

**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**

**STATEMENT OF REASONS**

## **CONTENTS**

- 1. INTRODUCTION AND SUMMARY**
- 2. ENABLING POWERS**
- 3. DESCRIPTION OF THE ORDER LAND, ITS LOCATION, CURRENT USE AND RIGHTS SOUGHT**
- 4. BACKGROUND AND DETAIL REGARDING THE SCHEME INCLUDING PROBLEMS IDENTIFIED WITH THE ESTATE**
- 5. JUSTIFICATION FOR THE ORDER**
- 6. PLANNING POSITION OF THE ORDER LAND**
- 7. IMPLEMENTATION AND FUNDING OF THE SCHEME**
- 8. SPECIAL CONSIDERATIONS**
- 9. ASSOCIATED ORDERS**
- 10. HUMAN RIGHTS**
- 11. EQUALITIES**
- 12. IMPEDIMENTS TO REDEVELOPMENT**
- 13. CONCLUSION**
- 14. INQUIRIES PROCEDURE RULES**
- 15. ADDITIONAL INFORMATION & LIST OF DOCUMENTS TO WHICH THE COUNCIL MAY REFER**

**APPENDIX 1 - ORDER MAP**

**APPENDIX 2 - ORDER SCHEDULE**

## 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 This Statement of Reasons is a non-statutory statement provided in compliance with paragraph 35 and Appendix R of Circular 06/2004: Compulsory Purchase and the Crichel Down Rules (**“the Circular”**).
- 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 sets out the existing and proposed uses of the land, the justification for the Order, 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 at Appendix 1. In addition, the Schedule to the proposed Order (Order Schedule) attached at Appendix 2, 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 will be 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.
- 1.8 Following confirmation of the proposed order, the City Council will execute a General Vesting Order Declaration, the result of which will be to vest the Order Land in the Council.
- 1.9 The Secretary of State recognises in paragraph 24 of the Circular that it is often appropriate to make a compulsory purchase order at the same time as seeking to purchase land by agreement.

*“Given the amount of time which needs to be allowed to complete the compulsory purchase process, it may often be sensible for the acquiring authority to initiate the formal procedures in parallel with such negotiations. This will also help to make the seriousness of the authority’s intention clear at the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.”*

- 1.10 The City Council has made, and will continue to make reasonable attempts to acquire outstanding interests by private treaty and is pursuing the proposed order to ensure that the proposed development can proceed. Discussions will however continue with the owners of the relevant interests to seek to acquire the properties and rights by agreement with a view to limiting the number of interests which need to be compulsorily acquired.
- 1.11 The Council recognises that a compulsory purchase order can only be made if there is a compelling case in the public interest (paragraph 17 of the Circular) which justifies the overriding of private rights in the land sought to be acquired. It is considered that a clear and compelling case exists in this case.

## **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 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.

2.4 The City Council has taken full account of the Circular in making the Order. The Council is utilising the powers under section 226(1)(a) 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. The Circular makes clear at paragraphs 24 and 25 that it is appropriate for an acquiring authority to initiate the compulsory acquisition procedures in parallel with the negotiations.

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 is 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 AND CURRENT USE**

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 is located close to the borough boundaries of Camden (to the east) and Brent (to the north and west) south of the Kilburn High Road, accessed from Oxford Road.

3.3 Situated adjacent to Kilburn High Road, the Estate is in close proximity to town centre amenities. The site also borders the South Kilburn Conservation Area, notably the Grade II Listed villas of Oxford Road, which face Tollgate Gardens.

- 3.4 The Estate slopes down south from Kilburn High Road with the maximum level difference between the Kilburn High Road and the site being about 3 metres at the north end of the Kilburn High Road and 1 metre near the parade of shops to the south. The buildings are then roughly below the level of the adjoining road in proportion. Thus Tollgate House is approximately 1.5 m below the level of the Kilburn High Road and Godwin House is also set approximately 1.5 metres below the level of Oxford Road, (BDP Flood Risk Assessment for planning submission June 2013).
- 3.5 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.
- 3.6 The blocks on the Estate proposed for demolition comprise:
- 3.6.1 the three buildings known as 1-57 Godwin House NW6 5SJ;
  - 3.6.2 the L shaped building known as 1-32 Wingfield House NW5 5SH; and
  - 3.6.3 the existing community centre attached to Tollgate House NW6 5SG.
- 3.7 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.
- 3.8 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. The Estate is subject to 30 residential leasehold interests to be acquired in Godwin and Wingfield Houses (being the blocks to be demolished), which the Council needed to acquire to enable the redevelopment to proceed. Over the past eighteen months, 27 leasehold properties have been acquired by agreement and negotiations are continuing in respect of the remaining 3 lessees.
- 3.9 There were originally 53 secure tenants remaining in Wingfield and Godwin needing to be rehoused from Godwin and Wingfield at the time

that the Tollgate Delivery report was approved in May 2013 as well as 6 void tenanted properties (59 secure tenants). All tenants have accepted offers and moved except for one remaining tenant who initially accepted an offer but has not yet moved. Efforts are continuing with the remaining tenant to facilitate a move and further offers have and are being made.

- 3.10 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 will however be made clear to the leaseholders and tenants at Tollgate House that their interests are being included in order to acquire accompanying rights and it is not intended that they are displaced. It is proposed that an agreement to release any rights over the estate will be entered into with leaseholders in return for formal agreement by the City Council not to enforce any CPO against them so as to dispossess them. In addition the CPO will override the tenancies in existence since statutory security of tenure does not prevail against the CPO.
- 3.11 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.
- 3.12 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.
- 3.13 As outlined in paragraph 1.7 above, the Order Map identifies the extent of the Order Land. The individual plot boundaries and numbers on the Order Map correspond with the details set out in the Order Schedule. Considerable enquiries have been undertaken to date to identify land interests including through site inspections, reports from external consultants (including rights of light) and inspection of Land Registry documents. Land referencing agents have finalised the Order Schedule and Order Map for the Scheme having undertaken extensive



enquiry through the statutory process including service of statutory notices under the Local Government (Miscellaneous Provisions) Act 1976 in order to minimise any unknown interests as far as possible.

- 3.14 The Order Land is subject to the rights of statutory undertakers to which sections 16 and 17 of the Acquisition of Land Act 1981 may apply. The existing statutory undertakers with equipment in the area affecting the redevelopment of the Estate have also been included in the Order Schedule following consultation. In particular, the redevelopment of the Estate will necessarily involve the removal and relocation of equipment from the UKPN substation with a build over agreement to be put in place with Thames Water in respect of the storm relief sewer on the northern part of the site.
- 3.15 The remaining statutory undertakers as noted in the Order Schedule also have assets which run across the Order Land although it has been confirmed that their assets will not be affected by the development for the purpose of carrying out their undertaking.
- 3.16 Final agreement on the relocation and build over will be concluded following the appointment of the developer to ensure the scheme can progress.

## **4. BACKGROUND TO THE SCHEME**

### **GENERAL**

- 4.1 The buildings within the Order Land are 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.
- 4.2 The published Westminster Renewal strategy outlined at page 9 that the estates most in need of renewal typically face a number of challenges:
- 4.2.1 High concentrations of social housing some of which does not meet modern living standards and requires high levels of ongoing investment to maintain;

- 4.2.2 Disproportionate levels of overcrowding living conditions;
  - 4.2.3 Health problems and lower life expectancy compared with the Westminster average;
  - 4.2.4 Poor levels of numeracy and literacy which contribute to low levels of employment and economic activity;
  - 4.2.5 Higher than average levels of unemployment;
  - 4.2.6 Much higher than average numbers of people in institutional care;
  - 4.2.7 Higher perceptions of anti social behaviour as local problems.
- 4.3 In addition it stated that Westminster suffers a severe shortage of affordable homes with demand for affordable homes far exceeding supply. Two thirds of the housing need is for social rented homes whilst the rest could benefit from a wider range of affordable housing options in the intermediate sector. It further stated that due to the lack of land suitable for large scale housing development and high land values, Westminster will never be able to build the number of affordable homes needed to keep step with growing demand. Nevertheless all possible opportunities to deliver affordable housing will continue to be explored.
- 4.4 The proposed solution to these renewal problems was outlined in the Renewal Strategy through five 'Wellbeing 'principles which would be applied to key regeneration areas. These principles were:
- 4.4.1 to increase the supply and quality of affordable housing to meet a variety of local needs including for families;
  - 4.4.2 to improve the quality of the local environment with outstanding green and open spaces that promotes low energy consumption and environmental sustainability;
  - 4.4.3 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;
  - 4.4.4 to enable people to maximise economic opportunity with housing tenure with support for training, employment and

enterprise, and housing tenures which help those in work to remain in the City;

- 4.4.5 to create a more distinct sense of neighbourhood ending the physical divide between Westminster's estates and surrounding streets.
- 4.5 Tollgate was at this time characterised by many of the problems as outlined above and as a result of the findings and within the framework of the above five guiding principles, the City Council embarked on the preparation of a master plan for the Tollgate Gardens estate together with resident consultation. As a result of this master planning work on 27th June 2011, the City Council's Cabinet took the decision to approve the master plan to redevelop the Estate, to provide more residential and associated floor space to contemporary standards and to pursue a Compulsory Purchase Order if necessary.
- 4.6 The site is designated as Proposals Site 33 in the City Council's City Plan, which means it is an important site the redevelopment of which would involve major physical change or significant change in the functioning of the area. It is also within an area designated as an area of both Wildlife and Play Space deficiency. Kilburn High Road is recognised as a London Distributor Road, which are important roads linking to the Strategic Route Network.
- 4.7 The site is extremely well-located in London Transport Zone 2, giving residents a wide choice of transport modes. It has a PTAL rating of 6b which is the highest TfL accessibility rating making it highly accessible; due to its proximity to Kilburn High Road Over ground station (2 minute walk), Kilburn Park Underground Station (3 minute walk) and several closer bus stops on Kilburn High Road and Oxford Road.
- 4.8 As detailed in paragraph 3.4 above, 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.

- 4.9 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.
- 4.10 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 Tollgate Gardens suffers from criminal and anti-social behaviour problems.
- 4.11 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.
- 4.12 Where improvements have been possible, such as the addition of a secure door entry system on 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 on Winfield and Godwin Houses.
- 4.13 Despite improvements such as a secure door entry system, the community hall projects from the rear of Tollgate House, and is not easily accessible, has a kitchen which is too small to support the community resource and has no lift access, so it cannot be used by wheelchair users or those with mobility problems.

#### **PROBLEMS IDENTIFIED WITH THE ESTATE**

- 4.14 At the time of the publication of the March 2010 Renewal Strategy, 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:

*4.14.1 The layout of the Estate was poor leading to high levels of crime and fear of crime;*

*4.14.2 There were complaints from residents of damp cold;*

*4.14.3 There was no lifts or door entry systems in Wingfield and Godwin House;*

*4.14.4 Residents did not have personal amenity space in the form of gardens;*

*4.14.5 There were a number of hard unattractive concrete and paved walkways and roads;*

*4.14.6 Accessibility into and across the site was not always easy, safe or logical;*

*4.14.7 There was significant overcrowding on the estate;*

*4.14.8 The community hall had inadequate facilities.*

4.15 As a result of these problems, the Estate was included as one of the identified renewal estates in the in the City Council's March 2010 Renewal Strategy.

4.16 The Strategy stated that the Tollgate Gardens Estate had been identified as an area which needed improvement as it had not had 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 City West Homes Ltd as the City Council's ALMO. This planned maintenance programme 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.

4.17 The five principles of renewal as set out in paragraph 4.4 above were applied to the Tollgate Gardens Estate starting with the decision to appoint master planners for the Estate who would review the options for the practical application of these principles to the Estate.

- 4.18 A procurement competition was held to select master planners using the City West Framework panel and as a result JM Architects were then appointed to consult with residents and prepare a master plan for the Tollgate Gardens Estate, which was then put to residents through a vote to make their choice as to a preferred option.

#### **DEVELOPING THE MASTER PLAN**

- 4.19 Taking the five core principles of the Renewal Strategy and applying it to Tollgate, the master planning process conducted by JM Architects 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 Renewal Strategy as developed by the Master Plan.
- 4.20 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.
- 4.21 JM architects embarked on a period of consultation which included a variety of methods and a small group of residents formed a team to work on the consultation (the Community Development Team).
- 4.22 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. Residents voted for Option 4 – a high impact option. The results showed there was a clear 3:1 majority in favour of development, with option 4, option 4 received the highest level of support from residents.
- 4.23 As the result of the vote a master plan for the redevelopment based on option 4 was approved by Cabinet on 27<sup>th</sup> June 2011.

#### **IMPLEMENTING THE MASTER PLAN**

- 4.24 Subsequent to the approval of the master plan, 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 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.

- 4.25 As a result of these viability and design considerations a 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 Member report 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.
- 4.26 Residents were involved in the selection of the new architects, BDP. They were provided with details of the architects' submissions and the three residents involved in the process, 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.
- 4.27 Prior to the planning application submission, a public exhibition was held on Thursday 16<sup>th</sup> May 2013 for residents of the Tollgate Gardens Estate and Saturday 18<sup>th</sup> May 2013 for the area around the Estate. A leaflet drop advertised this to approximately 5000 households. A full copy of the consultation details and feedback is found in the Planning Statement of the planning submission.

#### **CONSULTATION GENERALLY**

- 4.28 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.
- 4.29 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 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.

## **THE NEW SCHEME SUBMITTED FOR PLANNING PERMISSION**

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

*4.30.1 '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.'*

4.31 This comprised:

### *4.31.1 Demolition*

*4.31.1.1 The existing development comprises 142 dwellings of which 89 units will be demolished (Godwin and Wingfield Houses. The single storey garages elsewhere on the estate will also be demolished, as will the existing community hall within Tollgate House.*

### *4.31.2 New and improved mixed tenure homes*

4.31.2.1 In total, 248 dwellings will be provided, made up of 195 new build and 53 retained units within Tollgate House, which would be improved internally and externally with works to the communal areas together with some remodeling of the lowest two floors. The existing 92 sq m community hall in Tollgate House will be replaced by two of the 195 new build residential units. The residential floor space will increase from 9260 sq m to 22,277 sq m (change = +13,017 sq m).

4.31.2.2 The new development will increase the total homes on site by 106 including Tollgate House. The scheme will provide a



mix of affordable and private homes, and a mix of sizes from one to three bedrooms.

4.31.2.3 The new building will be four and five storey along Oxford Road, rising to nine storeys at the junction with Kilburn High Road. The other residential building will rise from four to seven storeys.

#### *4.31.3 Community Facilities*

4.31.3.1 The new community centre will have direct access from Kilburn High Road and will be 254 sq m (GIA) in total.

#### *4.31.4 Affordable Homes*

4.31.4.1 All 59 social rent homes in Godwin and Wingfield will be reprovided and there will overall be an increase of 31% affordable floor space over that currently on the Estate.

4.31.4.2 Ten of the affordable units will be intermediate, which have been offered to returning leaseholders as equity loan basis (but which will be allocated as shared ownership as currently no returning residents have taken up this offer).

4.31.4.3 When the scheme is complete there will be a 50/50 split between private and affordable on the estate. All homes will benefit from communal open space, and private gardens or private balconies/terraces.

#### *4.31.5 Car parking, cycling and public realm*

4.31.5.1 There will be an increase in the number of car parking spaces from 67 (including 34 garages) to 99 spaces including 10 visitor spaces and room for one minibus in order to accommodate anticipated demand. 8 of the total car parking spaces will be designated for 'Blue Badge' holders for the 8 wheel chair homes. There will be improved public realm, new play areas, parking for 99 vehicles and cycle storage.

### **THE BENEFITS OF THE SCHEME**

4.32 The proposal provides substantial benefits for both the new residents, and for the local area. In summary, the scheme will contribute the following:

4.32.1 *a significant redevelopment providing a secure, Equality Act compliant Estate of new buildings, with more usable open space and public realm.* The existing Estate has 3183 sq m of usable space apart from the 1 sq m largely unusable balconies described above. The new development will have 5786 sq m, an increase of 2603 sq m. This includes three types of play space:

4.32.1.1 formal (play hub of 168 sq m, semi enclosed games area of 60 sq m);

4.32.1.2 informal play space (1335 sq m including Tollgate Lawn, which will be enlarged through the demolition of the Community Hall, and the Corner House Lawn);

4.32.1.3 Private gardens – 2219 sq m;

4.32.1.4 The remainder of the 5786 sq m comprises of trees and floral planting, seating areas, and allotment growing areas;

4.32.1.5 As well as the play area the landscaping concept creates a green heart of public realm for everyone which gives back to returning residents (a key requirement of the master plan), a green heart where now there is an area of concrete dominating the public realm areas;

4.32.1.6 In particular there will be on site provision of a variety of high quality public spaces of diverse characters and scales.

4.32.2 *an increase in the supply and quality of housing (22,277m<sup>2</sup> or 248 units, an increase of 13,017 m<sup>2</sup> or 106 units) including affordable housing in this area.* 76% of the homes will be double aspect and all of the single aspect flats except 4 will be one bed homes. The density of the site will increase from 248 habitable rooms /hectare, to 614. Of the 44 family-sized units 68% will have either a private garden or a roof terrace. The Estate currently does not have any wheelchair

accessible homes and will now have 8 accessible homes of varying sizes, between 1 and 3 bedrooms.

- 4.32.3 *An increase in the number of car parking spaces, new cycle stands and car club spaces* and the provision of a mini bus bay and blue badge spaces (all except car spaces not currently present);
- 4.32.4 *creation of well-considered urban blocks with good quality architecture and urban design*, reinstating lost edges and defensible space, and becoming suitable neighbour for the adjacent conservation area;
- 4.32.5 *a new accessible community space, triple the size of that existing*, fully fitted out for the benefit of the local community as well as residents on the Estate;
- 4.32.6 *new high quality affordable housing* (31% - 10,088m<sup>2</sup> or 124 units, an increase of 4,062 m<sup>2</sup> or 26 units over and above the existing affordable provision, rehousing any of the 59 secure tenants who wish to return. This provision takes into account the viability of the scheme. The returning leaseholders have been offered an equity loan home, (10 out of the 26 additional affordable homes) but as none have taken up this offer these are now available to increase the choice for people from the Housing waiting list by offering a shared ownership option. The scheme will also contribute towards meeting London's affordable housing targets, with 22.6% family sized);
- 4.32.7 *good levels of environmental sustainability* incorporated into all new buildings. The scheme is a code for sustainable homes level 4 development reaching to code level 5 in certain aspects through a combination of energy efficiency measures and low to zero carbon technologies including a Combined Heat and Power (CHP) network and photovoltaic panels on roofs. Neighbouring sites (St Augustine's secondary and primary schools) have been contacted to ascertain interest in connecting to the CHP, potentially further maximising local area carbon savings and the generation of local electricity. There is also the potential to connect in to the

proposed local energy network being created nearby in the borough of Brent. The new scheme will surpass the requirements of the London Plan 2011 by in the region of 11% and part L of the Building regulations by in the region of 46%. The delivery of this new scheme will mean that apart from better insulation contributing to a reduction in heating bills for residents there will be wider and more universal benefit of reducing carbon;

4.32.8 *the scheme will introduce modern waste management with recycling on the estate, which is currently not available on the estate;*

4.32.9 *New and additional trees-33 new trees replacing 30 removed.*

#### **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 stated that:

4.33.1 *“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.”*

#### **MINUTES OF THE PLANNING COMMITTEE – COMMENTS**

4.34 The minutes of the meeting read:

4.34.1 *that “1. The Sub-Committee agreed 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 following shortcomings:-*

4.34.1.1 *The under provision of affordable housing (31% rather than 35%)*

4.34.1.2 *The under provision of family sized units (21% rather than 33%)*

4.34.1.3 *The absence of planning obligations and benefits in light of the viability of the scheme*

4.34.1.4 *The quality of some of the residential accommodation in respect of aspect and natural light*

4.34.1.5 *The loss of a significant number of mature trees. “*

**THE SCHEME PLANNING PERMISSION RECOMMENDATION:**

4.35 The minutes of the 19 November 2013 sub-Committee record the resolution to grant planning permission:

4.35.1 *that“ 2 subject to 1. above and subject to the concurrence of the Mayor of London, conditional permission is granted under Regulation 3 of the Town and Country Planning General Regulations 1992, subject to:*

4.35.1.1 *a unilateral undertaking to secure the following benefits:*

4.35.1.2 *The provision of 26 affordable housing units on-site*

4.35.1.3 *The provision of the new community centre prior to occupation of first private residential unit*

4.35.1.4 *The cost of highways works around the site to facilitate the development (including footway repaving)*

4.35.1.5 *The dedication of part of the site as public highway to Kilburn High Road at no cost to the director of Transportation prior to occupation of the development.*

4.35.1.6 *adding parking management details to the unilateral undertaking to ensure unallocated parking spaces to residents.*

4.35.1.7 *minor amendments to conditions as deemed necessary to be determined under delegated authority.*

- 4.36 The GLA have approved the scheme and the unilateral undertaking was signed, allowing the Planning Permission to be issued on 28<sup>th</sup> May 2014.

## **5. JUSTIFICATION FOR THE ORDER**

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

### **(1) 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 – 3.10 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 acting as the City Council's agent to commence negotiations with affected lessess and progress acquisitions by agreement as far as possible. 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. Negotiations with affected lessees have therefore been taking place for over two years.
- 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 remaining leaseholders will be advised that the City Council remains willing to negotiate acquisition of their properties by agreement throughout the compulsory purchase process.

#### **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 on 14<sup>th</sup> May 2013 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. One of the tenants is in prison and the letter was delivered to them by their father. Offers of suitable accommodation began to be made on 12<sup>th</sup> August 2013 and to date, all tenants have been rehoused with the exception of one remaining tenant who is receiving additional assistance due to health problems.

#### **Offer to tenants and leaseholders**

- 5.9 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 over and above the statutory requirement which in the case of secure tenants is to pay home loss and disturbance and in the case of leaseholders to pay them market value for their homes and pay homeless and disturbance payments. Tollgate House residents

do not qualify for the aforementioned statutory compensation as they will remain in their building. They will however have all officer and other support available to other residents before and during the building works.

- 5.10 The City Council has appointed an Independent Tenant and Leasehold Advisor (First Call) and Independent Legal advice (Alan Edwards and Co) to support residents 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 resource devoted to consultation as also outlined in paragraph 5.6 above, during the master planning period, pre planning submission and this support continues with regular Resident Forums and liaison with residents in Tollgate House who will be remaining to have their homes improved.
- 5.11 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**

- 5.12 Paragraphs 3.14 - 3.16 above summarise the position regarding known statutory undertakers.
- 5.13 Negotiations are currently taking place with UK Power Networks and Thames Water 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 them direct with regard to moving their equipment if required.

- 5.14 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 injunctable right in the Order.
- 5.15 Notwithstanding the City Council's decision to seek confirmation of the Order, in order to carry out the scheme which will involve demolition, it is necessary to acquire all interests in the Order Land. 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.

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

- 5.16 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 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.

- 5.17 The five key objectives – (entitled *Wellbeing Objectives* in the City Council's 2010 Housing Renewal Strategy) will be fulfilled by the scheme as follows:
- 5.17.1 **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 Council's waiting list with 46% needing two bedrooms and 42% needing three bedrooms. On Tollgate 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 WCC 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.
- 5.17.2 In terms of the condition of the properties, many of the current properties have damp conditions which cannot be dealt with without considerable expense.
- 5.17.3 **Wellbeing objective 2: *Improve the quality of the local environment with outstanding green and open spaces that promotes low energy consumption and environmental sustainability*** as outlined in 4.32.1 above, by increasing the useable open space and provide 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 Code for Sustainable Homes 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.

- 5.17.4 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 consultation leaflet which confirmed that the residents wanted a place where people want to live and feel safe and that the aim was to:
- 5.17.4.1 *'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.'*
- 5.17.5 **Wellbeing objective 3: 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 and health and community and youth services.
- 5.17.6 **Wellbeing objective 4: 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;** through the opportunity of at least 1000 construction jobs on the City Council's renewal projects, and job-ready support within the City Council's Renewal area and 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 taken up by returning resident leaseholders..There will also be the opportunity to access to city-wide employment and training and health initiatives through the opportunity created by building the new community hall, with its better facilities and additional meeting /consulting rooms. In addition there is support to be given in being 'job ready' across renewal estates such as Tollgate. Tollgate is the first of these projects to start and thus 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.

i) the increase by 106 homes on the estate will mean that there is the opportunity for more people in London 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 who lives locally so that local employers can recruit are a vital aspect of their employment strategy. Thus the new Tollgate Gardens scheme could be a useful source of increased numbers of local employees.

ii) 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)The new community hall in the accessible location facing Kilburn High Road, include small training /consulting rooms which along with the improved and more accessible community hall, will be targeted for employment, training initiatives for local people.

5.17.7 ***Wellbeing objective 5: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.

5.18 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.

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

### **Planning Policy Background**

- 6.1 The Development Plan is a framework that comprises all national, regional and local policy, as set out in the Local Plan. The policies pertinent to the site are contained within the Westminster's Local Plan, known as the City Plan (adopted November 2013).

### **Local Planning Policy**

- 6.2 The *Westminster's City Plan: Strategic Policies*, 14 November 2013 (the City Plan) are detailed below. The 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.
- 6.3 Westminster City Plan sets out seven strategic objectives for Westminster. The proposals for the site will significantly contribute towards the following five of the seven strategic aims:
- 6.3.1 sensitively upgrading Westminster's building stock to secure sustainable and inclusive exemplary design.
  - 6.3.2 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, (in this regard it is worth noting that as part of the draft alterations to the London plan the Mayor is proposing an increase in Westminster's Housing Target from 770 to 1068).
  - 6.3.3 maintaining and enhancing the quality of life, health and well-being of Westminster's residential communities.
  - 6.3.4 accommodating the safe and efficient movement of growing numbers of people entering and moving around Westminster

by .. improving the public realm and pedestrian environment, managing vehicular traffic, and making walking and cycling safer and more enjoyable.

- 6.3.5 protecting and enhancing open spaces, civic spaces and biodiversity, and manage these spaces to ensure areas of relative tranquility.

### **Planning approval**

- 6.4 As explained above at paragraph 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 shortcomings.
- 6.5 In the context of the above and the grant of planning permission, 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."

## **7. IMPLEMENTATION AND FUNDING OF THE SCHEME**

### **Financial viability for the scheme**

- 7.1 Funding for the scheme was formally approved by Cabinet in February 2012. Costs of development fall into two categories:
  - 7.2 Site Assembly costs
    - 7.2.1 The City Council is currently carrying out site assembly with funds already put aside as part of the HRA Business Plan and the Developer Partner will fund the works as the City Council's site assembly costs will be recouped through the land value made by the chosen Developer partner. The Council is currently evaluating tenders received from the developer panel and a decision on contract award is anticipated in November 2014.
    - 7.2.2 Construction and associated fees

Funds have been set aside by the City Council via the HRA to fund this scheme in the sum of £13,000,000 and there is a contribution of £5.9m Affordable Housing also to the scheme (HRA Business Plan approval, Cabinet Member approval December 2012). The funding of the project is such that the scheme is self-financing with no external subsidy and with some subsidy provided by the City Council as outlined above. The key will be the sales of private homes which will cross subsidise the scheme. The funding model includes the buyout costs of the leasehold and an estimate of non-housing interests and other associated consultant fees.

- 7.3 The Scheme is funded, therefore, and it follows that there are reasonable prospects of its proceeding subject to confirmation of the CPO having regard to paragraphs. 20-21 and Appendix A paragraph 16 (iii) of the Circular.
- 7.4 The City Council will contract with the developer partner to build the scheme in accordance with the planning permission secured (subject to minor modifications) and will then proceed to buy back from the developer any social rented units and shared ownership homes being developed including to returning lessees and accounted for in the overall costings adjustment between the developer partner and the City Council, which will adjust the overall land price.
- 7.5 In accordance with section 233 of the Town and Country Planning Act 1990, the Council will receive best consideration reasonably obtainable for the disposal of land within the proposed development site, which is to be held by the Council for planning purposes at the time of disposal. This will be achieved through the selection of a Developer Partner from the City Council's approved Development Partner Framework as outlined above.
- 7.6 The position for leaseholders and secure tenants has been set out in detail in section 5 above. As confirmed, negotiations with affected lessees and tenants has been taking place for almost 2 years having been commenced in July 2012 by Westminster Community Homes acting as the City Council's agent. This has progressed to the City Council's Compulsory Purchase manager being involved with negotiations as well as dedicated City Council personnel and independent external advisors offering support to residents through

this process. The costs of acquiring all the interests have been fully accounted for.

7.7 The position for statutory undertakers has also been set out in detail in section 5 above. Negotiations are currently taking place with the affected undertakers including likely costs to the scheme, to be finalised subject to developer appointment.

7.8 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 the 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.

Taking account of the above, the project manager for the scheme has reviewed all costings and projected budgets and is satisfied that delivery of the scheme remains viable and capable of proceeding to development.

#### **The need to compulsorily acquire to facilitate the redevelopment**

7.9 As outlined in section 4 above, the City Council is committed to securing the regeneration of the Estate due to a variety of physical and amenity problems. In addition, the residents endorsed moving forward with regeneration through a positive vote in November 2010 as also outlined above.

7.10 Insofar as the need to resort to compulsory purchase is concerned, single ownership and control of the Order Land is necessary to enable the development to proceed. Given the number of third party interests which remain outstanding and the length of time which has elapsed with negotiations, it is unlikely that the City Council will be able to acquire all of the necessary land and interests by agreement within a reasonable timescale. The City Council has therefore made the Order to ensure that the development can proceed in accordance with a reasonable timescale. The use of compulsory purchase powers is considered to be necessary and justifiable in the public interest.

7.11 Given the restrictions imposed by the outstanding properties and interests to be acquired it is not possible for any scheme to be either



physically comprehensive or achieve an acceptable density of development and mix of uses, as currently proposed and permitted, without the use of compulsory purchase powers. A comprehensive regeneration is unlikely to be achieved without the Order.

- 7.12 The City Council has given careful consideration to the need to include each parcel of land within the Order Land. The City Council is satisfied that the Order is necessary and in the public interest and that the Order Land is required to facilitate the development.

### **Programme of delivery**

- 7.13 If the Order is confirmed by the Secretary of State, the City Council will compulsorily acquire those interests in the Estate which it has not been possible to acquire by agreement, terminate the short lease agreement with Westminster Community Homes and offer suitable alternative temporary or permanent accommodation to all qualifying residential tenants on the Estate. The anticipated timescale of this process is approximately 6 months, having regard to the fact that the City Council intends to proceed via the General Vesting Declaration procedure.

- 7.14 Following the obtaining of vacant possession, the redevelopment will be carried out by the City Council in partnership with a developer partner (on which, see 'Selection of a Development Partner', below). Upon completion, the private housing units will be sold outright via a partnership agreement with the developer partner. The affordable housing units developed for social rent will be retained by the City Council and brought into use immediately, and the intermediate rent and shared ownership units will be sold via the partnership agreement with a developer. The City Council therefore intends, and considers achievable, implementation of the redevelopment proposals within 2 years of confirmation of the Order.

### **Selection of a development partner**

- 7.15 The City Council is currently evaluating development partner submissions to select a developer for the project from the Council's approved Development Framework Panel (DFP) of eight developers. It is anticipated that a developer will be selected in November 2014. This will ensure that they can start on site following vacant possession.

### **Absence of alternatives**

- 7.16 Having regard 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.

## **8. SPECIAL CONSIDERATIONS**

- 8.1 No part of the Order Land is within a conservation area and it does not include any listed buildings or scheduled ancient monuments.
- 8.2 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.
- 8.3 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.
- 8.4 There are therefore no known special considerations associated with the compulsory acquisition of the Order Land.
- 8.5 LUL has confirmed that the proposed development will not cause interference with their apparatus.

## **9. 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).

## **10. HUMAN RIGHTS CONSIDERATIONS**

- 10.1 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.
- 10.2 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 ..."
- 10.3 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 ..."
- 10.4 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 UDP, Core Strategy, and adopted and emerging VAPBs. This was set out in section 11 of the City Council's Cabinet Report dated 12 October 2009. 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.

- 10.5 The proposed Order will be consistent with Article 6 of the Convention since aAll those affected will be 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 if there were any legal flaw in the decision.

## **11. EQUALITY**

- 11.1 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.
- 11.2 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.
- 11.3 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.
- 11.4 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 the adverse

## **12. IMPEDIMENTS TO IMPLEMENTATION**

- 12.1 As set out above, obtaining planning permission; obtaining vacant possession; obtaining a developer partner, and funding should not be impediments to 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 a development partners. 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 costings have been provided by UKPN and these will be designed up by the winning development partner along 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.

12.2 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.

### **13. CONCLUSION**

13.1 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.

13.2 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.

13.3 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.

13.4 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.

13.5 Confirmation of the Order is sought on this basis.

**14. INQUIRIES PROCEDURE RULES**

This Statement of Reasons is not intended to discharge the City Council's statutory obligations under Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007.

**15. ADDITIONAL INFORMATION OF INTEREST TO PERSONS AFFECTED BY THE ORDER**

15.1 Parties affected by the Order who wish to discuss matters with a representative of the City Council should contact:

15.1.1 Tim Butcher, Principal Planning Officer, City Planning Delivery Unit, Westminster City Council, City Hall, 64 Victoria Street, London SW1E 6QP (Tel. No. 020 7641 5972 or e-mail [tbutcher01@westminster.gov.uk](mailto:tbutcher01@westminster.gov.uk)).

15.2 Copies of the Order Schedule, Order Map and this Statement of Reasons can be inspected on request at all reasonable hours between Monday to Friday at the offices of Westminster City Council, City Hall, 64 Victoria Street, London SW1E 6QP and also at the Maida Vale Estate Office, 1 Glasgow House, Lanark Road W9 1QY.

Dated this 6<sup>th</sup> day of November 2014

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