

THE NEWPORT CITY COUNCIL
(126 COMMERCIAL STREET)
COMPULSORY PURCHASE ORDER 2016

STATEMENT OF REASONS

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1. Introduction

On 15th July 2016 Newport City Council made the Newport City Council (126 Commercial Street) Compulsory Purchase Order 2016. The Order was made pursuant to the Council's resolution of 6th June 2016.

2. Background

The Order Land is situated in Newport City Centre and contains a three-storey building with a public house ("the Hornblower") on the ground floor. The two upper floors have been damaged by fire. The Council has resolved to grant planning consent for the redevelopment of the two upper floors into two flats subject to the applicant completing an agreement with the Council under section 106 of the Town and Country Planning Act 1990.

3. Power of compulsory purchase

The Council is empowered to acquire land compulsorily under section 226 of the Town and Country Planning Act 1990.

4. Council's purpose in acquiring the Order Land

- 4.1 The Council recognises that a compulsory purchase order can only be made if there is a compelling case in the public interest which justifies the overriding of private rights in the land to be acquired. It is considered that a compelling case exists here.
- 4.2 The Council seeks to acquire the Order Land compulsorily pursuant to section 226(a) of the Town and Country Planning Act 1990 in order to facilitate the carrying out of redevelopment or improvement of land at 123-129 Commercial Street, Newport. The City Council has been undertaking a comprehensive redevelopment of areas of the City as part of the Vibrant and Viable Places scheme in partnership with Welsh Government. The scheme is entitled

“Connecting Commercial Street” and has seen the reuse of other buildings in the locality such as 62-66 Cardiff Road and Griffin Island as well as the refurbishment of existing smaller commercial units on Cardiff Road with conversion of space above into residential units. Future schemes see the redevelopment of vacant shops, reuse of historic buildings and improvements to the street scene and legibility of the area.

- 4.3 Part of the redevelopment proposals includes the section of current properties from 123-129 Commercial Street. This section of the main street incorporates vacant retail units, with a mixture of former office space, and storage space above, a former public house, and the entrance to the Council owned car park at Park Square.
- 4.4 Most of the buildings have been empty for some considerable time and have attracted significant anti-social behaviour and arson, as well as falling into serious disrepair and decline. The City Council have had to step in and take enforcement action with regard to 123 Commercial Street in view of the property being a danger to the public.
- 4.5 The entrance to the car park is restricted, due to the limited land ownership of the City Council, it is an unpleasant area which often attracts anti-social behaviour and discourages local shoppers from using the facility.
- 4.6 The plans propose a mixed use development of the area, to include a significantly improved access to the Park Square car park, the development of 30 affordable apartments in a sustainable city centre location, and the provision of a small retail unit. Planning permission has not yet been obtained for the development but the plans are being progressed and it is envisaged that the application will be submitted in the very near future. The proposals are in substantial compliance with the Local Development Plan policies and support the strategic objective of the sustainable reuse of land, positive urban regeneration, provision of housing to meet a high affordable need and location of retail uses in the City Centre.
- 4.7 The Seren Group has acquired all of the properties identified on the attached plan, including the former City Council property at 124 Commercial Street, except for 126 Commercial Street. Without this property the development cannot go ahead and the wider public benefits arising from the regeneration of the area will not be achieved.

- 4.8 Before exercising its powers under section 226(1)(a) of the 1990 Act, the City Council must be satisfied that the inevitable interference with property and other rights, including rights that are protected under the European Convention on Human Rights, which will result from the proposed exercise of powers of compulsory acquisition, is outweighed by the public benefits which will be derived from the development. It is considered that the benefits significantly outweigh the interference with others' rights in this case and that, therefore, there is a compelling case in the public interest for confirming the Order.
- 4.9 Negotiations have been commenced with the owner of the property which have not been successful in agreeing the sale so far. It is possible that the owner would object to a compulsory purchase order and this would affect timescales. However, due to the strict timetables involved in the VVP project, it is proposed to begin compulsory purchase procedures and continue negotiations at the same time.
- 4.10 On confirmation of the Order the Council would make a general vesting declaration in order to secure unencumbered title to the Order Land. In order to secure implementation of the scheme, the Council has agreed to work in partnership with Charter Housing Association and has entered into an agreement for transfer and development of the Order Land once acquired.

5. Council's justification for compulsory purchase

The Council has held a long-standing aspiration to regenerate and redevelop the city centre of Newport. The city centre has seen new development take place recently at Friar's Walk and the Council wishes to continue the programme and extend the improvement work to other areas of the centre. The Council believes it is appropriate to use the compulsory purchase power in section 226(1)(a) of the Town and Country Planning Act 1990 in order to acquire land which is suitable for and required to secure the carrying out of development, redevelopment or improvement which will transform this site at 123-129 Commercial Street and which will improve the physical environment and the economic and social wellbeing of local residents and business owners.

6. The proposed development

6.1 The planning application has not yet been submitted but will be imminently. It will consist of a development of 30 affordable apartments aimed at the over 55 age group. Areas of amenity space and a community lounge will be provided for residents. Over-55s accommodation is in short supply in Newport and the waiting list is significant. There are currently 110 applications on the housing waiting list from people over the age of 55 who are specifically looking for 2 bed room accommodation in Stow Hill i.e. couples or an adult with dependent. Of these applications 46 applicants have a mobility issue and require access via a lift to the property and a level location with easy access to facilities. There are a further 209 applications from single people over the age of 55 also requiring accommodation in this area, who may also wish to express an interest in a two bed room property. This proposed provision in such a central location close to all the local facilities would be of considerable benefit to those relying on social housing in Newport.

6.2 Economic benefits will include the employment of local workers since the developer will be employing up to 50 workers on the site during every week of the contract. There will also be a gain to the public purse arising from the Council and the Police not having to deal with anti-social behaviour and dangerous buildings on the land, and there would be an associated removal of danger to the public pursuant to the demolition of the derelict buildings.

6.3 The Seren Group (of which Charter forms part) has acquired all of the properties identified on the attached plan except for 126 Commercial Street. Without the Order Land the development cannot go ahead and the wider public benefits arising from the regeneration of the area will not be achieved.

7 The Planning position

The proposals are in compliance with National and Local Policies.

7.1 National Planning Policy

7.1.1 The Wales Spatial Plan (WSP) produced by the Welsh Government sets a

strategic framework to guide future development and policy interventions. It integrates the spatial aspects of national strategies for social inclusion and economic development, health, transport and environment, translating the Welsh Government's sustainable development duty into practice. The Wales Spatial Plan should be taken into account in the preparation of development plans and regard should be paid to the WSP when making planning decisions.

7.1.2 Planning Policy Wales (PPW) is the document which sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes. The current version of PPW is Edition 8, January 2016. PPW must be taken into account in the preparation of LDPs and is a material consideration in planning decisions. PPW states that the planning system manages the development and use of land in the public interest, contributing to the achievement of sustainable development. It should reconcile the needs of development and conservation, securing economy, efficiency and amenity in the use of land, and protecting natural resources and the historic environment. A well-functioning planning system is fundamental for sustainable development.

7.1.3 PPW is clear that national policy encourages the redevelopment of previously developed sites for housing development. The reason for this is that such schemes can assist regeneration and at the same time relieve pressure for development on greenfield sites. PPW notes that an effective way to achieve regeneration is to foster integrated communities within the existing settlement pattern by promoting mixed use development, comprising appropriate combinations of housing (including affordable housing), employment, retailing, education, leisure and recreation uses and open space. National policy is also clear that such developments do not damage an area's character and amenity and so the importance of good design cannot be overstated to overcome adverse effects. In addition, and particularly relevant to this scheme is the delivery of affordable housing to meet the community's need is a key consideration. Affordable housing is noted to make an essential contribution to community regeneration and social inclusion. It is desirable in planning terms that new housing development incorporates a reasonable mix and balance of house types and sizes so as to cater for a range of housing needs and contribute to the development of sustainable communities.

7.1.4 Technical Advice Note 2: Planning and Affordable Housing 2006 (TAN2). Land use planning is one of the mechanisms that can be used

to provide affordable housing. The definition of 'affordable housing' for the purpose of the land use planning system as described in this Technical Advice Note is housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers. An effective way of achieving control over occupancy is to involve a registered social landlord (RSL). An RSL's continuing interest in the property will ensure control over subsequent changes of ownership and occupation.

7.2 Local Planning Policies

7.2.1 The Newport Local Development Plan (2011-2026) was adopted in January 2015 and will guide development within Newport up to 2026. The LDP has a sustainable development strategy with a focus on regeneration, building on the culture and heritage of the City, seeking to maximise the use of previously developed brownfield land. The LDP sets out its housing requirement which includes an affordable housing target of 2,061 units. Housing sites have been designated in areas which accord with the LDP strategy with affordable housing provision being sought from all new residential developments. The LDP goes further to allow affordable housing exception sites in order to meet its high affordable housing requirement.

7.2.2 In addition to encouraging the creation of affordable housing the LDP also favours proposals which assist the regeneration of the urban area particularly in the city centre, where proposals are for residential and business opportunities which make use of vacant, underused or derelict land. Taking such opportunities means that existing facilities can be used in accessible locations helping create truly sustainable communities.

7.2.3 Relevant policies include:

Strategic Policies:

- SP1 – Sustainability, Proposals to be located in sustainable locations using sustainable methods of construction and use in brownfield land collocating housing and employment to reduce travel.

- SP9 – Conservation of the Natural, Historic and Built Environment, to conserve and enhance recognised sites and their settings of historic and built value.
- SP10 – House Building Requirement, a housing requirement of 10,350 which includes an affordable housing requirement of 2,061.
- SP18 – Urban Regeneration, favours proposals which assist in regeneration of the urban area, particularly where they contribute to the vitality, viability and quality of the environment of the city centre.
- SP19 – Assessment of Retail Need, centring retail and associated uses in the retail hierarchy of which the city centre is at the top.

General Development Principles:

These general principles apply to all development within Newport. They seek to manage the impact of development over aspects such as the suitability of the proposed development in the context of its neighbours, the accessibility of the site, parking availability and quality of design.

Detailed Topical Policies

- Policy CE7 – Conservation Areas, development adjacent to conservation areas must preserve or enhance the character of the area, complement the architectural qualities of nearby buildings and avoid adverse impact on significant views into them.
- Policy H3 – Housing Mix and Density, residential developments should be designed to provide a mix of housing and built at a density of at least 30 dwellings per hectare.
- Policy H4 – Affordable Housing, On-site provision of affordable housing for urban sites of more than 10 units, the threshold for this area is 30% in the Newport West Submarket area.
- Policy T4 – Parking, developments required to provide adequate parking provision. In the city centre where there is a high level of accessibility by public transport there are limited requirements for development due to its sustainable location.

7.3 Summary

- 7.3.1 In summary the proposed development at 123-129 Commercial Street, Newport will provide a housing supply which shall go towards meeting the high affordable housing need within Newport. It will create a high density mixed use scheme in a sustainable location, which clearly links with all levels of planning policy.

8. Implementation

The Council entered an agreement on 7th June 2016 with Charter Housing Association Limited under which the Housing Association agree to indemnify the Council for the compensation payable for the Order Land under the compulsory purchase. They also agree to carry out the demolition and redevelopment of the order land to the reasonable satisfaction of the Council.

The funding for the development is assured under the Vibrant and Viable Places Scheme operated by the Welsh Government and the Council.

9 Human rights considerations

In deciding to make the compulsory purchase order the Council needed to take the following matters into account:

- i) *Whether compulsory purchase will facilitate the carrying out of the development and whether there are any other means to achieve this*

This development is part of the Vibrant and Viable Places Scheme and funding is in place to secure its construction. However, as there are time constraints, the delivery of the development is dependent on ownership of the land being secured in a reasonable timescale. If the CPO is confirmed, the land will be transferred to the Council's development partner Seren immediately so that the scheme can press ahead. Negotiations with the owner have been difficult to get off the ground and have not resulted in the parties reaching terms and this currently jeopardises the development. Compulsory acquisition of the site will therefore clearly facilitate the carrying out of the development.

Officers would intend to continue negotiations alongside the formal CPO procedures so as to secure the purchase in a more certain timescale than if negotiation is left to its own timetable.

- ii) *Whether interference with property rights is necessary in order to allow the development to be carried out and, in particular, whether agreement can be reached for the release of those rights and on what terms; and*
- iii) *Whether the benefits of the development could be achieved without giving rise to all or some of the interference;*

It is clear that it would not be possible to carry out the development without the acquisition of 126 Commercial Street. The development requires demolition of all the buildings 123-129 Commercial Street and therefore the acquisition of all the properties. 126 Commercial Street is in a central position and so interference with the owner's property rights is essential in order to facilitate the carrying out of the development. It is not possible to redesign the development to avoid the interference.

The owner does not live at the property and it appears to be an investment for her. There would be interference with the rights of the occupier of the ground floor but it is likely that the rights of both owner and occupier could be compensated for financially.

- (iv) *whether the development will contribute to one or more of the objects of promoting or improving the economic, social or environmental well-being of the area;*

The development will promote and improve the environmental and social well-being of the area through the productive use of a derelict site and an enhanced street scene. Benefits will include the removal of an unsafe site which attracts anti-social behaviour and its replacement with much-needed, convenient accommodation for over 55s which will retain aspects of the Victorian heritage of the area. There will also be jobs created in the construction phase.

- (v) *Whether the public benefits arising from the CPO are proportionate to the interference with private rights and in particular to any interference with rights guaranteed by the European Convention on Human Rights?*

Article 1 of the First Protocol of the ECHR provides that every natural or legal person is entitled to peaceful enjoyment of their possessions. Acquisition of interests in land through compulsory purchase necessarily involves interference with a person's rights under this Article.

The right to peaceful enjoyment of possessions is a qualified right. Article 1 permits the deprivation of an individual's possessions where it is in the public interest and subject to conditions provided for by law. Therefore there is a balancing exercise to be undertaken between the public and a person's rights, so that interference must be necessary and proportionate. In the present case it is considered that the public interest in facilitating the development so that it can benefit the public in ways which are supported by the relevant planning and other policies amounts to a proportionate interference in all the circumstances. The availability of statutory compensation to those deprived of their possessions is also of relevance to the issue of proportionality. Subsequent to the confirmation of the CPO, compensation would be payable to the owners of affected interests.

10 Inspection of Documents

10.1 Copies of the Order, Order Map and this Statement of Reasons can be inspected at all reasonable hours at Central Library, John Frost Square, Newport NP20 1PA and at the Civic Centre, Godfrey Road, Newport NP20 and on the Council's website www.newport.gov.uk.

11 Additional information

Supporting documents

11.1 In the event of a public local inquiry the Council intends to refer to or put in evidence the documents listed in Appendix 1 to this document. This list is not intended to be exhaustive and, if a public inquiry is held, the Council may refer to or put in evidence further documents, a list of which will be supplied in due course.

11.2 Owners and tenants of the property who require information about the CPO process can contact Mrs Joanne Evans of Newport City Council on 01633 656656 or at joanne.evans@newport.gov.uk.

Newport City Council

15th July 2016

APPENDIX 1

LIST OF DOCUMENTS

1. Location plan
2. Report to Cabinet dated June 2016
3. Cabinet decision of 6th June 2016 (published 8th June 2016)
4. Circular 14/2004
5. Wales Spatial Plan
6. Planning Policy Wales
7. Technical Advice Note 2
8. The Newport Local Development Plan (2011-2026)
9. Illustrative plans of the proposed development (“Design option 1”)