

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 10,000m² of retail floorspace (of which 350m² 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.

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 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 Crichel 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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