

THE TOWN AND COUNTRY PLANNING ACT 1990  
THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976  
AND  
THE ACQUISITION OF LAND ACT 1981

THE METROPOLITAN BOROUGH OF SOLIHULL  
(TOUCHWOOD EXTENSION, SOLIHULL)  
COMPULSORY PURCHASE ORDER 2015

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STATEMENT OF CASE

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## 1. INTRODUCTION

- 1.1 This document is the Statement of Case of the Metropolitan Borough of Solihull ("**the Council**") prepared in connection with the making of a compulsory purchase order entitled The Metropolitan Borough of Solihull (Touchwood Extension, Solihull) Compulsory Purchase Order 2015 ("**the Order**") which has been submitted to the Secretary of State for confirmation. The Council is the acquiring authority for the purposes of the Order.
- 1.2 The Council has made the Order pursuant to the powers in Section 226(1)(a) of the Town and Country Planning Act 1990 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976. These powers are explained later in this Statement of Case. In this document the land and rights included within the Order are referred to as ("**the Order Land**"). The Council is the local planning authority and the local highway authority for the Order Land.
- 1.3 The existing Touchwood shopping centre ("**Touchwood**") is a 650,000 sq.ft. retail and leisure development located in Solihull town centre, comprising over 80 stores, over 20 restaurants and a multiplex cinema. It opened in September 2001. Touchwood is situated on a site located between the High Street and Homer Road, Church Hill Road and Herbert Road and has linkages onto the High Street at three points: the John Lewis store, the Poplar Arcade and the Mill Lane Arcade.
- 1.4 The Order has been made to facilitate the development, redevelopment and improvement of the Order Land by way of a retail-led mixed-use scheme comprising an extension to Touchwood, including retail and leisure floor space, public realm and associated highway works ("**the Scheme**"). The Council considers that the Scheme will enhance the existing retail provision in Solihull by providing the range of shop units which retailers require and will contribute significantly towards delivering the additional retail floor space identified in the Solihull Local Plan as being needed to maintain the town centre's attractiveness and competitiveness. The Scheme will deliver important public benefits including significant investment in the town, new jobs and improvements to the historic environment and public realm. The Scheme will also prevent leakage of spend from Solihull to other retail developments in the West Midlands, thus helping to protect the town centre. As such, it will contribute to the achievement of the economic, environmental and social well-being of the area.
- 1.5 Touchwood has been held within Lend Lease Retail Partnership ("**LLRP**") since 2001. LLRP is an unlisted wholesale limited partnership. LLRP has entered into a Development Agreement with the Council to deliver the Scheme and LLRP has appointed Lend Lease Development Limited ("**LLD**") to carry out and manage the acquisition, development and leasing of the project on its behalf.
- 1.6 Planning permission has been granted for the demolition of certain buildings and the construction of an extension to Touchwood; the remodelling of retained listed buildings; the creation of a pedestrian route which links to the High Street, and associated development at Church Hill Road/The Square. Associated listed building consents have also been granted. A detailed description of the proposals is found at Sections 5 and 7 of this statement.
- 1.7 Much of the Order Land is within the ownership or control of the Council and LLRP. However, some land and interests in the ownership of third parties will be required to deliver the Scheme. Whilst LLRP continues to negotiate with the relevant parties in order to acquire the outstanding interests and rights needed, the Council has made the Order to ensure that the outstanding interests may be acquired within a reasonable timetable to allow the Scheme to proceed.
- 1.8 The Order was made on 25 November 2015. Objections have been received and the Secretary of State has confirmed that a public inquiry will be held to consider the objections.
- 1.9 This Statement of Case has been prepared in compliance with paragraph 32 of the Government guidance entitled "Guidance on compulsory purchase process and the Criche

Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion (October 2015)".

## 2. DESCRIPTION OF THE ORDER LAND

- 2.1 The Order Land extends to approximately 1.2 hectares. The site is bounded by High Street to the north; Church Hill House to the south; Touchwood to the west; and Church Hill Road/The Square to the east. The Order Land is generally flat with three transition zones which accommodate gentle gradients of no greater than 1:30.
- 2.2 The Order Land is located within the designated town centre boundary and comprises previously developed land that includes the following areas:
- 2.2.1 the Priory and Orchard House (Council office buildings) with associated surface car parking;
  - 2.2.2 existing retail unit SU38 and part of retail unit SU43/44 within Touchwood;
  - 2.2.3 retail units fronting High Street (numbers 140-156) and Manor Walk (numbers 5-6) and associated surface car parking;
  - 2.2.4 offices fronting Manor Square/Church Hill Road (numbers 2-6) and associated surface car parking; and
  - 2.2.5 Manor Square Access Road (and associated pick-up/drop-off areas).
- 2.3 The Solihull Conservation Area boundary bisects the Order Land, with the land north of Manor Square located within the Conservation Area, whilst land south of Manor Square lies outside. The Order Land includes three Grade II listed buildings and there are a number of heritage assets in proximity to the Order Land, including Grade I listed St. Alphege Church. Further detail is provided in Section 5 of this document.
- 2.4 The Council is the freehold owner of approximately 55% of the Order Land. The remaining 45% of the Order Land is in third party ownership. LLRP has a leasehold interest in part of the Order Land (the Council being the freehold owner). In addition to LLRP and the Council, the following parties have interests in the Order Land:

<b>Occupier Name</b>	<b>Property Address</b>	<b>Tenure</b>	<b>Description of Property</b>
Anthony Stockton Solicitors	First Floor 2 Manor Square	Leasehold	Offices
Artico Salon Limited	5-6 Manor Walk	Leasehold	Retail
BB Boutique Limited (TA Jurnie)	150 High St	Leasehold	Retail
Bravissimo Limited	Touchwood Shopping Centre	Leasehold	Retail
Citiforce Investments Inc of Arias Fabrega & Gabrega Trust Co BVI Limited	2-6 Manor Square	Freehold	Offices
David Sheen (Sporting Barbers)	144 High St	Leasehold	Retail
Gala Coral Group Limited	142 High Street	Leasehold	Retail
Letting Places Limited	156 High Street	Leasehold	Retail

Solihull & Shirley Estate Agencies Limited trading as Melvyn Danes Estate Agents	152 High Street	Leasehold	Estate Agents
Nisar Feroz Khan (Dental Practice Manor Square)	4 Manor Square	Leasehold	Dental Practice
Pearcelegal Limited	Part of 158 High Street and Suite 2	Leasehold	Offices
Revital Limited	146-148 High St	Leasehold	Retail
Stonegate Pub Company Limited	138-144 High Street	Freehold	Retail, Restaurant & Nightclub
The Manor House Charity	Car park to rear of 126 High Street	Freehold	Car park for office, Café and Conference facilities
Wesleyan Assurance Society	146 to 156 High Street	Freehold	Retail & Offices
Zara UK Limited	Touchwood Shopping Centre	Leasehold	Retail

2.5 In addition, certain new rights will need to be acquired. These are identified shaded blue on the Order plan. Firstly, crane oversailing rights will be needed, as identified in the Order and on the Order plan. These extend beyond the development boundary and will facilitate the construction of the new buildings. The jib and counter weight of the cranes will pass over the air space identified and it is not intended to carry materials through this air space. Secondly, temporary rights of access are needed for the construction and improvement works (including relocating a plant room), as is explained in the Order schedule.

### 3. **ENABLING POWERS**

3.1 The Council has the power under Section 226(1)(a) of the Town and Country Planning Act 1990 (**"the Act"**) to make a compulsory purchase order for land in its area if the Council thinks that the acquisition of the land will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. Section 226(1A) of the Act provides that the Council may not exercise this power unless it thinks that such development, re-development or improvement is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of its area.

3.2 Section 226(4) of the Act provides that it is immaterial that the development, re-development or improvement is to be carried out by a third party.

3.3 Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 enables the Council to compulsorily acquire any such new rights over the land as are specified in a compulsory purchase order.

3.4 **The Government has prepared a document entitled "Guidance on compulsory purchase process and the Criche Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion (October 2015) ("the Guidance")**. Paragraph 1 of the Guidance states that:

3.5 *"Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life".*

3.6 Paragraph 2 goes on to state that *“a compulsory purchase order should only be made where there is a compelling case in the public interest”*.

3.7 The Guidance provides general guidance on the use of compulsory purchase powers by acquiring authorities whilst Section 1 of Tier 2 provides specific guidance for local authorities on the use of their powers under section 226 of the Act. Paragraph 65 of the Guidance provides that the power is *“intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement the proposals in their local plan or where strong planning justifications for the use of the powers exist”*.

3.8 The promotion of the Order for the Scheme is in accordance with the relevant guidance.

#### 4. **THE COUNCIL’S PURPOSE IN SEEKING TO ACQUIRE THE ORDER LAND**

4.1 Solihull town centre is the largest shopping centre in the Borough of Solihull (**“the Borough”**) in terms of retail floor space and it functions to provide retail, dining and leisure facilities for the Borough and the wider catchment area in the West Midlands. The trade area catchment is extensive, with visitors prepared to drive for over an hour from surrounding areas to shop in Solihull.

4.2 Touchwood is the main shopping centre in the town centre, and is also an important source of employment in the Borough, with approximately 2,000 people being employed within the centre.

4.3 However, the relative economic strength of Solihull town centre is under threat from a number of schemes which have opened or which are currently under development in the region, including Grand Central and the Mailbox in Birmingham, Resorts World at the National Exhibition Centre and Coventry City Centre regeneration. A study undertaken by CACI in 2015 identified Solihull as a “Quality Regional Centre” and as being in the “Primary Centres Category” of town centres. The study confirmed that the extension of Touchwood is critical to Solihull maintaining its position as a primary retail destination, **and that if the town centre offer is not expanded then Solihull’s market potential** would decrease. Clearly, the expansion of Touchwood is vital to protecting the town centre against leakage to those other locations.

4.4 Whilst Solihull currently performs well as a town centre, it cannot afford to stand still, and without further expansion and investment it is likely that spend will leak out of the town to other retail centres and developments in the West Midlands region. The expansion of the current retail offer is needed and is sustainable, and would help to **reinforce Solihull’s** strengths in the face of that pipeline of development schemes. As is explained later in this statement, the need for this expansion of town centre floor space is enshrined in the relevant planning policy.

4.5 In addition, there is a demand for larger unit sizes, both from existing tenants of Touchwood and from retailers and restaurant operators not currently represented in Solihull. The retail landscape has evolved significantly since Touchwood originally opened and it continues to evolve, and the existing Touchwood accommodation does not adequately cater for the changing needs of retailers, who are seeking larger format units within the town centre. LLRP is working with some existing tenants that require larger units to amalgamate adjacent properties when they become available, but this alone will not satisfy the demand, and need, nor is it a sustainable response. Indeed, some retailers are unable to open in Solihull town centre, despite expressing a desire to do so, due to a lack of suitable accommodation.

4.6 Solihull town centre also has limited choices for food catering in the area for locals and visitors alike, with only a small selection of eateries opening in the evening, which contributes to the town having no real night-time economy. These limited dining opportunities, owing to a lack of purpose-built units, and a limited evening economy on the High Street, mean that there is scope for the Scheme to provide a new offer which is currently lacking in the town. There is also a need to provide further opportunities for casual family restaurants and leisure facilities along with an upmarket offer. This range is currently lacking in the town centre.

- 4.7 The west end of the High Street suffers pedestrian congestion whilst the east end of the High Street is currently under-utilised despite its central location. There is limited retail offer at the east end of High Street and it suffers from poor visibility which means pedestrian footfall is much lower than at the western end. The expansion of Touchwood provides an opportunity to open up a new pedestrian route at the east end of the High Street opposite Drury Lane to create a retail circuit through Touchwood, the High Street and Mell Square, which in turn will increase attractiveness and footfall and reinvigorate those areas.
- 4.8 The existing High Street does not meet its full potential. The Scheme will increase pedestrian flow and create a new retail circuit at this end of the High Street. The Scheme includes a new courtyard that would be the centre for the majority of the food catering that is proposed. Whilst the open courtyard would be privately owned and managed by LLRP, it would provide a new open, safe and comfortable space for the public to use, with views through to St. Alphege Church.
- 4.9 Manor Square currently serves as an access road to the Council properties and to the service yards at the rear of the commercial properties on the High Street. It is marked with yellow lines but is used by visitors as an unofficial and unauthorised drop off/pick up zone. This results in a complex and unsafe environment for pedestrians and other road users.
- 4.10 There are important heritage assets in the vicinity of the Order Land (St. Alphege Church and The George Hotel) which currently lack visibility to existing visitors to the town centre.
- 4.11 The Scheme will act as a catalyst in bringing forward other initiatives in the town centre. The Council, in its capacity as landowner, planning authority and highway authority, is encouraging a number of initiatives in the town centre to meet the objective of maintaining a strong and competitive centre in accordance with local plan policy (policy P2, as explained later in this statement).
- 4.12 The Council is the freehold owner of the Mell Square Shopping Centre, on the other side of the High Street to Touchwood. The Council sees Touchwood and Mell Square as being complementary offers, and is working with the owners of these shopping centres to secure investment on both sides of the High Street. In particular, the Council is working with the owner of Mell Square to encourage the remodelling of Mell Square. Planning permission has recently been granted for the redevelopment of retail units at the junction of the High Street and Drury Lane to provide restaurant and office uses. The Council is also encouraging the conversion of Norwich House (part of Mell Square) from being tired 1960s offices to providing modern grade A office accommodation.
- 4.13 The proposed extension of Touchwood, and the increased footfall and activity, will build consumer confidence in the local economy. Without the Scheme, it is unlikely that these initiatives (and indeed future initiatives) would come forward or, at the very least, would be delayed with no certainty as to the timing of their delivery.
- 4.14 The Council is also promoting the Solihull Gateway Project, a £2.3 million scheme of highway and public realm improvements on Station Road and Poplar Road, vastly improving the environment of this key gateway to the centre. This was completed at the end of 2015 and makes access more convenient, user-friendly and more attractive to visitors.
- 4.15 The Council envisages residential development coming forward as part of an improved and vibrant town centre. The improvement in leisure uses and the environment that the Scheme will bring will act as a catalyst for residential development and wider major investment in the town centre in the future.

## 5. **THE PROPOSALS**

- 5.1 The original masterplan for Touchwood (May 2000) always anticipated that the centre would evolve and expand to cater for future demand. In 2009 LLR worked up a feasibility study for the proposed extension and the emerging masterplan. In late 2009, discussions

took place between LLRP and the Council to ensure that the proposals matched the **Council's vision for Solihull town centre and were compliant with planning policy.**

- 5.2 During the pre-application process, regular meetings were held between LLRP and officers of the Council to discuss the evolving proposals, with particular focus on the proposed elevation fronting Church Hill House and its associated landscaping; connectivity from the High Street adjacent to Manor Gardens into the Touchwood extension and its relationship with Manor House; and the preservation of key views of the listed St. Alphege Church. As a result of these discussions, the following features have been incorporated into the proposals:
- 5.2.1 The Church Hill House elevation is to be clad in fretwork metal and designed in such a way so as to create a piece of civic art;
  - 5.2.2 **The Scheme's design will help** to preserve the unique qualities of Manor Gardens through:
    - 5.2.2.1 an improved pedestrian route that will link into the new internal mall;
    - 5.2.2.2 the building elevations being stepped back at high level to reduce the impact of the extension and allow natural light into Manor Gardens; and
    - 5.2.2.3 the historic urban grain of Manor Walk being preserved and enhanced through a carefully angled pedestrian route and location of projecting windows to create a coherent and legible route for all visitors.
  - 5.2.3 The progression and view towards the grand west window and spire of St. Alphege Church from the internal malls has been modified from the original design to enhance the focal point for the proposals and the town centre, in accordance with the 2000 Masterplan.
- 5.3 The proposals have also been subject to a thorough programme of consultation with key stakeholders including the Town Centre Advisory Group ("**TCAG**"), Solihull Business Improvement District, St. Alphege Church and Historic England. During these meetings, key concerns were raised regarding:
- 5.3.1 the relationship between the proposals and St. Alphege Church; and
  - 5.3.2 overall town centre connectivity and High Street activity.
- 5.4 As a result of this consultation, emphasis **has been placed on the Scheme's** design so that the key elevations facing the Church have stone architectural detailing within a fully glazed elevation to reflect the architectural quality and setting of the Church. The Belvedere is subservient, and acts as a modest backdrop, to the Church. Architectural materials and details built into the design have been referenced from the Church. The public space in front of the Belvedere has been increased in size to create a new pedestrian entrance into the town and a generous route to, and from, Church Hill House.
- 5.5 The new retail circuit which will be created by the Scheme will offer visitors the opportunity to appreciate more **of the High Street's historic buildings. The creation of an** additional pedestrian route between Mell Square and Touchwood will help alleviate the often congested connection at Mill Lane. The additional activity at the lower end of the High Street will also enable visitors to Solihull to meander towards The Square and appreciate views of St. Alphege Church. **As such, the Scheme's evolution has reflected** and been shaped by the views of key stakeholders in the town centre.
- 5.6 In addition to the stakeholder engagement described above, a thorough public consultation exercise has been undertaken, with the aim of engaging with and informing a

wide cross-section of individuals and groups representing a broad spectrum of interests. In particular, the public consultation has sought to:

- 5.6.1 inform local residents and businesses of the proposals;
  - 5.6.2 gain an understanding of local opinion on key issues; and
  - 5.6.3 facilitate the provision of feedback for consideration.
- 5.7 A well-attended public exhibition took place in the Solihull Arts Complex on two weekends in March 2015, which had been publicised in advance including by way of advertisements in the local press; a leaflet drop to local residents; and via the Touchwood website and social media accounts. The response was favourable with the majority of feedback stating that the proposals would be positive for Touchwood and the wider town centre. The proposals were recognised as bringing benefits to the local community including (inter alia):
- 5.7.1 increased vitality and viability of the town centre;
  - 5.7.2 creation of new pedestrian links and improved retail circulation;
  - 5.7.3 conservation and enhancement of heritage assets; and
  - 5.7.4 activating public spaces.
- 5.8 Concerns were raised about the relocation of the unofficial pick up and drop off point at Manor Square and it is proposed to relocate this to complement existing facilities in the town centre.
- 5.9 Members of the congregation of St. Alphege Church raised questions regarding the relationship between the proposals and the Church, which LLRP were able to address at the exhibition and at a subsequent one-to-one meeting.
- 5.10 The planning application for full planning permission for the demolition of certain buildings and the construction of an extension to Touchwood, remodelling of certain listed buildings, the creation of a pedestrian route from the High Street opposite Drury Lane into the proposed courtyard, then linking through to Church Hill Road on land bounded by Touchwood, the High Street, Church Hill Road/The Square and Church Hill House was validated by the Council on 8 July 2015.
- 5.11 The following listed buildings are within the Order Land:
- 5.11.1 126 High Street (Grade II\*);
  - 5.11.2 138-144 High Street (Grade II);
  - 5.11.3 158 High Street (Grade II);
  - 5.11.4 2-6 The Square (Grade II).
- 5.12 At the same time as the planning application was submitted, three associated applications for listed building consent were submitted for the following works:
- 5.12.1 136-144 High Street, Solihull: Demolition of two storey rear nightclub extension and toilet block, and associated internal and external works to facilitate the interface of the Touchwood Extension structure and fabric;
  - 5.12.2 158 High Street: Demolition of two storey infill extension, construction of new fire escape link to rear elevation and associated internal and external works to facilitate the interface of the Touchwood Extension structure and fabric; and



- 5.12.3 6 The Square: Demolition of rear extension, construction of new plant room extension and associated internal and external works to facilitate the interface of the Touchwood Extension structure and fabric.
- 5.13 Overall 113,871 sq.ft. of new floor space will be provided by the Scheme. In order to allow for flexibility to accommodate a range of occupiers and respond to market demand, the proposals have sought to allow for units to be occupied by either A1 or A3 operators which range in size from under 1,000sqft up to a larger MSU of 15,000sqft. The extension is based on an indicative mix of these uses, comprising 82,313 sq.ft. of new A1 space within 21 units and 31,557 sq.ft. of A3 space within 9 units. This additional space equates to a net increase of 17% of floor space **based on Touchwood's** existing retail and leisure floor space of 650,000 sq.ft.
- 5.14 New Court has been created as additional open public space within the urban fabric of the town centre. This new space will act as a crossroads to the entrance of the Internal Arcade, the Drury Lane Connection and the pedestrian link with St. Alphege Church and Church Hill House, providing a destination where visitors can meet with family and friends within an attractive and safe environment. The high quality materials will be complemented by sensitively designed landscaping through the use of narrow planters and living green walls, which will soften the feel of the space. A number of restaurants will be located around the space, so as to invite outdoor dining during the day and into the evening under the protection of retractable canopies.
- 5.15 A small pavilion to the north west of the space will provide a sense of enclosure to protect diners from wind and the vehicular traffic on Church Hill Road. The lightweight transparent nature of the pavilion maintains a visual connection with St. Alphege Church. This space has **been the subject of lengthy consultation with the TCAG and the Council's** planning officers, and this has resulted in a significant widening of the aspect towards the church. The proposals re-integrate the historic and listed buildings within the townscape making a positive contribution to the heritage asset and its setting, providing the opportunity for it to be enjoyed by visitors.
- 5.16 LLRP liaised closely with the local highway authority throughout the planning application process in order to understand the parking demand to be generated by the Scheme and also the wider position regarding car parking within town centre. The investigations and assessments undertaken in connection with this exercise were catalogued in a series of technical notes and were summarised in the Transport Assessment submitted with the planning application, and can be summarised as follows: -
- 5.16.1 currently some town centre car parks are recognised as having reached capacity during peak periods whilst significant additional capacity remains in other town centre car parks;
- 5.16.2 the Scheme will give rise to very limited additional parking demand;
- 5.16.3 this limited additional demand can be accommodated within the overall existing town centre parking stock during all periods, including at Christmas.
- 5.16.4 as such, no additional car parking is proposed as part of the Scheme, and measures will be introduced to ensure that visitors to the town centre are directed to the most appropriate car park in order to ensure that **"popular"** car parks are not overloaded.
- 5.17 There are a number of heritage assets within and adjacent to the Order Land and specific consideration has been given to preserving and enhancing these assets as part of the proposals:
- 5.17.1 Listed building applications have been made in respect of the affected listed buildings, as outlined 5.11 and 5.12 above;

- 5.17.2 Four trees within the Order Land are located within the Solihull Conservation Area. A further two trees are protected by a tree preservation order (TPO). It is proposed that these trees will be removed as part of the development;
  - 5.17.3 The Solihull Conservation Area boundary bisects the Site, with the land north of Manor Square located within the Conservation Area, whilst land south of Manor Square lies outside.
- 5.18 Planning permission for the Scheme was granted on 9 December 2015. An agreement was entered into under section 106 of the Act ("**Section 106 Agreement**"), which secures:
- 5.18.1 the development and implementation of a car park management scheme;
  - 5.18.2 a contribution of £305,500 towards highway works at Church Hill/Church Square;
  - 5.18.3 a contribution of £17,000 towards environmental improvements to the entrance to Malvern Park;
  - 5.18.4 a contribution of £124,800 towards off-site tree planting and maintenance; and
  - 5.18.5 a contribution towards updating way-finding signage relating to the development.
- 5.19 Three listed building consents have been granted, two on 10 December 2015 and one on 15 December 2015.
- 5.20 The Scheme advances the aspirations of the local and national planning policy outlined below. The Scheme will provide a seamless link from Touchwood eastwards towards St. Alphege Church and will help to create a new strong retail circuit. The Scheme will complement the existing built form and responds to the historic surroundings by respecting the scale, mass and significance of the listed buildings in the Order Land.

## 6. **PLANNING POLICY**

### ***National Planning Policy***

- 6.1 **National planning policy is set out in the National Planning Policy Framework ("**NPPF**")** which was adopted on 27 March 2012. The NPPF establishes the overarching principles of the planning system and confirms the purpose of the planning system is to contribute to the achievement of sustainable development. This includes the requirement of the **system to "drive and support development"** (paragraph 17) and the encouragement to local planning authorities in **"approving development proposals that accord with the development plan without delay"** (paragraph 14). Paragraph 14 also establishes that **there is a "presumption in favour of sustainable development...[which] should be seen as a golden thread running through both plan-making and decision-taking"**.
- 6.2 Paragraph 17 of the NPPF identifies twelve core land-use planning principles which should underpin decision-taking. The following are of particular relevance, which state that planning should:
- 6.2.1 always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
  - 6.2.2 encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
  - 6.2.3 promote mixed-use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can

perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);

- 6.2.4 conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations; and
- 6.2.5 actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
- 6.3 The NPPF seeks to secure **“economic growth in order to create jobs and prosperity”** (paragraph 18) and to ensure **“that the planning system does everything it can to support sustainable economic growth”** (paragraph 19). It states that **“to help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century”** (paragraph 20).
- 6.4 Paragraphs 23-27 of the NPPF concern ensuring the vitality of town centres and promote competitive town centre environments. In order to achieve this the NPPF states that local authorities should promote competitive town centres that provide customer choice and allocate a range of sites to meet the development needs, particularly those of primary town centre uses such as leisure and retail.
- 6.5 Paragraphs 126-141 of the NPPF provide national level guidance in relation to heritage and conservation matters. Paragraph 128 advises that great weight should be given to the conservation of heritage assets when considering the potential impact of a proposal on their significance, with the **weight to be “proportionate to the importance of the asset”**. **The NPPF notes that a heritage asset’s significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.** Any harm or loss of heritage assets therefore requires clear and convincing justification.
- 6.6 As set out in paragraph 133 of the NPPF, 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 loss is necessary to achieve substantial public benefits that outweigh that harm or loss. 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, including securing its optimum viable use. Paragraph 137 states that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or reveal the significance of the asset should be treated favourably. Furthermore, paragraph 138 **acknowledges that not all elements of a Conservation Area will “necessarily” contribute to its significance, and that the “loss of a building (or other element) which makes a positive contribution should either be treated as substantial harm or less than substantial harm, taking into account the significance of the element affected” and “its contribution to the significance of the Conservation Area or World Heritage Site as a whole”**.
- 6.7 In conclusion, the Scheme represents the sustainable redevelopment of brownfield land in a highly accessible town centre location. In particular, the Scheme accords with the **“town centre first” approach advocated in the NPPF, and will help meet identified quantitative and qualitative retail need in the Borough.** The scale and mass of the Scheme has been carefully considered so that the historic built environment is protected and enhanced.

### ***Development Plan***

- 6.8 The Solihull Local Plan (**“the Local Plan”**) was adopted on 3 December 2013 and replaced the saved policies of the former unitary development plan. The Local Plan outlines the challenges facing the Borough and how they will be addressed, the vision for the future of the Borough, the strategy for achieving the vision, and the policies and

proposals to enable the Borough to grow and develop over the plan period. This includes the identification of sites for development.

- 6.9 An overarching aim of the Local Plan is to achieve sustainable development. Paragraph 7.1.11 of the Local Plan identifies Solihull town centre as being of crucial importance to community, civic and business activity in the Borough and the economic and social well-being of Solihull town centre.
- 6.10 Local Plan Policy P2 (“**Maintain Strong, Competitive Town Centres**”) indicates that Solihull town centre will be developed as “a place of quality and distinction” **with a focus** on uses including retail and commercial uses in order to provide the 34,000 sqm of additional comparison goods retail floor space identified as being required by 2021 to maintain a strong and competitive town centre.
- 6.11 Policy P2 sets out the Town Centre Spatial Strategy which identifies how development can be brought forward across key Development Opportunities to maintain a balance of activity throughout the centre. The Order Land comprises the northern part of the Touchwood Opportunity Site.
- 6.12 Appropriate land uses for the Touchwood Opportunity Site include retail and leisure (including food and beverage) uses, both of which are proposed by the Scheme. Policy P2 establishes the following design principles for the Touchwood Opportunity Site:

- 6.12.1 *Development should comprise a seamless extension to the existing Touchwood shopping centre, and should link into the structure of the existing urban form through a network of new streets and spaces linked to the High Street with active ground floor uses;*

The Scheme provides a seamless link from the Atrium of Touchwood, eastwards toward St. Alphege Church via a new covered arcade. This covered arcade will emerge into a new court from which outdoor connections link to High Street to the north or Church Hill Road to the east. In addition, the Scheme creates a strong new retail circuit, reflecting and complementing the existing built form and encouraging pedestrian movements through this currently underutilised area of the town centre.

- 6.12.2 *The positioning of new pedestrian linkages to the High Street should be carefully selected to avoid the loss or adverse impact on listed buildings or adverse impacts on the character of the Conservation Area. Any demolitions to the High Street frontages should maximise the visual link across High Street to Drury Lane from the site in order to stimulate activity at the eastern end of High Street and Drury Lane;*

It is proposed that Nos 146-156 High Street will be demolished in order to create the new connection onto High Street. These properties are unlisted buildings and their removal will maximize the visual link to Drury Lane whilst minimising the impact on built heritage.

- 6.12.3 *Development will be required to preserve and enhance the special historic and architectural character of the Solihull Conservation Area and complement the existing Town Centre environment via appropriate scale, height, massing, roofscapes, layout, landscaping, public realm treatments, and choice of building materials;*

The Scheme incorporates a high quality of design, that has due regard to, and respects, the local character of the town centre, whilst creating a strong identity for the extension as a new phase of Touchwood. The design responds to the historic surroundings within the conservation area by respecting the scale, mass and materiality of St. Alphege Church and the listed buildings. Enhancements to the existing listed buildings are incorporated into the proposals with later additions being removed to reinstate the original building proportions.

- 6.12.4 *Development should reinforce the identity of this part of the Town Centre, have a strong visual and spatial relationship with St. Alphege Church and respect its setting;*

The St. Alphege Church spire and west gable are the key drivers defining the extent of roof glazing and the axis of the new arcade. Reflecting the importance of this relationship, the Belvedere unit facing the church has been designed to celebrate and enhance the setting of the Church. The key elevations are designed to be a modern contrast against the heritage asset using a fully glazed elevation to reflect the architectural quality and setting of the church.

The proposals seek to sensitively conserve and enhance the heritage assets within the Order Land and improve the setting and accessibility of heritage assets in the surrounding area. In particular the new court space will create a new setting for St. Alphege Church, creating a strong visual link through the development. The Scheme will contribute to the economic revitalisation of Solihull town centre which in turn will help to secure the long term future of many heritage assets by giving them greater visibility.

- 6.12.5 *Development should take advantage of the sloping nature of the site to provide an interesting, attractive and exciting architectural form sensitive to its context;*

The Order Land is generally flat with three transition zones that accommodate gentle gradients of no greater than 1:30. It is proposed that these inclines will be located between The Atrium and the Internal Arcade, the High Street and the new Drury Lane Connection and between Church Hill Road and the New Court. The tallest part of the extension is located within the centre of the Order Land with the building form stepping down near the key historic buildings. The façade treatment along the High Street and Drury Lane Connection has evolved by setting the parapet back to reduce the perception of height. The final iteration incorporates the parapet within the roof design to further reduce the mass of the development along the Drury Lane Connection and behind the listed buildings fronting the High Street.

- 6.12.6 *Development should improve connectivity between the Town Centre and residential areas to the south and east, and respect the residential amenity of properties fronting Church Hill Road;*

Currently the Order Land is underutilised despite its central location. Residential areas to the south east in particular will benefit from the improved access into Touchwood and north/south to High Street through the creation of the new parallel pedestrian route. Furthermore the residential amenity of residential properties along Church Hill Road will be protected and enhanced through the development. The removal of the Manor Square access road will reduce the number of private vehicles using Church Hill Road to access Touchwood, with visitors directed to alternative drop off areas in the town.

- 6.12.7 *Development should be capable of being implemented in phases.*

The Order Land comprises the northern part of the Touchwood Opportunity Site. Alongside the Scheme, the Council has ambitions to redevelop the southern part of the Touchwood Opportunity Site by way of a consolidation and refurbishment of existing Council office accommodation at Church Hill House. **Both the Scheme and the Council's proposals comprise two separate planning applications and will be capable of implementation in phases, as appropriate.**

- 6.13 Local Plan Policy P7 ("**Accessibility and Ease of Access**") specifies that new development should be located in the most accessible locations and directs new retail and leisure development to town centres.

- 6.14 Local Plan Policy P15 (“**Securing Design Quality**”) seeks to ensure that new developments achieve a high standard of design that is inclusive and sustainable and takes account of the following principles:
- 6.14.1 conserving and enhancing local character, distinctiveness and streetscape quality to ensure the scale, massing, density, layout, materials and landscape of the development respect the surrounding natural, built and historic environment;
  - 6.14.2 ensuring new development achieves the highest possible standard of environmental performance through sustainable design and construction;
  - 6.14.3 securing long-term sustainable use of the development through flexible, robust and future-proofed design;
  - 6.14.4 making appropriate space for water using sustainable drainage principles;
  - 6.14.5 conserving and enhancing biodiversity and landscape quality;
  - 6.14.6 integrating the natural environment within the development through quality open space; and
  - 6.14.7 creating attractive, safe, legible streets and public spaces which are accessible, easily maintained and encourage walking and cycling.
- 6.15 Local Plan Policy P16 (“**Conservation of Heritage Assets and Local Distinctiveness**”) states that developments will be expected to preserve or enhance heritage assets in a manner appropriate to their significance and identifies the historic core of Solihull Town Centre as a significant characteristic of local distinctiveness in the Borough.
- 6.16 The Scheme will incorporate a high quality of design, which has due regard and respect to the local character, whilst creating a strong identity for the extension of Touchwood. Enhancements to the existing listed buildings are incorporated into the proposals with later additions being removed to reinstate the original building proportions. The Scheme will contribute to the economic strength of Solihull town centre and will therefore help to secure the long term future of many heritage assets.

## 7. **JUSTIFICATION FOR THE USE OF CPO POWERS**

- 7.1 The purpose for which the Order Land is being acquired supports the delivery of key national and local planning policies and the use of the CPO powers complies with the Guidance.

### **Economic**

- 7.2 The Scheme will result in significant economic investment in Solihull town centre.
- 7.3 The Scheme will provide some 500 jobs during the construction phase, and approximately 400 new jobs when the Touchwood extension is open. As regards the construction phase, the local community will have access to training and employment opportunities, through the provisions included in the Section 106 Agreement and initiatives driven jointly by LLD and the Council.
- 7.4 Lend Lease Corporation Limited (“**LLCL**”) the parent company to LLD, has significant experience and a reputation for partnership with local authorities to deliver excellent local employment, skills and training programmes. Lend Lease have been recognised globally for their innovation, commitment and delivery of best practice. Locally, Lend Lease have won the following awards:
- winner: Business in the Community Big Tick Award for Education for Birmingham schools in 2010, 2011 and 2012;

- winner: West Midlands Centre for Construction and Training Excellence Award for Leadership and People (2 years in a row).
- 7.5 The Scheme will significantly help to protect the competitiveness and viability of the town centre, and will help Solihull achieve its aim of continuing to be a Quality Regional Centre. It will ensure that spend is not leaked to other centres or retail destinations in the region and will help maintain a strong economy in Solihull.
- 7.6 The Scheme will improve the qualitative retail provision in the town centre, which will attract new occupiers and operators into the town, thus increasing choice for the public.
- 7.7 The Scheme will, through the provision of purpose-built units, introduce the opportunity for Solihull town centre to develop an evening economy, thus increasing dwell time and expenditure in the town centre, for the benefit of local businesses.
- 7.8 The Scheme will help create a new retail circuit, which will improve activity at the eastern end of the High Street, and will act as a catalyst for development and investment in Solihull town centre.
- 7.9 The retail and leisure offer in the town centre will be significantly improved and enhanced through the delivery of the Scheme, and the Scheme will provide suitable accommodation for both existing and new retailers and leisure operators/restaurants in the town.
- 7.10 The Scheme will encourage visitors to extend the length of their trips to the town centre, which will result in greater visitor enjoyment and an increase in visitor spend. Linked trips will be encouraged, through an improvement in the shops and leisure facilities that the Scheme will bring.
- 7.11 The Scheme will act as a catalyst and encourage further investment in the town centre from third party landowners and developers, which would be unlikely to occur in the absence of the extension of Touchwood.
- 7.12 The Scheme will generate business rates, and when the development is completed the Council (as freeholder of the land) will grant a new long lease to LLRP for the extended Touchwood. This will generate the income which will enable the Council House to be **refurbished and modernised so that the Council's offices will be updated, making them fit** for purpose and energy efficient. The Council House has not been updated since it was built in 1965 and a planning application has been made for the works. As such, the Scheme will provide the funding to bring forward the much-needed modern and flexible office space. This will increase efficiency and thereby allow the Council to undertake its functions more cost-effectively.

### **Social**

- 7.13 The employment and skills initiative to be delivered through the Scheme will help to increase skill levels of members of the local community who access the opportunities.
- 7.14 Solihull town centre currently provides few family-friendly leisure opportunities. The Scheme will redress this position.
- 7.15 The Scheme will allow for better integration of the civic functions within the town centre with the retail offer, by virtue of the completion of the retail link. By opening up Manor **Square to retail development, this will improve visibility of the Council's functions and services** as it is intended that the new Council contract centre will be relocated adjacent to the extended Touchwood.
- 7.16 The Scheme supports the relocation of existing third sector organisations in The Priory into a more visible, accessible location within the existing Solihull Central Library.

## **Environmental**

- 7.17 The Scheme will enhance the public realm and general environment of the eastern part of the High Street, through its design and through the use of high quality materials. Pedestrian connections will be improved and made more attractive to users.
- 7.18 The Scheme includes a new courtyard, which will create a new destination and attractive focal point and space for the town centre.
- 7.19 The Scheme will provide a new link across the High Street to Mell Square to create a new retail circuit, which will revitalise the eastern end of the High Street and this part of the town centre. It will also help to reduce congestion on the High Street.
- 7.20 The Scheme will help to open up views of, and improve the setting of, the listed St. Alphege Church, not least through the creation of the new courtyard space. It will also provide a much improved and stronger link from the retail area to the conservation area.
- 7.21 The Scheme will lead to a vastly improved environment and public realm around Manor Square and off Church Hill Road.
- 7.22 The Scheme will result in the removal of unsympathetic extensions and modifications to the listed buildings, so that their significance can be better appreciated. The remodelling of the interior of the buildings will also enhance the use of the buildings, which will help secure their long terms future.
- 7.23 The Scheme will comprise a modern and attractive space for retail and leisure users, safe for families to enjoy.
- 7.24 There will be an improvement to vehicular and pedestrian safety, including the creation of a drop off/pick up area on Homer Road.
- 7.25 The Scheme will help to increase the attractiveness of Solihull town centre, which will help reduce the need or desire for local residents to travel out of the Borough to other retail centres and developments, thus promoting more sustainable patterns of transport.
- 7.26 The Scheme will build on the success of Touchwood which was completed in 2001. It will provide a seamless extension to the east of the existing centre and a pedestrian link to the east end of the High Street. There is no alternative location within the existing town centre with the critical mass to enable a scheme of this size to come forward and provide the modern unit reconfiguration required by many national retailers.

## **8. DELIVERY AND FUNDING**

- 8.1 The existing Touchwood centre has been held within the LLRP fund since its conception. LLRP is operated by Lend Lease Real Estate Investments Limited, an operating entity of **Lend Lease Corporation Limited ("LLCL")**, the parent entity, which has over 55 years' experience as a leading international property company with operations in Australia, Asia, Europe and the Americas. LLCL is a recognised industry leader known for its ability to deliver high-quality projects across a broad range of sectors on time and within budget. Examples of similar projects include:
- 8.1.1 **Touchwood** – an award-winning 700,000 sqft retail and entertainment destination in Solihull, developed by LLRP and the Council opening in 2001. It became the blueprint for in-town development and the innovative design approach has meant that it is truly integrated into Solihull town centre. As it approaches its fifteenth anniversary, it remains a high quality, popular shopping destination which continues to attract retailer interest and an upmarket shopper profile at a time when LLRP and the Council are progressing the next phase of **Touchwood's** evolution to further cement the attractiveness of the centre.



- 8.1.2 **Bluewater, Kent** – opened in 1999, with a current area totalling 1.6 million sq.ft. that is anchored by three major department stores and includes over 300 of the best UK and international brands. It is one of the largest, highest grossing shopping centres in the UK. In recent years, Bluewater underwent an expansion to include a £40m events venue, comprising plaza space, VIP areas and event halls connecting to the South Mall. It opened on budget, on specification and on time in November 2011 and completes **Bluewater's** all-inclusive retail offer.
- 8.1.3 **Queensgate, Peterborough** – bought by Invesco Real Estate for £202 million in 2013 and managed by Lend Lease. Plans have recently been unveiled for a £30 million investment to the 33-year old centre, to create a 77,000 sq.ft. extension to include a multi-screen cinema, seven restaurants and a number of new retail stores.
- 8.1.4 **Elephant and Castle, London** – a £1.5bn residential-led development in the London Borough of Southwark. The project includes nearly 3,000 new homes and over 33,000 sq.m. of community, leisure, commercial and retail floor space. The first residential tenant took occupation in May 2015 and the place making and quality of the development has been extremely well-received by the occupiers and the wider community.
- 8.2 A Development Agreement and related CPO Indemnity Agreement were entered into by the Council and LLRP on 20 October 2014. The development timetable contemplates that works will commence on site in late 2016/early 2017, subject to site assembly, with the extension opening in mid-2018.
- 8.3 Even at this early stage, LLRP is satisfied that the pre-let condition will be satisfied before a start is made on site. This demonstrates that the Scheme will meet a need not currently catered for in Solihull town centre.
- 8.4 LLRP holds a strong financial position and is committed to progressing the Scheme. Funding is secured for each stage of the project. LLRP and LLCL are very experienced in successfully delivering such schemes, and are confident that the extended Touchwood will be a very successful development.
- 8.5 Accordingly, the Council is satisfied that there are no planning, financial or other impediments to the delivery of the Scheme.

## 9. **HUMAN RIGHTS CONSIDERATIONS**

- 9.1 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with rights protected by the European Convention on Human Rights ("**the Convention**").
- 9.2 The position is summarised in paragraph 12 of the Guidance, which states that a compulsory purchase order should only be made where there is a "**compelling case in the public interest**". The Guidance makes it clear that 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. In making this assessment, an acquiring authority should have regard, in particular, to the provisions of Article 1 of the First Protocol and Article 6 of the Convention.
- 9.3 Article 1 of the First Protocol states that
- "...Every natural or legal person is entitled to peaceful enjoyment of his possessions... no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law..."*
- 9.4 Whilst occupiers and owners in the Order Land will be deprived of their property if the Order is confirmed, this will be in accordance with the law (i.e. section 226 of the Act and the Acquisition of Land Act 1981). The Order is pursued in the public interest as required

by Article 1 of the First Protocol of the Convention. The public benefits associated with the Scheme are set out at Section 5 of this document. The Council considers that the Order strikes a fair balance between the public interest in the implementation of the Scheme and those private rights which will be affected by the Order.

9.5 Article 6 of the Convention provides that:

*"In determining his civil rights and obligations... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."*

9.6 The Scheme has been extensively publicised and consultation has taken place with the local community and interested parties. All those affected by the Order have been formally notified and have had the right to make representations and/or objections to the Secretary of State and will be heard at a public inquiry, subject to the usual procedure rules. This statutory process and associated right for those affected to pursue remedies in the High Court (where relevant) are compliant with Article 6.

9.7 The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that **"regard must be had to the fair balance that has to be struck between the competing interests of the individual and 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.

9.8 In pursuing the Order, the Council has carefully considered the balance between the effect of acquisition on individual rights and the wider public interest in the redevelopment of the Order Land. Interference with Convention rights is considered by the Council to be justified in this case in order to secure economic regeneration, together with the environmental and public benefits which the Scheme will bring.

9.9 The Council is satisfied that the redevelopment of the Order Land by the means of the Scheme will have a significant positive impact on the social, environmental and economic well-being of the local population as the redevelopment will revitalise Solihull town centre and provide much needed improvements to retail offer, leisure facilities and will contribute towards employment opportunities in the area both during and after construction. Compulsory purchase of third party land and interests within the Order Land is necessary to allow this comprehensive redevelopment to proceed and for these benefits to be delivered.

9.10 As such, the Council has concluded that the interference with the human rights of those parties with an interest in the Order Land is justified in the public interest and that the use of compulsory purchase powers to facilitate the delivery of the Scheme is proportionate. In the event that objections are made a public inquiry may be held and those whose interests are acquired under the Order, if confirmed, will be entitled to compensation as provided under national law.

## 10. **SPECIAL CONSIDERATIONS**

10.1 There is no open space or Crown Land within the Order Land.

10.2 Various statutory undertakers with interests and equipment in the Order Land have been identified by LLRP. Discussions are ongoing with a view to agreeing a satisfactory agreement with all affected undertakers.

## 11. **VIEWS OF GOVERNMENT DEPARTMENTS**

11.1 None expressed

## 12. **NEGOTIATIONS AND RELOCATIONS**

12.1 The Council has considered the advice contained in paragraph 16 of the Guidance which states that:

*"Undertaking negotiations in parallel with preparing and making a compulsory purchase order can help to build a good working relationship with those whose interests are affected by showing that the authority is willing to be open and to treat their concerns with respect. This includes statutory undertakers and similar bodies as well as private individuals and businesses. Such negotiations can then help to save time at the formal objection stage by minimising the fear that can arise from misunderstandings.*

*Talking to landowners will also assist the acquiring authority to understand more about the land it seeks to acquire and any physical or legal impediments to development that may exist. It may also help in identifying what measures can be taken to mitigate the effects of the scheme on landowners and neighbours, thereby reducing the cost of a scheme. Acquiring Authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted, save for lands where land ownership is unknown or in question."*

12.2 LLRP is progressing, or has attempted to progress, negotiations via its agent CBRE with all of the parties known to have land interests that are required for the Scheme, with a view to acquiring their interests by private treaty. Negotiations will continue throughout the compulsory purchase process, and LLRP will work actively to achieve continuity of trade for affected retailers and businesses where this is reasonably practicable.

12.3 Statutory undertakers have apparatus in the vicinity of the Order Land. LLRP is aware of the locations of such kit and is in discussions with the undertakers regarding the relocation or maintenance of the services in the area.

**13. RIGHTS, EASEMENTS ETC**

13.1 It is intended that a General Vesting Declaration (GVD) or General Vesting Declarations will be made by the Council in respect of the Order Land in the event that the Order is confirmed by the Secretary of State. Compensation will be paid to those whose interests are acquired. Mortgages and rent charges are to be dealt with in accordance with the relevant provisions of the Compulsory Purchase Act 1965.

13.2 The oversailing rights to be acquired relate to the swing of a crane jib during the construction of the development. The temporary access rights to be acquired relate to access during construction. Rights are required over a number of properties as follows:

<b>Occupier Name</b>	<b>Property Address</b>
Centrick Property Sales (Solihull) Limited	158 High Street and 2 The Square
Citiforce Investments Inc of Arias Fabrega & Gabrega Trust Co BVI Limited	4-6 The Square
Christine Rogers and Stuart Brown trading as A-King Feet Solihull Chiropody and Specialist Shoe Shop	3 Manor Walk
Pearcelegal Limited	Part of 158 High Street and Suite 2 & 4-6 The Square
The Manor House Charity	126 High Street

Wesleyan Assurance Society	158 High Street and 2 The Square
Bartleys Estate Agents Limited	2 Manor Walk
The Fat Sandwich Company Limited	4 Manor Walk
Solihull School	2-4 Manor Walk and 130-134 High Street
Cancer Research UK	130 High Street
Café Rouge	134 High Street

13.3 It is proposed that existing third party rights, including easements and covenants, affecting the land on which the Scheme will be built will be overridden under section 237 of the Act. This section enables development in accordance with a planning permission to take place on land which has been acquired or appropriated by a local authority for planning purposes, notwithstanding that such development would involve an interference with an interest or right, or a breach of a restrictive covenant. Where land is not already held for planning purposes, the Council will seek authority to appropriate that land for planning purposes so that section 237 will apply. Parties whose rights or interests are over-ridden under section 237 are entitled to compensation.

#### 14. **STOPPING UP ORDER**

14.1 A highway stopping up order will be required to facilitate the delivery of the Scheme. LLRP have made an application to the Secretary of State for Transport pursuant to section 247 of the Town and Country Planning Act to stop up any public highway rights that might exist over certain roads and paths at Manor Square and Manor Walk.

14.2 None of the roads and footpaths to be included in the stopping up application are adopted public highway: **they are referred to in the Council's highways records as "private land to be treated as public highways"**. Whilst the Council is of the opinion that these roads and footpaths do not constitute public highway, it needs to safeguard against the risk that other people may disagree and that delivery of the scheme may be hindered as a result. The application under section 247 has been made to ensure that in the unlikely event that any party asserts that highway rights exist, they will be extinguished and will not constitute a potential impediment to the delivery of the Scheme.

14.3 If objections are received, it is intended that these will be conjoined with the inquiry into the Order.

#### 15. **OBJECTIONS TO THE COMPULSORY PURCHASE ORDER**

15.1 The objection period ended on 24 December 2015. The following objections have been received in respect of the Order:

15.1.1 19 statutory objections, including one objection from a statutory undertaker;  
and

15.1.2 20 non-statutory objections.

15.2 Details of each of the objectors, and their grounds for objection, are set out in the table in **the Appendix, together with the Council's outline responses to those grounds.**

15.3 There are a number of recurring themes of objection, which, to avoid repetition, are **summarised below together with the Council's responses.**

**Issue 1: criticism of the Scheme design, including the impact on listed buildings and the conservation area**

- 15.4 The proposals have been informed throughout by LLRP's professional design team. The design of the development has been informed by Policy P2 (see paragraph 6.12 above). The policy requires a seamless extension to the existing centre with a network of new streets and spaces to the High Street with active ground floor uses. Furthermore, it requires the positioning of new pedestrian linkages to be carefully selected to avoid the loss or adverse impact on listed buildings and the character of the conservation area. The policy acknowledges that there will be demolition to the High Street frontages and that this should be done in such a way so as to maximise the link to Drury Lane.
- 15.5 LLRP have given consideration to the feedback from Council officers, public consultation events, Historic England and the Town Centre Advisory Group. Amendments to the Scheme have been made to reflect some of that feedback. Planning permission and listed building consent have been granted for the Scheme following a rigorous consideration of the applications by the Council's officers and planning committee.
- 15.6 All properties are required for the Scheme in order to construct the development and to deliver the necessary pedestrian links and active frontage which are required as part of a successful shopping centre. The proposals are in accordance with the Council's Planning Policy for Solihull Town Centre and there is no alternative proposal that would deliver the necessary additional retail capacity in Solihull and there is no other location suitable in the town centre for the development.
- 15.7 Further work is required to enable the remaining property at 158 High Street to be occupied independently. There are many options available to reconfigure access within the unit, which will require detailed discussions with the tenant and landlord. A further listed building application will be made shortly once detailed design has been settled.
- 15.8 The Scheme has undergone a rigorous design process to ensure that the existing built and historic environment is respected. Whilst there will be a change to the existing environment, this will result in an improvement as unsympathetic extensions are removed and the rear areas of properties are brought back into active use.

**Issue 2: Disruption to existing businesses, both during and after construction**

- 15.9 The Scheme will fulfil part of the Council's strategic aim for the wider town centre, which includes the regeneration of Mell Square. The current owner of Mell Square is advancing remodelling proposals in accordance with the Council's Local Development Framework. The owner of Mell Square did not object to either the planning application or the CPO for the Scheme. The Scheme will act as a catalyst for further investment in Mell Square and the wider town centre. The Council is confident that the Scheme will attract new retailers not currently based in Solihull.
- 15.10 Condition 25 of the planning permission requires LLRP to submit a detailed construction/phasing plan to the Council for approval prior to the commencement of development.
- 15.11 A range of different sized units will be available in the Scheme and there are a number of relocation properties available in the town centre for those whose property will be acquired as part of the Scheme.
- 15.12 For those properties remaining, footfall will increase and the Scheme has been carefully designed to ensure that these properties will continue to receive adequate levels of daylight and sunlight.
- 15.13 LLRP are working with existing businesses to ensure that access to their properties will be maintained both during and after construction.
- 15.14 A number of objections are based on traffic disruption, including car parking issues. The Scheme will generate minimal additional trips which can be accommodated within the

spare capacity in other town centre car parks and so the Council has not required additional car parking to be provided. The Section 106 Agreement requires LLRP to work with the Council and other stakeholders to agree and implement a car parking strategy to ensure that the use of existing car parks in the town centre is better balanced.

- 15.15 Whilst some units will lose car parking as a result of the Scheme, the Council and LLRP are in discussions to offer, where possible, alternative parking provision in close proximity to the Order Land. The Council and LLRP are also in discussions regarding the feasibility of introducing a limited waiting/unloading bay at the junction of High Street/ New Road/ The Square.
- 15.16 Detailed discussions are well underway with the one statutory undertaker, Western Power Distribution (West Midlands) PLC. A new substation will be provided as part of the Scheme and it is intended that an agreement will be reached to enable the statutory objector to withdraw its objection.

### ***Issue 3: No justification for the Scheme***

- 15.17 It has been a long-held ambition of the Council to extend the existing Touchwood centre **to keep pace with market demand and maintain the town centre's position in the local hierarchy of shopping destinations.** The Scheme will help to strengthen the retail and leisure functions and viability of the town centre in accordance with planning policy. LLRP has secured a number of pre-lets for the development. Mell Square is being remodelled **by the existing owners in accordance with the Council's Local Development Framework.**
- 15.18 The Council has concluded that the interference with the human rights of those with an interest in the Order Land is justified in the public interest and that the use of compulsory purchase powers to facilitate the delivery of the Scheme is proportionate.

### ***Negotiations***

- 15.19 Negotiations have been taking place with all those affected by the Scheme. Whilst it is not a requirement to assist affected parties find relocation premises, the Council and LLRP have continued to review vacant town centre properties that may be suitable to assist negotiations.
- 15.20 LLRP have met recently with Zara UK Limited to share an updated package of information regarding the proposals as they affect Unit 11 (plot 1).

### ***Compensation***

- 15.21 Offers are being made in accordance with the Compensation Code. Where negotiations to acquire an interest by negotiation prove to be unsuccessful, and compensation cannot be agreed, either party may refer the matter to the Upper Tribunal (Lands Chamber) for the compensation to be determined.
- 15.22 Some affected parties have requested that LLRP acquire the whole of their interest, where only part is included in the Order. The Council disagree that the remaining parts of the properties affected cannot be used in a viable manner.

## **16. CONCLUSIONS**

- 16.1 The Scheme offers a significant opportunity to secure investment into the town centre and secure its long term vitality. Subject to securing site assembly, the Council and LLRP are in a position to proceed with the comprehensive redevelopment proposals. Planning permission and listed building consent have been granted and funding is available to deliver the Scheme.
- 16.2 The Order is required to secure the acquisition of all land and interests within the Order Land so as to ensure that the desired regeneration is achieved. Piecemeal development of the Order Land will not deliver the full range of public benefits for the area that are

sought by the Council and as a result the ability to make the maximum regenerative impact upon the surrounding area would be frustrated.

16.3 The Council therefore considers that compulsory acquisition is necessary, justified and proportionate, and that there is a compelling case in the public interest for the Order to be made.

17. **COMPULSORY PURCHASE BY NON-MINISTERIAL ACQUIRING AUTHORITIES RULES 1990**

17.1 This Statement of Case is a statement under Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007. The Acquiring Authority reserves the right to alter or expand it as necessary.

18. **CONTACTS**

18.1 Owners and occupiers of properties affected by the Order who wish to progress discussions for the acquisition of their interest should contact James Franklin at CBRE on 020 7182 2658.

18.2 Anyone wishing to discuss matters with the Council regarding its promotion of this Order, or any affected person wanting clarification on the procedures for the Order and any specific legal queries should contact Andrew Kinsey on 0121 704 6146.

19. **LIST OF DOCUMENTS**

19.1 In the event of a public inquiry or written representation procedure, the Council intends to refer to or put into evidence the following documents, plans and maps:

The Metropolitan Borough of Solihull (Touchwood Extension, Solihull) Compulsory Purchase Order 2015 and Plan;	
Guidance on compulsory purchase process and the Criche Down Riles for the disposal of surplus land acquired by, or under the threat of, compulsion	October 2015
The National Planning Policy Framework	27 March 2012
The Solihull Local Plan	3 December 2013
The Touchwood Solihull Masterplan prepared by Eric R Khune & Associates	26 May 2000
Touchwood Impact Summary prepared by CACI	2015
Section 106 Agreement between: (1) The Metropolitan Borough of Solihull; (2) Lend Lease Retail Partnership Acting By Lend Lease and Real Estate Investments Limited	9 December 2015
Detailed Planning Permission (reference PL/2015/51464/MAJFOT) for the demolition of unlisted buildings and constructions of and extension to Touchwood, the remodelling of retained listed buildings; and the creation of pedestrian route from High Street and associated development on land bounded by Touchwood, High Street, at Church Hill Road, The Square and Church Hill House and associated planning application documents.	9 December 2015

Listed Building Consent (136 – 144 High Street Solihull B91 3SX) (reference PL/2015/51465/LBC) for demolition of two storey rear nightclub extension and toilet block and associated internal and external works to facilitate the interface of the Touchwood extension and fabric.	10 December 2015
Listed Building Consent (Warwick Court 6 the Square, Solihull B91 3RB) (reference PL/2015/51466/LBC) for the demolition of rear extension, construction of new plant room extension and associated internal and external works to facilitate the interface of the Touchwood extension structure and fabric.	10 December 2015
Listed Building Consent (158 High Street, Solihull B91 3SX) (reference PL/2015/51467) for the demolition of two storey infill extension, construction of new fire escape link to rear elevation and associated internal and external works to facilitate the interface of the Touchwood extension and fabric	15 December 2015

19.2 The Council may also refer to other documents in order to address any objections made to the Order.

### **Appendix**

#### **Schedule of objections received to the compulsory purchase order**