

Appendix 7

JUSTIFICATIONS FOR COMPULSORY PURCHASE ORDER

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

The powers provided in the amended section 226(1) (a) enables 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 outstanding interests within the Princip Street development site will allow redevelopment to be completed across the site.

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 delivery of the Princip Street development will contribute to all three of these objectives in the following ways:

- **Economic** – The acquisition of the outstanding interests in the site will allow the development of the Princip Street to be implemented in accordance with approved plans which will see the redevelopment of a vacant site and provide residential development of 337 apartments across three buildings with ancillary communal facilities and courtyard gardens. The development will make use of a brownfield site and make a positive contribution to the overall mix of uses in the area. This will contribute to the city's overall housing growth targets and the regeneration of the Gun Quarter area of the city. A range of employment opportunities will be delivered by the development including creation of part time and full-time jobs. The CPO will pave way for an investment opportunity in the city area equating to approximately £53.725 million during the construction phase.
- **Social** – there is potential for a large number of jobs to be created during the construction of the site. The provision of 337 new residential units will support the creation of a vibrant mixed-use area. The apartments would range in size from 40 – 61 sqm for the 1 bed and 61 – 80 sqm for the 2 bed units and would provide a mix of 1, 2 3 and 4-person accommodation. 16 of the units (4.7%) are being offered for affordable private rent to be let at 80% of Market Rent in perpetuity. The development would also provide a variety range of internal and external communal areas for residents totalling 2,857 square metres the equivalent of approximately 8.5 sqm per apartment.
- **Environmental** – this is a sustainable city centre location which will see the redevelopment and regeneration of previously developed and vacant land. A number of poor-quality buildings will be demolished. Some of the sustainable measure in the development will include Sustainable Urban Drainage Systems (SUDs) to reduce the impermeable area of the site and achieve betterment in surface water run off; measures to reduce water consumption during occupation through a range of water efficiency measure and use of sustainable materials; provision of photovoltaic cells and green roofs and construction methods which will reduce resource use and reducing the environmental impact of development through good design.

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.

The guidance sets out that compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, economic and environmental change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities and the promotion of business – leading to improvements in quality of life. The Guidance goes on to state 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 delivery of the Princip Street will bring substantial economic benefits to the local area, not least the delivery of new residential apartments and the creation of significant job opportunities. 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 remaining owners on the site will receive financial compensation for their interests in accordance with the compensation code and the developers and the City Council will continue to work to relocate affected occupants. Discussions with the owners of the outstanding properties are continuing.

The Guidance sets out that acquiring authorities and authorising authorities should be sure that the purpose for which the compulsory purchase order is made justify with interfering with the human rights of those with and interest in the land affected. This is dealt with fully in Appendix 2.

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. To date, negotiations to acquire all the property voluntarily have been unsuccessful. Load Estates Ltd have now requested the City Council to use its compulsory purchase powers. The City Council is seeking an in-principle authority to proceed with the compulsory purchase.

At 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 and that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale. In this regard Load Estates Ltd have comprehensive proposals for the site and have secured detailed planning permission. The acquisition of the outstanding interests is required for the rest of the development to go forward.

Paragraph 14 goes on to state that the acquiring authority should provide substantive information as to the sources of funding available and timing of that funding for both acquiring the land and implementing the scheme for which the land is required.

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. Appendix 4 sets out the planning and policy support for the proposals and the planning approvals secured for the redevelopment of the site. Subject to the acquisition of the site the developer has indicated that there is no further impediment to the implementation of their proposals.

Section 1 of the guidance at paragraph 95 sets out further information about the purpose of this power and goes onto outline that the power is intended as a positive tool to help

acquiring authorities with planning powers to assemble land where this is necessary to implement proposals in their Local Plan.

Paragraph 104 of the Guidance sets out what justification is needed to support an order to acquire land by compulsory purchase. This includes that any land assembly be set within a clear strategic framework founded on an appropriate evidence base and that justification is also provided by the planning framework for the area. The proposals have the benefit of planning permission which accords with the development plan, which itself was prepared on an evidence base and following significant consultation. Part of the site is also included in the Council's Strategic Housing Land Availability Assessment as Reference C site C466 and C474

Paragraph 106 sets out what factors will the Secretary of State take into account in deciding whether to confirm an order under section 226(1)(a). These comprise:

- Whether the purpose for which the land is being acquired fits in with the adopted planning framework. The proposals accord with the objectives vision and policies of the Birmingham Development Plan. This includes the contribution of delivery of levels of growth set out in the plan and the vision to create a prosperous, successful and enterprising economy with benefits felt by all. The proposals are consistent with Policy GA1– City Centre which sets out how the city centre will continue to be the focus for retail, office, residential and leisure activity. The proposals will assist in the delivery of the plans targets for residential growth.
- 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 redevelopment has potential to deliver with respect to each of these elements as outlined above.
- Whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means.
- The potential viability of the scheme. The proposed developer entity will be Load Estates Limited. The Council would make the order on a full indemnity basis under the terms of an indemnity agreement to be negotiated with the developer entity. The indemnity agreement would seek to cover all Council costs in preparing, making, confirming a CPO and the vesting of land and the cost of acquiring the land