council officer should contact Mike Redman on 01242 775045, (Mike.Redman@cheltenham.gov.uk).
- 10.3 Electronic copies of the Order, Order Map and this Statement of Reasons will be provided upon request. Please contact Bob Martin at Martin Commercial Property on 01242 588521, (BMartin@martincommercialproperties.co.uk).

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**11 Documents available for public inspection.**

11.1 A table of Reference Documents referred to in this Statement of Reasons is appended as Annex 1.

11.2 These documents are available for inspection at [www.cheltenham.gov.uk/brewerycpo](http://www.cheltenham.gov.uk/brewerycpo) and at [ ].

11.3 The Order and Plan can also be inspected at [ ] at all reasonable hours.

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**Annex 1**  
**Reference Documents**

**1 Compulsory Purchase Order and Supporting Documents**

- 1.1 Cheltenham Borough Council (233-243 Cheltenham High Street) Compulsory Purchase Order 2014 Schedule
- 1.2 Map referred to in Cheltenham Borough Council (233-243 Cheltenham High Street) Compulsory Purchase Order 2014 (see Annex 2 below).

**2 Planning Application and Stopping Up Order Documents**

- 2.1 Planning Application 12/00319/FUL, March 2012
- 2.2 S106 Agreement entered into between The National Farmers Union Mutual Insurance Society Ltd and HCC International Insurance Company PLC and Gloucestershire Country Council dated 14 October 2014
- 2.3 Planning Application 14/00182/FUL, May 2014
- 2.4 S106 Agreement entered into between Cheltenham Borough Council and National Farmers Union Mutual Insurance Society Ltd dated 27 June 2014
- 2.5 Stopping up Order for Baynham Way, 5 August 2014
- 2.6 Local Sustainable Transport Fund Bid Application

**3 Legislation and Government Guidance**

- 3.1 Human Rights Act 1998
- 3.2 Acquisition of Land Act 1981
- 3.3 S226 1(a) and 1(A) Town and Country Planning Act 1990
- 3.4 ODPM Guidance Circular 06/04 Compulsory Purchase and the Cichel Down Rules (Circular 06/04), 31 October 2004

**4 National Planning Policy**

- 4.1 National Planning Policy Framework 2012
- 4.2 PPG3, Planning Policy Guidance – Housing, 2000 (now cancelled)

**5 Local Planning Policy**

- 5.1 Council Development Brief (Supplementary Planning Guidance), January 1999

- 5.2 Action Plan 2013-14, Corporate Strategy 2010-15
- 5.3 Economic Development Strategy for Cheltenham 2007-2017, March 2007
- 5.4 Cheltenham Development Task Force challenges & opportunities
- 5.5 Cheltenham Local Plan 2006
- 5.6 Cheltenham Transport Plan

## **6 Miscellaneous**

- 6.1 An Economic Impact Assessment of Boots Corner and King's Quarter Schemes in support of an LSTF Bid Application
- 6.2 Cheltenham Council Cabinet Member Decision Meeting Minute, 15th April 2014
- 6.3 NFUM/Council cost underwrite agreement
- 6.4 Retail and Leisure Study, DPDS, December 2006
- 6.5 Our Towns and Cities – The Future – The Urban White Paper, 2000

Copies of the above documents will be placed on deposit and be available for review at [ ] at all reasonable hours. They are also available at the following website address [ ].

The Council reserves the right to refer to any further documentation at a later stage.

**Annex 2**

**Order Map**

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**Cheltenham Borough Council  
Cabinet-9 December 2014  
Pittville Scouts Hut in Pittville Park**

<b>Accountable member</b>	<b>Cabinet Member for Finance, Councillor John Rawson</b>
<b>Accountable officer</b>	<b>David Roberts (Head of Asset and Property Management)</b>
<b>Ward(s) affected</b>	<b>Pittville</b>
<b>Key Decision</b>	<b>No</b>
<b>Executive summary</b>	<ul style="list-style-type: none"> <li>➤ The former Civil Defence Control Centre in Pittville Park has been let to 10<sup>th</sup> Cheltenham All Saints Scouts Group for over 30 years.</li> <li>➤ The Scouts are well established there and would like to maintain their presence in the park. A new lease has been agreed for a term of 5 years and a rent subsidy was agreed at the Cabinet meeting on the 15<sup>th</sup> July 2014.</li> <li>➤ The land is identified as Open Space and has been advertised in accordance with S123(2A) Local Government Act 1972 and it is confirmed that no objections to the disposal have been received</li> </ul>
<b>Recommendations</b>	<p><b>That Cabinet :-</b></p> <ol style="list-style-type: none"> <li><b>1. Agrees to declare surplus the land and buildings that are currently let to 10<sup>th</sup> Cheltenham All Saints Scouts Group for a term of 5 years.</b></li> <li><b>2. Delegates authority to the Head of Property and Asset Management, in consultation with the Borough Solicitor, to agree the terms of the lease</b></li> <li><b>3. Authorises the Borough Solicitor to execute a lease upon the terms agreed by the Head of Property and Asset Management and such other terms as she considers necessary or advisable</b></li> </ol>
<b>Financial implications</b>	<p>The current lease generates £300 per annum rental income. Should the lease be unable to continue this income would be lost and the Authority would become liable for the ongoing maintenance and repairs of the building.</p> <p><b>Contact officer: Nina Philippidis, Accountant nina.philippidis@cheltenham.gov.uk, 01242 264121</b></p>

<b>Legal implications</b>	<p>The Council has a legal obligation imposed by section 123 of the Local Government Act 1972 to advertise proposed disposals (including leases) of public open space, and to consider any objections.</p> <p>The lease would qualify as a business lease under the Landlord and Tenant Act 1954. Accordingly, the tenant may have statutory rights to renew the lease, and may be due compensation at the end of the lease.</p> <p><b>Contact officer: Rose Gemmell, <a href="mailto:rose.gemmell@teWKesbury.gov.uk">rose.gemmell@teWKesbury.gov.uk</a>, 01684 272014</b></p>
<b>Key risks</b>	None as there have not been any objections to the advertisement.
<b>Corporate and community plan Implications</b>	None
<b>Environmental and climate change implications</b>	

## 1.0 Background

- 1.1 For over 30 years the 10<sup>th</sup> Cheltenham All Saints Scouts Group has used the former Civil Defence Centre as a scouts hut (see attached plan Appendix 2).
- 1.2 The 10<sup>th</sup> Cheltenham All Saints Scouts Group plays a very positive role in the life of the local community. The scouts hut itself is a valuable amenity benefiting many young people and families in the area.
- 1.3 The group would like to renew their lease which expired in 1997 and have been holding over on the terms of that lease ever since. A new lease for a term of 5 years has been agreed and on the 15<sup>th</sup> July 2014 the Cabinet approved a third sector rent subsidy.
- 1.4 The land upon which the buildings are sited is Open Space and the appropriate Notice detailing the proposed leasehold disposals pursuant to S123(2A) of the Local Government Act 1972 was placed in the Gloucestershire Echo on the 10<sup>th</sup> & 17th September 2014.. The Notice gave details of the proposed disposals and asked that if there were any objections to send them in writing to the Borough Solicitor by 9am on 1st October 2014. No objections were received.

## 2. Reasons for recommendations

- 2.1 To allow the current tenants a new lease of the former Civil Defence Centre

## 3. Alternative options considered

- 3.1 Cabinet could decide not to agree to the leasehold disposals but this would result in the closure of the scouts hut in the park which would lead to the Council taking back the maintenance, repair and on-going liability of the building.

## 4. Consultation and feedback

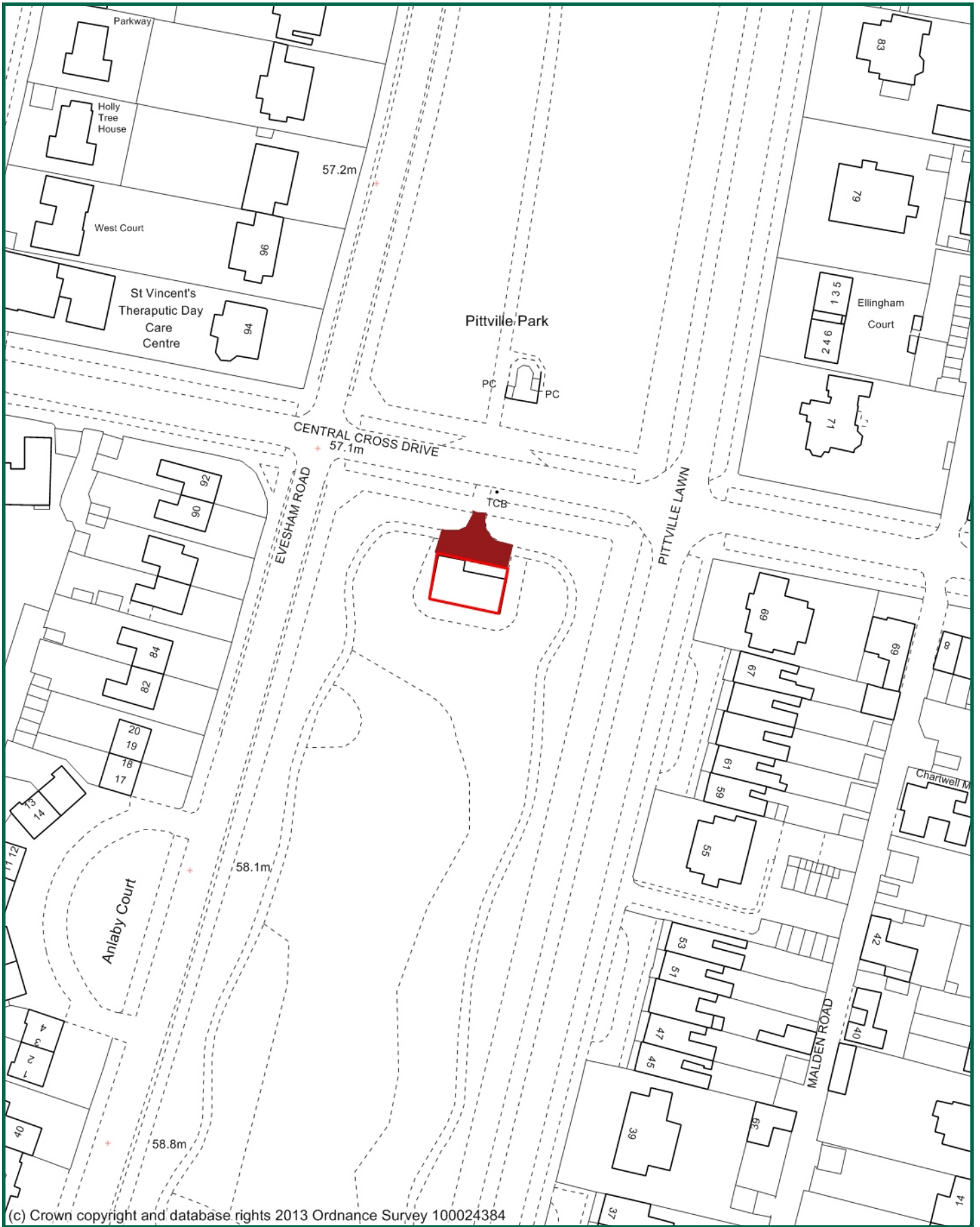
- 4.1 Ward members and senior council officers have been consulted about this proposal and no adverse comments received. Asset Management Working Group were due to consider this report

**Performance management – monitoring and review**

**4.2** Not Applicable

<b>Report author</b>	<b>Contact officer: Rebecca Conway rebecca.conway@cheltenham.gov.uk,  01242 775148</b>
<b>Appendices</b>	<ol style="list-style-type: none"><li>1. Risk Assessment</li><li>2. Location Plan</li></ol>
<b>Background information</b>	<ol style="list-style-type: none"><li>1. None</li></ol>

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the disposal of the public open space is not granted then it may mean the shutting down of the Scouts group	DR	14-10-2014	3	1	3	Accept & Monitor	Recommend the grant of a new lease		RC	



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17 July 2014



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## Cheltenham Borough Council

**Cabinet-9 December 2014**

### Land Adjacent to 6 Saville Close

<b>Accountable member</b>	<b>Cabinet Member for Finance Councillor John Rawson</b>
<b>Accountable officer</b>	<b>David Roberts (Head of Asset and Property Management)</b>
<b>Ward(s) affected</b>	<b>Pittville</b>
<b>Key Decision</b>	<b>No</b>
<b>Executive summary</b>	<p>➤ Albemarle Orchard Garden, a voluntary association of local residents, would like to take a lease for 5 years on the land adjacent to 6 Saville Close. They would like to use it as a community orchard which will be open to members of the public. The lease will be at peppercorn rent. The proposal has the support of Asset Management Working Group The land is identified as Open Space and has been advertised in accordance with S123(2A) Local Government Act 1972 and it is confirmed that no objections to the disposal have been received</p>
<b>Recommendations</b>	<p><b>That Cabinet :-</b></p> <ol style="list-style-type: none"> <li><b>1. Agrees to declare surplus the land adjacent to 6 Saville Close and shown edged red on the plan accompanying this report</b></li> <li><b>2. Delegates authority to the Head of Property and Asset Management, in consultation with the Borough Solicitor, to agree the terms of the lease</b></li> <li><b>3. Authorises the Borough Solicitor to complete the lease upon the terms negotiated by the Head of Property and Asset Manager, together with such other ancillary terms and documents as she may consider necessary or advisable</b></li> </ol>
<b>Financial implications</b>	<p>The land is currently unused and not generating an income to the council. Following the granting of a lease, the maintenance responsibility for the land will be that of the tenant.</p> <p><b>Contact officer: Nina Philippidis, Accountant</b>  <b>nina.philippidis@cheltenham.gov.uk, 01242 264121</b></p>
<b>Legal implications</b>	<p>As members of the public have had access to the land and apparently used it for the purposes of recreation, it has been considered prudent to treat the land as open space and comply with the obligations contained in section 123(2A) of the Local Government Act 1972, by advertising the proposed disposal in a local paper and consider objections (if any).</p> <p>Whilst a lease for this rent would normally be within the delegated authority of the Director of Resources, because of the possibility that this land is open space it has been considered appropriate to bring this report before Cabinet in order to authorise its disposal.</p> <p><b>Contact officer: Rose Gemmell, rose.gemmell@tewkesbury.gov.uk, 01684 272014</b></p>
<b>Key risks</b>	None as there have not been any objections to the advertisement.

<b>Corporate and community plan Implications</b>	None	Page 78
<b>Environmental and climate change implications</b>		

## 1.0 Background

- 1.1 The land adjacent to 6 Saville Close (shown edged red on the plan accompanying this report) is an undeveloped garden site which was previously used as a turf nursery. It extends to some 0.09 ha. The land is currently secluded from the roadway by a 2 metre high hedge and is accessed via a gateway along Saville Close, which is an adopted public highway.
- 1.2 Options have been considered previously for the site and it has been considered that a community orchard would best suit the site at this current time. This approach was supported by the Asset Management Working Group on the 25<sup>th</sup> September 2014.
- 1.3 The Albemarle Orchard Garden group wishes to create and manage a community orchard garden. The orchard will host an apple day, various community gatherings and horticulture shows. The group have come up with a business plan and have secured funding through the Council's Community Pride scheme and are currently seeking the appropriate planning consents.
- 1.4 The group would like to carry out the planting of the trees in early January 2015, so would like a lease to start as soon as possible.
- 1.5 The land is considered to be open space within the statutory definition, as it is understood that members of the public have used it for the purposes of recreation. The appropriate Notice detailing the proposed leasehold disposals pursuant to S123 (2A) of the Local Government Act 1972 was placed in the Gloucestershire Echo in October 2014. The Notice gave details of the proposed disposals and asked that if there were any objections to send them in writing to the Borough Solicitor by 9am on 21 November 2014. No objections were received.

## 2. Reasons for recommendations

- 2.1 To allow the Albemarle Orchard Garden group a lease of the land adjacent to 6 Saville Close which is currently unused.

## 3. Alternative options considered

- 3.1 Cabinet could decide not to agree to the leasehold disposal but this would mean that the Council would need to carry on maintaining the land and continue with any liability associated with it.

## 4. Consultation and feedback

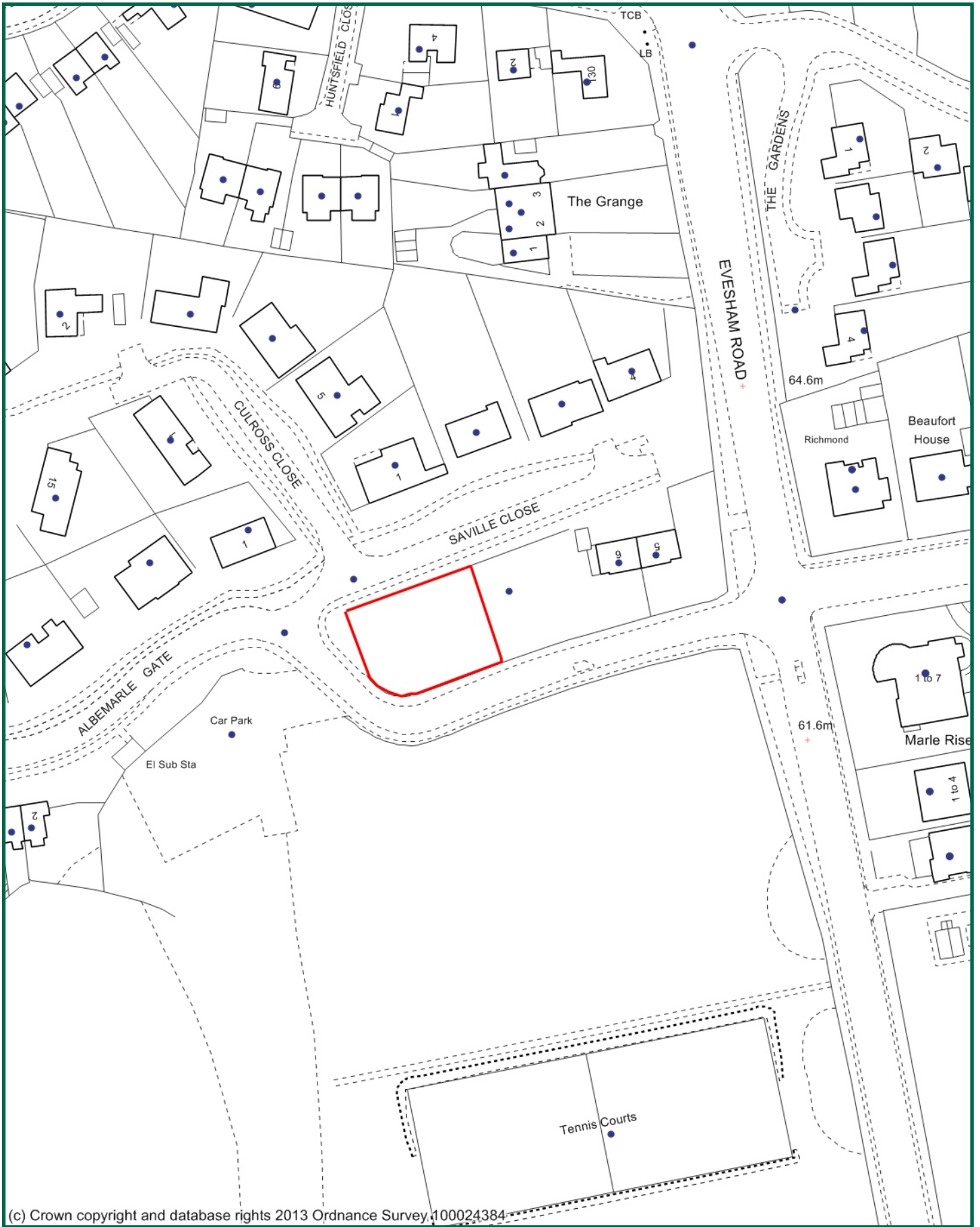
- 4.1 Ward members and senior council officers have been consulted about this proposal and no adverse comments received,

## Performance management –monitoring and review

- 4.2 Not Applicable

<b>Report author</b>	<b>Contact officer: Rebecca Conway</b> <b>rebecca.conway@cheltenham.gov.uk,</b> <b>01242 775148</b>
<b>Appendices</b>	1. Risk Assessment 2. Location Plan
<b>Background information</b>	1. None

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the disposal of the public open space is not granted then it may mean the land remains under used	DR	14-10-2014	33	1	33	Accept & Monitor	Recommend the grant a new lease		RC	



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**Cheltenham Borough Council**

**Cabinet 09 December 2014**

**Council 15 December 2014**

**Council Tax Discounts on Empty properties**

<b>Accountable member</b>	<b>Councillor John Rawson, Cabinet Member Finance</b>
<b>Accountable officer</b>	<b>Mark Sheldon, Director of Resources</b>
<b>Accountable scrutiny committee</b>	<b>Overview and Scrutiny</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key Decision</b>	<b>Yes</b>
<b>Executive summary</b>	In December 2012 Council used its new discretionary powers to set the level of council tax discount awarded in respect of certain categories of empty properties. Approval is now being sought to change the level of discount for one of the categories
<b>Recommendations</b>	<p><b>Cabinet recommends that Council</b></p> <ol style="list-style-type: none"> <li><b>1. Sets the level of discount for class C empty properties at 25% for the first 6 months</b></li> <li><b>2. Confirms 6 weeks as the minimum required period of re-occupation before a further empty property discount will apply</b></li> </ol>

<b>Financial implications</b>	<p>It is estimated that an additional £340,000 of council tax income will be raised of which approximately £43,000 will be retained by the Council. This additional revenue will be reflected in an increase in the council tax collection fund surplus.</p> <p>These changes will also impact on the Housing Revenue Account as they will apply to council owned empty properties managed by Cheltenham Borough Homes</p> <p><b>Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123</b></p>
<b>Legal implications</b>	<p>The legislative context is set out in the report.</p> <p><b>Contact officer: peter.lewis@tewkesbury.gov.uk, 01684 272012</b></p>

<b>HR implications (including learning and organisational development)</b>	None arising from this report  <b>Contact officer: julie.mccarthy, julie.mccarthy@cheltenham.gov.uk, 01242 264355</b>
<b>Key risks</b>	<b>As detailed in appendix 1</b>
<b>Corporate and community plan Implications</b>	The proposal to reduce the level of council tax discounts in respect of empty properties as outlined on the report will support the following outcomes <ul style="list-style-type: none"> <li>• A balanced and sustainable housing market</li> <li>• Reducing crime and disorder</li> </ul>
<b>Environmental and climate change implications</b>	These changes will support the Council's strategy for bringing empty homes back in to use

**1. Background**

- 1.1 The Local Government Finance Act 2012, introduced some technical reforms to council tax from April 2013, abolishing exemptions in respect of certain categories of empty properties and giving new discretionary powers for councils to set the level of discount between zero and 100%.
- 1.2 These new powers provided an opportunity to reduce the level of discounts as a measure to help bring empty properties back in to use more quickly and to increase council tax income.
- 1.3 The current discount levels were set by Council in December 2012 and are shown in Table1 at point 2.1 below.

**2. Changes being proposed**

- 2.1 Approval is being sought to change the level of discount for class C properties to 25% for the first 6 month period after a property becomes unoccupied and substantially unfurnished, instead of 100% for the first month and 25% for the following 5 months.
- 2.2 The current discount levels and the proposed changes are detailed in the table 1 below

<b>Discount Class</b>	<b>Discount Level up to and including 31 March 2015</b>	<b>Discount Level with effect from 01 April 2015</b>
Class C Properties - empty and unfurnished for up to 6 months	100% discount for the first month then 25% discount for the following 5 months	25% for up to 6 months  Once the 25% has been awarded for 6 months no further discount will be awarded unless the property is re-occupied for a period of not less than 6 weeks



Class D Properties – Empty and unfurnished and undergoing major works/structural repairs to render them habitable	25% discount for up to 12 months	25% discount for up to 12 months  Once the 25% has been awarded for 12 months no further discount will be awarded unless the property is re-occupied for a period of not less than 6 weeks
Class C long term empty properties - empty and unfurnished for more than 6 months	Zero discount – 100% council tax payable	Zero discount – 100% council tax payable
Second Homes - properties which are furnished but not occupied as anyone's main home	Zero discount – 100% council tax payable	Zero discount – 100% council tax payable

- 2.3 Class C and D discount types commence on the date a property becomes empty and unfurnished and this does not change as a result of a change in owner or tenant.
- 2.4 If a property is re-occupied or substantially furnished for a period of less than 6 weeks this will be disregarded for the purposes of determining the date it became empty and unfurnished.
- 2.5 The change, if approved, will mean the discount levels for classes C and D are consistent and generate additional council tax income.
- 2.6 In cases where the 100% discount is being awarded at 31 March 2015 the 25% discount rate will apply on 01 April 2015.
- 2.7 Based on the discounts granted at 100% for the first month in 2013/2014, reducing the discount to 25% would generate approximately £340,000 in additional council tax income. The Council's portion of this would be approximately £43,000 the County Council's portion approximately £250,000 and the police portion approximately £46,000.
- 2.8 The Council only has the discretion to set the discount level. The qualifying conditions for the discount classes and time periods are set by legislation.
- 2.9 Table 2 below details who will be affected by these changes

Class C properties  25% discount for up to 6 months instead of 100% discount for 1 month then 25% for 5 months	<ul style="list-style-type: none"> <li>• Owners who move out of properties but retain ownership</li> <li>• Tenants who vacate properties prior to the end of their lease</li> </ul>
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	<ul style="list-style-type: none"> <li>• Landlords of properties which are empty between tenancies</li> <li>• Council owned properties managed by Cheltenham Borough Homes which are empty between tenancies</li> <li>• Owners, property developers, landlords who buy can't sell or let properties</li> </ul>
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**2.10** This change will affect landlords, who will become liable for a small charge when properties are empty for short periods between tenants. However, the consistent level of discount will reduce the disputes between landlords and tenants regarding responsibility during the first month a property is empty.

**3. Reasons for recommendations**

**3.1** The proposed change will standardise discount levels on empty properties and provide a further incentive for owners to bring empty properties back in to use more quickly. It will also increase council tax income which will help fund local services.

**4. Alternative options considered**

**4.1** None.

**5. Consultation and feedback**

**5.1** Consultation has taken place with other Gloucestershire districts. The other councils have policies which are consistent with the proposals

**6. Performance management –monitoring and review**

**6.1** The impact of these changes on the level of council tax income and the collection rate will be monitored closely and reported to members in budget monitoring reports.

**6.2**

<b>Report author</b>	<b>Contact officer: Jayne Gilpin, Revenues Manager, jayne.gilpin@cheltenham.gov.uk, 01242 264323</b>
<b>Appendices</b>	Risk Assessment

<b>Background information</b>	<ol style="list-style-type: none"><li>1. The Local Government Finance Act 1992, amended by the Local Government Finance Act 2012 <a href="http://www.legislation.gov.uk/ukpga/2012">http://www.legislation.gov.uk/ukpga/2012</a></li><li>2. The Council Tax (Prescribed Class of Dwellings (England) Regulations 2003 <a href="http://www.legislation.gov.uk/uksi/2003/3011/contents/made">http://www.legislation.gov.uk/uksi/2003/3011/contents/made</a></li><li>3. The Council Tax (Prescribed Class of Dwellings (England) Regulations 2012 <a href="http://www.legislation.gov.uk/uksi/2012/2964/contents/made">http://www.legislation.gov.uk/uksi/2012/2964/contents/made</a></li><li>4. Report to council 17/12/2012 – council tax discounts on Empty Properties <a href="https://democracy.cheltenham.gov.uk/documents/s6683/2012_12_17_COU_10_Council_Tax_Discounts_on_Empty_Properties.pdf">https://democracy.cheltenham.gov.uk/documents/s6683/2012_12_17_COU_10_Council_Tax_Discounts_on_Empty_Properties.pdf</a></li></ol>
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The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the revised council tax discount proposals for empty properties are adopted and it becomes difficult to collect the small amounts due when properties are empty for a few days then the estimated additional income may not be fully realised	Mark Sheldon	11/12/2012	2	3	6	Accept	Monitor and review the estimated income	31/03/2014	Jayne Gilpin	
<b>Explanatory notes</b>											
<p><b>Impact</b> – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p><b>Likelihood</b> – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

**Guidance**

Types of risks could include the following:

- Potential reputation risks from the decision in terms of bad publicity, impact on the community or on partners;
- Financial risks associated with the decision;
- Political risks that the decision might not have cross-party support;
- Environmental risks associated with the decision;
- Potential adverse equality impacts from the decision;
- Capacity risks in terms of the ability of the organisation to ensure the effective delivery of the decision

- Legal risks arising from the decision

Remember to highlight risks which may impact on the strategy and actions which are being followed to deliver the objectives, so that members can identify the need to review objectives, options and decisions on a timely basis should these risks arise.

**Risk ref**

If the risk is already recorded, note either the corporate risk register or TEN reference

**Risk Description**

Please use “If xx happens then xx will be the consequence” (cause and effect). For example “If the council’s business continuity planning does not deliver effective responses to the predicted flu pandemic then council services will be significantly impacted.”

**Risk owner**

Please identify the lead officer who has identified the risk and will be responsible for it.

**Risk score**

Impact on a scale from 1 to 5 multiplied by likelihood on a scale from 1 to 6. Please see risk [scorecard](#) for more information on how to score a risk

**Control**

Either: Reduce / Accept / Transfer to 3rd party / Close

**Action**

There are usually things the council can do to reduce either the likelihood or impact of the risk. Controls may already be in place, such as budget monitoring or new controls or actions may also be needed.

**Responsible officer**

Please identify the lead officer who will be responsible for the action to control the risk.

For further guidance, please refer to the [risk management policy](#)

**Transferred to risk register**

Please ensure that the risk is transferred to a live risk register. This could be a team, divisional or corporate risk register depending on the nature of the risk and what level of objective it is impacting on

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**Cheltenham Borough Council**

**Cabinet**

**9 December 2014**

**Recycling Materials Bulking and Sales**

<b>Accountable member</b>	<b>Councillor Chris Coleman, Cabinet Member Clean and Green Environment</b>
<b>Accountable officer</b>	<b>Pat Pratley, Deputy Chief Executive</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key Decision</b>	<b>Yes</b>
<b>Executive summary</b>	<p>Cheltenham Borough Council (CBC) has a contract in place with Printwaste Ltd for the bulking of recycling material collected from the kerbside, bring sites and through the Swindon Road Household Recycling Centre. The contractor also carries out the sale of the recycled materials. The current contract extension is due to expire in April 2015.</p> <p>The Gloucestershire ‘Joint Waste Committee’ (JWC) included in its 2014-17 business plan a project “tendering of a new contract for the sale of recyclable material with consideration of associated bulking and transfer operations” on behalf of CBC. The Joint Waste Team (JWT) acting on behalf of the JWC, considered two options, firstly a procurement process through a service concession contract and secondly an option whereby Ubico Ltd would take on dry recyclable material bulking and the JWT having responsibility for marketing and sales of the dry recyclable materials.</p> <p>The recommendations, if supported by Cabinet, are expected to achieve a net income to the General Fund of £92K per annum assuming the purchase of capital equipment.</p>
<b>Recommendations</b>	<p><b>It is recommended that</b></p> <ol style="list-style-type: none"> <li><b>1. CBC agree a further extension of the Printwaste Ltd contract and Ubico take on the dry recyclable material bulking operation thereafter</b></li> <li><b>2. A project team, sponsored by the Managing Director of Ubico be established to oversee the transition to the new service delivery for both materials recycling and materials marketing and sales</b></li> <li><b>3. Cabinet recommends to Council, in the framework of the budget cycle, that up to £390K of capital expenditure in the 2015-16 capital budget is allocated to the project</b></li> <li><b>4. CBC takes back responsibility for the sale of the dry recyclable material and make arrangements for the day to day management of</b></li> </ol>

**material sales to be undertaken by the JWT.**

<p><b>Financial implications</b></p>	<p>Attached at <b>Appendix 3 – (confidential under paragraph 3, section 12A Local Government Act 1972)</b> is a financial summary.</p> <p>In summary, allowing for capital financing cost, the proposal delivers a net surplus of £26,000 in 2015/16 rising to £52,000 per annum in a full year.</p> <p>Given the MTFS budget gap, if the council were to finance the equipment acquisition up front through either prudential borrowing or capital receipts, the net surplus would increase to £46,000 in 2015/16 rising to £92,000 per annum in a full year.</p> <p>The cost of procuring the expert advice is estimated to be not more than £5,000 and it is proposed that this be met from one off sources in 2015/16 to be outlined in the budget proposals for 2015/16.</p> <p>The decision on financing the project will be made in line with the impending review of the Asset Management Plan and Capital Financing Strategy and final budget proposals for 2015/16.</p> <p>The income figures shown in this report are based on the mid-range scenario for recyclable sales as projected in the Eunomia report.</p> <p><b>Contact officer: Des Knight, Accountant GO Shared Services</b>  <a href="mailto:Des.knight@cheltenham.gov.uk">Des.knight@cheltenham.gov.uk</a> 01242 264124</p>
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<p><b>Legal implications</b></p>	<p>The Council's refuse collection contract with Ubico can be varied to allow Ubico to collect and bulk dry recyclables taking this back 'in house' from Printwaste if so desired.</p> <p>Ubico are a local authority wholly owned 'Teckal' company and thus there is no EU requirement for the Council to go out to tender. The Council therefore may give the work to Ubico without going through any formal procurement process.</p> <p>The current position is that there is a contractual relationship between the Council and Printwaste for them to receive recycling material, then bulk and sell to the market. The first two elements can be dealt with by Ubico but the Council will need to arrange for the sale of the materials, which this report recommends be undertaken by the JWT. There will need to be a market testing exercise by the JWT to ensure that the best price is obtained for the disposal of the material and the contract for sale will be between the Council and a third party/parties re-processor, for which the Council will receive the associated income directly.</p> <p>An extension of the Printwaste contract will be necessary whether the Council is to take back the function or to retender, given the timescales involved as the original contract has time expired but did contain a provision allowing an extension. Printwaste will need to agree to this and this will be documented.</p> <p>If the contractual relationship with Printwaste is ended then it will be necessary to consider whether the Transfer of Undertakings (Protection of Employment) regulation apply to any of the operatives involved in the operation.</p> <p>The operation is currently undertaken at the Swindon Road depot and it is intended that this will continue and would be included in the formal lease the Council has in place with Ubico.</p> <p><b>Contact officer: Gary Spencer, Solicitor One Legal</b>  <a href="mailto:Gary.Spencer@tewkesbury.gov.uk">Gary.Spencer@tewkesbury.gov.uk</a> 01684 272691</p>
<p><b>HR implications (including learning and organisational development)</b></p>	<p>It is unclear at this stage if there will be TUPE implications for existing Printwaste employees. The project team, when established, will have representation from the GO Shared Service HR team. The HR representative will work closely with the Ubico MD to ensure all HR implications are captured and actioned.</p> <p><b>Contact officer: Julie McCarthy, GO Shared Services HR Manager – West</b>  <a href="mailto:julie.mccarthy@cheltenham.gov.uk">julie.mccarthy@cheltenham.gov.uk</a> 01242 264355</p>

<p><b>Key risks</b></p>	<p>The key risks associated with the recommendations are outlined below and the assessment and mitigating actions are described in <b>Appendix 1:</b></p> <ol style="list-style-type: none"> <li>1. Implementation of new operational arrangements (bulking operation and material sales) following the completion of the Printwaste Ltd further contract extension</li> <li>2. Fluctuations in material prices as a result of market conditions</li> <li>3. Inability of the JWT to secure the best value for materials sold thereby impacting CBC income</li> <li>4. The need for Ubico to have adequate contingency plans in place in the event that the service is disrupted for some reason, e.g. equipment failure</li> <li>5. The cost of the plant necessary for the operation of the bulking facility is too high and thereby impacts the business case</li> <li>6. The potential for the JWT not considering the material marketing sales from an environmental impact as well as monetary best value perspective</li> <li>7. The potential for Ubico to cause negative environmental impact if it expands the material bulking service</li> </ol>
<p><b>Corporate and community plan Implications</b></p>	<p>The proposal contained in this report supports the following strategic outcomes:</p> <ol style="list-style-type: none"> <li>1. Cheltenham is a place with a clean and well-maintained environment where waste is minimised and recycling, reusing and composting is promoted. In particular the proposal supports delivery of milestone ENV03 which relates to driving out efficiency and maximising income from our waste and recycling.</li> <li>2. We will meet our Bridging the Gap targets for cashable savings and increased income.</li> </ol>

<p><b>Environmental and climate change implications</b></p>	<p>The recycling collection vehicles currently empty their loads into the materials bulking facility at Swindon Road so there will be no increase in vehicular movements compared to the current operation as long as the facility continues to be used. However, if the recommendations are endorsed then there may be environmental benefits in Ubico being able to closely monitor the quality of recycling material being collected by its operatives and therefore reduce the levels of contamination which goes to the re-processors. This would have the added benefit of reducing the amount of waste from contaminants generated by the re-processors once the recycling material has been processed, which then go off to be landfilled.</p> <p>The environmental impact of the sale of recycling materials is influenced by what happens to the material when it leaves the bulking facility, e.g. how far is it being shipped for re-processing. The JWT will need to ensure that best value is obtained from an environmental perspective as well as a monetary perspective from the sale of materials. How this is being achieved should ideally be demonstrated as part of the performance management process.</p> <p>Expanding the operation to take recycling from other partner areas of the JWC may have a negative impact if facilities are available more locally and vehicles are travelling further to deposit loads. However, there may be a positive impact if expanding the operation enables materials to be recycled that would otherwise not be, either because a bulking operation for that type of materials does not exist locally or insufficient local bulking facilities exist for the volume of material being collected.</p> <p><b>Contact officer: Gill Morris; Climate Change and Sustainability Officer Gill.Morris@Cheltenham.gov.uk; 01242 264229</b></p>
<p><b>Property/Asset Implications</b></p>	<p>The creation of a lease to UBICO Ltd for Building 7 at the Depot, Swindon Road will clarify roles and responsibilities in terms of management, repairing obligations and rates relating to the premises, thereby reducing the Council's exposure to these costs.</p> <p><b>Contact officer: Chris Finch; Senior Estates Surveyor Chris.Finch@cheltenham.gov.uk; 01242 264109</b></p>

## **1. Background**

- 1.1 Cheltenham Borough Council (CBC) has a contract in place with Printwaste Ltd for the bulking of recycling material collected from the kerbside, bring sites and through the Swindon Road Household Recycling Centre. The current contractor also carries out the marketing and sale of the recycled materials. The current contract extension is due to expire in April 2015.
- 1.2 The Joint Waste Committee (JWC) included in its 2014-17 business plan a project “tendering of a new contract for the sale of recyclable material with consideration of associated bulking and transfer operations”. The Joint Waste Team (JWT) which works on behalf of the JWC considered two options, firstly a procurement process through a service concession contract and secondly an option whereby Ubico Ltd would take on dry recyclable material bulking with the JWT having responsibility for the marketing and sale of the recycled materials.

## **2. Dry Recyclable Materials Bulking and Sales Operation**

### **2.1 Current Arrangements with Printwaste Ltd**

- 2.1.1 Dry recyclable materials (paper, card, mixed glass, mixed plastic bottles and mixed cans) are collected from the kerbside and from bring sites and the Household Recycling Centre by Ubico and are bulked at the Swindon Road bulking facility by Printwaste. Food waste is outside the scope of this review. Printwaste is responsible for offloading stillage vehicles, sorting materials, baling the materials that are collected, liaising with hauliers for transport of materials to re-processors, loading haulage vehicles and the material marketing.
- 2.1.2 Printwaste pay a fee per tonne for each material stream. The tonnage fee payable per commodity is reviewed every 3 months. In addition, a per-tonne charge is made for bulking paper and glass which is charged to Ubico as a handling fee.
- 2.1.3 Dry recyclable materials are transported to a variety of destinations depending on the material being recycled with the costs being borne by the re-processors and as such they are classed as ‘ex-works’.

### **2.2 Proposed Arrangements**

#### **2.2.1 Ubico’s Responsibilities**

1. Under the revised governance arrangements for Ubico, the Managing Director has delegated authority to approve contracts up to £250,000, but in this case it would be a variation to the existing contract which would not normally be referred to the Board. The Board are however aware of Ubico’s plans to expand in this area and support the proposal.
2. Ubico would be responsible for receiving recycling vehicles into the Swindon Road Depot, weighing in and offloading the vehicles. Ubico would then sort and or/bale or bulk up the materials as necessary ready for sale to the market and would keep accurate records of goods received and loaded on to bulk transport vehicles.
3. The new operation whilst not exactly the same as currently performed by Ubico on site, does share a large number of processes concerning safe material handling and health & safety, so if Printwaste was not willing for the existing staff to transfer to Ubico under TUPE, then Ubico could employ replacement operatives who could be trained to the required standard without the need for significant additional expenditure.
4. For recycling materials that have been sold ‘ex-works’ the buyer will send bulk transportation to collect the materials. Ubico will receive and weigh these vehicles, load them accordingly

and weigh them on departure, keeping accurate records of goods out. Ubico will also be responsible for other ancillary services such as the transfer and transport to a local bulking/reprocessing facility of food waste.

### 2.2.2 Gloucestershire Joint Waste Team's Responsibilities

1. The constitution of the Joint Waste Committee (JWC) delegates the Councils waste, recycling and street cleansing 'client' functions to the JWT.
2. The JWT would be responsible for the marketing and sales of dry recyclable materials through procurement contracts. It is anticipated that the contracts would be let over time periods of 6 months to 2 years and include a floor and ceiling price for the particular commodity to mitigate any shortfall in the Councils income if the market crashed. The only down side of such an agreement is that potential additional revenue might not be realised if the commodity value increased dramatically. Through the expertise of the material marketing advisor, the contract terms will be carefully scrutinised by the JWT to ensure that a good balance between protection for CBC and maximising income is found. For the avoidance of doubt selling to the market includes the haulage of materials from the bulking facility to its ultimate destination and is what's known in the industry as 'ex-works'.
3. As the JWT is not a legal entity it cannot enter into contracts directly itself. For the purposes of this arrangement therefore it is proposed that CBC would be the contracting authority for procurement purposes and would receive the associated income directly.
4. The JWT will need to demonstrate best value through its procurement process not just from a monetary perspective but also an environmental perspective.

## 3. Evaluation of Material Bulking and Marketing Arrangements

- 3.1 The JWT, on behalf of CBC, commissioned a study from Eunomia Consulting (**Appendix 2 - confidential under paragraph 3, section 12A Local Government Act 1972**) to
  - 3.1.1 Review the historic prices paid under the Printwaste contact and to compare to high, medium and low prices that could have been obtained by direct selling to the market over the same period.
  - 3.1.2 Review the financial and non-financial benefits and risks associated with taking the service in-house versus renewing the current contractual arrangements.
  - 3.1.3 Give due consideration to the potential for additional material (household and commercial) to be received from partner authorities.
- 3.2 The report analysed material income by commodity type over the period April 2011 to June 2014 and used 2012-13 annual tonnages for kerbside and bring site collections.
- 3.3 Whilst not used in the study, the recycling material tonnages collected in 2013-14 were on par with those collected in 2012-13 and this year (2014/15) Ubico looks set to again collect a comparable total amount of recycling material. This shows that the recycling material quantities being collected are stable within the borough.

## 4. Review of Dry Recyclable Materials Historic Pricing

- 4.1.1 The Eunomia study used the Materials Pricing Report (MPR) compiled by WRAP (Waste and Resources Action Programme) which gives an indication of changes in the market across grades of recyclables. The MPR lists a low and high price for each material per week. The consultants used their experience of the material grade expected from kerbside sorted collections and whether it could be expected to be marked for the MPR high or low price.

4.1.2 The study models the comparison between the MPR price and the Printwaste price paid for each commodity over the study period (April 2011 to June 2014). The study describes a range of sensitivities which compares the central assumption of prices for each commodity over the period against a low and high end price range.

4.1.3 It is considered that the central range assumption is a prudent one to take for the purposes of appraising the business case. Attached at **Appendix 3 – (confidential under paragraph 3, section 12A Local Government Act 1972)** is a financial summary which provides further detail.

## 5. Financial Implications

5.1.1 Attached at **Appendix 3 – (confidential under paragraph 3, section 12A Local Government Act 1972)** is a financial summary which sets out the financial appraisal for this proposal.

## 6. Printwaste Ltd Contract

6.1.1 Discussions have been taking place with Printwaste Ltd regarding the Council's wish to further extend the current contract. In addition discussions are also taking place with regard to the value of the capital inventory that Printwaste uses to operate the bulking facility and which CBC may wish to procure at a market value price.

6.1.2 At the time of writing this report these discussions are still on-going and there are no indications that either of these matters should prove a difficulty to the implementation of the recommendations within this report. If however that situation changes, and depending on the severity of the issue, a further report may need to be brought back to Cabinet.

## 7. Ubico Management of Dry Recyclable Materials Bulking Operation

7.1.1 Ubico management and its Board of Directors have been keen to consider and develop their business case for the delivery of the materials bulking operation. The company operates out of the same depot site and currently sub-leases the bulking premises to Printwaste Ltd. Ubico is therefore already on site and its vehicles will continue to deliver dry recyclable materials to the same location thereby avoiding additional transport costs.

7.1.2 Ubico has staff on site who manage the yard operations and the bulking facility operates along similar lines with the need to operate in line with safe working practices for safe vehicular movements, unloading, loading of material and other health and safety considerations.

7.1.3 Printwaste currently operate the bulking facility from a designated area within the Swindon Road Depot. With the exception of Tewkesbury BC, the other partners who are known to be interested in joining Ubico will require their own operating depot therefore this will have no impact on space available at Swindon Road. Tewkesbury BC has leased space at Swindon Road for several years for its collection operations and this has had, and will continue to have, no impact on the area designated for the operation of the recycling materials bulking facility.

7.1.4 Ubico Ltd will make suitable contingency plans to allow for the continued acceptance and bulking of materials collected should there be any significant breakdown or failure of equipment or plant or unavailability of operatives.

7.1.5 To mitigate any risks associated with the Swindon Road site not being able to accept material for an extended period of time, Ubico will also identify alternative bulking facilities in the Cheltenham area.

7.1.6 The new operation whilst not exactly the same as that currently performed by Ubico on the Swindon Road site does share a large number of processes concerning material handling and health & safety, so if the existing staff did not TUPE to Ubico from Printwaste, then replacement operatives could be relatively easily employed and trained to the required standard, without the need for significant additional expenditure.

- 7.1.7** Ubico is seeking not only to grow its customer base but also to enter into associated waste service markets. The materials bulking operation provides an opportunity to do that whilst leaving the marketing and sales, which it is less well placed to deliver, to the JWT on behalf of the Council.
- 7.1.8** Ubico is growing its business with a number of neighbouring authorities having already joined or which are expressing an interest in joining the company. As the business grows there is the opportunity for further growth of the materials bulking operation. Whilst not considered as part of the Eunomia report, any additional material bulking which Ubico could undertake would be of indirect financial benefit to the shareholders through a contribution to Ubico overheads thereby increasing any annual surplus payable to the shareholding councils.
- 7.1.9** Ubico has a strong track record with its shareholding Councils for going through a significant period of change and at the same time delivering services to a very high standard. However, with the potential for new joiners in the spring of 2015 it is felt that to implement the materials bulking operation at the same time will not be achievable. The proposal contained within this report is therefore that the current contract with Printwaste Ltd is extended to build in the necessary time for delivery of this project.
- 7.1.10** It is also proposed that a small project team, sponsored by the Ubico Managing Director, will be set up to oversee the transition from the current arrangements to the new service delivery of both materials recycling and materials marketing and sales. Project management resource is available within Ubico to undertake the detailed project management that will be necessary to ensure the successful transition.

## **8. Gloucestershire 'Joint Waste Team' – Dry Recyclable Materials Marketing and Sales**

- 8.1** The Eunomia report outlines a number benefits associated with Ubico carrying out the materials bulking operation and the JWT carrying out the materials marketing and sales operation, these include;
1. The potential to develop the expertise in the JWT and to market materials for other areas or other material streams from partners within the JWC;
  2. Potential to maximise revenue by eliminating third party margins whilst still obtaining best prices
  3. The potential to extend operations to take further recycled materials without the need for varying a contract;
  4. Easier to control the quality of recyclable material collected at the kerbside because of the greater feedback loop from Ubico bulking staff to Ubico collection crews
- 8.2** The members of the JWT, including the Head of Service, have a good overview but not comprehensive direct experience of selling into the recycling materials market. The JWT Head of Service is therefore very aware of the need to access more direct experience and his proposal is to augment the team's existing experience with advice and training from a materials marketing expert.
- 8.3** The role of the marketing expert will be to support the JWT to set up contracts and be a source of expert advice during at least the first 6 months of the new operation. The JWT is currently undergoing a structural review and it is proposed that a material's marketing project team of 2-3 people will be created within it to ensure that all contracts, knowledge and experience gained is not vested in just one person. The expert adviser will be shadowed by, and will train, the staff within the project team.
- 8.4** The type of contracts that will be entered into will generally be long term, accommodating market

price variations through a banding process with floors and ceilings to mitigate against risk. In terms of JWT capacity to undertake the work, the Head of Service has proposed that the materials marketing and sales work will be subsumed into the existing JWT with no additional cost implications at this time.

8.5 The cost of procuring the expert advice is estimated to be not more than £5,000 and will be funded from the anticipated additional income the CBC will receive.

**9. Reasons for recommendations**

9.1 As outlined within the body of the report and in Appendix 2 & 3 – (confidential under paragraph 3, section 12A Local Government Act 1972).

**10. Alternative options considered**

10.1 The alternative option is to go out to procurement for a new contract for the bulking and sale of dry recyclable materials. The Eunomia report and the work undertaken by Ubico has established that it would be more financially beneficial for CBC that Ubico undertake the materials bulking operation and the JWT carry out the marketing and sales.

**11. Consultation and feedback**

11.1 The JWC action to review material recycling and sales was included in its own action plan and in CBC’s 2014-15 corporate plan. The JWC itself has debated its action plan and considered it at its public meetings. The Leader and the Cabinet Member for Clean and Green Environment have been engaged throughout as members of the JWC.

**12. Performance management – monitoring and review**

12.1 Income from the sale of dry recyclable materials will be reported to CBC on a monthly basis by way of the normal budget monitoring process and to the JWC on a quarterly basis through the finance monitoring reports prepared by GCC finance.

12.2 A site inspection to assess the Health & Safety and working practices will be completed monthly by the JWT and will be reported to the Council as part of the quarterly H&S reports.

<b>Report author</b>	<b>Contact officer: Scott Williams; Scott.Williams@cotswold.gov.uk, Mobile: 07775 420943</b>
<b>Appendices</b>	<ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Eunomia Report (CONFIDENTIAL APPENDIX)</li> <li>3. Financial Summary (CONFIDENTIAL APPENDIX)</li> </ol>
<b>Background information</b>	<ol style="list-style-type: none"> <li>1. Ubico Capital and Revenue Estimates</li> </ol>



**Risk Assessment**

**Appendix 1**

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If Ubico cannot implement the new operational arrangements by the end of the contract then the Council will need to put in contingency arrangements for the bulking and sale of dry recyclable material	Rob Bell	9.12.14	4	3	12	Reduce	1. Project in place and sponsored by Ubico MD to implement changed service within timeframe  2. Current provider aware of contract termination and scope available to further extend temporarily	1.1.15  9.12.14	Rob Bell  Scott Williams	
2	If Ubico do not have previous experience in materials bulking and transfer then the quality of dry recyclable materials might be compromised leading to a reduction in sales income achieved	Rob Bell	9.12.14	4	2	8	Reduce	1. Staff TUPE from current provider or training of new employees to required standards  2. Ubico MD has legal responsibility for health and safety of workforce under current contract  3. Project plan will include workforce requirements including operations training and health and safety 4. Regular inspections of material quality to be	October 2015  October 2015  1.1.15  Ongoing	Julie McCarthy Rob Bell  Rob Bell  Rob Bell	

								completed by Ubico management team			
								5. Monthly H&S inspections to be carried out by qualified member of the JWT	Ongoing	Scott Williams	
3	If the JWT does not have any previous experience in marketing dry recyclable materials or the relationships in place with the material re-processors then the JWT will not secure 'off-take' of the material or achieve best value for the material sold	Pat Pratley	9.12.14	4	3	12	Reduce	<p>1. Expert adviser to support the JWT with setting up marketing and sales operation</p> <p>2. Members of JWT have some experience of the work already</p> <p>3. Resilience will be built within the team by more than one officer being responsible for marketing</p>	1.4.15	Scott Williams	Page 102
									Ongoing	Scott Williams	
									Ongoing	Scott Williams	
4	If Ubico were to have a problem with the operation of the bulking material facility then officers would need a contingency plan in place to ensure the bulking operation could recommence as soon as practicable to protect the income stream	Rob Bell	9.12.14	3	2	6	Reduce	<p>1. Ubico will make suitable business continuity plans to allow for the continued acceptance and bulking of materials collected should there be any significant breakdown or failure of equipment or plant or unavailability of operatives</p> <p>2. Ubico will identify alternative material bulking providers in the</p>	October 2015	Rob Bell	
									October 2015	Rob Bell	

								area			
5	If Printwaste Ltd is unwilling to sell the plant and equipment it owns within the material bulking facility then the business case viability could be compromised	Scott Williams	9.12.14	3	3	9	Reduce	<p>1. Conduct independent valuation of the plant and equipment used on site</p> <p>2. Conclude negotiations with Printwaste regarding settlement cost of capital equipment</p> <p>3. Lease arrangements to confirm agreed capital settlement</p> <p>4. Ubico to identify alternative plant and equipment providers</p>	<p>1.1.15</p> <p>1.1.15</p> <p>1.1.15</p> <p>1.4.15</p>	<p>Scott Williams</p> <p>Scott Williams</p> <p>Scott Williams</p> <p>Rob Bell</p>	
6	If the JWT does not consider the material marketing and sales from an environmental as well as monetary perspective then there is a risk that there may be a negative environmental impact	Scott Williams	9.12.14	3	3	9	Reduce	<p>1. JWT Head of Service pioneered the publication of open information regarding marketing and use of materials</p> <p>2. CBC environmental requirements will be fed into the procurement process conducted by the JWT</p>	<p>1.4.15</p> <p>1.4.15</p>	<p>Scott Williams</p> <p>Scott Williams</p>	
7	Market fluctuations in material value might lead to CBC income being affected	Scott Williams	9.12.14	3	2	6	Reduce	Longer term contracts will be sought which include floor and ceiling price constraints to	Ongoing	Scott Williams	

								protect income.			
8	If Ubico decide to take recycling from other partner areas of the JWC and vehicles are travelling further to deposit loads then this may have a negative environmental impact	Rob Bell	9.12.14	3	3	9	Reduce	It is anticipated due to the distances involved that all new partners would have their own bulking arrangements in place as part of their procurement of a suitable operations depot	Ongoing	Rob Bell	

**Explanatory notes**

**Impact** – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

**Likelihood** – how likely is it that the risk will occur on a scale of 1-6

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

**Control** - Either: Reduce / Accept / Transfer to 3rd party / Close

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