

CITY OF WESTMINSTER

TOWN AND COUNTRY PLANNING ACT 1990

AND

ACQUISITION OF LAND ACT 1981

THE CITY OF WESTMINSTER (TOLLGATE GARDENS ESTATE, NW6)

COMPULSORY PURCHASE ORDER 2014

PLANNING INSPECTORATE REFERENCE NPCU/CPO/X5990/74770

ACQUIRING AUTHORITY'S STATEMENT OF CASE

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1. INTRODUCTION AND SUMMARY

- 1.1 On 6 November 2014 the Lord Mayor and Citizens of Westminster (“**the City Council**”) made the City of Westminster (Tollgate Gardens Estate, NW6) Compulsory Purchase Order 2014 (the “**Order**”). The Order has been made under section 226(1) (a) of the Town and Country Planning Act 1990 (“**the 1990 Act**”) and in accordance with the procedures in the Acquisition of Land Act 1981 (“**the 1981 Act**”).
- 1.2 Authorisation to make the Order was given by the Cabinet Member for Business Skills and Housing and the Cabinet Member for Built Environment in a decision dated 15 August 2014 and by delegated authority of the Executive Director of Growth, Planning and Housing dated 6 November 2014 in accordance with the City Council’s constitution.
- 1.3 The City Council, as acquiring authority, is required to provide its Statement of Case to the authorising authority (the Secretary of State for Communities and Local Government) and each of the objectors not later than six weeks from the notice given by the Secretary of State on 28 January 2015 that a public local inquiry will be held into the Order. This Statement of Case incorporates the Statement of Reasons dated 6 November 2014 (included as Attachment 4 of the accompanying List of Documents (“**the Documents**”)) previously issued by the City Council in compliance with paragraph 35 and Appendix R of Circular 06/2004: Compulsory Purchase and the Crichel Down Rules (“**the Circular**”), included at Attachment 7 of the Documents.
- 1.4 The Order has been submitted to the Secretary of State for Communities and Local Government for confirmation pursuant to the 1981 Act. If confirmed by the Secretary of State, the Order will enable the City Council to acquire compulsorily the land and rights included in the Order (“**the Order Land**”) in order to facilitate the comprehensive redevelopment of Tollgate Gardens Estate, Maida Vale NW6 (“**the Estate**”), including the demolition of existing buildings, to provide new and improved mixed tenure housing, high quality open space, an improved community facility and associated servicing (“**the Scheme**”) as described in section 4 below.

- 1.5 The City Council has given careful consideration to all relevant issues and believes that the proposed acquisition will:
- 1.5.1 Facilitate the carrying out of development, redevelopment and improvement on or in relation to the land, comprising the demolition of existing buildings and structures and the erection of new buildings and structures to deliver the Scheme;
 - 1.5.2 contribute to the promotion and improvement of the economic, social and environmental wellbeing of the City of Westminster; and
 - 1.5.3 be sufficiently compelling in the public interest such that it justifies the interference with private rights in accordance with paragraph 17 of the Circular.
- 1.6 This Statement of Case sets out the existing and proposed uses of the land, the justification for making the Order to which five objections have been received, how the scheme will be implemented and funded, and explains why overall, there is a compelling case in the public interest for the making of the Order.
- 1.7 The Order Map showing the extent of the Order Land coloured pink and outlined red is provided as Attachment 3 of the accompanying Documents. In addition, the Schedule to the proposed Order (“**Order Schedule**”) included as Attachment 2 of the Documents, lists the owners, lessees, tenants, occupiers of the land and other parties with a qualifying interest in the Order Land where known as defined by section 12(2) of the 1981 Act. Details of statutory undertakers’ rights and interests are also provided. Where beneficiaries of these interests have been identified they have been served with notice of the making of the Proposed Order. It is intended that, unless the land and rights can be acquired by private negotiations, the City Council shall acquire them under the Order if confirmed.

2. **ENABLING POWERS FOR THE CPO**

- 2.1 The City Council has powers (subject to confirmation by the Secretary of State) under section 226 of the 1990 Act to acquire land compulsorily for “development and other planning purposes”. Section 226(1) (a) allows the use of these powers if the acquisition will facilitate the

carrying out of development, redevelopment or improvement on or in relation to that land.

- 2.2 Section 226(1)(a) is subject to subsection (1A) which provides that the City Council as an acquiring authority, must not exercise the power unless it thinks that the proposed development, redevelopment or improvement is likely to contribute to achievement of the promotion or improvement of one or more of the economic, social or environmental well-being of its area. As explained below the City Council is satisfied that the compulsory acquisition of the Order Land will achieve the objectives of section 226(1) (a) and (1A) and that the Order may lawfully be made. The Order will facilitate the carrying out of development of new housing for the Scheme and bring significant community benefit and improvement on the Order Land including through the provision of the new and improved community facility and high quality open space.
- 2.3 The City Council is utilising the powers under section 226(1)(a) and (1A) of the 1990 Act because it is not certain that it will be able to acquire the remaining interests and rights by agreement to enable the redevelopment to commence, notwithstanding that it is proposed to reach agreement by negotiation wherever reasonably possible. To date extensive negotiation has ensued with the relevant parties and an update of the current position is provided in this Statement of Case.
- 2.4 As set out in the Statement of Reasons, the rights detailed in the Order Schedule are reasonably required to enable the demolition of existing properties, the construction of the new development, redevelopment of existing properties and the reasonable use of the completed development. The rights are also required to carry out consequential modifications and improvement works to Tollgate House falling within the Order Land.
- 2.5 In exercising its powers of compulsory purchase the City Council is satisfied that it may lawfully do so under the powers set out above and there is a compelling case in the public interest for such exercise and that the public interest is sufficiently important to justify the interference with private rights: see paragraph 17 of the Circular. It remains satisfied that the objectives of the Order would not be reasonably met by other means short of compulsory acquisition.

3. DESCRIPTION OF THE ORDER LAND, ITS LOCATION, CURRENT USE AND RIGHTS SOUGHT

- 3.1 The Order Land is required to be acquired compulsorily for the purposes of facilitating the comprehensive redevelopment of the Estate.
- 3.2 The Estate presently consists of 142 existing residential units (96 social rented and 46 private) which were built in six blocks, plus associated garages and a community centre in the late 1960's and early 1970's.
- 3.3 The blocks on the Estate proposed for demolition comprise:
- 3.3.1 the three buildings known as 1-57 Godwin House NW6 5SJ;
 - 3.3.2 the L shaped building known as 1-32 Wingfield House NW5 5SH; and
 - 3.3.3 the existing community centre attached to Tollgate House NW6 5SG.
- 3.4 The remaining eleven storey block at Tollgate House NW6 5SG (ground floor and ten over) will be retained and improved as part of the current proposals. This block has a lift to all floors of residential use unlike the blocks of Godwin House and Wingfield House and has a door entry system which was installed in 2002. As outlined in paragraph 4.10 below, the layout and construction of Wingfield and Godwin prevented these kinds of improvements being carried out.
- 3.5 In addition, Attachment 15 of the Documents is the report prepared by Curtins Consulting in October 2010 for CityWest Homes as the arm's length management organisation (ALMO) of the City Council responsible for managing the City Council's housing stock. This report outlined that the structure of Tollgate House was:

'largely in a sound and serviceable structural such that it should easily sustain a further minimum 30 year life subject to the works prescribed in this report being implemented' – section 1.2. The specification prepared by the original master planners JM architects, and the one prepared by BDP consortium for the planning application for the

scheme and for the D+ tender documents prepared for the developer selection at Tollgate took into account these recommendations as well as any major works carried out by City West the City West Almo.'

- 3.6 The outline specification for Tollgate House dated 30 April 2014 included as part of the D+ tender documents for the developer selection process is included as Attachment 16 of the Documents for information purposes.
- 3.7 The 96 social rented units on the Estate (including the 37 social rented homes within Tollgate House) form part of the City Council's affordable housing stock. The City Council owns the freehold interest in both the land and buildings on the Estate.
- 3.8 Prior to the City Council entering into negotiations to acquire dwellings in the Order Land and bringing forward the Order, the Estate was partly in private ownership and partly comprised of units in the City Council's affordable housing stock. In summary, 30 residential leasehold interests needed to be acquired in Godwin and Wingfield Houses (being the blocks to be demolished), to enable the redevelopment to proceed. Over the past eighteen months, 29 leasehold properties have been acquired by agreement and negotiations are continuing in respect of the 1 remaining lessee. These lessees have been provided with a generous offer as outlined in the City Council's approved leasehold policy, included as Attachment 17 of the Documents. The terms of the policy (then in draft form), was outlined in various communications to lessees and in particular from the City Council's Compulsory Purchase Manager by letter dated 2nd May 2013 and further explanation on this is provided in paragraphs 5.5, 5.6, 5.7 and 5.10 below.
- 3.9 It should be emphasised that the City Council is not forcing lessees to move away from the Estate. The offer made to lessees is for them to return to the new estate to a housing mix which as far as possible reflects their needs and equity loan homes have been created for them so that they can avail themselves of these homes on site should they so wish. Lessees have had significant support in this process as outlined in in more detail in paragraphs 5.6, 5.7 and 5.10 below. This has included considerable support for example for one lessee to move into Tollgate House from a block scheduled to be demolished. In addition, 6 tenants have also moved into Tollgate House from blocks scheduled to be demolished.

- 3.10 In May 2013 the 'Tollgate Gardens Delivery Approvals' Cabinet Member report was approved, copy included in Attachment 12 (iv) of the Documents. This changed the decant status of secure tenants to facilitate their priority moves to alternative temporary accommodation or permanent accommodation, ended permanent lets on the Estate, authorised the use of Tollgate House for temporary or permanent homes for tenants or lessees on the rest of the Estate and agreed that Initial Demolition Notices be served on all existing secure tenants in order that the 'Right to Buy' could be suspended. There were at the time of the May 2013 approval, 53 secure tenants remaining in the Wingfield and Godwin blocks needing to be rehoused with 6 void tenanted properties (59 secure tenants). To date, all tenants have accepted offers and moved except for the final remaining tenant who initially accepted an offer but has not yet moved. These tenants were offered a bespoke service with a dedicated decant officer with an offer to return to the Estate should they so wish.
- 3.11 As with lessees as outlined in paragraphs 3.8 and 3.9 above, it is also stressed that the City Council is not forcing residents to move away from the Estate as the offer is for them to return to the new estate to a housing mix which as far as possible reflects their needs – and they have received significant support in this process as outlined in more detail in paragraphs 5.8 – 5.10 below. Efforts are continuing with the 1 remaining tenant to facilitate a move and further offers have and are being made.
- 3.12 In addition, there are 16 residential leasehold properties in Tollgate House which although will be retained, have been included in the Order Land. It is necessary to include Tollgate House within the Order Land in order to extinguish the rights currently enjoyed by its residents to achieve the redevelopment. It has however been made clear to the leaseholders and tenants at Tollgate House that their interests have been included in order to acquire accompanying rights and it is not intended that they are displaced.
- 3.13 An agreement to formally release any affected rights over the Estate has been prepared and sent to each of these leaseholders and to date 8 of the 16 have signed and returned the deeds. Of the 16 leaseholders in Tollgate House, 8 occupy under the terms of Brent leases and 8 under the terms of Westminster leases. For ease of reference, an official copy Westminster lease and an official copy Brent

lease have been included at Attachment 14 (iii) and (iv) respectively of the Documents. The significance of this is that the Westminster leases include extensive redevelopment provisions in favour of the City Council as compared with the Brent leases. Short of varying the leases which has not taken place, the CPO will override any leasehold rights interfered with. In addition the CPO will override the tenancies in existence since statutory security of tenure does not prevail against the CPO.

- 3.14 In respect of the properties shown on the Order Map, the City Council is seeking the power to acquire all the interests in the pink land unless expressly stated in the Order Schedule.
- 3.15 The Order Schedule also includes the right to acquire rights of light as Table 2 entries. Such rights are required to facilitate the construction and maintenance of the Scheme and will only be exercised to the extent necessary for such purpose. The City Council will seek to secure such rights by agreement with the owners and occupiers of the land over which the rights are required.

4. BACKGROUND TO THE SCHEME

THE CITY OF WESTMINSTER NEIGHBOURHOOD RENEWAL STRATEGY (MARCH 2010)

- 4.1 The genesis of the City of Westminster's Renewal Strategy was the City Council's Housing Commission from September 2006 which was chaired by Richard Best of the Joseph Rowntree Foundation and Joseph Rowntree Housing Trust. One of the key conclusions of that report was that more ways were needed to be found to add to the Council's stock by achieving higher densities, and it recommended that a more extensive exercise be carried out in this regard. The City Council committed to carrying out this exercise in its 5 year Housing Strategy in 2012. The result of this work was the City of Westminster Neighbourhood Renewal Strategy dated March 2010 included as Attachment 11 of the Documents which outlined the following problems in the City Council's affordable housing stock:
- 4.2 The report outlined 5 guiding principles (Wellbeing Objectives) of the City Council's Renewal Strategy:-

- To increase the supply and quality of affordable homes to meet a variety of local needs, including housing for families;
- To improve the quality of the local environment with outstanding green and open spaces and housing that promotes low energy consumption and environmental sustainability;
- To promote a high quality of life for people of all ages and backgrounds, in safe, cohesive and healthy neighbourhoods, supported by a range of high quality housing and excellent community facilities;
- To enable people to maximise economic opportunity in Westminster with support for training, employment and enterprise, and housing tenures which help those in work to remain in the City;
- To create a more distinct sense of neighbourhood, ending the physical divide between Westminster's estates and surrounding local streets.

4.3 It also made the following points about the difficulties Westminster faced in dealing with affordable housing shortages:

- Westminster was the second most expensive borough in the country;
- Social housing requiring investment;
- Disproportionate levels of overcrowding;
- Health problems and lower life expectancy;
- Poor levels of numeracy and literacy which contribute to low levels of employment and economic activity;
- Higher levels of average levels of unemployment compared with the Westminster average;

4.4. The report identified 5 priority neighbourhoods including Tollgate Gardens which provided the opportunity for renewal. The report stated that Tollgate has been identified as an area needing improvement as it had not received extensive investment for some years and that it was

an estate of low density with poorly laid out public space. Residents perceived anti-social behaviour as a problem, and the estate suffered from a high rate of resident turnover and many tenants were seeking a transfer. This information was included at page 28 of the Report.

CONDITION OF THE ESTATE AND ITS ENVIRONS

- 4.5 The buildings within the Order Land are therefore part of one of the regeneration schemes identified in the City of Westminster Neighbourhood Renewal Strategy published in March 2010, which were highlighted as being in need of improvement.
- 4.6 The whole site is set between 1 and 3 metres below street level at the Kilburn High Road. There is a bank of grass with trees and metal railings facing the Kilburn High Road. The buildings are also set back both from Oxford and Kilburn High Roads, without defensible space for the individual homes and barriers to the surrounding area are created by the sunken nature of the development. The total affect of these factors of layout and configuration is that the layout of the Estate creates a negative relationship with the surrounding area, in particular to the Kilburn Park Conservation Area.
- 4.7 The housing is accessed from open galleries and staircases and (with the exception of Tollgate House) there is no secure entrance to the buildings. The level changes make it difficult for pedestrians to enter the site with the only pedestrian access via a steep footpath, adjacent to the vehicle entrance which is not compliant with current best practice for access for disabled people. There is no pedestrian specific access to the estate from Kilburn High Road, limiting the accessibility and integration of the estate into the neighbourhood.
- 4.8 The use of landscape is poor with access roads, garages and car parking areas spread across the site. A large proportion of the site is dedicated to hard landscape and unusable open space. Due to the poor layout of the site and lack of passive surveillance the Estate suffers from criminal and anti-social behaviour problems.
- 4.9 All the blocks on Tollgate Gardens Estate have received regular maintenance in accordance with the freeholder's responsibilities since 1994 when Westminster acquired the freehold from Brent. The last major refurbishment took place on all blocks in 2006.

- 4.10 Where improvements have been possible, such as the addition of a secure door entry system in Tollgate House in 2002, these have been carried out. However the layout and construction of Godwin and Wingfield Houses have prevented the significant improvements achieved in Tollgate House as neither a lift, nor a secure door entry system is possible to install in these blocks.
- 4.11 Despite improvements such as a secure door entry system, the community hall, which projects from the rear of Tollgate House, is not easily accessible for wider letting as there is no access from Kilburn High Road. It has a kitchen which is too small to support the community resource as only one person can squeeze into it, the hall space only seats about 15 people and there is no lift access, as the lift bypasses the mezzanine access to the community hall so it cannot be used by wheelchair users or those with mobility problems. Needless to say, lettings have been sparse over the period of the renewal project.

PROBLEMS IDENTIFIED WITH THE ESTATE

- 4.12 At the time of the publication of the March 2010 Renewal Strategy as already outlined in paragraph 4.1 much of the Estate was noted as providing poor quality housing and living environment. Particular issues identified at that time, reiterated through resident consultation and the master planning process, and which continue to present day, were, in summary:
- 4.12.1 The layout of the Estate was poor, leading to high levels of crime and fear of crime;
 - 4.12.2 There were complaints from residents of damp and cold;
 - 4.12.3 There were no lifts or door entry systems in Wingfield and Godwin House;
 - 4.12.4 Residents did not have personal amenity space in the form of gardens;
 - 4.12.5 There were a number of hard unattractive concrete and paved walkways and roads;
 - 4.12.6 Accessibility into and across the site was not always easy, safe or logical;

- 4.12.7 There was significant overcrowding on the Estate;
- 4.12.8 The community hall had inadequate facilities, as already outlined in 4.11 above.
- 4.13 The above noted problems were considerations supporting the inclusion of the Estate for renewal within the City Council's March 2010 Renewal Strategy.
- 4.14 As stated above, the 2010 Renewal Strategy confirmed that Tollgate Gardens Estate had been identified as an area which needed improvement as it had not received significant investment (over and above planned maintenance) for some years. The Estate also required £3.8m over the next 30 years of a planned maintenance programme by CityWest Homes in their function of managing the City Council's housing stock. CityWest Homes is an award-winning property services provider based in London, managing over 21,000 homes, which include 9,000 leaseholder homes, 12,000 social homes and the communities which they are situated in.
- 4.15 This planned maintenance programme for the Estate would not however deal with the inefficiencies of space (the low density which could otherwise provide much needed additional housing), poorly laid out public spaces, perceived anti social behaviour, high rate of resident turnover, and demand to move off the Estate even from those who are not necessarily overcrowded.

DEVELOPING THE MASTER PLAN

- 4.16 The master planning process conducted by JM Architects ("**JMA**") sought to improve residents' quality of life by considering remodelling and redevelopment to deliver housing renewal for the Estate in accordance with the objectives set out in the 2010 Renewal Strategy as developed by the Master Plan.
- 4.17 In particular the master planning sought to deliver improvements to the public realm, open space, play facilities, security, and community facilities, homes that are designed in accordance with modern sustainability standards and so less costly for residents to heat and with better space standards, additional homes overall, a tenure blind approach to the development, and an associated programme of training and employment opportunities for local residents.

4.18 In early 2010 JMA embarked on a period of consultation which included a variety of methods including:

- Door to door surveys using independent market researchers;
- Newsletters;
- Standard letters;
- Open meetings;
- Fun days;
- Door knocking exercises;
- Block surgeries;
- Focus groups;

4.19 In addition a small group of residents were recruited to form a Community Development Team (“**CDT**”) which met on various occasions with councillors, the master planners and council officers. The detail of this consultation can be found in the Tollgate Master Plan approved at Cabinet in June 2011 and also in the June 2011 Cabinet Member report Appendix 4 which outlines the Summary of the consultation process. This is included as Attachment 12 (ii) with the Documents.

4.20 A charter for Resident Choice was also attached in Appendix 3 of the June 2011 Cabinet Member report which outlined the City Council’s commitment to residents and the approach it had and would take. It stated:

- (i) *In every renewal project the council will involve residents in every stage of development.*
- (ii) *In each renewal area the council will make clear the boundary of the renewal area listing all properties that are to be included in any scheme, or current phase of a larger scheme.*
- (iii) *Option presentations will not take place until extensive information gathering has been carried out and residents are able to make an informed choice.*

- (iv) *Where a majority of residents' preferences are against the renewal of their estate the council will not proceed with plans against their wishes.*
- (v) *The council will go ahead with the renewal option that is most popular with residents.*
- (vi) *Permanent tenants and resident leaseholders will be able to tell us their preferred option during the presentation of designs at an options exhibition.*
- (vii) *Residents unable to make it to the options exhibition will be able to give postal feedback.*
- (viii) *If the turnout is low and/or indecisive the council may run additional consultation to determine residents' views.*
- (ix) *The council will respect residents' rights to strict confidentiality and no information will be released which could identify the preferences of any individual in this regard.*

4.21 After consultation with local residents and stakeholders over a nine month period in 2010, JMA produced four design options which were also used to gauge the level of redevelopment acceptable to the majority of residents during the week of 4th - 9th November 2010. The four options were displayed to residents during the week and the presentations and voting process were spread over this period to ensure that all those who wanted to vote had the opportunity to do so. The architects displayed a series of presentation boards allowing residents to view each board before they voted. The display boards were set up in a similar way so that each option could be compared with like for like information and visual display images. There were feedback forms and housing renewal staff was present as well at JM architects.

4.22 The options were as follows:

Option 1 – The existing Planned and Cyclical Maintenance programme;

Option 2 - A low impact proposal which included the retention of Godwin House and Tollgate House, the demolition of parts of Wingfield House, the development of new homes and conversion of

all tenanted bedsits, new secure entrances to each block, improved design of the external communal areas to include landscaping, play areas and car parking. The breakdown of units was 93 retained units; 16 reconfigured units; 46 new unit = total 155 units (+13 over existing);

Option 3 - A medium impact option proposal which included demolition of parts of Wingfield House and one of the Godwin House blocks, the development of a new build block on the corner of Oxford Road and Kilburn High Road, the relocation of a new community centre to a more prominent position near the entrance to the estate, a new entrance to Tollgate House from Kilburn High Road, new secure entrances to all blocks, conversion of all but the leasehold bedsits to create 16 x 1 & 3 bedroom flats, improved design of the external communal areas to include landscaping, play areas and car parking. The breakdown of units is 79 retained units; 11 reconfigured units; 90 new units = total 180 units (+38 over existing);

Option 4 - A high impact option that included the demolition of all blocks except Tollgate House, a mixed tenure new build development of 159 new homes that meet the Mayors design standards and addressed the existing issues of overcrowding by incorporating some larger family homes, new build development that responded to the existing streetscape and provided active frontages onto Oxford Road and the estate, private and communal gardens, new landscaping and play areas with natural surveillance, a new community centre located at the entrance to the scheme, a new entrance to Tollgate House from Kilburn High Road, remodelling of the ground floor and improvements to the communal areas and security, subject to funding opportunities – a wish list of improvements to Tollgate House including cosmetic improvements to the façade, new windows etc. The breakdown of units is 51 retained units; 1 reconfigured unit; 159 new units = total 211 units (+69 over existing)

- 4.23 Option 4 received the highest level of support from residents, being the high impact option, with maximum demolition. The results showed there was a clear 3:1 majority in favour of development overall. The following is an analysis of the vote:

Number of units on the estate	142
Eligible to vote (taking out absentee landlords etc)	119
Number of forms returned	72
Turnout of those eligible to vote	60%

Results

Option 1	17 votes
Option 2	13 votes
Option 3	15 votes
Option 4	27 votes

4.24 As a result of the vote a master plan for the redevelopment based on Option 4 was approved by Cabinet on 27th June 2011. One of the residents, Ms Kim David submitted an ombudsman complaint in January 2011 regarding the voting process, copy attached within the Bundle of Correspondence however this was only investigated by the Local Government Ombudsman (“**LGO**”) after the City Council had followed its own internal complaints procedure as recommended by the Ombudsman. This involved the relevant person firstly submitting their complaint to the City Council as stage 1, stage 2 and stage 3 complaints. Following receipt of her stage 3 response, Ms David escalated the complaint to the LGO and they formally investigated and their decision was issued in October 2012. The Ombudsman upheld the City Council’s vote process and acknowledged amongst other matters of concern brought to their attention, that there was no evidence of administrative fault causing injustice in the vote process and did not agree that the City Council had committed itself to a second vote. As a result they saw no grounds to investigate the complaint further.

IMPLEMENTING THE MASTER PLAN

4.25 Subsequent to the approval of the master plan in June 2011, as part of the design development process, formal pre-application meetings were held with Westminster Development Management planning officers and in parallel more detailed viability work was carried out. Development Management officers were generally positive in respect

of the principles of the scheme though there were some concerns about the design of the scheme as the detail was then developing.

- 4.26 As a result of these viability and design considerations new architect and support consultants (BDP) were appointed in October 2012 after a competitive tender using the HCA Framework panel. In addition, the 20 February 2012 Cabinet report included as Attachment 12 (iii) of the Documents, recommended approval of the scheme taking into account viability and allowed an increase of floor space plus or minus 10 per cent compared to the design concept which supported the Option 4 demolition proposal.
- 4.27 Residents were involved in the selection of the new architects, BDP. In order to create a representative group, the project team advertised to each household on the estate via posters, leaflets to each household and at meetings. The project team also recruited two external members from the local community and local school. It was originally envisaged that local councillors would select members of the group to represent the Estate but in the end the group was self-selecting. The response from residents was limited with 8 residents responding along with the 2 local stakeholders as people who would like to join the Design Group to consider the proposals from the three architectural firms. The residents were provided with details of the architects' submissions and three residents agreed to score. They scored on the same basis as officers on the key quality aspects of the scheme giving a ranking of each of the three shortlisted schemes. The choice of architect by residents was the same as for the three officer members of the panel. The Design Group Summary included with the Bundle of Correspondence outlines the process that was followed. There then ensued a series of regular design meetings with residents led by BDP and BDP also ran drop in sessions on site when they were in the community hall on a Thursday in conjunction with presenting to evening meetings.
- 4.28 Prior to the planning application submission, a public exhibition was held on Thursday 16th May 2013 for residents of the Tollgate Gardens Estate and on Saturday 18th May 2013 for the area around the Estate. A leaflet drop advertised the exhibitions to approximately 5000 households in the surrounding area. A full copy of the consultation details and feedback is found in the Planning Statement

of the planning submission included as Attachment 13 (i) (c) of the Documents.

CONSULTATION GENERALLY

- 4.29 Residents have been consulted on and have been kept informed of the progress and development of proposals at all stages of the process from 2010.
- 4.30 Residents have also been sent regular newsletters providing them with updates and inviting them to attend 'drop-in' sessions to meet members of the design team, relevant City Council personnel including community engagement and housing needs officers with access to independent advisors regarding the regeneration proposals through First Call. Other consultation activities and methods have also been used and event and milestone based meetings have been held such as a special meeting which was held for all residents in November 2013 in the Tollgate community hall to discuss the Compulsory Purchase process. Meetings have taken place more recently specifically in respect of the works to Tollgate House and City West has written to residents formally outlining the proposed works and copies of some of these communications have been included with the Bundle of Correspondence however further records are available should these be required by the Inspector.

THE NEW SCHEME SUBMITTED FOR PLANNING PERMISSION

- 4.31 An application for planning permission was submitted to the Local Planning Authority on 14 June 2013 (Ref: 13/05695/COFUL). The description of the development as outlined in the planning application was as follows:

“Demolition of Godwin and Wingfield Houses and ancillary garages in connection with the Estate Regeneration to provide 248 residential units with 5 new buildings of between 2-9 storeys and the retention of Tollgate House with associated external alterations (to Tollgate House), construction of a new single storey community centre and associated car parking, landscaping and open space.”

- 4.32 The details of the scheme are set out in the planning application material included as Attachment 13 of the accompanying Documents to this Statement of Case.

CONSIDERATION BY THE PLANNING COMMITTEE

- 4.33 The report of the Strategic Director of Built Environment of the City Council to the Planning and City Development Committee on 19 November 2013 considered various objections to the application but concluded that they were not made out and that planning permission should be granted. In particular it recommended that:

“The principle of redevelopment of the site is acceptable in land use terms. Overall the proposed redevelopment is generally acceptable and the regeneration benefits including the strategic benefits of the proposal in the form of Estate Regeneration, additional residential units including affordable housing and the provision of a new and improved community facility are considered to outweigh the short fallings of the proposal as detailed in this report.”

- 4.34 In agreement with the report, the Planning Committee resolved to grant planning permission subject to the completion of satisfactory unilateral undertaking pursuant to s.106 of the Town and Country Planning Act 1990 to contain planning obligations relating to the provision of affordable housing units, the provision of a new community centre, highways works, and the dedication of part of the site as a public highway and parking management details.
- 4.35 A unilateral undertaking pursuant to s.106 of the Town and Country Planning Act 1990 was signed following approval of the scheme by the GLA, allowing the Planning Permission to be issued on 28th May 2014 (Ref: 13/05695/COFUL).

5. JUSTIFICATION FOR THE ORDER

- 5.1 In this section the City Council explains how the test in section 226, (as set out at paragraphs 2.1 and 2.2 above), is met in this case, and why it considers the order to be necessary and justified in the public interest.

(i) Facilitating the carrying out of development, redevelopment or improvement on or in relation to the land (section 226(1) (a))

- 5.2 The City Council is committed to securing the regeneration of the Order Land and the proposals for the area will in the opinion of the City Council meet its planning policy objectives set out more fully below. The use of compulsory purchase powers is essential as the

regeneration proposals involve demolition and a Compulsory Purchase Order will enable the acquisition of all interests. Without such land assembly they will not be able to be implemented.

- 5.3 The proposals involve the demolition and redevelopment of Godwin and Wingfield Houses and their replacement with new build housing, and therefore any tenants and lessees within those blocks will have to move in order for the scheme to be implemented.
- 5.4 Paragraphs 3.8 – 3.11 above summarise the position for residents of Godwin, Wingfield and Tollgate House including leaseholders and tenants.

Leaseholders

- 5.5 On 27 June 2011, Cabinet authorised officers to enter into negotiations for the City Council to acquire leasehold interests in Godwin and Wingfield Houses by agreement. It was also agreed that where voluntary acquisition could not be secured, a further report would be made at the appropriate time recommending that all outstanding interests be made the subject of a CPO.
- 5.6 Negotiations with lessees started in July 2012 with Westminster Community Homes (“**WCH**”) who are a subsidiary of the City Council, acting as the City Council’s agent in accordance with an agreed management agreement, to commence negotiations with affected lessees and progress acquisitions by agreement as far as possible. WCH wrote to residents in the summer of 2012 offering to buy their property and asking to meet with them in order that WCH could provide assistance with the process. WCH also offered them the facility of helping them find a new home should they so wish. A special meeting was held with leaseholders in June 2012 to explain the Council’s leasehold offer to residents. In May 2013, the City Council’s Compulsory Purchase manager wrote to all remaining lessees to explain the City Council’s intentions and to establish the current position as to their long term intentions as regards acquisitions by agreement. This letter also outlined the financial basis of the offer and officer support available to make the most of the leaseholder offer which included:
- An opportunity to buy one of the new build properties on the Estate outright with an interest free equity loan;

- Practical help to find another property;
- Support through the buying process;
- An opportunity to buy another property locally in certain circumstances with an equity loan;

Negotiations and support with affected lessees have therefore been taking place for over two years. The key letters sent to leaseholders during this period are included in the Bundle of Correspondence.

- 5.7 It is however now necessary for the City Council to use its powers of compulsory purchase to acquire all outstanding interests. Notwithstanding the imposition of a CPO, the final remaining leaseholder at 5 Godwin House, will be advised that the City Council remains willing to negotiate acquisition of their property by agreement throughout the compulsory purchase process. A bundle of the main correspondence with this leaseholder has been included as Attachment 18 of the Documents and they have also in addition received all notices, general updates and communications provided to all residents of the Estate.

Secure tenants

- 5.8 When rehousing commenced during 2013 there were 53 secure tenants in Godwin and Wingfield Houses, all of whom qualified to receive offers of suitable alternative accommodation. Authorisation to begin the process of rehousing the tenants was given by the Cabinet Member for Housing and Property on 14th May 2013, as outlined in paragraph 3.10 above and all 53 tenants were visited and their needs assessed by 19 July 2013. Letters had previously been sent to all affected secure tenants in May 2013 explaining the process and how it would affect them. Offers of suitable accommodation began to be made from 12th August 2013 and to date all tenants have been rehoused with the exception of one remaining tenant at 27 Godwin House. This tenant is receiving additional assistance and extensive offers continue to be made. A bundle of the main correspondence with this tenant has been included as Attachment 19 of the Documents and they have also in addition received all notices, general updates and communications provided to all residents of the Estate.

5.9 The process of explaining and assisting secure tenants in respect of their offer was very detailed and bespoke. Tenants received a presentation of the City Council's offer to tenants in the summer of 2012 and then once the formal approval to proceed was granted by means of the Tollgate Delivery approval in May 2013, they received a hand delivered letter dated 30th May 2013 together with the Initial Demolition Notices suspending the Right to Buy. They were also invited to Resident drop-in sessions at the community hall in Tollgate House and received visits to explain the process and ascertain their needs. Copies of the main letters sent in this regard have been included in the Bundle of Correspondence. A summary of the process was as follows:

- 30th May 2013 – start decanting
- Appointment confirmation
- 25th June – chaser letter
- 10th July – update letter
- 14th August 2013 – bidding starts
- 'You have been rehoused – what next' – separate letters to temporary and permanent decants.

Offer to tenants and leaseholders

5.10 Both secure tenants and resident and non-resident leaseholders are receiving the statutory compensation to support their moves be they temporary or permanent. They do however have significant additional support available over and above the statutory requirement. For secure tenants, this is to pay home loss and disturbance payments and for leaseholders, this is to pay them the market value for their homes, home loss and disturbance but also to offer them an equity loan home and to match their housing costs in their temporary accommodation. Section 7.38 of the City Council's policy for Leaseholders in Housing Renewal Areas of May 2014 states that -

'The housing costs in temporary housing will be no more than the housing costs paid by the leaseholder at their existing property. Existing housing costs are calculated as being the total of any mortgage and service charge payments made by the leaseholder in

respect of their existing property. If there was no mortgage at the property being acquired by the City Council, the housing costs in temporary housing will be equivalent to any ground rent and service charge costs at their existing property. The leaseholder will be responsible for all 'other charges at the temporary accommodation'.

- 5.11 Tollgate House residents do not qualify for the aforementioned statutory compensation as they will remain in their building which is not scheduled for demolition. They will however have all officers and other support available to other residents before and during the building works. Where residents (4 households) in Tollgate House are likely to have to move during building works, the City Council will provide temporary accommodation and these households have been notified of the proposed temporary moves. The works to Tollgate House are designed such that all residents except these four households will be remaining in situ during building works.
- 5.12 As prior confirmed in this Statement of Case, the housing mix of the scheme which has planning approval is as far as feasible designed to accommodate the needs of existing residents be they tenants or lessees so they can return to the new Estate when is completed. In addition the homes will be better laid out and larger with more storage space (to the Mayor's 2010 Design standard). A list of returning residents is kept and they are invited to all meetings, receive newsletters and were invited to take part both in the selection of BDP architects in 2012 and more recently in the Developer selection process during 2013.
- 5.13 The City Council has appointed an Independent Tenant and Leasehold Advisor (First Call) and Independent Legal advisors (Alan Edwards and Co) to support residents, tenants and leaseholders as well as a community engagement officer to support the whole consultation and rehousing process. There is a dedicated rehousing officer to support secure tenants to make their decisions to move and a generous offer to returning resident leaseholders which provides them with financial support if required whilst in temporary accommodation, and the right to return as owners to a property on an equity loan basis which will be worth more than their current home, giving them all the rights of an owner, such as the ability to sublet. Details of the City Council's leasehold and decant policies can be found on the City Council's website. There has also been a great deal

of resources devoted to consultation throughout the journey of the regeneration of Tollgate as set out in Chronology of Key Events included at Appendix 1:

- A: Pre vote Period September 2009 - November 2010**
- B: Vote Week 4th - 9th November 2010**
- C: Working up and approval of Masterplan and challenge via Ombudsman November 2010 - summer 2011**
- D: Viability Review Period and meetings with residents including Trapi (Tollgate Residents against population increase) June 2011 – February 2012**
- E: Pre BDP period - Decision to select new architects and liaising with residents on the detail of their offer February 2012 – October 2012**
- F Working up planning application for approval with residents October 2012 - November 2013**
- G Working up tender documents for developer November 2013 – Summer 2014**

5.14 The consultation during this period is covered in the following paragraphs above:

- Tenants and Leaseholders: 3.8 – 3.11 and 5.6 - 5.9;
- Developing the Master Plan and the resident vote: 4.16 - 4.24;
- Implementing the Master Plan: 4.25 - 4.28;
- Consultation generally: 4.29 - 4.30.

5.15 The above regeneration focused consultation has followed a sequence, has been supported with regular resident forums and also in liaison with residents in Tollgate House who will be remaining to have their homes improved.

5.16 None of this additional support is prescribed as a legal requirement for a Compulsory Purchase Order and therefore the support offered to secure tenants and leaseholders, resident and non resident is

generous and a considerable amount more than is required to proceed with a Compulsory Purchase Order.

Statutory undertakers

- 5.17 Negotiations are currently taking place with UK Power Networks (“UKPN”) and Thames Water (“TWA”) respectively over the terms of relocating an electricity substation and building over a storm relief extension sewer. Thames Water have given their in principle approval to a build over agreement in respect of the storm relief sewer to the north of the site at the corner of Oxford Road and the Kilburn High Road. UKPN have provided an informal quotation to lift and shift the substation located currently along Oxford Road – and a proposed location has been included in the plan prepared by the architects BDP. Letters have been written to both TWA and UKPN to formally inform them of the impending decision to seek a Compulsory Purchase Order in respect of the Tollgate Gardens Estate. In addition the remaining statutory undertakers with assets which run across the Order land, have been contacted and the appointed developer will liaise with then direct with regard to moving their equipment if required.
- 5.18 The City Council has also identified a number of properties neighbouring the Estate, which have possible injunctable and non injunctable rights of light. Reports were commissioned from Rights of Light Consulting which have been used as a basis of assessment and negotiation by Rights of Light Consulting on the City Council’s behalf. This has involved a comprehensive check on the legal interests, communication and negotiation with all affected parties in order to seek to include only those interests with a possible injectable right in the Order. As regards the neighbouring properties suffering an injury of light as a result of the proposed redevelopment, the rights of light consultants appointed for the project have provided book value compensation figures to form the basis of the offers made. The project has set aside funds to cover likely compensation amounts as well as third party professional fees. Further information can be made available should this be required by the Inspector.
- 5.19 The City Council’s decision to seek confirmation of the Order is due to the fact that it is necessary to acquire all interests in the Order Land in order to deliver the Scheme. Without such land assembly, the

Scheme cannot be implemented. It has been made clear to those affected by the Order that reasonable efforts will continue to be made to acquire the necessary land and rights by agreement throughout the compulsory purchase process.

(ii) Promotion of the well being of the area (Section 226(1A) and paragraph 16(ii) of Appendix A to the Circular)

- 5.20 The main aspects of social wellbeing which will be promoted can be summarised as: (i) *Increasing the supply and quality of affordable housing*, (ii) *the quality of the environment*, (iii) *peoples' quality of life*, (iv) *access to economic opportunity whilst* (v) *creating a more distinct sense of neighbourhood which is wider than a single estate*. This will be achieved by raising standards and achieving the objectives as outlined in the City Council's March 2010 Renewal Strategy in order that the proposed Scheme is likely to contribute to the promotion or improvement of the wellbeing of the area.
- 5.21 The five key objectives – (entitled *Wellbeing Objectives* in the City Council's 2010 Housing Renewal Strategy) will be fulfilled by the scheme as follows:
- 5.21.1 **Wellbeing Objective 1: *Increase the supply and quality of affordable housing to meet a variety of local needs including for families*** by increasing the number of homes on the estate from 142 to 248, 195 of which will be new. Of these 195 new homes, 86 will be affordable, 76 for social rent and 10 for intermediate use. Of this total there will be a net increase of 26 affordable homes over the existing provision of affordable homes on the Estate. At the time the Tollgate Regeneration project commenced in 2010 overcrowding was such that there were 900 households on the City Council's waiting list with 46% needing two bedrooms and 42% needing three bedrooms. At Tollgate Gardens Estate, the problem of housing need was exacerbated by the presence of homes with substandard layouts – with a number of bedsits rather than full one bed homes with a separate bedroom. The current overcrowding for the borough of Westminster is higher with 1067 households registered for a larger property. The homes will be built to the Mayor's Design Standards providing better storage, personal amenity space in the form of large balconies or gardens, and better laid out flats in many cases. The

scheme will address the overcrowding already outlined for those with need for 2 beds or more, and provide one beds rather than bedsits.

5.21.2 In terms of the current condition, many of these properties have damp conditions which cannot be dealt with without considerable expense.

5.21.3 **Wellbeing Objective 2: *Improve the quality of the local environment with outstanding green and open spaces that promote low energy consumption and environmental sustainability*** By increasing the useable open space and providing play space when there is none, providing better insulated homes and reducing carbon emissions for the benefit of the wider community. The scheme is to be developed to Sustainable Homes Code 4* (towards level 5) and there will be an increase in useable open space from 3183 sq m to 5786 sq. m – an increase of 2603 sq. m. This includes formal spaces (168 sq. m), informal play space (1335 sq. m), and private gardens 2219 sq. m with the remainder taken up with trees and floral planting seating and allotment areas. This will provide more personal open space and more focused and usable public realm. The scheme complies with Secure by Design requirements where residents will feel safe to walk about and across the estate. There will be the provision of an accessible larger and better equipped community hall.

5.21.4 It is also to be noted that the key requirements for residents on the Estate were summarised on page 7 of the Tollgate Master Plan included as an Appendix to the Cabinet Reports and Decisions as Attachment 12 (ii) of the Documents which confirmed that the residents wanted a place where people want to live and feel safe and that the aim was to:

‘eliminate as many hidden area/dead ends and blind corners on the estate’ as possible. The master plan should look to enclose all existing and new stairwells’ and introduce security entry systems so that only residents can access the cores unless invited to.’

5.21.5 **Wellbeing Objective 3: *To promote a high quality of life for people of all ages and backgrounds in safe cohesive and healthy neighbourhoods, supported by a range of high quality housing and excellent community facilities;*** by building better

homes as stated above with a safer environment but also community facilities which it is intended will be the focus of a variety of training and other employment, health, community and youth services.

5.21.6 **Wellbeing Objective 4: *To enable people to maximise economic opportunity with housing in Westminster with support for training, employment and enterprise, and housing tenures which help those in work remain in the city;*** Additional economic benefits include:

(i) The new community hall with its better facilities and additional training/ meeting/consulting rooms is in the accessible location facing Kilburn /High Road, will be targeted for city wide employment, training and health initiatives for local people and there will be greater opportunities to let out the hall for recreational activities and social gatherings – thus generating increased income for small local businesses;

(ii) The increase by 106 homes on the Estate will mean that there is the opportunity for more people in London who are living at Tollgate Gardens Estate to use less energy to get to work and back every day. Where they have a shorter journey than previously, workers may be more reliable employees. Also for those industries that require people to work at night when public transport is less available, staff that live locally so that local employers can recruit is a vital aspect of their employment strategy. Thus the new Tollgate Gardens scheme could be a useful source of increased numbers of local employees.

(iii) More housing on this site, and particularly more market and intermediate housing with households of higher incomes will also benefit local shops and services.

(iv) Through access to equity loans or other intermediate products such as shared ownership which will be offered to suitable applicants as the equity loan offer is not being taken up by returning resident leaseholders, the development will diversify the kind of housing need that it can fulfil, thus assisting in making it easier for employment opportunities to be taken up in London.

(iv) Through the opportunity of at least 1000 construction jobs on the City Council's renewal projects. Following conclusion of the tender process, Affinity Sutton is the chosen developer to be formally

appointed to the project subject to entering into contract with the City Council to develop the Tollgate Gardens Estate. They are looking to provide up to 380 individual outputs over 5 years and job-ready support within the City Council's Renewal area. This is broken down by the types of support in Appendix 2. In addition there is support to given in being 'job ready' across renewal estates such as Tollgate.

It should be noted that Tollgate is the first of the projects identified within the City Council's housing renewal areas to go forward and there will be a multiplier affect across the renewal estates once Tollgate Gardens regeneration commences. Therefore there are clear economic benefits for Tollgate residents in being part of the renewal programme and Tollgate itself will provide some of the construction jobs from this 1000 unit programme.

- 5.21.7 **Wellbeing Objective 5: *To create a more distinct sense of neighbourhood ending the physical divide between Westminster's estates and surrounding streets*** - by the creation of a well-designed scheme which connects with the existing neighbourhood, gives improved townscape character to this part of the Kilburn High Road by improving the elevation and general aspect to the Kilburn High Road, providing a new 'edge' to the Kilburn High Road and Oxford Road, and which provides two new pedestrian entrances to the site.
- 5.21.8 The purpose of the City Council making the Order is to secure the acquisition of all relevant interests in the Order Land to facilitate the redevelopment of the Estate through the redevelopment of the Order Land. The City Council considers that there is a compelling case in the public interest for the Order and that the Order, if confirmed, would strike an appropriate balance between public and private interests.
- 5.21.9 As stated above, the redevelopment proposals for which planning permission has been granted require the demolition of the existing buildings comprising Godwin and Wingfield blocks as well as the community facility in Tollgate House. The implementation of the redevelopment proposals is therefore dependent upon the Council acquiring all of the interests in the Order Land before works can progress.

6. PLANNING POSITION OF THE ORDER LAND

Planning Policy Background

6.1 The Development Plan comprises the City Council's City Plan (adopted November 2013, and according with the NPPF), the detailed policies of the City Council's UDP (January 2010, saved policies version), and the London Plan (July 2011). Relevant extracts of the objectives outlined in the local and regional as further enshrined in the NPPF have been included as Attachments 13 (ii) (iii) and (iv) of the Documents. The following documents also include provisions that are 'material considerations':

6.1.1 The National Planning Policy Framework (NPPF), in particular paragraphs 47 to 51;

6.1.2 Adopted City Council or Mayoral Supplementary Planning Guidance (SPG/SPD);

6.1.3 Emerging and draft Local Development Framework (LDF) documents;

6.1.4 The interim London Housing Design Guide (2010).

Regional Planning Policy

6.2 The London Plan contains six over-arching objectives, shown in paragraph 1.53:

6.2.1 Ensuring London is a city that meets the challenges of economic and population growth;

6.2.2 Ensuring London is an internationally competitive and successful city;

6.2.3 Ensuring London is a city of diverse, strong, secure and accessible neighbourhoods;

6.2.4 Ensuring London is a city that delights the senses;

6.2.5 Ensuring London is a city that becomes a world leader in improving the environment;

6.2.6 Ensuring London is a city where it is easy, safe and convenient for everyone to access jobs, opportunities and facilities.

6.3 The site has a role to play in delivering all six objectives, to different degrees and the GLA finds the proposals broadly acceptable. The City Council's local policies build on these objectives, and the development has been considered against all relevant local and Mayoral policies and objectives.

(i) Paragraphs 1.15 and 1.16 explain the increase in the numbers of households likely to 2031, and the need to plan for more homes.

(ii) Paragraphs 1.47 to 151 conclude that there is a need to plan for growth, including ensuring London has the ability to house a growing population, and making sure buildings are designed with a changing climate in mind, and enhancing and expanding the city's stock of green spaces.

(iii) Paragraph 1.57 includes a bullet point explaining the London Plan policies that support high quality urban living space. These policies are set out in Chapter 7 – London's Living Places and Spaces.

Local Planning Policy

6.4 In addition to the London Plan, the Development Plan for the Order Land consists of the *Westminster's City Plan: Strategic Policies*, 14 November 2013 (the City Plan) that are detailed below. The more detailed policies of the earlier Westminster Unitary Development Plan (UDP) that were 'saved' in January 2010 are also relevant, but haven't all been recited here.

6.5 Westminster's City Plan itself sets out the City Council's Spatial Vision for making Westminster the foremost world class sustainable city: a city which values its unique heritage and accommodates growth and change to ensure the city's continued economic success while providing opportunities and a high quality of life for all its communities and a high quality environment for residents, workers and visitors alike. It also recognises that the City Council must actively pursue housing development if it is to meet its housing target, and that the city's density and accessibility provide significant opportunities for sustainable redevelopment.

- 6.6 It sets out seven strategic aims for Westminster including:
- 6.6.1 sensitively upgrading Westminster's building stock to secure sustainable and inclusive exemplary design;
 - 6.6.2 increasing the supply of good quality housing across all parts of the city to meet Westminster's housing target, and to meet housing needs, including the provision of affordable housing and homes for those with special needs;
 - 6.6.3 maintaining and enhancing the quality of life, health and well-being of Westminster's residential communities;
 - 6.6.4 accommodating the safe and efficient movement of growing numbers of people entering and moving around Westminster by facilitating major improvements to the public transport system, improving the public realm and pedestrian environment, managing vehicular traffic, and making walking and cycling safer and more enjoyable;
 - 6.6.5 protecting and enhancing open spaces, civic spaces and biodiversity, and manage these spaces to ensure areas of relative tranquility.
- 6.7 In all cases, Westminster intends to 'raise the bar' in terms of urban design and architectural quality, to support communities and foster civic pride in all parts of the city.
- 6.8 Policy S13 states that the areas outside both the Central Activities Zone and the North Westminster Economic Development Area will be primarily for residential use with supporting social and community provision.
- 6.9 Residential is the priority land use across the borough of Westminster and the number of residential units on development sites will be optimised (Policy S14). Residential development will provide an appropriate mix of units in terms of size, type and affordable housing contribution to contribute towards Westminster's housing needs and create mixed communities (Policy S15). Saved UDP policy H5 normally requires 33% of housing units to be family-sized (3 or more bedrooms), with 5% having five or more habitable rooms.

- 6.10 Policy S16 protects affordable housing floor space and sets a 1000m² threshold, over which a proportion will be affordable and on site to create mixed and sustainable communities. The note on implementation of affordable housing policy in Westminster in the interim period between the adoption of the Core Strategy and the City Plan sets out that the site should dedicate 35% of its additional proposed residential floor space as affordable housing.
- 6.11 S28 requires development to incorporate exemplary standards of sustainable and inclusive urban design and architecture. It should:
- 6.11.1 reduce energy use and emissions that contribute to climate change;
 - 6.11.2 ensure reduction, reuse or recycling of resources and materials;
- 6.12 S29 requires development to secure a healthy and safe environment, including minimising opportunities for crime. Developments should also maximise opportunities to contribute to health and well-being, including supporting opportunities for improved life chances and healthier lifestyle choices. All new housing, and where possible refurbishment of existing housing, will provide a well-designed, high quality living environment, both externally and in relation to the site layout and neighbourhood.
- 6.13 Policy S34 protects all social and community floor space except where existing provision is being reconfigured, upgraded or relocated, and encourages new social and community facilities.
- 6.14 Policy S35 seeks to protect and enhance Westminster's open space network, and to address existing public open space deficiencies, including active play space deficiency, and current and future open space needs by:
- 6.14.1 Protecting all open spaces, and their quality, heritage and ecological value, tranquility and amenity;
 - 6.14.2 Mitigating additional pressure on open spaces by securing new improved public open space in new developments; space for children's active play; and seeking public access to private spaces; and

- 6.14.3 Securing contributions to improving the quality, ecological value and accessibility of local public open spaces and delivering new open spaces from under-used land.
- 6.15 Saved UDP policy H10 expects provision of private amenity space which includes private gardens, balconies and roof terraces.
- 6.16 S38 protects and seeks to enhance biodiversity and green infrastructure (Gardens, trees, landscaped areas etc).
- 6.17 S39 requires major development (over 1000m²) to be designed to link to and extend existing heat and energy networks. Where it is not possible, major development will be required to provide site-wide decentralised energy generation that minimises greenhouse gas emissions and has the potential to be extended.
- 6.18 S40 seeks to ensure that all major development throughout Westminster should maximise on-site renewable energy generation to achieve at least 20% reduction of carbon dioxide emissions, and where feasible, towards zero carbon emissions.
- 6.19 The Tollgate Gardens site also appears in Appendix 1 of the City Plan as a “Strategic Housing Site” for housing renewal. It is recognised that it has capacity for over 100 units, and therefore a failure to deliver within the plan period would have implications for the housing target and the housing trajectory.

Planning approval

- 6.20 As explained above in paragraphs 4.33-4.35, the Council’s planning committee approved the scheme having considered the proposals in relation to the relevant strategic and detailed policies. The minutes record their decision that the principle of redevelopment is acceptable and that the strategic benefits of the proposal in the form of Estate regeneration, and the provision of a new and improved community facility, outweigh the identified impacts. Copies of the Officer Report and minutes are included as Attachments 13 (v) and (vi) of the Documents.
- 6.21 In the context of the above and the grant of planning permission on 28 May 2014 (Ref 13/05695/COFUL), the City Council is therefore satisfied that the Order is justified by reference to the factor in

Appendix A paragraph 16(i) of the Circular, i.e. “whether the purpose for which the land is being acquired fits in with the adopted planning framework for the area.”

- 6.22 For the same reasons the City Council is also satisfied that paragraph 16 (ii) of the Circular also supports the Order because it promotes the wellbeing of the area (see also above).
- 6.23 There is therefore no planning impediment to the implementation of the redevelopment proposals.

7. IMPLEMENTATION AND FUNDING OF THE SCHEME

- 7.1 As set out above, planning permission for the redevelopment which acquisition of the Order Land will facilitate was granted on 28 May 2014 and there is no planning impediment to the implementation of the redevelopment proposals as covered in section 6 of this Statement of Case.
- 7.2 As further explained in paragraph 5.10 above, the City Council has offered full compensation and, in the case of resident occupiers practical relocation assistance as well as additional support to facilitate both tenant and leaseholder moves as far as possible. Currently only 1 leaseholder and 1 secure tenant remain in the Godwin and Wingfield blocks which are due to be demolished and the City Council’s intention is to continue attempts to reach agreement with these remaining parties if possible.
- 7.4 Affinity Sutton as the chosen developer to be formally appointed to the project (subject to entering into contract with the City Council), will develop Tollgate Gardens Estate according to the Scheme which has been developed with residents since 2010 and which received planning permission in November 2013. Apart from developing the site, the proposal will be for Affinity Sutton to take on a 250 year lease for the new private housing on the Estate.

7.5 It is further proposed that Affinity Sutton will proceed in accordance with the planning permission to demolish Godwin House, Wingfield House and the community hall attached to Tollgate House, improve Tollgate House and then build the new housing, a new community hall with access on to Kilburn High Road, public realm and undercroft parking. Affinity Sutton will hand back the public realm, undercroft parking and affordable housing blocks, and an improved Tollgate House to the City Council according to agreed standards and the City Council will employ CWH to project manage this process. Once handed back to the City Council, the public realm and parking areas will then be managed on behalf of the whole development by CWH as well as the new affordable housing blocks and Tollgate House.

7.6 Affinity Sutton will be providing social and economic support to the new development of the kind providing added value to the site in terms of their own national employment and training programme which helps residents get into work (Ready 2Work) and with a variety of community asset programmes which support residents and the new community centre. This support underpins two of the key principles of the City Council's renewal Strategy outlined in 4.2 above, which are to:

(a) enable people to maximise economic opportunity in Westminster with support for training, employment and enterprise, and housing tenures which help those in work to remain in the City and

(b) to promote a high quality of life for people of all ages and backgrounds, in safe, cohesive and healthy neighbourhoods, supported by a range of high quality housing and excellent community facilities'

7.7 There is therefore no impediment to implementation of the redevelopment proposals likely to arise as a result of an inability to re-house those whose homes are acquired.

8. ABSENCE OF ALTERNATIVES

Having regarded to paragraph 16 (iv) of Appendix A to the Circular, the Council does not consider that there are practicable alternatives to the Order which would deliver the objectives of the Order either at

all or within a reasonable timescale. As a matter of fact, no alternatives to the CPO have been advanced by any other party.

9. SPECIAL CONSIDERATIONS

- 9.1 No part of the Order Land is within a conservation area and it does not include any listed buildings or scheduled ancient monuments.
- 9.2 No part of the Order Land comprises Green Belt, Metropolitan Open Land, common land or open space within the meaning of Section 19 of the Acquisition of Land Act 1981.
- 9.3 The Order Land includes land used by statutory undertakers for the purposes of its undertaking. This gives such undertakers a separate and additional power to object to the Minister responsible for their undertaking in accordance with section 16 of the 1981 Act. The City Council and the chosen developer will seek to put in place appropriate agreements with such statutory undertakers and any telecommunications operators and discussions have already commenced to achieve this.
- 9.4 There are therefore no known special considerations associated with the compulsory acquisition of the Order Land.
- 9.5 LUL has confirmed that the proposed development will not cause interference with their apparatus.

10. ASSOCIATED ORDERS

There are no related orders known to be required to facilitate the redevelopment proposals for which is necessary to acquire to Order Land (though see 'Impediments to redevelopment', below).

11. HUMAN RIGHTS CONSIDERATIONS

- 11.1 The Human Rights Act 1998 requires (amongst other things) that every public authority must act in a manner which is compatible with the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"). In exercising its powers of compulsory acquisition the City Council is acting as a public authority for the purposes of the Human Rights Act 1998.
- 11.2 Relevant parts of Article 1 of the 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 interests and subject to the conditions provided for by law and by the general principles of international law ..."

11.3 Relevant parts of Article 8 of the Convention provide:

“(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interest of the economic wellbeing of the country ..."

11.4 The City Council has considered the proposed Order in light of the relevant provisions of the Human Rights Act 1998. In view of the facts as set out in this Statement, the City Council considers that the exercise of the compulsory purchase powers is in this case justified by the reason that it is in the public interest, authorised by law and necessary and proportionate towards meeting the City Council's objectives as set out in the Westminster's City Plan. Moreover, the existence of a compelling case in the public interest within paragraph 17 of the Circular demonstrates that the proposals for acquisition are proportionate in Article 8 terms and strike a fair balance under Article 1 of the First Protocol.

11.5 The proposed Order will be consistent with Article 6 of the Convention since all those affected have been informed and advised of a right to make representations to the Secretary of State, for their objections to be heard at a public inquiry and have fair entitlement to compensation. Moreover, with regard to the Secretary of State's decision, a right of challenge before the High Court exists under the Acquisition of Land Act 1981 which confers a jurisdiction on the Court which is analogous to judicial review.

12. EQUALITY

- 12.1 The City Council has given consideration to all the protected characteristics in the Equality Act 2010 to ensure that any potential impacts of the proposed Order on these groups of people have been considered and where possible mitigated. An Equalities Impact Statement (EqA) has been prepared and updated.
- 12.2 The EqA will be monitored and reviewed throughout the progression of the proposals to ensure any future impact can be measured and mitigated as reasonably necessary.
- 12.3 In making the Order the City Council has also had regard to its public sector equality duty (PSED) under Section 149 of the Equality Act 2010.
- 12.4 The City Council is taking steps to ensure that the acquisition and relocation processes are applied in a fair and non discriminatory manner. In addition, steps will also be taken to minimise any adverse impacts.

13. IMPEDIMENTS TO IMPLEMENTATION

- 13.1 As set out above, obtaining planning permission; obtaining vacant possession; obtaining a developer partner, and funding should not be impediments to the redevelopment of the Order Land and implementation of the CPO. No related orders which might impede redevelopment are required. There are non-housing interests which have been and are being negotiated to ensure that there is no impediment to the development partner. A budget has been costed in conjunction with consultants appointed by the City Council. These interests are:
- (1) Thames Water with regard to a Build over Agreement – a letter has been provided giving their in principle approval;
 - (2) UKPN, designing and moving the substation – informal castings have been provided by UKPN and these will be designed up by the development partner for the project together with the design for the build over of the Thames Water storm sewer;
 - (3) Other statutory undertakers may be affected but this will not be clear until a developer starts on site;

(4) Properties affected by Rights of Light as outlined above.

13.2 In addition, the purpose for which the acquiring authority is proposing to acquire the land is appropriate because this site needs to be regenerated and it would not be possible to deliver this without the acquisition of all outstanding interests.

14. RESPONSE TO OBJECTIONS

14.1 Without prejudice to the generality of the above, the following specific points are made in relation to the five objections received.

Objectors 1 & 5: Miss Karen Hobbs & Mr Jean Marc Vega – Both of 34a Oxford Road NW6

14.2 These objectors' main concern related to the potential loss of light to their property. There has been extensive negotiation with them and their appointed solicitors Osbornes. Following agreement and completion of a Deed of Release, they have formally withdrawn both objections to the CPO. A copy of the withdrawal letter dated 5 March 2015 is included as Attachment 9 (ii) of the Documents.

Objector 2 – Miss D Melhuish and Miss K David - Flat 53 Tollgate House, NW6

14.3 This objection is made on various grounds which are dealt with in turn below.

14.4 ***Human rights and proportionality:*** Following protracted negotiations with this household over numerous years, the Council reached agreement with them facilitating a move from their property (which is within one of the blocks scheduled to be demolished) into 53 Tollgate House (the only block on the estate which will remain in situ). Photographs of the property vacated (14 Godwin House) and the before and after photographs of the property acquired following an agreed specification of works (53 Tollgate House) are provided in the Bundle of Correspondence to show the standard of both flats.

14.5 These leaseholders confirmed that their preference was for a move into a top floor flat which the Council kept vacant for them for a considerable period of time pending them making a decision as regards moving. The City Council's records confirm that this flat was vacated by the outgoing tenant on 3 February 2013 and kept vacant

until 17 October 2014 being the date Miss Melhuish and Miss David formally completed on the purchase following completion of the agreed specification of works. The specification of works agreed for the flat were undertaken at a competitive price paid for the leaseholders and the refurbishment of the flat is to an extremely high standard as evidenced by the appended photographs.

- 14.6 It has been made clear at all stages in the process that the City Council is not looking to force anyone into moving and this was communicated by the City Council's internal solicitors to the leaseholders solicitors to ensure that their clients were fully aware that they were free to choose to proceed or alternatively to withdraw from the proposed purchase. All residents of the blocks to be demolished have been given the opportunity to return to a vastly improved environment in larger and better appointed homes.
- 14.7 All Tollgate resident leaseholders including Miss David and her aunt Miss Melhuish were given three options concerning rehousing. These options being:
- (a) To sell their home to the City Council and to make their own arrangements regarding alternative accommodation;
 - (b) To sell their home to the City Council and move off temporarily and then move back to new accommodation on the Estate and receive assistance with rehousing;
 - (c) To sell their home and move permanently to Tollgate House or into a property off the estate and receive assistance with this rehousing.
- 14.8 These offers were extremely generous and were over and above the statutory requirements. These options were first outlined to residents before the November 2010 positive vote at Tollgate Gardens Estate in Council communications and subsequently in the approved leaseholder and tenant decant policies available on the City Council website.
- 14.9 As set out in this Statement of Case, the City Council appointed WCH as its agent to deal with all the rehousing matters relating to leaseholders on Tollgate Gardens Estate.

- 14.10 WCH wrote to Miss Melhuish and Miss David on 22 August 2012 asking whether they would be interested in selling their property at 14 Godwin House to the City Council.
- 14.11 On 22nd September 2012, Steve Moore, Chief Executive of WCH met the joint leaseholders in their home where he set out the details of the three options available.
- 14.12 After detailed discussion the leaseholders stated that they did not want to leave the Estate which held sentimental significance and that their preference was to only move once. As Tollgate House is the only existing block of flats which are not being demolished, a move to this block was discussed. They had in fact lived in Tollgate House many years previously prior to moving into Godwin House. The leaseholders were concerned about noise transference from residents in flats above them so stated that they would only consider a 2 bed top floor flat in Tollgate House.
- 14.13 Steve Moore agreed to look into this possibility and report back in due course. Having looked into this further he found that there were only two x two bed flats on the top floor of Tollgate House one at the northern end and one at the southern end. Both units were occupied by City Council tenants but the City Council agreed to offer the tenants a transfer to another unit if Miss David and her aunt Miss Melhuish wanted one of these units. Steve Moore contacted Miss David concerning this and a few days later they came back to say they would only consider the southern end as this enjoyed more sunlight and better views across central London.
- 14.14 Over the next few months, the City Council worked with the existing tenants of Flat 53 Tollgate House who were overcrowded and needed a 3 bed unit. The City Council were able to find a suitable unit and the family moved out on 3 February 2013. Ms David and her aunt were offered Flat 53 on 1st March 2013 at a meeting with Steve Moore where they indicated that they would accept this offer subject to some conditions:
- (a) they wanted to remain in their current home until full improvement works had been completed on Flat 53;
 - (b) that they could agree the final full specifications of works and be able to include specific changes to meet their personal preferences to

ensure a bespoke finish over and above that normally offered to leaseholders in such circumstances;

- (c) that they received an indemnity covering them against future works costs. This concerned the schedule of works due to be carried out as part of the block improvements to Tollgate House as part of the regeneration costs at no charge to lessees. Should this not occur and the works be carried out at a later stage resulting in a charge to the leaseholders, then WCH would pay the first £8,000 towards these works.
- 14.15 The above conditions were agreed. As the City Council could not itself provide an indemnity, WCH acquired the lease of Flat 53 from the City Council for £250,000. WCH agreed the specification of works with the leaseholders and agreed to carry out the works and then sell the completed unit to them at an agreed price of £278,500. This was subject to simultaneous exchange of contracts between the City Council and the leaseholders on 14 Godwin House and WCH and the leaseholders on 53 Tollgate House
- 14.16 The works were scheduled to take 2 months. There were however numerous changes made by the leaseholders during this contract. The works were finally completed in September 2014, these included rewiring, new boiler, new kitchen, new bathroom (including water pump), new bedroom cupboards, shutters to the main bedroom window and blinds to the other rooms, installation of TV aerial with multi sockets in the lounge and two bedrooms. The entire flat was replastered where necessary and redecorated throughout.
- 14.17 Other bespoke items were also provided including Victorian style column radiators to the hallway and lounge, bespoke lighting controls, recessed lights to the bathroom and kitchen, redecoration of the private balcony including bird proof netting. As mentioned above, photographs of the two flats have been included. On 25th September 2014, WCH served notice of completion of works on the leaseholders.
- 14.18 The simultaneous completion of the sale of 14 Godwin House by the leaseholders to the City Council and the sale by WCH of 53 Tollgate House to the leaseholders took place on 17th October 2014, contracts having been formally exchanged on 3rd February 2014.

- 14.19 In addition to the above points, the scheme is well-designed meeting the requirements of the local authority as evidenced by the granting of planning permission (Ref. 13/05695/COFUL). The benefits of the scheme are fully outlined in the City Council's Statement of Reasons meeting the 5 Wellbeing objectives outlined in the City Council's 2010 Neighbourhood Renewal Strategy (in particular paragraph 5.17), numerous local, regional and national planning policy requirements (paragraph 6), 5 out of the seven of the strategic aims of the Westminster City Plan (6.22), and critically meets the City Council's housing requirements and also local need for better and more housing, improved community facilities, and promotes 'health, safety and wellbeing' on an estate which was found wanting in this respect when the estate was chosen as a likely regeneration estate in 2010, when the research for the 2010 Neighbourhood Renewal Strategy was undertaken.
- 14.20 In conclusion, we would argue that the benefits to the wider community and of returning Tollgate residents far outweigh any loss according to Article 8 of the Human Rights Act 1998 which confirms that everyone has the right for his private and family life, his home and his correspondence and that there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 14.21 In the interests of the economic wellbeing of the country, new, additional and better housing with a high quality public realm as is outlined in the Statement of Reasons is required to be provided especially in areas such as Westminster where there is great housing need and Tollgate Gardens in that respect is an opportunity site. The Statement of Reasons also makes reference in section 4 to the severe shortage of affordable housing in Westminster, and the lack of land suitable for large scale development and high land values in Westminster, whilst outlining the many problems both internal and external to the flats at Tollgate which indicate that the residents need an improved environment. All this benefit outweighs any possible loss to Miss David and Miss Melhuish especially when so much care was

taken to meet their exacting requirements and to provide them with a significantly better home which they ultimately chose to proceed with.

- 14.22 **Viability:** The scheme is financially viable for the reasons outlined in this Statement of Case. However the following additional points can be made to confirm as follows:
- 14.23 The scheme is financially viable as is evidenced by the report to Cabinet in February 2012, which indicated that, taking into account the City Council's enabling costs paid out in advance of a developer being selected, the scheme at that stage generated a small deficit. Small deficits of under £1m for a scheme of £65m at this early stage are to be expected when cautious estimating is carried out as was the case here, and they can be just as likely eliminated as a scheme is firmed up. The fact that the City Council has received 4 tenders to develop the site and has now selected their preferred developer who will enter into formal contract arrangement (Affinity Sutton), to develop the site is evidence that the regeneration is indeed financially viable.
- 14.24 In addition as the Statement of Reasons outlines in paragraph 4.25, that the February 2012 Cabinet Member report granted approval to a scheme which supported the option 4 scheme (maximum demolition) which the majority of residents elected in the November 2010 vote, and the floor space of the February 2012 scheme presented to Cabinet was within 10 % of the option 4 schematic plans, having made minor changes to building heights and massing. The sum total of the changes, minor increase in floor space and minor changes to building heights and massing encompass a scheme which is within the broad ambit of the option 4 which residents voted for in November 2010.
- 14.25 It is not a true statement that residents of the Estate were not consulted on the changes to the scheme. Firstly, the changes were minor which were put forward in the Cabinet Member report as outlined above. Secondly, considerable consultation took place over the year after the vote in November 2010 leading up to the Cabinet Member report in February 2012 and it was not until later that year that the proposals were crystallised. In any case as part of the conditions agreed with the leaseholders, WCH have indemnified Miss David and Miss Melhuish against the cost of works listed in the

improvement schedule not being carried out as part of the regeneration works as set out above.

- 14.26 Following presentations by the architects JMA to residents of the scheme as worked up for planning during May 2011 (one week period), the decision was taken to seek new architects as a result of concerns on the quality of the detailed design which was emerging and a viability review was carried out which did not fundamentally affect the spirit and principles of the scheme (as outlined in the February 2012 Cabinet Member report).
- 14.27 Council officers held a meeting on February 23rd 2012 with residents to explain the changes and at that time some residents were asking for a second vote. Councillors at that time reiterated to residents that they felt that the Council had a mandate for substantial change and that they would not support endeavours for a second vote. The notes of that meeting which are available make it clear that the new architect's brief would be to keep the footprint of the JM proposal and they would have a detailed approach to the look and feel of the scheme and give better consideration to the height and bulk of the scheme, layout as regards privacy communal spaces and maximising the fenestration or replicate the glazed areas of the existing properties. This requirement for new architects was carried forward to the selection of the new architects BDP who were appointed as the preferred architects for the Estate after competition process. As already outlined, the issue of a second vote was dismissed by the Ombudsman in their decision in late 2012.
- 14.28 ***Loss of water in their new flat:*** This is not directly related to the CPO as is explained below:
- 14.29 Various residents in Tollgate House have experienced reduced water pressure during November 2014 including the leaseholders. This is owing to the fact that Thames Water ("**TWA**") reduced water pressure to prevent leaks and bursts in the local pipe network. TWA have confirmed that there is a water pressure level at 3.5 bars of pressure at the property's outside stop valve which is significantly higher than the minimum requirements, however this is disputed by CWH who state that (after a review on a logger at the foot of the block), it is constant at about 2.8 bar which would result in very low pressure on the 10th floor where the leaseholders reside. In addition TWA have a

long term strategy to reduce pressure to minimise leakages and achieve targets for this set by the regulator and they thus claim that their commitment is for a pressure of only 1.0 bar and that customers should install pumps if needed themselves. CWCH are currently attempting to resolve this so that costs of installing pumps are not passed on to residents in Tollgate House via service charges. It should be noted that as part of the improvement works to 53 Tollgate House that a water pump was installed.

- 14.30 There is however a charge from Thames Water Utilities (“**TWU**”) to all customers for infrastructure upgrades and these will be spread over wide areas rather than limited to particular addresses. TWU were consulted as part of the statutory consultation under the planning application regime proposing regeneration Ref 13/05695/COFUL and the planning report stated that:

‘they require details of a drainage strategy and piling method statement to be submitted and agreed before works commence’

- 14.31 This would indicate that planning would have no objections to the scheme, that the infrastructure could cope subject to the work outlined being carried out by the developer and approved by TWU. Quite separately, TWU are aware of the scheme and have been liaising with the City Council’s architects (BDP) and mechanical and electrical engineers (Waterman’s), prior to planning approval. This is referred to in paragraph 5.13 of the City Council’s Statement of Reasons’.

- 14.32 Thus with the provision to be made by the developer and further infrastructure support via CWH and TWU there is no reason why the development should not proceed.

- 14.33 ***Disunity:***

The relationship between the new build homes and the existing block to be retained was the subject of careful consideration as part of the planning application for which permission has now been granted. The unity of the whole site taking into account the new and the old was a major consideration when designing the new proposals and as the application site included Tollgate House the effect on Tollgate House and the community hall facing the Kilburn High Road was designed to be in keeping with the existing building at Tollgate House and the

new buildings. The new buildings rise towards the Kilburn High Road end of the site to fit in with the height, bulk and massing of Tollgate House and the buildings on the opposite side of the road such as the Marriott Hotel and materials have been designed to accord. Section 6.13 of the planning committee report outlines how most of the windows in Tollgate House will have an improved aspect for example with the new scheme, because of the removal of the other existing buildings. The condition of Tollgate House relative to Wingfield and Godwin, was also a contributory factor in the decision to retain Tollgate House and the continued presence of Tollgate House did not prevent the Planning Committee approving the scheme. Lastly, it is worth mentioning the planning officer's townscape comments in respect of the whole issue of keeping buildings at the Tollgate Gardens Estate. Section 6.8 of the planning report stated that:

“The existing buildings on the site are considered to be a negative feature of the areas. They have no significant architectural quality and relate poorly to the surrounding townscape. The loss of these buildings is to be welcomed.”

- 14.34 As regards the unity of materials, the planning report also outlines at 6.8.4 as regards materials, that the design and materials have many references to the more traditional buildings in the area but are expressed in a modern and contemporary manner. This approach is considered appropriate for the residential buildings and is considered to be a high quality design that enhances the area compared to the existing buildings on the site.
- 14.35 It is not correct that the proposals for refurbishing Tollgate House have been reduced in scope in order to make the scheme viable. The new architects, BDP were given a copy of the specification for Tollgate House as provided by the original architects JMA and used this as a basis for the planning application for the regeneration and the subsequent Stage D+ drawings and specification provided to the developers during the developer selection process. Residents were consulted in respect of these proposals both earlier in the process and more recently before the procurement of the developer.
- 14.36 Apart from the issue of the merits of the scheme as outlined above, there are some additional key points to make:

(1) Miss David has already made representations on the planning application in respect of Tollgate Gardens Estate in November 2013. The planning committee report outlines in the Background papers section that a letter and attachments was received from the occupier of 14 Godwin House. The comments made by Miss David at the time were considered by the Planning committee and the scheme was nevertheless granted planning permission;

(2) The scheme was the subject of extensive consultation with residents prior to the submission of the planning application. This was the scheme residents wanted to see built as outlined in section 4 above and as confirmed by the outcome of the vote;

(3) The future management of the Estate will be coordinated by the City Council via CWH, directly managing Tollgate House, all the affordable housing, public realm and car parking;

(4) The scheme which is to be built fulfils the City Council's Renewal Strategy (wellbeing objectives) as outlined in 5.21 above and this is an important consideration given the need to improve and increase Westminster's housing stock and support the social and economic wellbeing of residents especially in the affordable housing stock.

14.37 ***Impact on residents during the development period:*** The City Council's standard form of lease allows for redevelopment of the Estate generally and residents have been kept fully informed of proposals with a commitment being sought from the appointed developer to minimise disruption as far as possible etc. For this reason, the replacement community hall will also be re-provided at an early stage. In addition the planning approval requires as a condition that a Construction Environment Management plan (CEMP) including a Demolition Code of Practice is submitted to the local authority and approved by the City Council as local planning authority. This will seek to ensure the health and welfare of all visitors to the site, those living nearby and residents during the building works. Whilst 4 households are likely to have to move temporarily from Tollgate House during the building works, they will be rehoused temporarily with support from the City Council's decant officer. The City Council has been in discussion with these residents, and there have been several meetings for Tollgate House residents about the improvement works and BDP have designed the works such that

access will be possible to Tollgate House during the improvements, including when the community hall is demolished.

14.38 ***Density, loss of mature trees and archaeology, loss of parking spaces, no need for a community hall of this size*** – these points were considered at the planning stage and no sound planning objection was found to exist. We would comment as follows:

(1) There are new secure parking spaces in the new scheme and a car club in the new scheme, an increased number of a better standard than residents currently have access to on the Estate. This latter point has already been confirmed to residents who asked for clarification from the City Council's regeneration team at the Tollgate resident forum. There will also be temporary parking for residents of Tollgate House during building works. The planning report for the Committee report section 6.18 outlines the considerable and inclusive parking which will be provided as a total of 248 parking permits will be provided for the total number of homes on the development including Tollgate House.

(2) The new community facilities involve modest improvements not to change the nature of the facilities but to make them actually usable for lettings. The location of the new hall and the specification has been the subject of considerable consultation with residents at all stages. It is worth again re-iterating the fact already made that the community hall is currently inadequate. Comments from the City West Engagement and Consultation Coordinator advise that as far as they are aware there have hardly any lettings since 2010 and that:

'Generally, residents would come and look at the space and not go ahead with the booking for various reasons - mainly:-

- *Not liking the fact that it was within a residential building and not a separate space;*
- *Not wheelchair accessibility;*
- *Not buggy friendly;*
- *Not big enough;*
- *Not fit for purpose (exposed wires, column in middle of space).*

(3) Mature trees – although the Arboricultural Manager in paragraph 6.23 of the Planning Committee report objected to the loss of mature trees, on balance (paragraph 6.32) considers the scheme should be

granted approval as the benefits of the overall scheme outweigh the impacts. That decision has not been challenged and now has full effect in law.

(4) The height of new buildings along Oxford Road and Kilburn High Road and loss of view was also taken into account by the planning committee in deciding to approve the proposal. Paragraph 6.8.3 of the planning committee report states that the parapet of the new buildings on Oxford Road are only slightly higher than the eaves of the buildings on the other side of the road and the top floor roof is set back and this it is stated has little impact on street views or the building's relationship with those on the other side of the road. It also states that the raised height of the new buildings towards Kilburn High Road is comparable with the height of Tollgate House and the developments across the Kilburn High Road. As regards loss of view including one that the view of the St Augustine's spire would be blocked – these were not considered sufficient to refuse planning permission.

(5) Archaeology – The site does not lie within an area of Special Archaeological Priority as shown on maps 10.3-10.7 and given protection by UDP policy DES11.

Objector 3 – National Grid

14.40 National Grid confirmed this was submitted as a holding objection in relation to the scheme until the impact on its assets has been further assessed. Following detailed analysis and information supplied by the City Council and its appointed contractors, formal withdrawal of the objection has been confirmed in writing by letter dated 20 February 2015 included as Attachment 9 (i) of the Documents.

Objector 4 – Winckworth Sherwood on behalf of London Diocesan Board for Schools

14.41 The objection submitted on behalf of the two schools was to ensure protection of the existing rights of light. Extensive negotiations ensued with Winckworth Sherwood on behalf of their clients resulting in agreement and completion of the Deeds of Release in respect of both sites. A copy of the withdrawal letter dated 6 March 2015 is included as Attachment 9 (iii) of the Documents.

15. CONCLUSION

- 15.1 In the above circumstances, the City Council considers that the public interest in proceeding with the redevelopment proposals justifies the compulsory acquisition of the interests in the Order Land, which are required if the redevelopment is to proceed.
- 15.2 The City Council is satisfied that there is no planning or financial impediments to the implementation of the proposal and that the scheme is therefore likely to proceed if the Order is confirmed. The Council has applied the advice in the Circular and has set out above its view that the Order meets in particular the requirements of paragraph 16(i) to (iv) of Appendix A to the Circular.
- 15.3 For the reasons set out above, there is considered to be a compelling case in the public interest to proceed with the Order to facilitate the delivery of a significant development project.
- 15.4 The Order is being made as a last resort, in accordance with the City Council's own policy and the guidelines identified in the Circular.
- 15.5 Accordingly, the City Council respectfully requests the Secretary of State to confirm the Order.

16. ADDITIONAL INFORMATION

- 16.1 The point of contact at the City Council for all enquiries relating to this Order is Joanna Kromidias, Senior Solicitor, Westminster City Council Legal Department, 15th Floor City Hall, 64 Victoria Street, London SW1E 6QP (Tel. No. 020 7641 3862 or e-mail jkromidias@westminster.gov.uk).

Dated this 11th day of March 2015

P. Large

Head of Legal and Democratic Services

Westminster City Hall

Victoria Street

London

SW1E 6QP

APPENDIX 1

Chronology of Key Events for Tollgate Gardens Estate

A: Pre vote period September 2009 - November 2010

From appointment of JM architects in 2009 to vote week in November 2010, JM Architects appointed to commence work on project after winning competition. The selection panel included residents (3rd December 2009), to ascertain what they considered were the problems on the estate and develop options leading up to the vote. JM architects carried out extensive consultation supporting council officers.

B: Vote week 4th - 9th November 2010

Process conducted by Council officers of the four options developed by JM architects to address resident issues each option involving a different level of development. These options were displayed to residents during the options week, with the architects and council officers in attendance. The presentation and voting was spread out over the whole week to give all residents who wanted to vote the opportunity to do so. The options week was advertised to residents 3 weeks in advance and the programme alternated between

afternoons and evenings including one Saturday. Anyone not able to attend was also able to return the questionnaire by post.

C: Working up and approval of Masterplan and challenge via Ombudsman November 2010 - summer 2011

JM architects produced the master plan for the June 2011 Cabinet Member report. Challenge to vote process by Ombudsman complaint dated 26th January 2011. During this period JMA commenced working up the scheme for planning submission and carried out consultation in respect of the location of the community hall. The Ombudsman ruled that the complaint be first dealt with under the Council's 3 stage procedure and that recommendation was followed.

D: Viability review period and meetings with residents including Trapi (Tollgate Residents against population increase) June 2011 – February 2012

The chosen option was costed in more detail and a further Cabinet member report was prepared for 20th February 2012 which approved the business plan for the chosen development option. A meeting was held between Trapi and local Councillors on 23rd February 2012 to discuss the way forward.

E: Pre BDP period: Decision to select new architects and liaising with residents on the detail of their offer: February 2012 – October 2012

Trapi meeting with Councillors and officers in September 2012 – residents involved in selection of BDP. Informal negotiations commenced with leaseholders to purchase their homes by Westminster Community Homes acting as agent of the City Council

F: Working up planning application for approval with residents: October 2012 - November 2013

Ombudsman decision on the complaint received from Kim David was not upheld. Tollgate Delivery Report approved which commenced the tenant decanting. Planning approval was obtained in November 2013.

G: Working up tender documents for developer November 2013 – summer 2014

Residents invited to be involved in developer selection process.

BW Note - 6.3.2015

APPENDIX 2

Tollgate Gardens Estate - Affinity Sutton Employment & Skills support

Work placements	75
Curriculum support	44
Graduate persons	4
Apprentice starts	39
Existing Apprentices	28
Apprentices Completions	18
Locally advertised jobs	28
NVQ starts subcontractors	38
NVQ completions sub contractors	33
Subcontractor training plans	28
Supervisor training subcontractors	16
Leadership training sub contractors	12
Advanced health and safety training	17
Total	380