

THE COUNCIL OF THE CITY OF COVENTRY

SECTION 226(1)(A) OF THE TOWN AND COUNTRY PLANNING ACT 1990

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

ACQUISITION OF LAND ACT 1981

**THE COUNCIL OF THE CITY OF COVENTRY (CITY CENTRE SOUTH)
COMPULSORY PURCHASE ORDER 2022**

STATEMENT OF CASE

APP/PCU/CPO/U4610/3299063

19 December 2022

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**THE COUNCIL OF THE CITY OF COVENTRY (CITY CENTRE SOUTH) COMPULSORY
PURCHASE ORDER 2022**

STATEMENT OF CASE

1. PURPOSE OF THE STATEMENT OF CASE

- 1.1 This Statement of Case ("**Statement**") has been prepared on behalf of the Council of the City of Coventry ("**Council**") as the Acquiring Authority.
- 1.2 On 22 April 2022 the Council made The Council of the City of Coventry (City Centre South) Compulsory Purchase Order 2022 ("**Order**"). The Order was made pursuant to the Council's resolution of 11 January 2022.
- 1.3 The Order was submitted to the Secretary of State for Levelling Up, Housing and Communities for consideration on 13 May 2022. The Secretary of State, by way of a letter dated 14 July 2022, has given notice of their intention to hold a public inquiry to hear and consider the objections raised in relation to the Order.
- 1.4 This Statement contains the submissions which the Council will present to the inquiry in support of the Order. It describes the proposals to facilitate regeneration in Coventry City Centre South and provides a justification for why the Council considers that a clear and compelling case in the public interest exists for making the Order. It also outlines the evolution of the Scheme to date and explains the reasons and policy context behind the decision to proceed with the Scheme.

2. INTRODUCTION TO THE ORDER

- 2.1 The Council has made the Order under section 226(1)(a) of the Town and Country Planning Act 1990, section 13 of the Local Government (Miscellaneous Provisions) Act 1976 and the Acquisition of Land Act 1981.
- 2.2 The land and new rights included in the Order which are the subject of the proposed acquisition are referred to as the "**Order Land**" and are described in the next section. The Council is the local planning authority and the highway authority for the Order Land.
- 2.3 The Order has been made to authorise the acquisition of the land and the creation of the new rights to facilitate the delivery of the scheme which, if implemented, will facilitate regeneration of one of the most tired and outdated areas of Coventry city centre. The scheme is the form of development consented by outline planning permission granted by the Council on 27 January 2022 pursuant to a hybrid planning application reference: OUT/2020/2876 ("**2022 Permission**") as amended by s.96A non-material amendment, reference NMA/2022/2523, dated 11 October 2022 ("**S96A Application**") (the "**Consented Scheme**"). The Consented Scheme is the subject of a pending s.73 application, with reference S73/2022/3160 ("**S73 Application**") (the "**Revised Scheme**"). Reference in this Statement of Case to the "Scheme" is to both the Consented Scheme and the Refined Scheme unless expressly stated otherwise.
- 2.4 The Scheme has been designed to transform the land with a vibrant mix of uses including new homes, health uses, potential hotel, shops, food and drink establishments, commercial workspace, leisure and community uses, new open space, new pedestrian and vehicular access and car parking and will further improve the setting of nearby listed buildings.
- 2.5 The schedule to the Order ("**Schedule**") lists the owners, lessees, tenants and occupiers of the Order Land. In addition, it lists all those other parties that have been identified as having a qualifying interest in the Order Land as defined by section 12(2)

Acquisition of Land Act 1981, including neighbouring owners with the benefit of rights or interests over the Order Land.

- 2.6 The Council recognises that a compulsory purchase order should only be made if there is a compelling case in the public interest (paragraph 12 of the Department of Levelling-Up, Housing and Communities Guidance on Compulsory Purchase Process and the Crichel Down Rules, July 2020 ("**CPO Guidance**") which justifies interfering with the human rights of those with an interest in the affected land. The Council considers that a clear and compelling case in the public interest exists for making the Order, as described in the following sections of this Statement.

3. **DESCRIPTION OF ORDER LAND**

- 3.1 The extent of the land proposed to be acquired, and over which new rights are proposed, is shown on the map which accompanies the Order ("**Order Map**"). The land proposed to be compulsorily acquired pursuant to the Order is shown coloured either pink ("**Pink Land**") or green ("**Green Land**") on the Order Map. The land over which new rights are proposed to be created and acquired is shown coloured blue on the Order Map ("**Blue Land**").
- 3.2 The Order Land is situated in the southern part of the city centre about 600 metres north of Coventry mainline railway station. It forms the main part of the area bordered by Upper Precinct and Broadgate to the north, Hertford Street to the east, Warwick Row and Greyfriars Road to the south and Queen Victoria Road to the west. It is mainly pedestrianised.
- 3.3 The need for each plot of land, or rights over the land, to facilitate the Scheme has been carefully assessed. As already noted, the Schedule lists the owners, lessees and occupiers of the Order Land and those other parties who may have a qualifying interest in the Order Land where known after reasonable enquiry. The Schedule has been based on information gathered through site inspections and enquiries, responses to notices issued under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and inspection of Land Registry documents. There has been extensive enquiry to identify land interests, but it is recognised that the Order includes a number of interests where it has not been possible to identify the current owner.
- 3.4 The conservation areas surrounding the Order Land and the heritage assets around and within the Order Land are described in further detail this Statement.

Land to be acquired – the Pink and Green Land

- 3.5 Together, the Pink Land and the Green Land proposed to be compulsorily acquired comprise an area of some 6.36 hectares and has been land referenced as comprising 223 plots.
- 3.6 The Pink Land and the Green Land form a substantial part of the city centre's post-war retail core. It encompasses areas of Shelton Square, Market Way, Bull Yard, the City Arcade, Rover Road, Hertford Street (other than properties on its eastern side), Barracks Multistorey Car Park ("**MSCP**") and areas of service yard to the adjacent Lower Precinct shopping centre. The Pink Land also includes the ramp from the roof top car park above Market Way, which connects to the car park of the Grade II listed Coventry Retail Market ("**Market**"), the basement ramp between the Market and Rover Road, associated changes to the basement of the Market, a small number of external facing ground floor units of the Market which need to be acquired to enable the Scheme to be constructed, delivered and operated efficiently in terms of servicing and access arrangements, and certain other incidental features adjoining the Market building. The vast majority of the above ground extent of the Market building itself is not included in

the Pink Land and both the Lower Precinct shopping centre and the Market can continue trading throughout and after the Scheme works.

- 3.7 The Pink and Green Land are dominated by buildings constructed in the 1950s and 1960s during the city's post war reconstruction. The ground and first floors of the buildings are mainly in retail use or are vacant. There are a number of other town centre uses within the Pink Land and the Green Land including: offices, mainly at upper levels of the buildings, some 1,233 car parking spaces, servicing areas, food and drink establishments and mixed community uses including social enterprises and the Shop Front Theatre.
- 3.8 The Council owns the freehold interest in approximately 99% of the Pink and Green Land. However, the land is subject to a number of leasehold and occupational interests of premises used as shops, food and drink establishments, offices and for other business and community uses. The leases of 96 premises will either expire, or be capable of being brought to an end by contractual notice, prior to the anticipated date for the commencement of development. However, there are 16 leasehold interests within the Order where the lease will not expire prior to the anticipated date for development to begin. The Council has engaged with the current owners and occupiers of each of these leasehold interests with a view to seeking to reach a suitable form of agreement with them to ensure vacant possession of the interest before commencement of development. This engagement and associated negotiations will continue throughout the compulsory purchase process.
- 3.9 The remaining 1% of the Pink and Green Land, where the Council does not own the freehold interest, comprises predominantly unregistered land in unknown ownership.
- 3.10 There are two Grade II listed structures within the Pink and Green Land. The first is the Grade II listed William Mitchell Mural at the Former Three Tuns Public House building in Bull Yard which is to be relocated as part of the Scheme. The second is the Grade II listed Coventry Market which is affected as described above. In addition, there are a number of examples of public art and commemorative plaques at various locations within the Pink and Green Land. These non-designated assets are referred to further in Section 5.
- 3.11 The Pink and Green Land sits within, and forms a major part of, the land for which the 2022 Permission was granted. The redline boundary of the 2022 Permission is referred to in this Statement of Case as the "**Development Site**" or "**City Centre South**", this is unchanged by both the aforementioned S96A Application and the pending S73 Application.
- 3.12 The progress made by the Council in seeking to acquire the Pink and Green Land by agreement is described in Section 8.

Land over which new rights are to be created and acquired – the Blue Land

- 3.13 The Blue Land over which new rights are to be created and acquired pursuant to section 13 of the 1976 Act ("**New Rights**") surrounds parts of the Pink and Green Land and is in a number of different uses but predominantly retail and commercial.
- 3.14 The Blue land encompasses the Lower Precinct MSCP, land at Upper Precinct, land at Broadgate, land at Hertford Street, land at Warwick Row, land at Market Way, and land at Queen Victoria Road. The Blue land encompassing the Lower Precinct does not impact on the operation of the Lower Precinct, including the operation of the Market.
- 3.15 The Council is the freehold owner of a significant proportion of the Blue Land, with some areas of land held under registered titles and other areas unregistered. There are a

variety of leasehold interests and occupations within the Blue Land including retail and commercial properties.

- 3.16 There is one residential building, Beauchamp House, within the Blue Land. The rights sought in relation to Beauchamp House pertain to crane oversailing, surveys, the right to undertake protective works, scaffolding and boundary treatment. The residential occupiers will be able to continue in occupation throughout the works.

- 3.17 The Blue Land includes eight Grade II listed buildings:

Plot number	Description of listed building
233, 233g, 233h and 233i	Coventry Retail Market
235	The former Woolworth Building, Upper Precinct
237 and 238	Former British Home Stores Building and Carphone Warehouse
239-250	Upper Precinct, North and South Link Blocks and Piazza (Note – the Blue Land only encompasses part of the buildings included in the listing)
251	Broadgate House
260	5 Warwick Row
261 and 262	6 and 7 Warwick Row

Nature of rights sought and land affected

- 3.18 A summary of the New Rights sought is set out below. Not all rights are required in respect of each plot within the Blue Land. The Schedule provides full details of the rights to be acquired with respect to each plot, which include the right:

- 3.18.1 to enter and remain on land for general construction, maintenance, repair and renewal purposes;
- 3.18.2 to erect scaffolding and/or hoardings;
- 3.18.3 to swing the jib of a crane loaded or unloaded through the airspace over properties;
- 3.18.4 to carry out surveys of buildings and land;
- 3.18.5 to enter onto land to make good and carry out protective works;
- 3.18.6 to carry out boundary treatment works;
- 3.18.7 to modify service media and other utilities;
- 3.18.8 to alter and/or remove fire escapes (either on a temporary or permanent basis) and install fire escapes and to grant rights for owners and occupiers of land to use fire escapes;

- 3.18.9 to carry out accommodation and reconfiguration works to properties where buildings will in whole or in part be demolished or accesses reconfigured in order to modify the retained properties so that they can be brought back into beneficial use; and
 - 3.18.10 to provide for, alter and/or remove service access.
- 3.19 The extent of rights required, and the works to be undertaken pursuant to such rights, varies between properties and the Council will seek to reach agreement with landowners and occupiers. A broad summary of why these rights are needed is set out below:
- 3.19.1 to enable access to land adjoining the Scheme site for the purposes of demolition, construction and future activities such as maintenance and renewal. Scaffolding will need to be placed on such land in some cases. Crane oversail rights are also required in relation to a number of properties neighbouring the Development Site;
 - 3.19.2 to carry out boundary treatment works to certain properties that abut the Scheme. This is to ensure that boundary treatments of adjoining land and buildings are well maintained; and
 - 3.19.3 to carry out works on land and buildings that are not required for the Scheme but that will be affected by the Scheme. This includes situations where accesses, fire escapes and service media will be affected by the Scheme through the demolition of existing buildings (either in whole or in part). Consequential modification works are therefore required to enable the affected properties to remain in beneficial use. Such works include removal of canopies, modification of service media and creation of new (temporary and/or permanent) fire escapes, including the right to grant rights over fire escapes to owners and occupiers of neighbouring land. Rights to carry out protective works to such affected properties are also required and, within this context, the right to enter land to survey is also required.

Beauchamp House

- 3.20 In respect of Beauchamp House, rights are required to facilitate construction of the Scheme by the oversailing of cranes over the property and also (in respect of part only) to carry out surveys.

Queen Victoria Road

- 3.21 In respect of Queen Victoria Road, rights of access are required to facilitate the construction, maintenance, repair and renewal of the Scheme.

Lower Precinct Car Park

- 3.22 In respect of Lower Precinct Car Park, rights are required to facilitate the construction, maintenance, repair and renewal of the Scheme. This includes rights for the purposes of access, survey, erection of scaffold, carrying out of protective works and making good and the right to alter servicing accesses to existing premises.

Coventry Retail Market

- 3.23 In respect of the Market, rights are required to facilitate the construction, maintenance and renewal of the Scheme, including to demolish the connecting ramp at roof top car park level and to carry out modifications to the service access ramp at basement level.

These include rights at all levels for the purposes of access, survey, erection of scaffold, carrying out of protective works and making good and oversailing with cranes. Rights are also required to modify service media.

- 3.24 At rooftop level, rights are required to demolish the existing ramp to the Market from the adjacent City Arcade Car Park, which is proposed to be demolished as part of the Scheme, and to make good the roof top car park surfacing in that location.
- 3.25 At basement level, rights are required to carry out works to tie in with the provision of a new basement access ramp to the Market, and to make consequential modifications to service media.

The Precinct

- 3.26 In respect of the Precinct, rights are required to facilitate the construction, maintenance, repair and renewal of the Scheme. These include rights on or over the land for the purposes of access, erection of scaffold, carrying out protective works and making good, carrying out boundary treatment works and oversailing with cranes. Rights are sought to alter vehicular and servicing access arrangements (temporarily during the works, and permanently).

Broadgate House

- 3.27 In respect of Broadgate House, rights are required to facilitate the construction, maintenance, repair and renewal of the Scheme. These include rights on or over the land for the purposes of access, erection of scaffold, carrying out protective works and making good, carrying out boundary treatment works and oversailing with cranes.
- 3.28 In addition, rights are required to carry out works to modify the property by the removal of an existing access into the Barracks Car Park (which is proposed to be demolished as part of the Scheme) to Broadgate House.

Hertford Street

- 3.29 In respect of the above properties on Hertford Street, rights are required to facilitate the construction, maintenance, repair and renewal of the Scheme. These include rights on or over the land for the purposes of access, erection of scaffold, carrying out protective works and making good, carrying out boundary treatment works and oversailing with cranes.
- 3.30 In addition, in respect of some of the properties, rights to carry out works to modify properties and carry out boundary treatment works to external walls that will be affected by the Scheme where the current canopy which stretches between properties on either side of Hertford Street is proposed to be removed.

Warwick Row

- 3.31 In respect of the properties on Warwick Row, rights are required to facilitate the construction, maintenance, repair and renewal of the Scheme. These include rights on or over the land for the purposes of access, erection of scaffold, carrying out protective works and making good, carrying out boundary treatment works and oversailing with cranes.
- 3.32 In addition, rights to carry out works to modify properties that will be affected by the Scheme to enable the property to continue in beneficial use are also required. This includes rights to alter and install fire escapes, modify service media, and in some cases consequential modification works to existing buildings.

Summary

- 3.33 In summary, the New Rights are required to facilitate the construction, use and maintenance of the Scheme and/or to carry out consequential modification works to properties affected by the Scheme and will only be exercised to the extent necessary for such purposes.

4. THE PURPOSE AND JUSTIFICATION FOR MAKING THE ORDER

- 4.1 The purpose of the Council in making the Order is to secure the acquisition of all relevant interests in and rights over the Order Land to facilitate the vital redevelopment of City Centre South through comprehensive redevelopment of the Development Site. The aim is to achieve substantial improvement in the mix of uses currently on the land, to improve the quality of commercial space, to provide new homes and introduce a residential population to the city centre and to improve the environment of the area and its permeability and connectivity. The Council considers that the residential, commercial (including retail and workspace), leisure, food and beverage and potential hotel uses comprised within the Scheme, including the public spaces, pedestrian linkages and community facilities, will meet the purpose for which the Order is being made. The Council considers that the Order and the Scheme will facilitate the improvement of the economic, social and environmental well-being of its area.

- 4.2 The overarching consideration for the Secretary of State in deciding whether or not an Order should be confirmed is set out in paragraph 12 of the CPO Guidance which states:

"A compulsory purchase order should only be made where there is a compelling case in the public interest.

An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention."

- 4.3 In the context of that overarching consideration, paragraphs 12 -14 of the CPO Guidance, and in particular paragraph 106 in Section 1 (regarding orders made under s226 of the 1990 Act), give relevant guidance on issues which should be considered:

- 4.3.1 whether the purpose for which the land is being acquired fits with the adopted Local Plan for the area;
- 4.3.2 the extent to which the Scheme will contribute to the achievement of the promotion and/or improvement of the economic, and/or social, and/or environmental well-being of the Council's area;
- 4.3.3 whether the purposes for which the proposed Order Land is to be acquired could reasonably be achieved by any other means within a reasonable timeframe;
- 4.3.4 the potential financial viability of the Scheme, general funding intentions and the timing of available funding, sufficient to reassure the Secretary of State that there is a reasonable prospect that the Scheme will proceed; and
- 4.3.5 any impediments to the Scheme going ahead.

- 4.4 Each of these factors is addressed in a separate section below.

5. PLANNING POSITION AND EXTENT TO WHICH THE PURPOSE FOR ACQUISITION FITS IN WITH THE PLANNING FRAMEWORK

The Scheme

- 5.1 The principle of a comprehensive mixed-use development of the City Centre South site was originally established by the outline planning permission granted by the Council on 31 May 2012 in respect of application reference OUT/2012/0575 ("**2012 Permission**"). It comprised a comprehensive redevelopment of the Coventry City Centre South area, comprising demolition and alteration of buildings and structures and the construction of retail stores, hotels, residential dwellings, car parking and public realm. That scheme was primarily focussed on creating up to circa. 57,500 square metres of new and refurbished retail floorspace, with a relatively smaller proportion of associated hotel, residential and leisure uses ("**2012 Scheme**").
- 5.2 The 2012 Scheme was not progressed as changes in high street retail, including the re-examination of the anchor department store model and the rise of on-line shopping, and the shift towards city centre living and desire for more varied leisure experiences began to emerge and develop. In response to these and subsequent changes in retail, leisure, city living, sustainable transport and other design circumstances, the Scheme proposes a significantly greater proportion of residential and leisure uses than the 2012 Scheme, with a lower quantum of on-site car parking to reflect the increased proportion of residential development proposed and the shift towards more sustainable modes of travel.
- 5.3 Since the 2012 Permission, a number of changes have taken place to transform Coventry's public spaces and other development schemes undertaken in the city. This includes completing the demolition of Coventry Point and undertaking a programme of public realm improvements across the city centre, most recently to the north of the site at Upper Precinct, Market Way and Smithford Way. The Council has also delivered improvements to the south-eastern component of the Site, to the south of Methodist Central Hall and west of the Wave. The improved public realm includes water features, a children's play area and green landscaping.
- 5.4 The planning application for the Scheme was submitted on 23 November 2020. The Council (in its role as local planning authority) resolved to grant permission for the Scheme on 22 April 2021. A related Section 106 Agreement to support delivery of the Scheme was dated 26 January 2022 and the 2022 Permission was formally issued on 27 January 2022.
- 5.5 The 2022 Permission (as amended by the s96A Application – see further paragraph 5.9 below) is a hybrid permission in three parts and forms the basis of the "underlying scheme" for the purposes of the CPO. The first part of the 2022 Permission provides full planning permission for works affecting listed structures, specifically the Market and the relocation of the mural in Bull Yard. Separate listed building consent applications for these works have also been granted (LB/2020/2857 and LB/2020/2860). The second and third elements of the 2022 Permission provide outline permission for the remaining elements of the Scheme as further described below.
- 5.6 The full element of the 2022 Permission and the two listed building consents relate to the works for:
- the removal of the bridge link between the Coventry Market roof top car park and roof top parking over existing retail units on Market Way;
 - associated reinstatement works to roof top car park surface and balustrade;

- removal of the existing Coventry Market basement ramp from Rover Road and associated infilling and reinstatement works;
- works to the retaining wall to north-east of Coventry Market;
- removal of the existing pedestrian ramp into Coventry Market off Rover Road;
- the creation of a new Coventry Market basement ramp from Queen Victoria Road and associated works to Coventry Market basement; and
- the removal and relocation of William Mitchell mural from front elevation of the former Three Tuns Public House building in Bull Yard.

5.7 The two outline elements of the 2022 Permission relate to demolition of the buildings on the Development Site and redevelopment of the land for a mixed use redevelopment comprising the provision of:

- residential units (Class C3)
- potential hotel (Class C1)
- non-residential floorspace including Class E Commercial, Business and Service uses, Class F.1 Learning and Non-Residential Institutions, and Sui Generis Pub or Drinking Establishment / Hot Food Takeaway /Cinema uses
- hard and soft landscaping and new public open spaces
- sustainable urban drainage systems
- car parking provision and
- new pedestrian and vehicular access.

Evolution of the Scheme

5.8 Following the appointment of the preferred development partner (see further paragraph 8.5 below), the Scheme is in the process of being refined to maximise the opportunity and benefits of the Scheme. The refined proposals do not fundamentally alter or significantly differ from the Scheme as consented by the 2022 Permission. The applications submitted to secure the proposed refinements to the Scheme are set out below.

Section 96A Non-Material Amendment Application

5.9 The S96A Application (with reference NMA/2022/2523) was approved by the local planning authority on 11 October 2022. The changes made to the 2022 Permission by this non-material amendment are summarised below:

- 5.9.1 Removing certain operative elements, including the maximum quanta of residential units, hotel rooms and non-residential floorspace, from the existing Description of Development and transposing these figures into a new planning condition;
- 5.9.2 Amending Part B of the Description of Development, which currently fixes the 'scale', to instead reserve 'scale' (within the defined parameters) as a matter for future consideration;

- 5.9.3 Amending Condition no. 2 of the permission to clarify that it relates to the submission of all reserved matters (in accordance with Part C of the Description of Development); and
- 5.9.4 Altering the timing trigger for when details require to be submitted for approval in relation to an energy assessment (Condition no 7 part (vi)) and in relation to the noise and vibration minimisation scheme (Condition no. 9).
- 5.10 The Description of Development as set out in the 2022 Permission has also been amended by the S96A Application as follows (text deleted shown as ~~struck through~~, text to be added shown as underlined):

“Full application:

A. Full Application for removal of bridge link between Coventry Market roof top car park and roof top parking over existing retail units on Market Way and associated reinstatement works to roof top car park surface and balustrade, removal of existing Coventry Market basement ramp from Rover Road and associated infilling and reinstatement works, works to retaining wall to northeast of Coventry Market, removal of existing pedestrian ramp into Coventry Market off Rover Road, creation of new Coventry Market basement ramp from Queen Victoria Road and associated works to Coventry Market basement, and removal and relocation of William Mitchell mural from front elevation of the former Three Tuns Public House building in Bull Yard;

Outline application:

B. For part of the site (~~Parameters Plans Document March 2021 Revision B~~) for the demolition of ~~all~~ existing buildings and redevelopment of the land for mixed uses, including details of the layout ~~and scale~~ of new development, with details of scale, access, appearance and landscaping reserved; and

C. For part of the site for the demolition of ~~all~~ existing buildings and the redevelopment of the land for mixed use, with details of access, layout, scale, appearance and landscaping reserved. The scheme comprises a mixed use redevelopment ~~for of up to 1,300~~ residential units (Class C3), ~~up to 150 a~~ hotel rooms (Class C1), ~~up to 37,500 sqm of~~ mixed-use non-residential floorspace including Class E Commercial, Business and Service uses, Class F.1 Learning and Non-Residential Institutions, and Sui Generis Pub or Drinking Establishment / Hot Food Takeaway / Cinema uses, hard and soft landscaping and new public open spaces including sustainable urban drainage systems, car parking provision and formation of new pedestrian and vehicular access and stopping up of existing highway.”

Section 73 Application

- 5.11 The S73 Application has been submitted (with reference S73/2022/3160) and was validated by the local planning authority on 11 November 2022. The S73 Application has not yet been determined. The application seeks to make the following main amendments to the 2022 Permission:
- 5.11.1 Changes to the approved development parameters, as shown on the parameter plans, to alter certain minimum and maximum heights and minimum and maximum footprint deviations, and to introduce some additional flexibility in locations where scale and layout is fixed as part of the Scheme consented by the 2022 Permission; and
- 5.11.2 Changes to certain development quanta as included in the Description of Development and shown in the Parameter Plans Document notably a

decrease in the minimum and maximum quanta of commercial space and an increase in the maximum number of residential units able to be provided in the Scheme.

- 5.12 The table below compares the Scheme as consented by the 2022 Permission (“**Consented Scheme**”) with the Scheme set out in the S73 Application (“**Refined Scheme**”):

Land use	Consented Scheme: Minimum Development Parameter	Consented Scheme: Maximum Development Parameter	Refined Scheme: Minimum Development Parameter	Refined Scheme: Maximum Development Parameter
Car Parking	90 spaces	300 spaces	No change	No change
Residential (Class C3) units	900 units	1,300 units	No change	1,500 units
Hotel (Class C1) keys/rooms	0	150	No change	No change
Use Class E Commercial, Business and Service / Use Class F.1 Non-Residential Institutions / Sui Generis (Cinema / Pub or Drinking Establishment / Hot Food Takeaway Uses)	22,000sqm GIA	37,500sqm GIA	13,275sqm GIA (incl. 9,800sqm new build and retained 3,475sqm)	20,000sqm GIA (incl. 16,525sqm new build and retained 3,475sqm)

- 5.13 Both the Consented Scheme and the Refined Scheme envisage a comprehensive new mixed use regeneration scheme within the city centre, including a greater variety of uses to reinforce the existing city centre retail and leisure offer and to create a distinctive part of the city in which to live, work and play.
- 5.14 The below paragraphs consider the Scheme in the context of the relevant national and local planning policies. In the remainder of this Section 5, reference to the “Scheme” is to both the Consented Scheme and the Refined Scheme unless expressly stated otherwise.

The National Planning Policy Framework

- 5.15 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) require that planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise.

- 5.16 The National Planning Policy Framework ("**NPPF**") (published July 2021) reconfirms the statutory requirement set out in Section 38(6) relating to the determination of planning applications and also confirms that the NPPF must be taken into account as a material planning consideration in planning decisions (paragraphs 2 and 218).
- 5.17 Although not part of the statutory Development Plan, the NPPF sets out Government policy and should be considered in the determination of planning applications.
- 5.18 The presumption in favour of sustainable development is at the heart of the NPPF. Paragraph 8 sets out the economic, social and environmental objectives of sustainable development, which are interdependent and need to be pursued in mutually supportive ways, so that opportunities can be taken to secure net gains across the objectives.
- 5.19 The NPPF states that: "*...decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.*"
- 5.20 Paragraph 11 sets out that local planning authorities should approve development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse benefits of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole.
- 5.21 The Government has also published National Planning Policy Guidance ("**NPPG**") notes to support the NPPF, providing high level guidance on specific planning issues and processes. NPPG notes are referenced where applicable in this Statement.

The Development Plan

- 5.22 Section 38(3) of the Planning and Compulsory Purchase Act 2004 (as amended) defines the Development Plan as:
- 5.22.1 the Development Plan documents (taken as a whole) which have been adopted or approved in relation to that area; and
- 5.22.2 the neighbourhood development plans which have been made in relation to that area.
- 5.23 In this instance, the current adopted Development Plan for the Site comprises the Local Plan and the Coventry City Council City Centre Area Action Plan ("**CCCAAP**"), both adopted December 2017.

Coventry City Council Local Plan

- 5.24 The Local Plan provides the overarching policy context for Coventry as a whole, as well as providing detailed policies and standards against which planning applications will be assessed.

Coventry City Council City Centre Area Action Plan

- 5.25 The CCCAAP provides a framework for the future growth and regeneration of Coventry city centre.

Other Material Policy Considerations

- 5.26 There are a number of adopted Supplementary Planning Guidance and Supplementary Planning Documents (“**SPD**”) which are material policy considerations in the determination of planning applications for the Development Site:
- 5.26.1 Air Quality SPD adopted Aug 2019;
 - 5.26.2 Coventry Connected (Transport and Accessibility) SPD adopted Jan 2019;
 - 5.26.3 Delivering a More Sustainable City SPD adopted Jan 2009;
 - 5.26.4 Design Guidance for New Residential Development Supplementary Planning Guidance adopted Jan 1991;
 - 5.26.5 Green Space Strategy 2019-2024 SPD;
 - 5.26.6 Open Spaces SPD;
 - 5.26.7 Affordable Housing SPD; and
 - 5.26.8 Health Impact Assessment SPD.
- 5.27 The Council is consulting on the following emerging SPDs which are also material planning considerations:
- 5.27.1 Design Guidance for new Residential Development SPD;
 - 5.27.2 Biodiversity Net Gain SPD; and
 - 5.27.3 Tall Buildings Design Guide & Three Spires View Management Framework SPD and Local List nominations SPD.
- 5.28 The Coventry View Management Framework forms part of the Development Plan evidence base and is therefore a material consideration, specifically informing Development Plan policies in relation to key views across the city centre of the Three Spires of St Michael, Christ Church and Holy Trinity.
- 5.29 In addition, the One Coventry Plan Annual Performance Report 2020-2021 provides that the Scheme is a key regeneration priority for the city centre and will transform seven hectares of the city. Whilst this does not carry the same weight as other policy considerations, it helps to shape the way the Council works to improve the city and people’s lives.

Ensuring the Vitality of Town Centres

- 5.30 Paragraph 86 of the NPPF states that planning decisions should support the role that town centres play at the heart of their communities and take a positive approach to their growth and adaptation, including the promotion of their vitality and viability, allowing them to diversify in a way that can respond to rapid changes in the retail and leisure industries, allowing for a suitable mix of uses, including housing.
- 5.31 Planning decisions should recognise the important role of residential development in ensuring the vitality of centres and encourage residential development on appropriate sites.
- 5.32 Local Plan Policy R2: ‘Coventry City Centre – Development Strategy’ is reflected in the CCCAAP Policy CC1 and states that the city centre will continue to be developed and

regenerated to ensure it is a truly world class city centre, leading in design, sustainability and culture. The policy provides that this will be achieved by:

- 5.32.1 enhancement of its position as a focus for the entire sub-region and as a national and international destination to live, work and play;
 - 5.32.2 enhancement of its retail and leisure offer to strengthen the city's sub regional role;
 - 5.32.3 provision of high-quality office space;
 - 5.32.4 becoming a hub for education;
 - 5.32.5 including a variety of places to live which cater for different needs;
 - 5.32.6 preserving or enhancing the character and setting of the historic built landscape and the archaeological environment;
 - 5.32.7 a connected public realm including public squares and green spaces, easily accessible through the creation of desirable and legible pedestrian routes;
 - 5.32.8 accessible for all;
 - 5.32.9 providing an attractive and safe environment for pedestrians, cyclists and motorists;
 - 5.32.10 provide a high-quality public transport system that benefits from seamless integration and is well connected to existing and new infrastructure;
 - 5.32.11 high quality sustainable built design;
 - 5.32.12 continuing to develop a vibrant and attractive night-time economy;
 - 5.32.13 providing opportunities to improve health and wellbeing;
 - 5.32.14 continuing to support greater integration of the university within the wider city centre in accordance with the policies in the Area Action Plan;
 - 5.32.15 recognising and preserving key views to the iconic three spires of St Michaels, Holy Trinity and Christchurch; and
 - 5.32.16 supporting the reintroduction of green and blue infrastructure throughout the city centre, including opportunities for de-culverting wherever possible.
- 5.33 Policy CC19 'Primary Shopping Area regeneration – South' is a policy specific to the Development Site and states that the regeneration of the southern part of the Primary Shopping Area for predominantly comparison shopping will be promoted, encouraged and supported. This policy provides for:
- 5.33.1 an increase of at least 10,000m² gross retail floor space (though this element of the policy no longer reflects the current position with regards to the town centre retail market as referred to above);
 - 5.33.2 a range of shop sizes that reflect market requirements;
 - 5.33.3 high quality entrances from the Precinct, Queen Victoria Road and Bull Yard;

- 5.33.4 the redevelopment of the Barracks car park and the relocation of the parking spaces as part of a new multi storey car park incorporated within the development;
 - 5.33.5 the relocation of the listed mural situated in Bull Yard to a new and prominent site situated within the new development;
 - 5.33.6 the retention of the listed market building, with improvements made to its setting and connectivity to Queen Victoria Road and Market Way;
 - 5.33.7 associated residential provision of at least 40 homes as part of upper floors above retail uses; and
 - 5.33.8 complementary leisure, office and hotel uses as part of upper floors above retail uses.
- 5.34 Local Plan Policy JE6 'Tourism/Visitor Related Development' states that proposals for development within Coventry City Centre, which would contribute towards the city's role as a tourist destination, will be supported subject to compatibility with other Local Plan policies.
- 5.35 The Scheme provides for a mixed-use development which is considered to be appropriate within this sequentially preferable, sustainable city centre location. The proposed specific uses are considered in greater detail below.

Retail, Community & Leisure

- 5.36 Local Plan Policies R2 and CC1 identify that the regeneration of the city centre will be achieved by enhancing its retail and leisure offer to strengthen the city's sub-regional role. Policy CC19 was informed at the time by evidence in the Coventry City Wide Shopping and Centres Study 2014.
- 5.37 It is acknowledged that there has been a significant shift in the retail market since the CCCAAP was adopted, with the growth of on-line shopping; the revoking the formerly distinct retail, commercial and leisure uses and creating a new, broader Use Class E - Commercial, Business and Service; and the effects of Covid all being taken into account in current market conditions. The Scheme will reflect those more up to date market conditions.
- 5.38 The Scheme will reflect this ethos and direction of travel with flexible uses and a mixed-use approach in order to create a sustainable new piece of the city that is attractive to visitors with a broader range of food and beverage and leisure uses, as well as bringing a substantial number of new residents into the city centre, to support the vitality and vibrancy of the area and its commercial uses. The Scheme will include a variety of uses falling within Use Class E, which can include retail shops, services, restaurants and cafes, commercial workspace and community uses.
- 5.39 The Scheme will create high quality ground floor commercial spaces that can respond to both current and future market dynamics due to their inherent flexibility and simplicity. These spaces will enable both shorter term, incubation type spaces to support local business growth as the City Centre evolves and changes as well as higher value, more conventional food and beverage, leisure and retail businesses who will be attracted to the new city centre offer being created. New units will sit within new, high-quality public realm spaces that remove the existing poor linkages between spaces and improve pedestrian movement and accessibility into the area.

- 5.40 This is reflected in the Scheme with flexible uses and a mixed-use approach in order to create a sustainable new area of the city that is attractive to visitors with a broader range of food and beverage and leisure uses, as well as bringing a substantial number of new residents into the city centre, to support the vitality and vibrancy of the retail. Use Class E includes retail, food and drink, financial services, professional services, indoor sport and recreation, medical or health services, creches, day nurseries or day centres, office/research and development facilities and industrial processes (light industry with no noise/smell/fumes etc.). This will enable a variety of appropriate city centre uses to be brought forward, responding to the requirements of future phases. Retail continues to be an essential component of the Scheme and the Parameter Plans identify active frontages at ground floor to ensure shopfronts or similar onto the street which create interest and activity. Scheme development in terms of the use mix is being undertaken with the development partner.
- 5.41 As part of the overall maximum parameter of commercial mixed uses, the Scheme will include the ability to provide a cinema, bars and public houses and hot food takeaways and the most appropriate mix will come forward pursuant to reserved matters applications. These are 'Sui Generis' uses with no use class specified in the Use Class Order. These uses will contribute to an enhanced leisure and evening economy offer in the city centre, providing leisure opportunities outside of working and normal shopping hours.
- 5.42 The Scheme will secure the positive enhancement of the city centre's retail and leisure offer to strengthen the city's sub regional role and its position as a focus for the entire sub-region and as a national and international destination to live, work and play in accordance with the aims and objectives of Local Plan Policy R2, CCCAAP Policy CC1 and the NPPF.

Residential

- 5.43 NPPF paragraph 60 highlights the Government's objective of significantly boosting the supply of homes and states the importance of a sufficient amount and variety of land being able to come forward where it is needed.
- 5.44 Local Plan Policy H1 'Housing Land Requirements' states that provisions must be made for a minimum of 24,600 additional dwellings between 2011 and 2031 in the Local Plan area. This equates to an annualised average delivery rate of 1,230 dwellings over the Plan period.
- 5.45 The actual level of Objectively Assessed Need ("**OAN**") for housing over this period identified for Coventry in the Local Plan is 42,200. The lower minimum figure of 24,600 was included in Policy H1 due to a number of considerations, including constraints on land supply. This higher level of OAN is reflected in the DLUHC Standard Method to calculating Local Housing Need which identifies 2,325 as the current annualised housing need figure for Coventry.
- 5.46 Local Plan Policy H3 'Provision of New Housing' states that new residential development must provide a high-quality residential environment, which assists in delivering urban regeneration or contributes to creating sustainable communities and which overall enhances the built environment. The Scheme will provide a suitable residential environment within a sustainable location and will include safe and appropriate access, have adequate amenity space and parking provision and be safe from environmental pollutants such as land contamination, excessive noise and air quality issues.
- 5.47 Policy H4 of the Local Plan requires proposals for residential development to include a mix of market housing which contributes towards a balance of house types and sizes across the city.

- 5.48 Policy H6 of the Local Plan requires developers to ensure affordable housing contributions comprise dwellings of the right size, type, affordability and tenure to meet local needs.
- 5.49 Policy R2 of the Local Plan requires focus for the entire sub-region as a national and international destination to live, work and play. It states that this includes a variety of places to live which cater for different needs.
- 5.50 Compared with other cities, Coventry has a relatively low level of city centre living, and therefore misses out on the vibrancy generated by a city centre residential population, as well as the benefits of capturing residents' local spending. Within the whole of the Development Site there is currently no residential development.
- 5.51 The Scheme will provide a large number of proposed homes as part of a mixed use approach to the City Centre South area and to inject further footfall and vitality into the wider City Centre. This helps address the shift in retail and office demand and provides for increasing housing demands. The Scheme is compliant with the wider objectives of the Local Plan regarding the regeneration and development of the City Centre and Local Plan Policy H3 in that the Scheme assists in delivering urban regeneration and contributes to creating sustainable communities.
- 5.52 Paragraph 119 of the NPPF states that planning decisions should promote the effective use of land in meeting the needs for homes and other uses. Strategic policies should set out clear strategies for accommodating objectively assessed needs in a way that makes as much use as possible of previously developed or brownfield land.
- 5.53 The Development Site is located within a highly sustainable city centre location, with excellent access to shops, services and public transport options. The Scheme will provide a high-quality residential environment, including private communal courtyard spaces, that are safe from any environmental pollution issues. The Scheme will deliver a series of external private communal amenity spaces that will provide sociable amenity spaces for the occupants of the Scheme. Future residents will also benefit from the proposed public realm, including the two proposed public squares.
- 5.54 The residential dwellings may be brought forward as a combination of open market sale and Build to Rent accommodation; this will be established at Reserved Matters stage for each development block. The residential accommodation complies with Local Plan Policies H3, H4, H5 and H6. The potential for the Scheme to provide a percentage of the new homes as affordable housing has been secured through a series of viability reassessments in the section 106 agreement. The Local Plan establishes a total need for a minimum of 6,960 new affordable homes over the Plan period based on the overall minimum housing figure included in Policy H1. This equates to a need for circa 348 affordable homes per year. Since the start of the Plan period in 2011, on average 236 affordable homes have been delivered each year.

Potential Hotel

- 5.55 Hotels are a main town centre use (as identified in the NPPF) and will be acceptably located within the city centre providing a sustainably located facility with excellent access to the city centre's shops, services and public transport links in accordance with Local Plan Policies R2, JE6 and CCCAAP Policy CC19.
- 5.56 Both the Consented Scheme and the Refined Scheme provide the potential for a hotel of up to 150 bedrooms. Flexibility in the location of the potential hotel has been sought, with several potential locations proposed in the Land Use Parameter Plans.

- 5.57 The hotel use accords with Policy R2 and CC1 and CCCAAP Policy CC19. If a hotel is not brought forward in the development Blocks identified, other approved uses are permitted instead.

Open Space and Public Realm

- 5.58 The spaces created between the development blocks are highly important and Local Plan Policy R2 seeks to secure a connected public realm including public squares and green spaces, easily accessible through the creation of desirable and legible pedestrian routes. Local Plan Policy DE1 seeks to provide attractive, safe, uncluttered, active and easily identifiable, high-quality public spaces, make places that inter-connect and are easy to move through and ensure places are easily understood by users, with clear routes and distinct physical features.
- 5.59 Substantial areas of paved and landscaped open spaces are proposed within the Scheme. As the horizontal parameters of development blocks are flexible, the Parameter Plans set minimum and maximum street widths to achieve new pedestrian priority boulevards through the Development Site with space to accommodate tables and chairs and support the café culture. The proposed publicly accessible open space includes a new public square to the front of the Market and the south of Market Way and a new public square to the south-east of the Development Site, adjacent to the public realm improvements already undertaken to the west of the Wave. The area of existing open space to the top of Hertford Street will also be retained and improved.
- 5.60 Located adjacent to the existing Market will be public square No.1, which is an important nodal point in the Scheme and one which formally marks a transition between periods of development of the city. The Development Design Principles require accessibility for all needs to be considered carefully at reserved matters stage for this important space given the level changes around the Market.
- 5.61 Public square No.2 forms a key arrival point into the city centre on approach from the railway station and Greyfriars Green area. Several mandatory principles are included in the Development Principles Document which seek to ensure flexibility of use and management of pedestrian flows.
- 5.62 The open space and public realm proposed by the Scheme accords with Policy R2, DE1 and CC1 and will overall provide a net gain and substantial enhancements. Specific hard and soft landscaping details, as well as public art provision would be secured at Reserved Matters stage by condition.

Urban Design/Impact on visual amenity

- 5.63 Policy DE1 of the Local Plan seeks to ensure high quality design and development proposals must respect and enhance their surroundings and positively contribute towards the local identity and character of an area. Policy R2 reflects CCCAAP Policy CC1 and seeks to secure a high-quality sustainable built design. Policy R2 states that high quality sustainable built design and recognising and preserving key views to the iconic three spires is required to achieve the development strategy.

Achieving Well-Designed Places

- 5.64 Paragraph 130 of the NPPF states that "Planning policies and decisions should ensure that developments:
- 5.64.1 will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

- 5.64.2 are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - 5.64.3 are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - 5.64.4 establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - 5.64.5 optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - 5.64.6 create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”
- 5.65 Paragraph 134 of the NPPF requires that great weight should be given to proposals which help raise the standard of design more generally in an area, so long as they fit with the overall form and layout of their surroundings.
- 5.66 Specific design considerations are identified below:
- 5.66.1 Architectural Diversity: There is a mandatory requirement that proposed buildings *must* incorporate diversity in their form, roofscape, and create legible blocks to ensure visual interest and richness in townscape as detailed applications are submitted.
 - 5.66.2 Active Frontages: There is a need to provide active frontages in prominent pedestrian locations across the Development Site with a mandatory provision being indicated for buildings fronting Market Way and Hertford Street, the two proposed new public squares and Block E. This provision is beneficial in providing a positive relationship between the buildings and public realm creating dynamism and animation to the blocks with improved passive surveillance capacity and would therefore be supported through Local Plan Policy CC3.
 - 5.66.3 Mix of Uses: There is a mandatory requirement that the Scheme must consist of a mix of uses to create a sustainable community and to achieve active frontage at the base of buildings.
 - 5.66.4 Scale, Height, Roofscape: There is a mandatory requirement that the visibility of rooftop plant must be screened from street-level view, using setbacks and well-considered screening. This is important for minimising massing impact of such elements and also protecting the appreciation of important viewpoints through the city.
 - 5.66.5 Materials: There is a mandatory requirement for building material selection to exhibit weight, permanence and solidity with material colours and tones required to contribute to variety in the appearance of individual and groups of buildings. It is a recommendation that brick should be considered as the default material, in a variety of tones and colours, alongside other materials which could include stone, metal (painted, corten, steel, profiled sheeting, copper and bronze) and limited areas of render. Although building materials

will not be considered until reserved matters stage for each phase of the Scheme, these mandatory and recommended requirements will assist in providing a variety and interest to the street scene through a varied tonal pallet either as individual plots or as groups of buildings.

- 5.66.6 Site-wide Elevational Character: Elevational character will deliver aspirations of the designing of street rhythm, promoting clear divisions in the facade to create verticality and variety and also 'tripartite' design principles for buildings with a distinct base, middle and cap.
- 5.66.7 Public Realm: Quality of public realm is key to the successful delivery of the Scheme. These include requiring high-quality, well-designed public realm spaces that are accessible to all and well connected to adjacent areas, with prioritisation of pedestrian movement, but with allowance for service and emergency vehicle access on a controlled basis.
- 5.66.8 Accessibility: A notable challenge in level change in the Scheme is that of Hertford Street. Given this challenge and the primacy of the route toward Broadgate, there is a mandatory requirement that particular attention will be paid to mitigate existing steep gradients on Hertford Street within the constraints of existing retained shop frontages and the Barracks Way service tunnel access.
- 5.66.9 Green Infrastructure: The inclusion of green and brown roofs is a recommended principle.
- 5.66.10 Public Art Strategy: CCCAAP Policy CC4 states that established public art shall be retained within redevelopment proposals unless the benefits of its removal outweigh the harm of its loss. Where public art is lost, replacement works shall be incorporated into the new development unless robust justification is provided highlighting that this it is not viable. The Scheme recognises the important pieces of non-designated public art within the Development Site and the following requirements are set for the relocation of these public art pieces:
 - (a) The Phoenix sculpture by George Wagstaffe: The asset must be relocated to a prominent location in the public realm within or immediately adjacent to the Development Site, in order to maintain or enhance the significance of the asset. A potential location for The Phoenix within Public Square No.2 close to its existing location is identified.
 - (b) Sir Guy and the Dun Cow Relief: This asset will be relocated to a prominent location within the Development Site.
 - (c) Thread Through Time sculpture by Robert Conybear and Uta Molling: The asset must be relocated to a prominent location in the public realm within or immediately adjacent to the Development Site, in order to maintain or enhance the significance of the asset. A potential location for the 'Thread through Time' sculpture within Public Square No.1 between the proposed Block E and the Market is identified.
 - (d) Peeping Tom Wood Carving: This asset will be relocated to a prominent location within the Development Site.

- (e) Two Tone and Shelton Square plaques: Consideration will be given to the relocation of these in the closest possible proximity to the geographic location from which they originate.
- (f) The William Mitchell fibreglass decorative panels on Hertford Street and the concrete panels to rear of 26-48 Hertford Street: Incorporation of a sample of the existing architectural elements in the proposed development will be considered.
- (g) Non-designated William Mitchell mural located within Hertford House: Although this is not a public art piece, as it is located within a private space, subject to feasibility, it is still intended to secure the careful removal of this valued mural prior to demolition of the building, so that it can be suitably relocated.
- (h) The Three Tuns Mural by William Mitchell: A Grade II listed designated heritage asset. This asset will be carefully removed and relocated.

Heritage character of the area and Heritage Assets

- 5.67 Section 72 of the Planning (Listed Buildings and Conservation Areas) 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area. Section 66 of the same Act imposes a duty to have special regard to the desirability of preserving a listed building or its setting when considering whether to grant a planning permission which affects a listed building or its setting.
- 5.68 NPPF Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
- 5.69 NPPF Paragraph 201 advises that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
 - 5.69.1 the nature of the heritage asset prevents all reasonable uses of the site; and
 - 5.69.2 no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - 5.69.3 conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
 - 5.69.4 the harm or loss is outweighed by the benefit of bringing the site back into use.
- 5.70 NPPF Paragraph 202 indicates that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 5.71 NPPF Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 5.72 Local Plan Policy HE2 reflects NPPF policy and states that development proposals involving heritage assets in general, and listed buildings in particular, should acknowledge the significance of the existing building and the area by means of their siting, massing, form, scale, materials and detail.
- 5.73 Policy R2 states the preservation and enhancement of the character and setting of the historic built landscape and the archaeological environment.
- 5.74 The CCCAAP Policy CC2 'Enhancement of Heritage Assets' states, amongst other things, that all development relating to heritage assets shall be undertaken sympathetically and seek to preserve or enhance their setting.
- 5.75 The CCCAAP Policy CC19 provides for the relocation of the listed Three Tuns mural situated in Bull Yard and the retention of the listed market building.
- 5.76 Careful assessment has been given in the planning context to the impacts on individual designated heritage assets:
- 5.76.1 Substantial harm has been identified to the Three Tuns Mural (Grade II Listed). The identified adverse impacts seriously affect key elements of the asset's special architectural and historic interest. Specifically, the total loss of its original designed context and its existing relationships to the post-war modernist townscape. The Development Principles Document provides four potential locations for the replacement of the mural within the Scheme to add certainty as to the viability and design of the artwork's reintegration into the new Scheme.
 - 5.76.2 Substantial harm has been identified to the Upper Precinct, North and South Links Blocks and Piazza, Broadgate House, Former British Home Stores Building and Carphone Warehouse, Marks and Spencer and 4-10 Smithford Way, the former Woolworth Building, Upper Precinct' (all Grade II Listed buildings forming a post-war building group).
 - 5.76.3 Less than substantial harm has been identified to the Market, the listed buildings fronting Warwick Row, including The Reform Club adjoining The Litten Tree public house, the Library (former Locarno) and Mercia House (former Leofric Hotel) forming the other part of the post war (Donald Gibson) building group.
 - 5.76.4 Less than substantial harm is also identified for the Greyfriars Green Conservation Area.
 - 5.76.5 Less than substantial harm is also identified to The Grade I Listed spires of St. Michael's Cathedral, Holy Trinity Church, and the Grade II* Listed Christchurch spire. The Spires are experienced from many viewpoints across the city and whilst (in both the Consented Scheme and the Refined Scheme) the proposed development block positions and building heights set within the Parameters Plans Document have been carefully considered they seek to replace existing, generally low-rise buildings and will inevitably have a greater degree of harm upon view cones.
- 5.77 Non-designated heritage assets are not subject to the tests established by NPPF in respect of 'substantial harm' and 'less than substantial harm'. Nevertheless, NPPF Paragraph 203 is clear that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The Scheme will involve the total loss of non-designated heritage assets, which include: Bull Yard, City Arcade, Market Way, Shelton Square, Hertford House, 26-48 Hertford Street, Hertford

Street north, west side, Hertford Street shops east side, Barracks Car Park and The Litten Tree public house. As previously noted, Historic England has determined that these buildings are not suitable for Listing due to their lesser architectural quality and level of alteration.

- 5.78 The impacts on the designated and non-designated heritage assets were carefully considered when determining the 2022 Permission and associated listed building consents in light of the requirements of the NPPF and the Local Plan. In applying the policies regard was had to the public benefits of the Scheme (details of which are set out below) together with the following heritage benefits:
- 5.78.1 Enhancements to the experience of the heritage significance of the Grade II Listed Natwest Bank on Hertford Street through improved public realm within its immediate setting;
 - 5.78.2 Enhancements to the experience of the heritage significance of non-designated Methodist Central Hall through improved public realm within its immediate setting;
 - 5.78.3 Securing the optimum viable use of the Grade II listed Market through development within its immediate setting that will likely improve its viability as a commercial marketplace by improving its setting/footfall.
 - 5.78.4 Proposed mitigations incorporated into the Scheme including the relocation of the Three Tuns Mural and other non-designated public art within the new Scheme.
- 5.79 Overall, the Scheme is considered to provide substantial widespread and long-lasting public benefits to Coventry's citizens at a multi-generational level. The local planning authority concluded when determining the 2022 Permission that the substantial harm to certain designated heritage assets was necessary to achieve the substantial public benefits that outweigh that substantial harm; and that in the case where less than substantial harm was identified, on balance, the public benefits of the Scheme will outweigh the less than substantial harm identified to designated heritage assets in accordance with NPPF paragraphs 201 and 202. The Council is of the view that the Consented and Refined Schemes perform in a broadly similar way against this policy criterion.
- 5.80 Additionally, having considered the significance of the non-designated heritage assets and the scale of harm identified, it is concluded, on balance, that the benefits delivered by the Consented Scheme will outweigh the potential harm to the identified non-designated heritage assets in accordance with NPPF paragraph 203. The Council is of the view that the Consented and Refined Schemes perform in a broadly similar way against this policy criterion.
- 5.81 NPPF Paragraph 204 advises that local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred. The 2022 Permission was consequently granted subject to conditions to control phasing of the development and to restrict demolition until reserved matters applications have been submitted that demonstrate a high-quality replacement scheme. The Council is of the view that the Consented and Refined Schemes perform in a broadly similar way against this policy criterion.
- 5.82 **Promoting Sustainable Transport**

- 5.83 NPPF Paragraph 104 requires transport issues to be considered in development proposals, so that opportunities from existing or proposed infrastructure can be realised in the scale, location and density of development that can be accommodated. Opportunities to promote walking, cycling and public transport use should be pursued, with patterns of movement, streets, parking and other considerations being integral to scheme design.
- 5.84 NPPF Paragraph 111 states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.85 NPPF Paragraph 112 requires that developments should give priority to pedestrian and cycle movements, within the scheme and with surrounding areas; address the needs of people with reduced mobility; create places that are safe, secure and attractive; allow for the efficient delivery of goods and access by service and emergency vehicle; and, be designed to enable charging of ultra-low emission vehicles.
- 5.86 Local Plan Policy AC1 'Accessible Transport Network' states that development proposals which are expected to generate additional trips on the transport network should:
- 5.86.1 Integrate with existing transport networks including roads, public transport and walking and cycling routes to promote access by a choice of transport modes;
 - 5.86.2 Consider the transport and accessibility needs of everyone living, working or visiting the city;
 - 5.86.3 Support the delivery of new and improved high-quality local transport networks which are closely integrated into the built form; and
 - 5.86.4 Actively support the provision and integration of emerging and future intelligent mobility infrastructure.
- 5.87 Local Policy AC3: Demand Management states that "Proposals for the provision of car parking associated with new development will be assessed on the basis of parking standards set out in Appendix 5". With regard to the provision of car parking within the City Centre, Appendix 5 states that "The level of privately allocated car parking for applications within the City Centre will be determined on a site by site basis on the merits of the application and criteria in the NPPF". AC3 acknowledges that the incorrect provision of car parking can influence occurrences of inappropriate on-street parking which can block access routes for emergency, refuse and delivery vehicles, block footways preventing access for pedestrians, reduce visibility at junctions and impact negatively on the street scene.
- 5.88 Appendix 5 also states that 5% of all new parking spaces should include provision for electric car charging points. Where this is demonstrated to be impractical, 5% of spaces should have the capacity to be easily retrofitted for the provision of electric car charging points; including provision of ducting to accommodate a suitable power supply which facilitates high speed charging.
- 5.89 Policy AC4: Walking and Cycling states that "Development proposals should incorporate appropriate safe and convenient access to walking and cycling routes. Where these links do not exist, new and upgraded routes will be required and these must appropriately link into established networks to ensure that routes are continuous. The expected type of provision will depend on the scale, use and location of the site. For larger developments, financial contributions may be required to support improved pedestrian and /or cycling routes on the wider network".

- 5.90 Policy R2 encourages provision of a high-quality public transport system that benefits from seamless integration and is well connected to existing and new infrastructure. It also states to provide an attractive and safe environment for pedestrians, cyclists and motorists.
- 5.91 City Centre AAP Policy CC11(e) encourages proposals for the redevelopment of the Barracks MSCP and City Arcade MSCP as part of the wider regeneration of the city centre. Policy CC11 requires that any change in the provision of public car parking spaces must be clearly justified as part of an on-going review process and be shown to have an acceptable impact on the performance and accessibility of the city centre and overall car parking provision.
- 5.92 Policy CC11: Accessibility states that “Development proposals should support the needs of pedestrians and cyclists by incorporating new dedicated safe and direct pedestrian and cycle routes which integrate seamlessly into established networks including connecting to the public transport network, interchanges and stops to deliver seamless integration together with provision of high quality cycle parking”. The enhancement of the permeability of the Development Site and its pedestrian linkages with the surrounding area is a core principle of the Scheme. The Access and Movement Parameter Plan approved pursuant to the 2022 Permission defines the proposed vehicular and pedestrian/cycle access points into the Development Site.
- 5.93 The approved Access and Movement Parameter Plan identifies areas of the Development Site which will prioritise pedestrian movement in the public realm, with limited access for service vehicles during off-peak hours, and allowing for emergency vehicle access, as necessary. It is envisaged that the majority of the pedestrian priority space will encompass public realm, reflecting recent investment in public realm improvements within the Precinct’s area. In the case of the existing service yard to the north of Coventry Market, this area will remain a service yard in both the Consented and the Refined Schemes, meeting the needs of Coventry Market, Lower Precinct and City Centre South.
- 5.94 Short-stay cycle parking for visitors and long-stay cycle parking for residents of the Scheme will be provided in subsequent reserved matters applications in accordance with the relevant policy requirements. In March 2021, the West Midlands Cycle Hire scheme commenced operations within Coventry, with docking stations for bikes being located throughout the city centre, and it is anticipated that provision for further docking stations will be made within the City Centre South development to reflect the Development Site’s potential to attract cycle trips.
- 5.95 In terms of car parking, a minimum of 90 and maximum of 300 car parking spaces will be delivered for future residential development, with provision for electric vehicles. There will also be the opportunity for future residents to purchase season tickets for parking spaces within the city centre’s public car parks. With the loss of the Barracks MSCP and City Arcade MSCP there will be an overall reduction in car parking spaces available for public use. Nevertheless, the new Salt Lane MSCP opened in 2020, and reports have confirmed that there will still be sufficient capacity to meet demand for public car parking within the city centre even allowing for the loss of these, and other, car parks. Disabled parking and parking for delivery vehicles for the residential properties will be developed at reserved matters stage for each phase.
- 5.96 Vehicular access will be from existing accesses from Barrack Street, City Arcade existing car park access and the existing service access to the north of the Market off Queen Victoria Road. These will be retained for service and operational vehicles only with some provision for car park spaces. At Reserved Matters stage, further details must be provided on access in terms of the type of vehicles anticipated to use each access point with vehicle tracking evidence to ensure that there is adequate space for service

vehicles to turn around safely to exit in a forward gear whilst not impacting on any customer parking provided.

- 5.97 Pedestrian/cycle access is proposed to be via existing routes through the site such as Market Way, Hertford Street and Warwick Road/New Union Street. It is also proposed to amend Rover Way (via Queen Victoria Rd) to allow for pedestrian/cycle access only. A relocated pedestrian crossing will be configured into the proposed signalised Queen Victoria Road/Croft Road/Rover Road junction, linking into proposed enhanced pedestrian and cycle routes into the city centre from Spon End and Coundon (currently under construction with completion due during 2023).
- 5.98 A detailed Travel Plan is required to be submitted for approval at the reserved matters stage to outline implementation of sustainable travel measures and a detailed action plan of delivery to capitalise upon the city centre location of the development. The Scheme promotes sustainable transport as it is in a prime location for housing, with retail, leisure services and public transport services within walking distance. The Development Site is well served by bus services operating along Queen Victoria Road and Greyfriars Road, and Coventry's proposed Very Light Rail scheme will also be routed along these streets. The railway and bus stations are both around 600 metres from the site, with bus services connecting to both from Queen Victoria Road.
- 5.99 The 2022 Permission requires a construction travel plan to be submitted to detail construction traffic demands, routes, mitigation etc. The same condition will be attached to any permission granted pursuant to the S73 Application.

Meeting the Challenge of Climate Change, Flooding and Coastal Change

- 5.100 NPPF Paragraph 157 sets out that new development should be expected to comply with any development plan policies or local requirements for decentralised energy supply, unless it can be demonstrated that this is not feasible or viable. The Scheme will make a positive contribution to the city's efforts to deal with the climate emergency largely through significant energy efficiency improvements. The Scheme will seek to connect to the city's District Heating scheme in its entirety and integrate other sustainable measures including through the building fabric.
- 5.101 NPPF Paragraph 159 states that development should be directed away from areas at highest risk of flooding.
- 5.102 NPPF Paragraph 167 requires that flood risk is not increased elsewhere, as demonstrated in a site-specific flood risk assessment.
- 5.103 NPPF Paragraph 169 requires major developments to incorporate sustainable drainage systems unless there is clear evidence this would be inappropriate.
- 5.104 Local Plan Policy EM4 states that all major developments must be assessed in respect of the level of flood risk from all sources. If development in areas at risk of flooding is the only option following the application of the sequential test, it will only be permitted where the criteria set out in Policy EM4 are met.
- 5.105 City Centre AAP Policy CC9 'Drainage & Flood Risk' states that development shall be designed and located to minimise the risk of flooding and if permitted development, development should be resilient to flooding.
- 5.106 The majority of the Development Site is within Flood Zone 1; however, part of Block A1 and Block D adjacent to Queen Victoria Road and Rover Road are within Flood Zone 2. The Scheme is supported by a Flood Risk Assessment and includes, through consultation with the Environment Agency, a flood attenuation scheme that will protect

future occupiers of the buildings without increasing flood risk elsewhere. The 2022 Permission includes conditions to secure the agreed flood attenuation which are expected to be replicated in any permission granted pursuant to the S73 Application.

Contaminated Land

- 5.107 Policy EM6 seeks to ensure that redevelopment of previously developed land does not have a negative impact on water quality, either directly through pollution of surface or ground water or indirectly through the treatment of wastewater by whatever means.
- 5.108 Due to the location and history of the Development Site, there is an increased risk of unexploded ordnance being found within the site; however, conditions have been imposed on the 2022 Permission to secure the recommendations within the supporting unexploded ordnance assessment and the same conditions are expected to be attached to any permission granted pursuant to the S73 Application. Standard land contamination conditions and associated remediation requirements have also been applied to safeguard health, safety and the environment in accordance with Policy EM6 of the Local Plan.
- 5.109 Policy EM7 states that major development schemes should promote a shift to the use of sustainable low emission transport to minimise the impact of vehicle emissions on air quality. Air quality mitigation measures will be determined once the final site layout is known at reserved matters stage to support the aims of Policy and avoid any negative air quality impacts. A condition was imposed on the 2022 Permission to secure these measures for each phase at the reserved matters stage and the same condition is anticipated to be attached to any permission granted pursuant to the S73 Application.
- 5.110 The Scheme is located within a highly sustainable location where future residents will have excellent access to shops and services and public transport options.

Ecology and Green Infrastructure

- 5.111 Policy GE3 of the Local Plan states that proposals for development will be expected to ensure that they lead to a net gain of biodiversity, protect or enhance biodiversity assets and secure their long-term management and maintenance, avoid negative impacts on existing biodiversity, and preserve species which are legally protected, in decline, or rare within Coventry.
- 5.112 Policy GE4 'Tree Protection' notes that trees make a valuable contribution to the city's green landscape. New developments should seek to retain existing trees and other landscape features, incorporating them into a high-quality design and landscape proposals where possible.
- 5.113 Policy R2 encourages the reintroduction of green and blue infrastructure throughout the city centre, including opportunities for de-culverting wherever possible.
- 5.114 City Centre AAP Policy CC8 'Green and Blue Infrastructure' states that new development will be expected to maintain the quantity, quality and functionality of existing green and blue infrastructure and that development proposals should enhance blue and green infrastructure and create and improve linkages between the areas.
- 5.115 The Scheme will not impact on any statutory or non-statutory wildlife sites and there are no records of notable wildlife from the area. Bats (Pipistrelles) are recorded generally within the city centre and Peregrine Falcon nests within the centre. The existing Development Site is largely comprised of buildings and hardstanding with relatively low biodiversity value, although the Site does include an undeveloped plot (Block A1) which has established as ruderal, urban habitat and has value within the urban centre.

- 5.116 The Biodiversity Net Gain Assessment submitted in support of the 2022 Permission suggests that the Scheme will lead to a net gain in biodiversity. The net gain depends upon the delivery of significant areas of green and brown roofs. Conditions have been imposed on the 2022 Permission to secure details of soft landscaping, green and brown roofs, tree planting and biodiversity features, such as bat and bird boxes at the reserved matters stage and the same conditions are anticipated to be attached to any permission granted pursuant to the S73 Application.
- 5.117 Accordingly, the Council is satisfied that the purpose for which the Order Land is being acquired fits with the adopted Local Plan for the area.

6. CONTRIBUTION TO WELL-BEING AND OTHER BENEFITS

Economic Benefits

- 6.1 The average economic activity amongst the working-age population is significantly lower at the local neighbourhood (52.8%) and local authority (72.4%) levels than the national average of 76.8% (2011 Census). The Scheme will significantly boost the local economy, with currently anticipated economic benefits including as follows, pending final scheme design:
- 6.1.1 significant local economic boost/benefit, including public realm benefits;
 - 6.1.2 significant direct and indirect gross value added (GVA);
 - 6.1.3 a large number of construction jobs during the construction period, with apprenticeship and other training and skills development opportunities;
 - 6.1.4 a large number of direct jobs when fully operational;
 - 6.1.5 significant additional Council tax; and
 - 6.1.6 significant additional business rates.
- 6.2 The Scheme will deliver transformational benefits for local people and businesses. The existing Development Site is characterised by a high level of vacancy in the retail and office units representing a lost opportunity to support economic activity and jobs.
- 6.3 The investment, financial return, economic value and jobs growth that the Scheme will bring forward will deliver a number of benefits to Coventry's existing residents. On completion, the Scheme will deliver a significant number of jobs across a range of skills levels and the Council will work with the developer to ensure these are signposted through the relevant job brokerage services (including the Council's own service). Similarly, a scheme of this size will create apprenticeship and learning opportunities that can provide pathways into employment for local people, including young people.
- 6.4 The Consented Scheme would provide a greater level of employment during the operational phase than the Refined Scheme, arising from the greater level of potential commercial space, but this fact should be balanced with the additional benefits associated with the increased level of housing, and particularly the potential for increased levels of affordable housing, that the Refined Scheme is anticipated to deliver.

Social Benefits

- 6.5 The Scheme will deliver a number of social benefits, including:
- 6.5.1 Provision of new high-quality homes in a sustainable city centre location: the Development Site currently provides no housing and the wider city centre's housing offer predominantly comprises purpose-built student accommodation.
 - 6.5.2 The Scheme will deliver a large number of new high-quality homes as part of a sustainable mixed-use neighbourhood.
 - 6.5.3 The current DLUHC Standard Method to calculating Local Housing Need is substantially higher than the Local Plan Policy DS1 requirement of 1,230 homes per annum, at 2,325 homes per annum. The Scheme will contribute substantially to Coventry's ability to increase its housing delivery and contribute to addressing its substantially higher quantum of unmet need. The delivery of this number of new homes is significant in both the city-wide and city centre context. The Scheme will increase the variety of provision in the local housing market, including the potential to deliver affordable housing in the area of which there is a recognised need, compounded by past levels of under-provision.
 - 6.5.4 Improved pedestrian environment and public safety: the environmental benefits also identify an improvement in quality and quantity of the public realm more generally, whilst the text below focusses on the benefits to pedestrians travelling through the site and wider city centre.
 - 6.5.5 The Scheme significantly improves the permeability of the Development Site by reinstating the two historic north-south routes along Market Way and Hertford Street and creating new east-west linkages across the Site, to overcome the existing fragmented and illegible urban design. These east-west linkages would complement planned investment in improved pedestrian and cycle routes into the city centre from the Spon End area, with the re-modelling of Junction 7 on the ring road as part of the Council's approved Local Air Quality Action Plan.
 - 6.5.6 Improved surveillance: As secured by the Parameter Plans Document and Development Principles Document, the Scheme will improve passive surveillance through the removal of inactive frontages and ill-defined servicing areas and through the introduction of a new residential population on-site, thereby benefitting public safety.
 - 6.5.7 Additionally, the Refined Scheme will increase the variety of provision in the local housing market, including the improved potential for provision of up to 20% affordable housing (i.e. up to between 180 and 300 affordable homes), to contribute to the creation of a mixed and balanced community in the city centre. There is also a recognised need for affordable housing in Coventry, and which is emphasised by past levels of under-provision of affordable housing in the area. Notably, the Local Plan confirms a minimum average level of affordable housing provision of 348 units per year over the Plan period. Up to 2021, the Council's most recent Annual Monitoring Report confirms that an average of only 236 affordable dwellings per year have been delivered since 2011.

Environmental Benefits

- 6.6 The Scheme will deliver a number of environmental benefits, including:
- 6.6.1 Provision of new high-quality homes in a sustainable city centre location: The Scheme will deliver a large number of new high-quality homes as part of a sustainable mixed-use neighbourhood, this maximises the use of previously developed brownfield land within the existing urban area of Coventry, thereby minimising the requirement to deliver an equivalent number of homes on greenfield land, with its associated loss of biodiversity and amenity value.
 - 6.6.2 Creation of a larger amount and better quality of public space: The Development Site's current layout hinders pedestrian connectivity through the site and into the city centre, with an illegible mixture of servicing areas, pedestrian precincts and lower-quality public spaces. A comprehensive approach to the redevelopment of the Development Site will enable the delivery of a legible and attractive public realm, including soft landscaped areas and planting with their associated biodiversity and amenity benefits. The Scheme will provide a qualitative improvement to the publicly accessible space within the Development Site.
 - 6.6.3 This public realm will be well-defined and well-designed as a place to pass through and a place to dwell, centred on two new public squares and improvements to the existing space at Hertford Street. The layout of public realm within the Scheme has sought to maximise the benefits of recent or on-going public realm improvements immediately adjacent to the Development Site, such as the new children's play area and water feature adjacent to the Wave and Christchurch Spire.
 - 6.6.4 Alongside the biodiversity and amenity benefits, the qualitative improvement in public realm will likely support health and wellbeing benefits for existing local residents and future residents of the Scheme, given the improved opportunities for walking and socialising.
 - 6.6.5 Potential for net biodiversity gain: Whilst landscaping is a reserved matter for the majority of the Scheme, an indicative Net Biodiversity Gain Assessment was produced to inform the application for the 2022 Permission. This assessed the likely biodiversity net gain that could be achieved on-site, based on the illustrative landscape masterplan and potential green and brown roof areas. The Assessment demonstrated the potential to achieve a net biodiversity gain (over 60%) compared to the existing site characteristics, which significantly exceeds the 10% improvement enshrined in the Environment Act 2021.
 - 6.6.6 Recommendations in relation to green and brown roof areas and soft landscape design will be incorporated in the detailed design of landscape proposals to be submitted at reserved matters stage.
 - 6.6.7 Positive townscape effects: The Scheme will deliver a range of townscape benefits:
 - (a) Beneficial townscape effects within the Coventry Central Retail townscape character area, with the re-introduction of historic north-south routes across the site (Market Way and Hertford Street) and creation of new east-west routes, improving the permeability and legibility of pedestrian circulation;
 - (b) Beneficial townscape effects on the adjacent Greyfriars Green townscape character area, with the introduction of varied rooflines and façade treatment and use of high-quality materials; and

- (c) Beneficial effects in the Coventry West and Coventry South Mixed Use townscape character area south and west of the Development Site, with the removal of the inactive frontage associated with City Arcade and its multi-storey car park and replacement with high-quality buildings with active street frontages set within a high-quality public realm.

6.6.8 Enhancement of setting of designated heritage assets: at present, the Grade II Listed Coventry Retail Market is relatively obscured from public view situated to the rear of the primary pedestrian thoroughfare along Market Way and is surrounded by vehicle parking and servicing areas, in a poor-quality setting. The Scheme will enhance the situation of the Market relative to the retail circuit and public realm; the southern Market frontage will face onto one of the new public squares highlighting the prominence of the Market as a retail destination and enabling its architectural and communal values as a designated heritage asset to be experienced in a more open manner. The Scheme will also result in an enhanced setting for the Grade II listed NatWest Bank building. The commitment to preserve and relocate the Grade II listed Three Tuns mural in a visible and publicly accessible location within the Site is also a further substantial public benefit of the Scheme.

6.7 The Council is therefore satisfied that the Scheme will deliver significant contributions to the achievement of the promotion and/or improvement of the economic, and/or social, and/or environmental well-being of the Council's area.

7. ALTERNATIVES TO COMPULSORY PURCHASE

7.1 Paragraph 106 of the CPO Guidance states that, amongst the factors which the Secretary of State can be expected to consider when determining whether to confirm an order made under section 226(1)(a), is "*whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means*". This may include considering the appropriateness of any alternative proposals put forward by the owners of the land, or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired.

7.2 Here, there are no reasonable alternatives to the Scheme. There is no alternative location for the delivery of the Scheme, and there is no evidence that piecemeal redevelopment is likely to come forward sufficiently to meet policy objectives nor, indeed, would it be consistent with the planning framework.

7.3 The comprehensive regeneration of the City Centre South cannot be achieved without the wholesale regeneration of the Order Land. Policy CC19 of the CCCAP clearly prioritises comprehensive redevelopment over a piecemeal approach. The Council is the freehold owner of the majority of the Site. As a result, there are no other landowners within the Site with land interests sufficient to deliver competing proposals. In any event, any theoretical alternative to the Scheme would not of itself be sufficient to prevent there being a compelling case for the use of compulsory purchase powers as there are good reasons for the option pursued by the Order.

8. MEANS OF DELIVERY, VIABILITY AND FUNDING

8.1 The Council has entered into a grant funding agreement with the West Midlands Combined Authority ("**WMCA**"), which provides funding of up to £98.8m; to be utilised against various enabling costs, including land assembly and demolition, as well as potentially supporting the delivery of the Scheme itself. To date, public sector spending on the Scheme has been around £15 million.

- 8.2 In addition to the WMCA grant funding, the Development Agreement (“DA”) between the Council, SPG and Shearer Property Regeneration Limited (“SPRL”) – the SPV established by and guaranteed by SPG to deliver the Scheme - places an obligation on SPRL to secure a funding partner to finance the remaining development costs required to deliver the Scheme.
- 8.3 The arrangements set out within the DA are for the incoming party to take on the role of the ‘Approved Funder’ and for that entity to then provide the necessary finance to cover the costs of getting to a start on site (what is called an “**Unconditional Date**” in the DA). These costs will include preparing detailed scheme design plans, preparing and submitting initial reserved matters planning applications, undertaking site investigations, the procurement of a main contractor to build the Scheme (where applicable) and indemnifying the Council regarding land assembly costs above the relevant capped WMCA grant figure. The DA also incorporates provision for the developer to seek an additional ‘Viability Amount’, subject to the approval of the Council at its absolute discretion.
- 8.4 Over the second half of 2021, SPG ran a competitive process, to invite proposals from prospective partners to invest into SPRL and to support it with the delivery of the Scheme. The response SPG received to this process was very encouraging, with three parties shortlisted from a longer list of interested parties, all having a strong track record of working on complex regeneration schemes and having access to internal resources to be able to drive forward a project of the scale of the Scheme.
- 8.5 SPG then identified a preferred partner, Hill Residential Limited (“HRL”), a major residential and commercial mixed use developer. HRL has invested into SPRL to take forward the Scheme. SPRL proposed Hill Holdings Limited as the funder, with Hill Holdings Limited having been subsequently approved by the Council as the ‘Approved Funder’ under the terms of the DA. As part of this arrangement, SRPL is responsible for progressing the Scheme up to the Unconditional Date, and for funding the Developer’s obligations during this period, which include undertaking detailed design and further appraisal work, developing phasing and logistic plans and preparation of initial reserved matters planning applications.
- 8.6 The Council is working with SPRL and the WMCA to progress planning scheme refinements and Scheme optimisation to finalise a deliverable and viable Scheme. The amendment to the 2022 Permission proposed by the S96A Application has already been approved by the local planning authority as a first step in optimising the Scheme. The S73 Application discussed above is currently with the local planning authority for determination. To the extent further planning refinements are required, these will be progressed with the local planning authority with refinements to funding arrangements being finalised in parallel.
- 8.7 SPRL and Hill Holdings Limited (as the Approved Funder) are in the process of identifying areas within the DA which may require modification to reflect its specific financing arrangements. The DA anticipates that such DA refinements may be required, with any DA changes being subject to the Council’s agreement. In parallel to this process, SPRL is working to satisfy those remaining pre-conditions for which the Developer is responsible under the DA.
- 8.8 Given the progress SPRL and the Approved Funder are making in conjunction with the Council and the WMCA, the Council and its advisors consider that an alternative Council-led delivery approach is not likely to be required but, if it was required, the Council and its advisors consider there are reasonable grounds to conclude that this could be achieved within financial parameters similar to the proposals which SPG received from prospective JV Funding and Delivery Partners. Under such an approach, the Council would take on a ‘Master Developer’ remit, with responsibility for enabling the site, including the funding and facilitation of land assembly, as well as potentially

undertaking demolition works. It would then seek to deliver enabled development phases, either directly or with private sector investment. This is a model not dissimilar to the one being successfully employed by Sheffield City Council in bringing forward a mixed use regeneration scheme of comparable scale in its city centre. Any proposal for the Council to put additional funding into the Scheme (whether pursuant to a request from SPRL or as part of an alternative delivery approach) would be subject to Cabinet and/or Full Council approval.

- 8.9 Overall, there is a reasonable prospect of Scheme delivery by SPRL and the approved Funding Partner. The requirements of the CPO Guidance in relation to potential financial viability and funding as set out in this report is thus considered satisfied in this regard.

9. **IMPEDIMENTS TO DELIVERY AND WHETHER THE SCHEME HAS A REASONABLE PROSPECT OF GOING AHEAD**

- 9.1 Paragraph 15 of the CPO Guidance confirms that an acquiring authority will need to show that the scheme is unlikely to be prevented by any physical or legal impediments to implementation.
- 9.2 As described above, the Council has considered the means of delivery, potential viability and funding of the Scheme and is satisfied that there are no resulting impediments to delivery. In addition, the Council is also satisfied that there are no physical or legal impediments to the Scheme proceeding.
- 9.3 Investigations undertaken to date have not revealed any physical factors which would impede development.
- 9.4 The Order Land includes areas of open space as considered below. To the extent that there are any interests in the open space land affected by the Scheme, which are not already owned by the Council, those interests are included within the Order. An application has been made at the same time as the submission of the Order for a certificate pursuant to section 19(1) of the Acquisition of Land Act 1981. The total area of open space to be re-provided within the Scheme will exceed that being acquired pursuant to the Order and will be equally advantageous as the land taken.
- 9.5 There is some operational land of statutory undertakers within the Order Land. All statutory undertakers have been identified and discussions are progressing with them. No interests within the Order Land fall within the definition of "Crown Land" as confirmed below although it will be necessary for existing post boxes within the Development Site to be temporarily relocated during the construction works and relevant discussions are ongoing with Royal Mail.
- 9.6 There are a number of electricity substations within the Order Land. In addition, there are leasehold interests which encompass telecommunication apparatus and masts operated by telecommunications companies. SPG has been engaging with relevant operators. It is considered likely that agreement will be reached in all cases. In addition, there are a number of statutory undertakers who operate apparatus within the Order Land. SPG are also in discussions with all of those undertakers regarding diversion of the apparatus.
- 9.7 As described above, the 2022 Permission has been granted for the Scheme and the S73 Application is pending determination.
- 9.8 Reserved matters applications will be submitted in respect of the detailed design of the Scheme. The Council (as applicant) does not consider there to be any impediment to the grant of permission pursuant to the S73 Application. As a result, it is considered that there are no planning impediments that would prevent implementation of the

Scheme. SPRL and the Approved Funder are in the process of preparing applications for Reserved Matters Approvals for the first phase of development (with a phase 1 RMA submission targeted for Spring 2023) and has appointed consultants to prepare details required to discharge both pre-demolition and pre-commencement conditions attached to the 2022 Permission (anticipated to be replicated in relation to any permission granted pursuant to the S73 Application).

- 9.9 SPRL have submitted a separate detailed planning application for a new shop mobility facility on land at Salt Lane Car Park in Coventry City Centre (outside the Site). This application is pending determination. The purpose of this application is to secure planning permission to relocate the shop mobility facility currently situated within the Barracks MSCP which will be demolished as part of the Scheme. This is required by Condition no. 38 of the 2022 Permission and is anticipated to also be a requirement of any permission granted pursuant to the S73 Application. This approach has been adopted so that site demolition and development can start promptly.
- 9.10 Applications for three orders under section 247 of the 1990 Act are being made in respect of the stopping up of three small areas of public highway that sit within the boundary of the Development Site as further set out at paragraph 16 below. Objections to the applications for stopping up orders will be considered at the public inquiry relating to the Order.
- 9.11 In summary, the Council is satisfied that there are no financial, physical, planning or legal impediments to the Scheme proceeding and that there is a reasonable prospect that it will proceed.

10. THE COUNCIL'S EFFORTS TO ACQUIRE THE LAND

- 10.1 The Council owns the freehold of the majority of the Pink and Green Land. This land is subject to various long-leasehold, short-leasehold and other occupational interests that need to be acquired for the Scheme to proceed. The occupational interests are mostly held by retail occupiers in respect of individual shop units, although there are a small number of office and licenced premises occupiers.
- 10.2 Since 2013 the Council has actively sought to acquire the long-leasehold interests in this land. The long-leasehold interest acquired by the Council since this date are:
- 7-9 City Arcade – long leasehold interest was acquired by the Council on 31st August 2022.
 - 1 Shelton Square – leasehold interest acquired on 13th July 2022.
 - Coventry Point – a 14 storey office building. The long leasehold interest in Blocks 1 and 2 Coventry Point, Market Way was acquired by the Council on 6 April 2018. Building demolished by the Council in 2020.
 - 21-25 Hertford Street – retail parade, long leasehold acquired by the Council on 6th April 2018. Comprises shops on the north west side of Hertford Street together with the basement bar below these addresses.
 - 26-48 Hertford Street and part of 12 Bull Yard – retail parade, long leasehold acquired by the Council on 6th April 2018.
 - 14-16 Market Way – two retail units. Long leasehold was acquired by the Council on 28th November 2017.

- 1-23 Shelton Square & 1A City Arcade – retail parade. Long leasehold acquired by the Council on 6th April 2018.
- 1-11 (odd numbers) Shelton Square and 1a City Arcade was acquired by the Council on 13th September 2013.

10.3 The remaining leasehold and other occupational interests are summarised in Table 1 below:

Table 1

Category	Type	Number of Interests
1a	Occupational leases with expiry or landlord break dates that fall after 31 May 2023 (being the earliest date on which vacant possession is required).	12
1b	Non-occupational leases with expiry or landlord break dates that fall after 31 May 2023.	4
2	Occupational leases with expiry or break dates that fall before 31 May 2023, and provide the tenant with security of tenure under the Landlord and Tenant Act 1954 (and where the Council has served notice under Section 25 of this Act). <i>Of these occupational leases, terms have been agreed with all tenants for new leases excluded from the security of tenure provisions of the Landlord and Tenant Act 1954 and the leases are currently in the process of being completed, with break dates that fall before 31 May 2023, or the tenant has already vacated or a surrender agreed).</i>	25
3	Occupational leases with expiry or break dates that fall before 31 May 2023 and are excluded from the security of tenure provisions of the Landlord and Tenant Act 1954.	71
All		112

10.4 In September 2019, the Council established a “Land Assembly Group” (“**LAG**”). The LAG comprises officers from the Council, the Council’s development partner, the Council’s appointed compulsory purchase surveyor, Deloitte, and the Council’s appointed solicitors. The LAG meets to consider and agree the action required to ensure that engagement with existing interests is appropriate and in accordance with the CPO Guidance, and to monitor progress with that action.

10.5 The activity of the LAG is aligned to the Council’s Site Assembly Strategy. A copy of this strategy has been issued to leaseholders and occupiers within the Pink and Green Land and is published on the Council’s website.

10.6 In the absence of agreement, compulsory purchase will be required to acquire the 16 Category 1a and Category 1b interests in Table 1. At the date of the Statement of Reasons there were 18 interests in these categories and therefore two acquisitions have since completed following agreement being reached. In respect of the remaining 16, where appropriate, unconditional offers have been made for the acquisition of these

interests, and some of these negotiations are at an advanced stage including a further two where terms have been agreed and solicitors instructed. In the case of existing tenants who are seeking relocation premises, the Council has offered flexibility on the timing of both the surrender of existing leases, and of the calculation and payment of compensation. In some cases, this includes the offer of lease surrender and/or the grant of mutually flexible leases to enable the Council to secure possession without the need to use compulsory purchase powers. This flexibility has enabled constructive dialogue to take place, and this engagement will continue in parallel with the statutory process.

- 10.7 It is not expected that compulsory purchase will be required to acquire the Category 2 and Category 3 interests. The Council has served the necessary notices, under section 25 of the Landlord and Tenant Act 1954 ("**1954 Act**"), to bring the Category 2 leases to an end. This action will require the Council to pay compensation to these tenants in accordance with section 37 of the 1954 Act. The Council will determine the Category 3 leases as necessary to enable the Scheme to proceed.
- 10.8 In addition to the interests set out in Table 1, 31 properties (principally retail units) within the Pink and Green Land are currently vacant. Any new leases granted by the Council over these properties will be short-term and provide the ability to obtain possession before the development start date at nil cost.
- 10.9 Where appropriate, the Council has also sought to engage with landowners with an interest in the Blue Land, who might be affected by the acquisition of new rights required to build and maintain the Scheme. This has included engagement with the owners and occupiers of Beauchamp House, the residential block located to the southeast of the Development Site. In July 2021, Deloitte (on behalf of the Council) undertook a virtual presentation to these owners and occupiers, and a recording of this presentation, and copy of the slide deck presented was subsequently circulated. In May 2022, following the making the Order, Deloitte undertook a further virtual presentation to these owners and occupiers to explain the Order documents and impact of the Scheme. A recording and slide deck of this presentation was also circulated.
- 10.10 Affected parties have also previously been invited to attend two CPO "surgery" events, on 4 and 10 August 2021, at which representatives from the Council and Deloitte were available to discuss the timing and impact of the Scheme with individual owners and occupiers.

Proposals for relocating businesses

- 10.11 The Council has prepared and published a Site Assembly Strategy for businesses which provides a range on information for those affected by the proposals including how those with interests in the Pink and Green Land will be contacted to discuss the acquisition of their properties and available assistance to help with relocations. This Site Assembly Strategy is available on the Council's website which additionally includes information on the background to the Scheme, explains the compulsory purchase and compensation process, where to find further information and resources and contact details for further queries. This can be viewed at: https://www.coventry.gov.uk/info/372/city_centre_developments/3921/city_centre_south/2.
- 10.12 The Council has instructed a local property agent, Holt Commercial Ltd, to maintain a schedule of retail premises available to let in the local area ("**Availability Schedule**"). The Availability Schedule is updated on a two monthly basis and copies of this schedule have been provided to those occupiers looking for assistance in relocating to alternative premises. The December 2022 update of the Availability Schedule provides detail of 12 units (including some capable of sub-division) which are currently vacant and to let in

Coventry City Centre. These vacant units have floor areas of between 56.3sq m (606sq ft) and 805.5sq m (8,670sq ft) and have a total floor area of 3,094sq m (33,307sq ft).

- 10.13 The Availability Schedule demonstrates there are a range of suitable available properties within the local area. Given this, and the time available before vacant possession is required, and taking into account the Council's knowledge of occupiers' preferences obtained from engagement to date, the Council is confident that viable businesses that wish to relocate should be able to do so locally wherever possible.

On-going engagement

- 10.14 In accordance with the CPO Guidance and the Council's Site Assembly Strategy, engagement by the Council and Deloitte will continue in parallel with all stages of the compulsory purchase process. The Council remains committed to seek to acquire all interests by agreement, although in order to mitigate the impact on some of the occupiers it may be beneficial for many occupiers to remain in occupation until physical possession is required. Discussions with affected parties will continue with a view to securing the acquisition of interests by agreement where appropriate and reducing the number of interests that need to be acquired compulsorily.

11. LANDLORD AND TENANT ACT 1954 ("LTA")

- 11.1 For all appropriate tenancies with the benefit of Security of Tenure under the LTA, notice has been served under Section 25 of the LTA, stipulating ground 30(1)(f) (redevelopment) as the ground for opposing the grant of a new lease.
- 11.2 In this respect, 25 properties have been served with Section 25 LTA notices. Of these, the surrenders of 2 leases have completed, and 9 excluded LTA leases have been completed.
- 11.3 In relation to properties subject to these LTA processes and discussions, they remain within the Order Land pending completion of these processes and discussions and to ensure unencumbered title can be provided for the Scheme development as required.

12. OBJECTIONS TO THE ORDER

- 12.1 The Secretary of State has received 12 objections to the Order.
- 12.2 A number of objections raise similar points. This section of the Statement responds to the matters that have been raised by each objector, as detailed below.

The Council's response to objections that have been raised by a number of Objectors

12.3 Objector Number: 1

Name: A Sushi Ltd

Property: 43 Hertford Street

Requirements in CPO: Permanent acquisition (plot 173)

- 12.4 The objector has a leasehold interest in the property, which it occupies. The property comprises a restaurant over ground and first floor and has a total area of 112sq m (1,206sq ft).

- 12.5 The objection can be summarised as follows:
- *Financial viability of Scheme not evidenced.*
 - *Diversity of the CPO Lands – Hertford Street provides retail opportunity for lower income generating business serving the ethnic community.*
 - *Poor planning – western side of Hertford Street to be demolished, eastern side to be retained. Request for buildings on western side to be excluded from the CPO.*
- 12.6 Deloitte has been engaged with the objector since August 2021 with a view to seeking an acquisition of the objector's lease by agreement. This engagement will continue in parallel with the statutory process.
- 12.7 **Objector Number: 2**
- Name: Adult Corporate Entertainment Ltd**
- Property: 7 – 9 City Arcade**
- Requirements in CPO: Permanent acquisition (plot 79)**
- 12.8 The objector has a leasehold interest in the property, which it occupies. The property comprises a sexual entertainment venue over ground and first floor, with a total area of 543.6sq m (5,851sq ft).
- 12.9 The objection can be summarised as follows:
- *Inadequate Assistance with Relocation.*
 - *Prematurity (CPO should await suitable alternative premises being identified).*
 - *Insufficient attempts to negotiate.*
- 12.10 There is a long history of engagement with the objector. The objector operates in a specialist market and has assembled a professional team comprising a licensing surveyor, licensing solicitor and planner to assist with the potential acquisition of new premises. The Council has confirmed the basis on which the professional fees incurred by these consultants will be reimbursed.
- 12.11 A without prejudice financial offer to acquire the objector's lease has been made, and negotiations will continue in parallel with the statutory process.
- 12.12 **Objector Number: 3**
- Name: Boots UK Ltd**
- Properties: 49 The Precinct and 2 – 8 Market Way**
- Requirements in CPO: Acquisition of new rights (plots 227,228,229,234)**
- 12.13 The objector has leasehold interests in the properties. 49 The Precinct comprises retail premises over ground and three upper floors with a total area of 4,722.1sq m (50,829sq ft) and the objector is in occupation. 2-8 Market Way comprises three retail units over ground and two upper floors with a total area of 524sq m (5,640sq ft) and the objector has sub-let to third party occupiers.

12.14 The objection can be summarised as follows:

- *CPO should not be confirmed until meaningful negotiations on impact of the Scheme on:*
 - *continued provision of loading and bin stores.*
 - *maintaining continues services and utilities.*
 - *limiting scheme related access to loading area and access route to outside of servicing hours.*
 - *confirmation of final Scheme requirements and details of boundary treatments.*
 - *details of protective provisions and safeguards to prevent environmental impacts during construction.*
 - *confirmation of how access in the wider locality is to be maintained for customer/ servicing including continued provision of public car parking.*

12.15 The Council has been in discussions with the objector and has provided the objector with a draft Deed of Undertaking which responds to the issues raised by the objector. It is expected that this objection will be resolved by completion of the Deed of Undertaking.

12.16 **Objector Number: 4**

Name: Coventry Urban Regeneration Ltd

Property: Site of former Victoria Buildings, Corporation Street

Requirements in CPO: Permanent acquisition (plot 4)

The objector owns a long leasehold interest in the property, which comprises vacant land with an area of 1,459sq m (15,705sq ft).

12.17 The objection can be summarised as follows:

- *The Objector is willing and able to sell by agreement, and terms for disposal had been agreed. Compulsory purchase is therefore not necessary.*

12.18 Heads of Terms for the acquisition of the objectors' interest have been provisionally agreed and solicitors instructed. This objection is anticipated to be resolved when the agreement to purchase is completed.

12.19 **Objector Number: 5**

Name: Glamis Estates Ltd

Property: 61-62 Hertford Street

Requirements in CPO: Permanent acquisition (plot 258A) and acquisition of new rights (plots 258,259)

- 12.20 The objector owns the freehold interest in the property, which comprises retail premises over basement, ground and two upper floors, with a total area of 760.7sq m (8,188sq ft), and leased to a third party. This freehold interest also includes the Barracks Way under pass, which connects Barracks Way (to the east of the property) to the Barracks multi-storey car park (to the west of the property). Permanent acquisition of the underpass only is required, together with new rights over the remainder of the property.
- 12.21 The objection can be summarised as follows:
- *Impact to investment value as occupiers on the eastern side of Hertford Street may not survive the development unless a well-considered plan is provided showing how retailing and construction can co-exist.*
- 12.22 The Council has been in discussions with the objector and has issued a draft Deed of Undertaking which responds to the issues raised by the objector.
- 12.23 **Objector Number: 6**
- Name: New Look Retailers Ltd**
- Property: 91-101 Lower Precinct**
- Requirements in CPO: Acquisition of new rights (plots 228 and 229)**
- 12.24 The objector has a leasehold interest in the property, which it also occupies. The property comprises retail premises with a total area of 4,135sq m (44,509sq ft).
- 12.25 The objection can be summarised as follows:
- *Failure to negotiate. Lack of information provided about the impact of new rights, including safe access, servicing (24 hours), emergency vehicles.*
 - *No certainty that the scheme will proceed (no compelling case in the public interest), due to market conditions and lack of information about the Council's funding partner.*
 - *No details on Stopping Up CPO, which will be an impediment to the scheme proceeding.*
 - *Lack of information means impact on Human Rights is inadequate and flawed.*
- 12.26 The Council has been in discussions with the objector and has issued a draft Deed of Undertaking which responds to the issues raised by the objector. It is expected that this objection will be resolved by completion of this Deed of Undertaking.
- 12.27 **Objector Number: 7**
- Name: Poundland Ltd**
- Property: 10-12 Market Way and 63 Hertford Street**
- Requirements in CPO: Acquisition of new rights (plots 235 and 257)**
- 12.28 The objector has leasehold interests in the properties, which they also occupy. The property at 10-12 Market Way comprises retail and ancillary space over ground and first floor, totalling 1,859sq m (20,010sq ft). The property at 63 Hertford Street comprises

retail and ancillary space over basement, ground and two upper floors, totalling 1,357sq m (14,607sq ft).

12.29 The objection can be summarised as follows:

- *Rights sought are substantial and include no measures to ensure that the objector will be able to continue to occupy and trade from the premises during and after the works.*
- *An Undertaking is required that sets out*
 - *the extent, nature and timing of works.*
 - *protection of objector's retailing operations and safety of staff.*
 - *drawing up specific measures to ensure business can continue to operate.*

12.30 The Council has been in discussions with the objector and has issued a draft Deed of Undertaking which responds to the issues raised by the objector. It is expected that this objection will be resolved on completion of the Deed of Undertaking.

12.31 **Objector Number: 8**

Name: Queenhart Ltd t/a The Golden Shop

Property: 9 City Arcade

Requirements in CPO: Permanent acquisition (plot 78)

12.32 The objector has a leasehold interest in the property, which it also occupies. The property comprises ground floor retail premises with an area of 35.7sq m (384sq ft).

12.33 The objection can be summarised as follows:

- *Financial viability of Scheme not evidenced.*
- *Diversity of the CPO Lands – City Arcade provides retail opportunity for lower income generating business serving the ethnic community.*

12.34 The Council has been engaged with the objector with a view to seeking an acquisition of the objector's lease by agreement.

12.35 A without prejudice financial offer to acquire the objector's lease has been made and negotiations will continue in parallel with the statutory process.

12.36 **Objector Number: 9**

Name: Royal London Mutual Insurance Society Ltd

Properties: Lower Precinct Shopping Centre (including Coventry Market) and Site of former Victoria Buildings, Corporation Street

Requirements in CPO: Permanent acquisition (plots 3, 4, 6, 8, 9, 11, 38, 39, 54, 233a, 233b, 233c, 233d, 233e, 233f)) and acquisition of new rights (plots 228, 229, 230, 231, 232, 233, 233g, 233h, 233i, 234)

- 12.37 The objector has long leasehold interests in the properties. The Lower Precinct Shopping Centre also includes Coventry Retail Market, Lower Precinct multi-storey car park, and surrounding service areas. The Site of former Victoria Buildings comprises vacant land with an area of 1,459sq m (15,705sq ft).
- 12.38 The objection can be summarised as follows:
- *No compelling case for a CPO to be made.*
 - *No reasonable prospect of the Scheme being delivered.*
 - *Servicing impacts on objector not properly thought out.*
 - *Inclusion of new rights in the CPO is an error.*
 - *Uncertainty over extent and timing of appropriation.*
 - *No evidence of alternative schemes being considered that are less intrusive.*
 - *Lack of clarity on how the objector's head lease will be varied pursuant to the CPO*
- 12.39 As set out in this Statement of Case, the Council is satisfied that the relevant tests set out in the CPO Guidance have been satisfied and that a clear and compelling case in the public interest exists for the Order to be confirmed.
- 12.40 The Acquiring Authority's position on the prospect of Scheme delivery are considered at paragraph 8 above.
- 12.41 There has been a long and continuing dialogue between the transport planners instructed by the objector (Mayer Brown) and by SPRL (Transport Planning Practice, TPP), in respect of service management issues and this is subject to continuing dialogue which seeks to identify an agreed solution.
- 12.42 The Land Assembly Group carefully considered the extent of new rights required, which are described for each plot of the Blue Land. These descriptions provide what is reasonably required to enable the Scheme to be built, used and maintained.
- 12.43 The land interests owned by the Council were appropriated on 22 April 2022 to enable the Scheme to be delivered notwithstanding any third party rights over the land.
- 12.44 The evolution of the Scheme is set out at section 5. Alternatives to the use of compulsory purchase have been considered at section 7 above. Further the discussions between transport consultants referred to at paragraph 12.41 above have included discussions of service management solutions that seek to lessen any intrusion on the interests of the objector.
- 12.45 The Acquiring Authority has sought to engage with the objector regarding the acquisition of the land and new rights required from the objector by agreement, and Heads of Terms were issued prior to the making of the Order. Efforts to acquire the relevant land interests will continue in parallel with the statutory process.
- 12.46 **Objector Number: 10**
- Name: Unicorn Bars Warwickshire Ltd t/a Catch 22**
- Property: 25a Hertford Street**

Requirements in CPO: Permanent acquisition (plots 149, 150, 151, 152, 153)

- 12.47 The objector has a leasehold interest in the property, which it also occupies. The property comprises a basement nightclub and premises, with an area of 84.5sq m (910sq ft), with an entrance at ground floor level at 43 Hertford Street.
- 12.48 The objection can be summarised as follows:
- *Financial viability of Scheme not evidenced.*
 - *Diversity of the CPO Lands – Hertford Street provides retail opportunity for lower income generating business serving the ethnic community.*
 - *Poor planning – western side of Hertford Street to be demolished, eastern side to be retained. Request for buildings on western side to be excluded from the CPO.*
 - *The objector plays an important role in the social life of the ethnic community which the proposed scheme is unlikely to replace.*
- 12.49 In a letter to the Planning Casework Unit dated 18 November 2022, the objector notes that the Refined Scheme will result in the building at 21A-25 Hertford Street (known as the “Empire Building”) being retained. The objector’s property is located in the basement of the Empire Building and further representations are made in this letter, seeking to exclude the objector’s leasehold interest from the Order. Discussions are ongoing with the objector with a view to achieving a mutually agreeable outcome that will enable the objector to remain in occupation subject to revised management and servicing arrangements. Such discussions will continue in parallel with the statutory process.

12.50 **Objector Number: 11**

Name: Warren James

Property: 9 Shelton Square

Requirements in CPO: Permanent acquisition (plot 93)

- 12.51 The objector has a leasehold interest in the property, which it also occupies. The property comprises retail premises over ground and first floor, with an area of 128.5sq m (1,383sq ft).
- 12.52 The objection can be summarised as follows:
- *CPO is not in the best interests of the owners, lessees, tenants and occupiers of the City centre.*
 - *The Council’s ownership and actions have caused the area to become run-down and don’t believe the CPO will reverse this decline.*
- 12.53 The leasehold interest held by the objector is for a term of three years from 7 July 2021. This lease is “contracted out” of the security of tenure provisions of the Landlord & Tenant Act 1954 and can be determined by either landlord or tenant at any time after 1 July 2022 on giving three months’ notice. The Council proposes to serve a break notice (if required) at the appropriate time and therefore there will be no requirement for compulsory purchase to be used to acquire the interest held by the objector.

12.54 **Objector Number: 12**

Name: Western Power Distribution (East Midlands) plc

Property: Various electrical plant and equipment

Requirements in CPO: Statutory undertaker apparatus

12.55 The objector is the licenced electricity distribution company for the area covered by the Order and requires an agreement to be entered into with the Council which ensures that:

- *Suitable arrangements are put in place with regards to the replacement or relocation of any substations affected and the lifting, diversion, removal and/or replacement of existing electricity cables and lines and other apparatus in a manner that is both safe and maintains security of supply at all times; and,*
- *Replacement of legal property interests and the grant of rights to the objector which are equivalent to the interests and rights being acquired or affected by the Order.*

12.56 The Council and the Developer are liaising with the objector with a view to entering into a form of agreement as requested, to enable this objection to be withdrawn.

Conclusion

12.57 For the reasons given in the summary above, the Council does not consider that they objections made to the Order justify refusing the Order as made.

13. **HUMAN RIGHTS CONSIDERATIONS**

13.1 Section 6 of the Human Rights Act 1998 prohibits a public authority from acting in a way which is incompatible with the rights and fundamental freedoms set out in specified provisions of the European Convention on Human Rights ("**Convention Rights**").

13.2 Convention Rights likely to be engaged in the process of considering, making, confirming and implementing a compulsory purchase order include those under Article 6 (right to a fair and public hearing to determine a person's civil rights), Article 1 of the First Protocol (right to peaceful enjoyment of possessions) and Article 8 (right to respect for private and family life including a person's home). In addition, in effect, Article 14 prohibits discrimination, on any grounds, in the way public authorities secure enjoyment of the rights protected by the European Convention on Human Rights.

13.3 In relation to the rights protected under Article 1 of the First Protocol (right to peaceful enjoyment of possessions) the European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole". Both public and private interests are to be taken into account in the exercise of the Council's powers and duties. Any interference with a Convention Right must be necessary and proportionate. Compulsory purchase and overriding private rights must be justified by sufficiently compelling reasons in the public interest and must be a proportionate means of achieving the objectives of the Order. Similarly, any interference with rights under Article 8 (right to home life) must be "necessary in a democratic society" and proportionate. The requirements under the Convention are accurately reflected in paragraphs 12 and 13 of the CPO Guidance:

"A compulsory purchase order should only be made where there is a compelling case in the public interest.

An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.

The minister confirming the order has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those whose interest in the land it is proposing to acquire compulsorily and the wider public interest. The more comprehensive the justification which the acquiring authority can present, the stronger its case is likely to be. However, the confirming minister will consider each case on its own merits and this guidance is not intended to imply that the confirming minister will require any particular degree of justification for any specific order. It is not essential to show that land is required immediately to secure the purpose for which it is to be acquired, but a confirming minister will need to understand, and the acquiring authority must be able to demonstrate, that there are sufficiently compelling reasons for the powers to be sought at this time."

- 13.4 If a compelling case in the public interest can be demonstrated, as the Council considers here, then this will meet the requirements of the Convention. In making this Order, the Council has carefully considered the balance to be struck between individual rights and the wider public interest. Having regard to the matters set out above, a compelling case in the public interest exists for the making and confirmation of the Order. Interference with Convention Rights, to the extent that there is any, is considered to be justified in order to secure the benefits which the Scheme will bring including the economic, social and environmental well-being improvements referred to above. Appropriate compensation will be available to those entitled to claim it under the relevant statutory provisions.
- 13.5 In relation to the requirements of Article 6 (right to a fair and public hearing), these are satisfied by the statutory procedures which include rights to object and to be heard at any public inquiry and by the right to statutory challenge under the Acquisition of Land Act 1981.

14. **THE PUBLIC SECTOR EQUALITY DUTY**

- 14.1 In discharging all its functions, the Council (and the Secretary of State) has a statutory duty under section 149 of the Equality Act 2010 ("**2010 Act**"), "the public sector equality duty", to have due regard to the need to:
- 14.1.1 eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - 14.1.2 advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - 14.1.3 foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 14.2 Section 149 of the 2010 Act gives greater detail of what each of the above matters involves which the Council has taken into account. The "relevant protected characteristics" are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.
- 14.3 An Equality Impact Assessment ("**EqlA**") has been undertaken to assess the impact on protected groups of the making of the Order and implementation of the Scheme, to assist decision-makers in discharging the public sector equality duty. The EqlA includes

consideration of the impact upon protected groups whose lives may be affected by the acquisition of land and rights, by the construction of the Scheme and/or by the completed Scheme.

- 14.4 In preparing the EqlA, an equalities and communication survey was sent to approximately 130 businesses and property owners who may be impacted by the making of the Order and the implementation of the Scheme. Due to an initial low response, the survey was sent out a second time. Those businesses that responded provided information about their demographics and any specific needs they had regarding communications. Within the survey, a question was asked regarding whether customers of the business are considered to be predominantly from a particular group or community to allow possible impacts on customers to be measured in addition to the owners and staff of the businesses affected.
- 14.5 The EqlA for the proposed Order identifies that the wider community potentially affected would include:
- 14.5.1 those who currently own or occupy land within and around the affected area including business and land owners;
 - 14.5.2 current visitors as well as future visitors to the affected area for work or leisure and to use the retail and other City Centre South facilities; and
 - 14.5.3 those who live around the Order Land now and those who will live within or around the land in the future.
- 14.6 The potential impact on each of the protected groups is examined in detail within the EqlA.
- 14.7 The implementation of the Council's published Site Assembly Strategy, taken together with the statutory compensation code, will ensure that fair and non-discriminatory processes are in place. Those responsible for disposing of the completed retail and residential phases will be required, by Part 4 of the 2010 Act, to ensure that they do not discriminate against protected groups when selecting tenants and purchasers, in the terms they offer and when managing the completed development.
- 14.8 The EqlA identifies the following potential negative impacts on protected groups:
- 14.8.1 Most of the business occupiers and their staff fell within the 19-64 year age group giving rise to a potential for this age group to be disproportionately impacted by business loss or relocation. However, business and relocation support is being provided together with assistance for those who may need employment or career support through connection to local services.
 - 14.8.2 Access to essential services, including banks and chemists, may be disrupted during construction which may result in a temporary adverse impact on protected groups based on age and disability as well as pregnancy and maternity due to disruption in this part of the city centre environment during the construction phase. However, suitable mitigation measures would be put in place during the construction process to reduce the adverse effects on these groups.
 - 14.8.3 The Barracks MSCP is due to be demolished leading to a potential adverse impact on those in protected groups based on disability due to the disruption to the Shopmobility facility. However, a condition of the 2022 Permission requires the Shopmobility facility in Barracks MSCP to be replaced to a suitable location within the city centre prior to the demolition of this building to

ensure that the Shopmobility service is not disrupted. The Council is taking forward work to explore the option of locating the facility near to the new Salt Lane car park (less than 150 metres away from the existing location for Shopmobility). If this location is not possible then another suitable alternative location will be provided.

- 14.8.4 One of the affected businesses has customers predominantly from the LGBTQ+ community. The Council will work with the business and other representatives of this community to ensure that their requirements for a safe space to socialise are met.
- 14.8.5 There will be an adverse impact resulting from construction noise and traffic for local residents, in particular homeworkers.
- 14.8.6 There is a potential perceived loss of safe spaces for homeless and rough sleepers during demolition and construction. Steps for Change – the local support service for homeless people - are located in the affected area. When the development works begin, the Council will work with Steps for Change to ensure there is sufficient support for homeless people and rough sleepers. The Council will also ensure that the support services are aware of demolition timetables so they can support anyone who may be sleeping in affected areas.
- 14.8.7 Although very close to the affected area, there is no impact on the Central Methodist Hall other than slight disruption during the construction phase. The Council will work closely with representatives of the church to ensure this is kept to a minimum and doesn't affect religious services and other sensitive events.
- 14.8.8 There will be an adverse impact resulting from the loss of the disabled parking spaces within the Development Site, including on the ground floor in the service area to the Market. However, the Council is working closely with Royal London to ensure that disabled parking bays will be re-provided on the rooftop car park of the Market.
- 14.9 The EqlA additionally identifies the following positive impacts on protected groups:
 - 14.9.1 The Scheme will offer jobs and training opportunities, including for those age 16-18 years. These will include construction apprenticeships and employment opportunities in retail and leisure.
 - 14.9.2 The Scheme will include leisure facilities, for example a cinema, cafes and restaurants, giving social opportunities for young people.
 - 14.9.3 Improved green space and places to socialise will give parents and carers space for younger children to enjoy.
 - 14.9.4 New housing provision within the Scheme will offer a mix of much needed high-quality housing of particular benefit for the 19-64 age group. The Scheme will also provide increased access to affordable housing for those with lower incomes.
 - 14.9.5 The Scheme has the potential to offer over 1,000 new full-time jobs as well as 620 new construction related jobs.
 - 14.9.6 The Scheme will include positive accessibility principles, including the mandatory principle to mitigate existing steep gradients on Hertford Street. Tactile paving will be provided at crossing points, together with sloped

pavements as well as stairs for wheelchair and mobility scooter accessibility, at grade access and an uncluttered public realm. All aspects of the Scheme will meet the required accessibility standard and will be legally compliant. Seating styles will cater for a range of needs, including some with arms and backrests to support the 65+ year age group.

- 14.9.7 There will be a courtyard area for rest and relaxation and space for community use. The community use space can support opportunities to get involved in social activities, which may have positive health impacts and reduce loneliness in the 65+ year age group. The availability of accessible health facilities will also positively impact this age range.
- 14.9.8 There will be a considered approach to lighting which will have a significant impact on orientation, security and visual quality. This will impact crime and the fear of crime and is of benefit for a number of protected groups including those based on sex.
- 14.9.9 It is considered that once the redevelopment proposals have been completed, all groups would benefit from the improved physical environment in the City Centre South area as well as the wider economic benefits stemming from the Scheme. The proposed new, well-connected and well-designed public spaces would create quality meeting places which would help to foster good relations between all members of the community. The new public spaces together with the safe improved public links will also help to mitigate crime and the fear of crime, of particular benefit to vulnerable members of protected groups.
- 14.10 The EqlA will be monitored and reviewed throughout the progress of the proposals in order to ensure that any future impact can be measured and mitigated against as necessary.
- 14.11 To conclude, steps are being taken to ensure that the acquisition and relocation processes are applied in a fair and non-discriminatory manner. Steps will also be taken to minimise the adverse effects on protected groups during construction. The Scheme proposals will bring a range of benefits to disabled and other protected groups including in relation to enhanced access, housing provision, employment and training opportunities and public realm improvements. These features of the proposals will assist in ensuring that protected groups have equal access to the new jobs, facilities and homes in a major growth area.

15. **CONCLUSION**

- 15.1 In the light of the matters set out in the Statement of Reasons and this Statement of Case, together with the totality of the evidence and the submissions to be presented at the public inquiry, the Council considers that there is a compelling case in the public interest in support of the Order. The Council will invite the Secretary of State to confirm the Order so that the Scheme can be delivered.

LIST OF SUPPORTING DOCUMENTS

- (a) The Council of the City of Coventry (City Centre South) Compulsory Purchase Order 2022 and the Order Map
<https://www.coventry.gov.uk/viewcpo>
- (b) Report to Cabinet dated 11 January 2022 (pursuant to which the Order was made)
<https://edemocracy.coventry.gov.uk/ieListDocuments.aspx?CId=124&MID=12556#AI34858>
- (c) Equality Impact Assessment in relation to the impact on protected groups of the making of the Order and implementation of the Scheme
<https://www.coventry.gov.uk/downloads/file/38254/city-centre-south-eia-for-cpo-040322>
- (d) The Government Guidance on Compulsory Purchase Process and The Crichel Down Rules dated October 2015 (updated 2019)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071500/CPO_guidance_-_with_2019_update.pdf
- (e) Outline planning permission granted by the Council on 31 May 2012 in respect of application reference OUT/2012/0575
<http://planning.coventry.gov.uk/portal/servlets/AttachmentShowServlet?ImageName=1021556>
- (f) Outline planning permission granted by the Council on 27 January 2022 pursuant to a hybrid planning application reference OUT/2020/2876
<http://planning.coventry.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=812715>
- (i) Decision notice
<http://planning.coventry.gov.uk/portal/servlets/AttachmentShowServlet?ImageName=1647505>
- (ii) Accompanying section 106 agreement
<http://planning.coventry.gov.uk/portal/servlets/AttachmentShowServlet?ImageName=1654420>
- (iii) Listed building consent LB/2020/2857
<http://planning.coventry.gov.uk/portal/servlets/AttachmentShowServlet?ImageName=1607614>
- (iv) Listed building consent LB/2020/2860
<http://planning.coventry.gov.uk/portal/servlets/AttachmentShowServlet?ImageName=1607615>

- (v) Notice of approval of S96A Application
<http://planning.coventry.gov.uk/portal/servlets/AttachmentShowServlet?ImageName=1700776>
- (g) National Planning Policy Framework
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf
- (h) The Coventry City Council Local Plan adopted December 2017
<https://www.coventry.gov.uk/downloads/file/25899/final-local-plan-december-2017>
- (i) Coventry City Council City Centre Area Action Plan adopted December 2017
<https://www.coventry.gov.uk/downloads/file/25900/final-area-action-plan-aap-december-2017>
- (j) Supplementary Planning Documents:
 - (i) Air Quality SPD adopted Aug 2019;
https://www.coventry.gov.uk/downloads/file/30877/air_quality_supplementary_planning_document_spd.pdf
 - (ii) Coventry Connected (Transport and Accessibility) SPD adopted Jan 2019;
https://www.coventry.gov.uk/downloads/file/28898/coventry_connected_spd_-_jan_2019
 - (iii) Delivering a More Sustainable City SPD adopted Jan 2009;
<https://www.coventry.gov.uk/downloads/file/2699/adopted-supplementary-planning-document-delivering-a-more-sustainable-city>
 - (iv) Design Guidance for New Residential Development Supplementary Planning Guidance adopted July 1991;
<https://www.coventry.gov.uk/downloads/file/6485/residential-design-guide>

Green Space Strategy 2019-2024 SPD;
<https://www.coventry.gov.uk/downloads/file/2298/green-space-strategy-2019-2024>
 - (v) Open Spaces SPD adopted March 2022;
<https://www.coventry.gov.uk/downloads/file/37974/open-space-spd>
 - (vi) Affordable Housing SPD adopted March 2022;
<https://www.coventry.gov.uk/downloads/file/37970/affordable-housing-spd>
 - (vii) Health Impact Assessment SPD;

<https://www.coventry.gov.uk/downloads/file/28900/health-impact-assessment-spd>

- (viii) Design Guidance for new Residential Development SPD;

<https://coventrycitycouncil.inconsult.uk/connect.ti/designnewresi/consultationHome>

- (ix) Biodiversity Net Gain SPD; and

<https://coventrycitycouncil.inconsult.uk/BiodiversitySPD/viewCompoundDoc?docid=12637780>

- (x) Tall Buildings Design Guide & Three Spires View Management Framework SPD and Local List nominations.

<https://coventrycitycouncil.inconsult.uk/TBVMFSPD/consultationHome>

<https://coventrycitycouncil.inconsult.uk/LocalList/consultationHome>

- (k) Coventry View Management Framework

https://www.coventry.gov.uk/downloads/file/19151/view_management_framework_part_1.pdf

- (l) One Coventry Plan Annual Performance Report 2020-2021

https://www.coventry.gov.uk/downloads/file/37208/one_coventry_plan_annual_performance_report_2020-21.pdf

- (m) Coventry City Council's Site Assembly Strategy – Information for businesses

<https://www.coventry.gov.uk/city-centre-regeneration/city-centre-south/2>