

Appendix 2b

JUSTIFICATIONS FOR COMPULSORY PURCHASE ORDER

Section 226 (1) (a) Town and Country Planning Act 1990 (as amended) and sections 239, 240 and 250 of the Highways Act 1980

1. The powers provided in the section 226(1) (a) of the Town and Country Planning Act and sections 239, 240 and 250 of the Highways Act enable acquiring authorities to exercise their compulsory acquisition powers if they think 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 and it is not certain that they will be able to acquire it by agreement. The acquisition of the land shown in Appendix 2a will enable the development of the Commonwealth Games Athletes Village and improved local transport infrastructure, as well as associated public realm works which necessarily must be completed ahead of the Games in 2022 and which are essential to the delivery of a successful global sporting event in Birmingham. The acquisitions will also facilitate the delivery of wider regeneration of Perry Barr, deriving an exciting legacy from the Games. There is no certainty of being able to deliver this through voluntary negotiation, and certainly not within the necessary timescales.
2. The wide power in section 226(1)(a) is subject to subsection (1A) as amended by Section 99 of the Planning and Compulsory Purchase Act 2004. This provides that the acquiring authority must not exercise the power unless they think 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 the area. The proposed redevelopment of Perry Barr will contribute to all three of these objectives in the following ways:
 - i. Economic
 - Facilitating the delivery of the Commonwealth Games, which will bring significant economic benefits to the immediate area, the City and the Region. The economic benefits of hosting the Games have been set out to Cabinet on a number of occasions, but in summary the Games will see a raised profile for the region generating a range of economic opportunities before, during and after the Games. Learning from previous Games and studies carried out to support Birmingham's bid suggest that benefits include:
 - improved productivity (+£14 per head of Gross Value Added),
 - over 22,600 direct and indirect worker years generated,
 - increased employment rate (+12%) and increased tax contribution,
 - over £525 million incremental Gross Value Added.
 - Supporting the longer term delivery of more than 3,000 homes in the area through the delivery of infrastructure which enables and promotes higher density development, in line with the strategy for growth set out in the Birmingham Development Plan.
 - Providing for major investment into the transport infrastructure of the area by the City Council, Local Enterprise Partnership, West Midlands Combined Authority and Transport for West Midlands as part of the delivery of the Birmingham Connected vision, which in creating a transport network which is equitable, efficient, sustainable, healthy and attractive will support economic growth through better access for businesses, employees, customers, and for local people to employment and training opportunities.
 - Delivering new commercial premises as part of a modern District Centre offer.

- It is recognised that there are businesses affected by this proposal. As matters progress the City Council, as acquiring authority, and its partners will work with the affected businesses in terms of relocation of the businesses and jobs affected

ii. Social

- The Games will bring a range of social benefits to the immediate area, the City and region – it will remove barriers to participation in physical activity and sport, with a focus on communities that are currently inactive, promoting better mental and physical health outcomes for our citizens, and which will see investment in sports infrastructure through the redevelopment of Alexander Stadium and upgrading of local and community sports facilities across the region. The Games will also present opportunities to develop cultural and social capital through associated events and activities across the city and region.
- Improving the image of the area to make it an attractive and existing place to live and work.
- Providing an enhanced site for a new school.
- Providing a new and different housing offer, including apartments and family housing of a range of tenures, which will create a revitalised and increasingly mixed community in the area.
- Improved access to sports and leisure facilities.
- Improved local centre provision and access to local facilities.
- Improving access within, to and from the area, providing opportunities to reduce social isolation, and improve access to employment, training and other services in the area and City.
- Creating an environment which encourages activity and contributes to healthy outcomes.
- It is recognised that existing residential properties are affected by the Order. Measures to ensure the best outcomes for existing occupiers are being explored including the nature of the City's rehousing offer.
- The current residential environment is poor. The new residential development provided in the area will benefit from an improved environment and setting, and will offer a greater choice.

iii. Environmental

- Accelerating the delivery and enhancement of public transport projects which will contribute to the City's sustainable transport network and carbon emissions reduction targets.
- Bringing forward the development of more than 20 ha of brownfield land, including the demolition of poor quality and vacant buildings, and remediation of contaminated sites.
- Development of new homes and other facilities which contribute to the creation of a high quality place and incorporate high standards of sustainable design and construction.
- Improving the quality of the urban environment with the public realm including a number of accessible green spaces, new as well as retained/relocated trees, and significantly enhanced walking and cycling routes.
- 'Greening' the area and contributing to the City's natural capital.
- Reducing the dominance of the highway infrastructure enabling the provision of new pedestrian crossings and infilling of subways.

Ministry of Homes, Communities and Local Government Guidance on compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion; October 2015

3. Government guidance advises acquiring authorities in the preparation and submission of compulsory purchase orders and the matters that the Secretary of State can be expected to take into consideration when reaching a decision on whether to confirm an order.
4. The guidance states that acquiring authorities should use compulsory purchase powers where it is expedient to do so. However, a compulsory purchase order should only be made where there is a compelling case in the public interest. The regeneration of Perry Barr will bring substantial economic, social and environmental benefits to the local area both in terms of facilitating the delivery of the Commonwealth Games as well as a long term legacy for the area. The Minister confirming the order has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest. Accordingly the City Council considers that it can present a comprehensive justification for the acquisition of the land in the public interest. The individual owners of the sites will receive financial compensation for their interests and the City Council and partners will work to relocate affected parties in accordance with the compensation code.
5. The guidance provides that compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. Nevertheless it is recognised that valuable time will be lost if the acquiring authority waits for negotiations to break down before starting the compulsory purchase process. It is also noted that initiating the compulsory purchase process will make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations. Negotiations are underway with many of the effected parties, and the Council will continue to seek to secure voluntary acquisition for the interests. However, the timescales associated with the delivery of the Village and related infrastructure ahead of the Games mean that it is imperative that the process begin at the earliest opportunity.
6. Paragraph 13 the guidance states that the acquiring authority should have a clear idea of how it intends to use the land which it is proposing to acquire. In this regard the City Council has set out in strategic matters for Perry Barr in policy GA3 of the Birmingham Development Plan and LC1 of the Aston, Newtown and Lozells Area Action Plan. This is to be supplemented by:
 - i. A planning application for the residential element of the Commonwealth Games Athletes Village, which covers part of the required land, programmed for submission to the Local Planning Authority in June 2018.
 - ii. A planning application for the new school submitted in line with a programme to be agreed between Birmingham City Council and the Education and Skills Funding Agency reflecting the intention for the school to be operational from September 2021.
 - iii. An outline planning application for the future development of the land used for temporary facilities in the Athletes Village, programmed for submission to the Local Planning Authority in July 2018.
 - iv. A scheme for the delivery of the Games-time temporary overlay agreed by all Games partners.

- v. Detailed schemes for highways works to be developed by summer 2019 which can be delivered by the City under the powers set out in the Highways Act 1980 or other related legislation, directives, instructions and guidance.
- vi. The preparation of a detailed scheme for the Bus Interchange which will be agreed with partners ahead of a planning application to be submitted in autumn 2018.
- vii. Design work, beginning imminently, for the redevelopment of the Station, ahead of design completion in spring 2019 and a planning application to be submitted in summer 2019.
- viii. A planning application for the development of a new depot for National Express at Aston Lane/Wellhead Lane, to be submitted to the Local Planning Authority in line with Heads of Terms currently being agreed to enable development to commence as soon as possible after land is acquired.
- ix. Development briefs and delivery plans for sites at Birchfield Island.

It is noted that the existing policy framework is sufficient to give certainty that there is no reason why planning permission would not be granted when compliant development is proposed.

7. Paragraph 13 goes on to state that the acquiring authority should be able to show that all necessary resources are likely to be available to achieve its proposals within a reasonable timescale. The necessary resources will be secured principally through the Brownfield Land and Property Development Fund (BLPDF), Housing Infrastructure Fund (HIF), and City Council and Homes England resources. These will be available within the necessary timeframes. The development of the Athletes Village and supporting infrastructure must be completed for handover to the Organising Committee by January 2022.
8. At paragraph 15, the acquiring authority is also required to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation. The City's planning strategies support for the proposals, and subject to the grant of planning consent and acquisition of the land, there is no further impediment to the implementation of their proposals.
9. Section 1 of the guidance at paragraph 76 sets out factors to which the Secretary of State can be expected to consider when deciding whether to confirm an order made under section 226(1)(a). These include:
 - i. **Whether the purpose for which the land is being acquired fits in with the adopted planning framework.** The regeneration and growth of Perry Barr is identified in policies GA3 and TP21 of the BDP and Policy LC1 of the Aston, Newtown and Lozells AAP. They support the principle of new residential, commercial and community developments, as well as associated connectivity and public realm enhancements.
 - ii. **The extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area.** The schemes at Perry Barr have potential to deliver with respect to each of these elements as outlined above (see paragraph 2).

- iii. **Whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means.** Neither the Athletes Village nor the successful growth of Perry Barr can be delivered without the acquisition of land, and nor can they with any certainty be delivered by voluntary acquisition within the necessary timescales. Options for the location of the Village across the city have been considered with Perry Barr being the most favourable. The Village must meet the requirements of the Commonwealth Games Federation, and as such although a range of masterplans have been considered the requirement for land to deliver the Village is consistent. The delivery of the Village necessitates the relocation of the National Express Bus Depot and the ESFA - sites for the relocation of these uses are supported by the affected parties and are identified within the CPO. The directly associated highways works are also subject to time constraints as they must be delivered ahead of the Village to enable site assembly. Similarly, the delivery of the new station and enhanced public transport interchange within the necessary timescales and in line with the vision for the area would not be achievable with any degree of certainty without CPO.