

Dated this 14 Day of January 2021

## STATEMENT OF REASONS

### 1. BACKGROUND TO THE CPO

- 1.1. **WARWICK DISTRICT COUNCIL** of Riverside House, Milverton Hill, Leamington Spa CV32 5HZ (**"the Acquiring Authority"**) on 14 January 2021 made the **Warwick District Council (Land at Leper Hospital Site, Saltisford, Warwick) Compulsory Purchase Order 2020 ("the Order")** under section 226 (1) (a) and 226 (1A) of the Town and Country Planning Act 1990 (as amended) in order to facilitate the re-development and improvement of land.
- 1.2. The land and interests to be compulsorily acquired under the Order are described in paragraph 2 of this Statement (**"the Order Land"**).
- 1.3. The purpose of the Order is to implement the scheme described in paragraph 4 of this Statement (**"the Scheme"**).
- 1.4. Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 enables a local authority to compulsorily acquire any new rights that may be required over land to enable construction and maintenance works to be carried out to deliver and maintain the Scheme.
- 1.5. This is a non-statutory statement provided in compliance with the "Guidance on the Compulsory purchase process and The Crichel Down Rules" published by the Ministry of Housing Communities and Local Government in July 2019 (**"the Guidance"**).

### 2. DESCRIPTION OF THE ORDER LAND

- 2.1. The Order Land is situated on Saltisford, Warwick, CV34 4TT within Warwick District in the County of Warwickshire. It is comprised of an area of approximately 2047.6m<sup>2</sup> and registered at HM Land Registry under title number WK303149 and the freehold is owned by Coventry Turned Parts Limited (Co. Reg. No. 00982178) (**"the Owner"**).
- 2.2. The Acquiring Authority have, in correspondence with the Owner's legal representative, been made aware of another party with an interest in the Order Land although the nature of that interest has not been possible to determine. No further owners have been identified and the Schedule to the Order lists all parties with a qualifying interest in the Order Land as defined by section 12 (2) of the Acquisition of Land Act 1981. There is no land within the Order Land that is owned by another local authority, by the National Trust or which forms part of a common, open space land, or fuel or field garden allotment.
- 2.3. The Order Land lies just outside of the Warwick Town Centre boundary and within the Urban Area as defined by the Warwick District Council Local Plan 2011-2029 (**"the Local Plan"**). It is on a main thoroughfare into the historic town of Warwick and visible from the road. The extent of the Order Land is shown edged in red on the Order Map referred to in the List of Documents at paragraph 11 below.

- 2.4. To rear of the Order Land, on an embankment, is the London to Birmingham Snow Hill railway line. Also to the rear is a group of office buildings currently owned and occupied by Warwickshire County Council. The garage shown to the east on the Order Plan is now a Church. Modern residential flats are situated on the opposite side of the road.
- 2.5. Part of the Order Land is designated as a Scheduled Monument (list entry 1011035). It also contains two Grade II\* listed buildings to the front of site, one known as St Michael's Chapel (108, 108A Saltisford) (Listed Building Entry 1035366), and one known as Masters House (4,5,6 St Michael's Place) (Listed Building Entry 1364850). The Historic England list entries describe the Scheduled Monument as including the below ground remains of a leper hospital, chapel and cemetery located outside the medieval settlement of Warwick. The two standing buildings are considered to overlie the remains of earlier medieval hospital buildings that extend across the whole of the site. St Michael's Chapel is described as a 15<sup>th</sup> century building on 12<sup>th</sup> century foundations that was originally a Chapel for the Leper Hospital and then part of two cottages formed in the 18<sup>th</sup> century. Masters House is also described as a 15<sup>th</sup> century building on 12<sup>th</sup> century foundations that was part of the Leper Hospital of St Michael founded in the 12<sup>th</sup> century and one of the very few leper hospitals of the early middle ages still surviving. The listings state that the standing buildings form a group of considerable historic significance. The area of the Order Land covered by the Scheduled Ancient Monument listing and the Grade II\* Listed Buildings is shown in the area coloured red on the Historic England Map.
- 2.6. The Masters House is on the Heritage at Risk Register (List Entry 1364850) with its condition described as "very bad" and at "immediate risk of rapid deterioration or loss of fabric". On 13 August 2019 the Acquiring Authority authorised the service of an Urgent Works Notice on the Owner under section 54 of the Planning (Listed Building and Conservation Areas) Act 1990 requiring works to be carried out that were immediately necessary for the preservation of the building. No satisfactory response was received and therefore the Acquiring Authority entered the Order Land and carried out the urgent works that included stabilising and weather proofing the building. On 10 March 2020 the Acquiring Authority served a further notice on the Owner under section 55 of the Planning (Listed Building and Conservation Areas) Act 1990 requiring reimbursement of the costs of the works totalling £67,607.30 by 17 April 2020.
- 2.7. The Order Land has no specific allocation in the Local Plan. There is currently no adopted or emerging neighbourhood plan that applies to the Order Land. The Order Land is currently unoccupied.
- 2.8. The Order Land is not situated in a Conservation Area and there are no significant trees on the Order Land.
- 2.9. It is not anticipated that the Scheme will interfere with any existing utilities or services in or around the Order Land.

### 3. ENABLING POWERS

- 3.1. The purpose of the Order is to secure land to ensure the protection of designated heritage assets, improve the condition of the land and to provide affordable housing.
- 3.2. In accordance with the Guidance, the purpose for which an authority seeks to acquire land will determine the statutory power under which compulsory purchase is sought. Paragraph 10 of the Guidance advises that authorities should look to use 'the most specific power available for the purpose in mind, and only use a general power where unavoidable'.
- 3.3. Section 226(1)(a) of the Town and Country Planning Act 1990 ("the TCPA Powers") authorises the compulsory acquisition of land for 'planning purposes' where an acquiring authority thinks that the acquisition will facilitate the carrying out of development, redevelopment, or improvement on, or in relation to, the Order Land and where the acquiring authority thinks the development, redevelopment or improvement is likely to contribute to the achievement, promotion or improvement of the economic, social or environmental well-being of the authority's area. For the reasons set out in this Statement, the Acquiring Authority believes that the acquisition of the Order Land is needed to facilitate its redevelopment and that this will result in an improvement to the environmental, social and economic well-being of the area.
- 3.4. Paragraph 95 of the Guidance explains that the TCPA Powers are intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where necessary to implement the proposals in their Local Plan or where strong planning justifications for the use of the power exist. It further explains that the power is expressed in wide terms and can therefore be used to assemble land for regeneration and other schemes where the range of activities or purposes proposed mean that no other single compulsory purchase power would be appropriate.
- 3.5. The Guidance is clear that the TCPA Power should not be used in place of other more appropriate enabling powers. Section 6 of the Guidance notes the existence of specific CPO powers for the provision of housing accommodation under section 17 of the Housing Act 1988. Section 7 of the Guidance outlines powers that could be used to improve the appearance or condition of land and Section 11 of the Guidance describes powers under section 47 of the Planning (Listed Building and Conservation Area) Act 1990 to acquire a listed building in need of repair.
- 3.6. In this particular case the Acquiring Authority believes that the use of the power under section 226 (1) (a) of the Town and Country Planning Act 1990 is the most appropriate given the objectives in question. Use of the more specific powers have been given detailed consideration as outlined in the following paragraphs:
- 3.7. The Housing Act 1985 enables the acquisition of land or buildings for the provision of housing accommodation where it would achieve a quantitative or qualitative gain and the Guidance advises that any acquisition based on this power should be supported by

evidence demonstrating the need for this quantity and type of provision. Whilst the provision of affordable housing is an important part of the Scheme it is not the only objective. Furthermore, the Guidance, at paragraph 149, states that where an acquiring authority has a choice between the use of housing or planning compulsory purchase powers the Secretary of State will not refuse to confirm a compulsory purchase order solely on the grounds that it could have been made under another power.

- 3.8. The condition and appearance of the Order Land, taking into account its prominent location, is a particular concern. The Guidance, whilst identifying some specific powers that apply, does state at paragraph 163, that if a local authority is unsure whether to use specific powers or various uses are proposed for the land then the authority may consider using the powers granted by section 226 Town and Country Planning Act 1990 instead.
- 3.9. Section 47 of the Planning (Listed Building and Conservation Areas) Act 1990 gives a local planning authority the power to acquire a listed building in need of repair. The use of this power has to be preceded by the service of a repairs notice under section 48 of the aforementioned Act at least two months before the making of the Order. In this case the building known as the Masters House is the only listed building on the Order Land that the power under section 47 could apply to. As detailed above the Acquiring Authority has already served an urgent works notice due to the condition of this particular building. Having considered this power it is not considered sufficient as it would only apply to the Masters House and would therefore not fulfil the objectives of the Order.
- 3.10. The Guidance provides guidance to acquiring authorities on the use of compulsory purchase powers and the Acquiring Authority has taken full account of this guidance in making this Order. The Acquiring Authority is utilising its powers under section 226(1)(a) because it is the most appropriate power in the circumstances and it is not certain that it will be able to acquire the land by agreement although efforts will continue in parallel with this process. The purpose in seeking to acquire the Order Land and utilising section 226(1)(a) is set out in detail in paragraph 4 below.

#### **4. DESCRIPTION OF THE SCHEME & DELIVERABILITY**

- 4.1. The delivery of the Scheme would be led by the Acquiring Authority and involve Platform Housing Group, West Midlands Historic Buildings Trust, Historic England and the Architectural Heritage Fund. It is intended that the Scheme will provide for 8 to 10 affordable homes that will be owned and managed by Platform Housing Group as well as the conversion of the two Listed Buildings to affordable housing to be owned by West Midlands Historic Buildings Trust and managed under a long lease by Waterloo Housing Association.
- 4.2. Significant pre-planning application work has already been undertaken to establish whether the Scheme is deliverable. Two pre-application meetings have taken place with the District Council's planning officers and surveys and site investigations have also been concluded. A highways assessment has taken place and discussions are on-going to agree detailed access

arrangements, there is a covenant in place that permits access to the Order Land from land owned by Warwickshire County Council. In addition, a Flood Risk Assessment, a Topographical Survey, a Noise Survey and a Ground Penetrating Radar Survey have all been completed. It is anticipated that a planning application will be submitted in May 2021.

4.3. The development of the Order Land will safeguard important designated heritage assets, improve the current condition of the land and amenity of the area and provide affordable homes in a sustainable location on an unutilised area of land with good access to transport and local facilities.

4.4. The need for the re-development of the Order Land is recognised in planning policy at national and local levels as follows:

4.4.1. Section 16 of the National Planning Policy (June 2019) and in particular paragraphs 184, 190 to 1196, 200

4.4.2. The Local Plan in particular policies DS2 (providing the homes the District needs), DS3 (Supporting Sustainable Communities), DS6 (Level of Housing Growth), DS7 (meeting the Housing Requirement), HO (Housing), H1 (Directing New Housing), H2 (Affordable Housing), HE1 (Protection of Statutory Heritage Assets), HE6 (Archaeology).

4.5. The Scheme as detailed at 4,1 above was agreed at a meeting of the Acquiring Authority's Executive on 3 October 2019.

## **5. JUSTIFICATION**

5.1. The Acquiring Authority has made the Order under section 226 (1) (a) Town and Country Planning Act 1990.

5.2. The Acquiring Authority considers that, in line with the requirements of section 226 (1) (a), the Order will facilitate the development of the Order Land and improve the economic, social and environmental well-being of the area.

5.3. As stated above the Scheme has been approved by the Acquiring Authority's Executive and funding commitments from the Acquiring Authority, Platform Housing Group, Historic England and Architectural Heritage Fund are in place to purchase the land and deliver the Scheme. It is expected that the Scheme can be completed within 18 months of land acquisition.

5.4. The Acquiring Authority does not consider that the Scheme can be delivered by any other means and because of the need to protect the Grade II\* Listed Buildings there is no alternative location for the Scheme. It is important to note that it would be a requirement of any grant of planning permission that the restoration of the listed buildings (that sit at the front of the Order Land) must be addressed so it would not be possible develop part of the Order Land without the restoration of St Michael's Chapel and the Masters House;

section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority to have special regard to the desirability of preserving a listed building or its setting when considering whether to grant planning permission for development that affects such a building or its setting.

- 5.5. There have been no appropriate alternative proposals put forward by the Owner or any other persons. The failure of the Owner to maintain the Grade II\* Listed Masters House in an adequate state of repair and service of an urgent repairs notice and the subsequent undertaking of works in default are evidence that if the Order is not made the neglect of the Order Land will continue and important historical assets could be lost.
- 5.6. The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights (“the Convention”). The Convention includes provision in the form of Articles, the aim of which is to protect the rights of the individual. Section 6 of the Human Rights Act prohibits public authorities from acting in a way which is incompatible with the Convention. Various Convention rights may be engaged in the process of making and considering a Compulsory Purchase Order, notably Article 1 protects the right of everyone to the peaceful enjoyment of possessions. No-one can be deprived of possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- 5.7. The European Court of Human Rights has recognised in the context of Article 1 that regard must be had to the fair balance which has to be struck between the competing interests of the individual and of the community as a whole. Both public and private interests should be taken into account in the exercise of the Acquiring Authority’s powers and its duties as a local planning authority. Any interference with Convention Rights must be necessary and proportionate.
- 5.8. In pursuing this Order, the Acquiring Authority has carefully considered the balance to be struck between individual rights and the wider public interest. Any interference with Convention rights is considered to be justified in order to secure the economic, social, physical and environmental regeneration that the Scheme will bring. Appropriate compensation will be available to those entitled to claim it under the relevant provisions of the relevant statutory provisions.
- 5.9. The Acquiring Authority considers that there is a compelling case in the public interest for confirmation of the Order and that the Order, if confirmed, would strike an appropriate balance between public and private interests. It has concluded that the acquisition of the Order Land is necessary as this will bring substantial public benefit in protecting and securing the long term future of important designated heritage assets, providing affordable housing and improving the amenity of the area.
- 5.10. In addition, having regard to the provisions of the 1990 Act and the guidance set out in the Guidance, the Acquiring Authority considers that the Order Land is both suitable for and will facilitate the carrying out of development, redevelopment and improvement and

will make a positive contribution in the promotion or achievement of the economic, social and environmental wellbeing of its area for the reasons explained in this Statement.

- 5.11. Extensive consultation will be undertaken during the planning application process with the opportunity being given for interested parties to make representations regarding the proposal.
- 5.12. Further representations can be made in the context of any public inquiry which the Secretary of State decides to hold in connection with the Order.
- 5.13. The Acquiring Authority has considered whether there is a need for an Equality Impact Assessment (EqA) to be undertaken in order to assess the impact of the Order and the implementation of the Scheme on protected groups in accordance with the Equality Act 2010. There is currently no evidence to suggest that the implementation of the Scheme would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic.

## **6. THE PLANNING POSTION OF THE ORDER LAND**

- 6.1. In 2001 the Order Land formed part of a larger parcel of land owned by the Acquiring Authority. A development brief had been produced that resulted in the regeneration of the area with all the land redeveloped except the Order Land which was purchased by the current Owner.
- 6.2. In 2012 the Acquiring Authority's Executive approved a Warwick Heritage Improvement Programme of projects and feasibility studies to see redundant buildings in Warwick brought back into use. This programme was successful in achieving the redevelopment of other buildings within Warwick to affordable housing.
- 6.3. In February 2007 planning permission in respect of application W/04/2128 was granted for the conversion of St Michael's Chapel and Masters House to offices along with the construction of an office building to the rear of the site and associated car parking. Scheduled Monument Consent was granted on 2009. The planning permission was not implemented and has now expired. The site is currently nil use.
- 6.4. As detailed at paragraph 4.1 and 4.2 above it is anticipated that a planning application will be submitted in May 2021.

## **7. NEGOTIATIONS FOR THE ACQUISITION OF THE SITE BY AGREEMENT**

- 7.1. Protracted negotiations have taken place between the Owner and the Acquiring Authority in relation to the acquisition of the Order Land that have to date proved to be unsuccessful. Attempts to acquire the necessary land and rights by private treaty will continue alongside

and throughout this process but it is clear that the Order is required to ensure that there is sufficient certainty that the Scheme can come forward within a reasonable time period.

## **8. SPECIAL CONSIDERATIONS**

8.1. Paragraphs 2.5 and 2.6 above detail the status and condition of the designated assets situated on the Order Land.

## **9. ADDITIONAL INFORMATION**

9.1. Additional Information is available on the Warwick District Council website.

9.2. The Owner or any other persons affected by the Order who require information can contact Andrew Jones, Deputy Chief Executive Tel 07504110896.

9.3. The District Council intends to continue to discuss compensation issues for the purchase of the interests and new rights in the Order Land by agreement, if possible, rather than compulsorily. Owners and any persons affected by the Order who wish to discuss this option should contact Andrew Jones, Deputy Chief Executive Tel 07504110896.

9.4. A copy of the Order, Order Map and this Statement of Reasons and the documents referred to in the attached list can be inspected at:

9.4.1. Riverside House, Milverton Hill, Leamington Spa, CV32 5HZ during normal office hours,

9.4.2. Warwickshire County Council, Shire Hall Meet and Greet, Market Place Warwick CV34 4RL during normal office hours.

## **10. CONCLUSION**

10.1. For the reasons summarised in this Statement, the District Council considers the Order to be within the necessary statutory powers and that a compelling case exists in the public interest for the making and confirmation of the Order.

## **11. LIST OF DOCUMENTS**

11.1. This Statement of Reasons is not intended to be a statement as required under rule 7 of the Compulsory Purchase by Non Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990.

11.2. Should it be necessary to hold a public inquiry into the Order, the Acquiring Authority may refer to or put in evidence the following documents. It should be noted that the Acquiring Authority reserves the right to add or amend the list as necessary:

11.2.1. Order and Schedule

11.2.2. Order Map



- 11.2.3. Historic England listings and Maps
- 11.2.4. Warwick District Council reports and minutes to grant planning permission and resolving to make the Order
- 11.2.5. Planning applications for the Scheme and selected related material and accompanying correspondence
- 11.2.6. Selected Scheme drawings
- 11.2.7. Draft Planning Consents (subject to section 106 agreements)
- 11.2.8. The Guidance
- 11.2.9. Warwick District Council Local Plan 2011-2029
- 11.2.10. Title Documentation for the Order Land
- 11.2.11. Details of the negotiations that have taken place between the parties