

**Town and Country Planning Act 1990**

**Acquisition of Land Act 1981**

**Inquiry into:**

**St Helens Borough Council (St Helens Town Centre) Compulsory Purchase  
Order 2022**

**Proof of Evidence**

**of**

**Ged Massie BSc (Hons) MRICS IRRV MCI Arb**

**Acquisition Surveyor**

**Keppie Massie**

**17 July 2023**

Specialist Field: Acquisition Surveyor

On behalf of: St Helens Borough Council

Subject Matter: The acquisition of the various land and property interests within the  
Order Land

Keppie Massie

Alabama House, 6 Rumford Place, Liverpool L3 9BY

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## SECTION 1 - INTRODUCTION

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- 1.1 I, Ged Massie, am a Director in the firm of Keppie Massie, Chartered Surveyors and Property Consultants, of Alabama House, 6 Rumford Place, Liverpool L3 9BY.
- 1.2 Keppie Massie is an established practice of Chartered Surveyors and Property Consultants. The Practice specialises in regeneration and deals with all major aspects of commercial property consultancy including valuation, landlord and tenant advice, regeneration, national and local taxation, insolvency advice, acquisition, disposal, agency, development, investment, strategic land assembly, compulsory purchase and investment and development funding.
- 1.3 I am a Member of the Royal Institution of Chartered Surveyors and the Chartered Institute of Arbitrators, an Associate of The Institute of Revenues, Rating and Valuation and I hold a Bachelor of Science degree in Urban Estate Management.
- 1.4 I was initially employed as a valuer in the Valuation Office of the Inland Revenue based in Warrington from 1985. Subsequently I have been employed in the private sector commercial consultancies of Edmund Kirby (Liverpool), Joshua Bury Earle (Manchester), Richard Ellis (Manchester and Liverpool). Therefore, I have over 35 years of specialist and relevant experience in relation to the acquisition and valuation of property, particularly for compulsory purchase purposes.
- 1.5 In the past I have been similarly retained in relation to the following compulsory acquisitions:
- Queens Bedford Regeneration Area, Bootle – Sefton Metropolitan Borough Council
  - Klondyke Regeneration Area, Bootle – Sefton Metropolitan Borough Council
  - Edge Lane West, Liverpool – Homes England
  - Kingsway Business Park, Rochdale – Northwest Development Agency
  - North Manchester Business Park – Northwest Development Agency
  - Shambles Square, Manchester - Northwest Development Agency
  - Lower Beswick Regeneration Area, Manchester – Manchester City Council
  - Luneside East, Lancaster – Lancaster City Council
  - Paradise Street Development Area, Liverpool – Liverpool City Council
  - Gilead Street, Liverpool – Liverpool City Council
  - Toxteth Street Regeneration Area, Manchester – Manchester City Council
  - Openshaw District Centre, Manchester – Manchester City Council
  - Speke District Centre, Liverpool – Liverpool City Council
  - Lime Street Gateway, Liverpool – Homes England
  - Salford Central – Salford City Council

- 1.6 I am appointed by St Helens Council (the "Council") to deal with the assembly of the land required for the proposed town centre development scheme (the "Scheme") and to negotiate the acquisition of the land and interests required. I set out the details of my involvement later in my Proof of Evidence.

## **SECTION 2 – PURPOSE AND CONTENTS OF THIS STATEMENT**

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- 2.1 My instructions are to seek to acquire the land and interests required for the Scheme by private negotiation, in a manner which is consistent with the statutory code and relevant guidance and in particular the Department for Levelling Up, Housing and Communities, Guidance on Compulsory Purchase and The Crichel Down Rules (2019) (the "Guidance").
- 2.2 A copy of The St Helens Borough Council (St Helens Town Centre) Compulsory Purchase Order 2022 (the "Order") is provided at CD D1. At CD D2 there is a plan showing area of the Order shaded pink and represents the land required for the development of the Scheme and I refer to this land as the "Order Land".
- 2.3 In my Proof of Evidence, I deal with the following matters:
- Section 1 - Sets out my qualifications and experience
- Section 2 - Contains the scope of this Proof of Evidence
- Section 3 - Sets out an area based description of the Order Land
- Section 4 – Details the Order Land on a plot-by-plot basis and explains the current status of my negotiations with the relevant parties
- Section 5 – Responds to the points raised by the Objectors in so far as these relate to land assembly matters
- Section 6 - Contains my conclusions
- Section 7 – Declaration
- 2.4 My evidence details the property interests within the Order Land, explains the attempts that have been made by the Council to assemble these interests by way of private treaty acquisition and having made those attempts the consequent need for compulsory purchase powers to secure the land required for the Scheme.

## SECTION 3 – DESCRIPTION OF ORDER LAND

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- 3.1 The Order Land is shown on the plan that accompanies the Order (and provided at CD D2). This comprises all of the land that is required for the development of the Scheme.
- 3.2 Details of the interests to be acquired are set out in the schedule to the Order (CD D1).
- 3.3 The Order Land extends over an area bounded to the north by Corporation Street, to the east by Hall Street and to the south by Church Street. To the west the boundary is made up of Library Street, the rear of Century House and the rears of properties to Hardshaw Street and Church Street.
- 3.4 The majority of the Order Land comprises a purpose built 1980s shopping centre called the Hardshaw Centre. The Hardshaw Centre is largely single storey but incorporates a roof top car park. Internally there are a series of pedestrian malls linking between pedestrian entrances on Church Street and Bickerstaffe Street. Internally retail units are arranged fronting the internal malls. The majority of the retail units are currently vacant and the Hardshaw Centre is owned by the Council.
- 3.5 In addition to the Hardshaw Centre to the Church Street frontage there are 2 large vacant former department stores (Woolworths and Marks and Spencer). The former Woolworths unit is known as 57-69 Church Street and is owned by Cosey Homes Ltd (Plot 49 on the plan at CD D2), whilst the former Marks and Spencer unit is known as 51-55 Church Street and is owned by the Council (Plots 47 and 48 on the plan at CD D2).
- 3.6 The northern part of the Order Land comprises the existing bus station, the Swan Public House, a vacant former fast food take-away, a block of 5 shops (some double units) of which 4 are vacant and 1 is occupied by a pharmacy, and a detached building occupied by a welfare charity. These properties are in various ownerships, although the majority are now owned by the Council (Plots 4 to 13 on the plan at CD D2).

## SECTION 4 – ACQUISITION PROGRESS

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- 4.1 The Schedule to the Order (CD D1) identifies those persons with an interest in the Order Land. The Council has sought to and continues to attempt to engage constructively in meaningful discussions with all known owners and occupiers of the Order Land with a view to acquiring the land needed by agreement, if at all possible, in accordance with the Guidance.
- 4.2 Substantive engagement with the majority of owners and occupiers in relation to acquisitions commenced in the summer of 2022 and has continued in parallel with promotion of the Order.
- 4.3 Land referencing activities took place in late summer and autumn 2022 and continued throughout the preparation of the Order to its making on 9 December 2022.
- 4.4 Following its acquisition of the Hardshaw Centre, the Council appointed Global Mutual to undertake negotiations with the retail tenants with the view to securing vacant possession of the Centre.
- 4.5 The Council also progressed with acquisitions in relation to properties around the Hardshaw Centre. The Council acquired the former Marks & Spencer premises. Discussions were commenced initially directly by the Council with the owner of the former Woolworths store, but the Council then appointed Keppie Massie to progress negotiations.
- 4.6 Keppie Massie was also appointed to undertake negotiations with the owners and occupiers of the land needed for the new improved and expanded bus station. Acquisitions have been agreed in relation to a number of properties and discussions are continuing in relation to those other interests where owners have been willing to engage.
- 4.7 The following paragraphs explain progress to date in relation to acquisitions of third party interests.

### **Interests around the Bus Station**

- 4.8 This area comprises the land bounded by Corporation Street, Library Street, Bickerstaffe Street and Hall Street and principally includes third party interests in 60 to 74 Bickerstaffe Street, 41 Corporation Street, the Swan Public House (41 Hall Street) and 39 Hall Street, together with an occupational newsagent concession within the existing bus station. The land is identified on the plan at CD D2 as Plots 4 to 13.

60 Bickerstaffe Street (Bestway Panacea Healthcare) – Plot 9

- 4.9 The property is owned by Bestway Panacea Healthcare (“Bestway”) and trades as Well Pharmacy.
- 4.10 Attempts were made to contact Bestway from summer 2022, but Bestway did not respond despite repeated attempts to make contact. However, contact was established in February 2023 and discussions commenced. Negotiations are now progressing in relation to acquisition.
- 4.11 Bestway is currently investigating the need for continued pharmacy provision in the area and will make a decision regarding relocation following the outcome of that investigation.
- 4.12 In the event that Bestway identifies that there is a need for provision of a pharmacy in the immediate area then it is considered that there are likely to be suitable alternative premises available, although the details of the requirement will depend on the nature of pharmacy re-provision that is required. Alternatively a new unit could be provided in the development Scheme if required, although again consideration of this will depend on the particular requirements identified by Bestway.

62 (Jordan), 64/66 (Speakman), 68 (Fozard) and 70/74 (PGI Properties) Bickerstaffe Street – Plots 9 to13 (inclusive)

- 4.13 These properties comprise vacant former shops and offices, some of which have not been occupied for a considerable period of time.
- 4.14 Contact was made with the individual owners and negotiations commenced.
- 4.15 Terms have been agreed in relation to acquisitions of all of these interests and the purchases have been completed by the Council.
- 4.16 In addition, in relation to 60 to 74 Bickerstaffe Street (but excluding 64/66 Bickerstaffe Street), there is a reversionary freehold interest. Attempts have been made to contact the freeholder reversioner (House of Names), but no response has been received. Continued attempts will be made to make contact but the Council cannot compel that party to engage.

41 Corporation Street (Green Pastures CBS / Hope Centre) – Plot 8

- 4.17 The property comprises a community welfare centre and is owned and operated by a local charities.



- 4.18 Discussions have been undertaken with both the owner (Green Pastures) and the occupier (Hope Centre).
- 4.19 Due to the relationship between Green Pastures and the Hope Centre, the Hope Centre is leading the discussions with the Council. The Hope Centre wishes to identify and secure suitable relocation premises before substantively progressing discussions regarding the acquisition of the property. Several meetings have been held with the Hope Centre and assistance has been offered in relation to relocation. Several alternative properties have been suggested. The Hope Centre has appointed a project manager to lead the relocation project and it is understood a number of relocation options have been provisionally identified and are being explored further.
- 4.20 Regular contact is maintained with the Hope Centre and further assistance regarding relocation will be provided as required. Discussions regarding the acquisition will progress when the relocation options have been investigated further.

Swan Public House, 41 Hall Street (Punch Partnerships PML / Angela Hindley) – Plot 5

- 4.21 The Swan comprises an operational public house with living accommodation.
- 4.22 Attempts were made to contact the property owner (Punch Partnerships PML) ("Punch") from June 2022 but a response was not received until October 2022. Punch confirmed that it did not wish to enter into discussions with the Council until the Order had been made and that it would liaise directly with the occupier/tenant (Mrs Hindley).
- 4.23 Punch was contacted again in November 2022 and Punch confirmed that its position remained the same; that it did not wish to enter into discussions until such time as the Order had been made.
- 4.24 Following the making of the Order in December 2022 Punch was contacted again and asked whether it was now in a position to commence discussions. No response was received. However, in January 2023 Punch appointed an agent, Savills, and discussions were then able to commence.
- 4.25 Discussions are continuing with the Punch's agent and a market value offer has been made, but refused. No counter proposal has been made. Information relating to the trading operation of the public house has been requested from the Punch's agent to enable negotiations to progress, but to date this has not been provided.

- 4.26 The occupier (Mrs Hindley) separately appointed an agent following the making of the Order. Negotiations have been progressed and an agreement reached. Solicitors have been appointed and the legal documentation is currently being progressed. Completion of the agreement is anticipated shortly.

39 Corporation Street (Kazmi) – Plot 4

- 4.27 The property comprises a vacant former fast food takeaway.
- 4.28 Attempts were made to contact the owner from June 2022, but the owner first responded in January 2023. Discussions were then commenced with the owner. An offer has been made but refused. Discussions have continued and the owner has recently appointed an agent. Negotiations are continuing.

Bus Station News (Hussein Nasser Hassan) – Plot 6

- 4.29 The interest comprises a newsagent concession within the existing bus station. The bus station operator, Merseytravel, are in discussion with the party regarding a relocation and re-provision of the facility within the new bus station, to be operated by the current concession holder.

**Interests in and around the Hardshaw Centre**

- 4.30 The area comprises the Hardshaw Centre, a covered shopping precinct occupied by a range of retail operators with a roof top car park, together with two large and vacant former department stores to the Church Street frontage.

Hardshaw Centre – Plots 18 to 45 (inclusive)

- 4.31 The Council purchased the Centre in January 2022. At the time of purchase the Centre was occupied by 28 individual occupational tenants, together with several licence interests held in kiosks. Following the purchase, negotiations were commenced with the occupiers with a view to securing vacant possession.
- 4.32 Agreements have been reached or are close to completion with the majority of occupiers many of whom are to relocate elsewhere within the town and particularly to the Church Square Shopping Centre. Those units have either been vacated already or will be vacated shortly.
- 4.33 There are 3 interests remaining where agreements have not yet been finalised. These are Heron Foods Ltd, One Below Retail Ltd and LHR Holding Ltd (TJ Hughes).

- 4.34 Positive discussions are ongoing with these businesses and terms have been provisionally agreed with T J Hughes. Potential units in Church Square again have been identified as possible relocations. The Council's agents, Global Mutual, are working with these tenants to finalise terms and it is anticipated that agreements will be concluded shortly in relation to all remaining interests.

Former Marks and Spencer, 51 to 55 Church Street – Plots 47 and 48

- 4.35 The property comprises a vacant former department store and has been acquired by the Council.
- 4.36 It is understood that Punch Partnerships (PML) Ltd owns a freehold reversionary interest in part of the property and this is being investigated further with Punch.

Former Woolworths, 55 to 69 Church Street (Cosey Homes) – Plot 49

- 4.37 The property comprises a vacant former department store and was purchased by Cosey Homes, an investor / developer, in March 2020. The property remains vacant.
- 4.38 Contact was made with Cosey Homes and negotiations commenced in early 2022. Offers have been made and refused. Cosey Homes has made counter offers, although these were considered to be excessive by the Council. Cosey Homes appointed an agent in mid-2022. Meetings have been held with the agent and negotiations have progressed. However an agreement has not yet been reached.
- 4.39 Negotiations are continuing and the Council will continue to negotiate in an attempt to reach a private treaty agreement.

**Other Interests including half widths and unknown ownerships**

- 4.40 Plots 1 (Corporation Street), 2 (Hall Street), 15 (Library Street), 17 (Bickerstaffe Street), 46 (Claughton Street) and 50 (Church Street) comprise subsoil interests held or assumed to be held in public highways. Discussions have been held with those parties that have contacted the Council in relation to these interests.
- 4.41 Plots 7, 14 and 16 comprise parcels of land which are understood to be within the Council's ownership, but which may be subject to unknown interests.
- 4.42 Plot 3 is a parcel of land in unknown ownership.

## SECTION 5 – OBJECTIONS

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- 5.1 A total of 10 objections were made to the Order.
- 5.2 Nine of the objections relate to Plot 5, the Swan Public House. Of these 9 objections, 4 were from non-qualifying objectors having no interest in the property.
- 5.3 One objection was made by Merseytravel in relation to Plot 6, the bus station.
- 5.4 Five objections have now been withdrawn. These are the objection from Merseytravel in relation to Plot 6 and objections from Angela Hindley, Scott Hindley, Amy Lewis and Noel Hesketh in relation to Plot 5. Mrs Hindley is the publican and occupier of the Swan, whilst Messrs Hindley and Hesketh and Ms Lewis are members of Mrs Hindley's immediate family who also occupy the residential parts of the Swan.
- 5.5 Accordingly 5 objections remain outstanding. These comprise an objection from Savills on behalf of Punch Partnerships Ltd, the owner of the Swan, and 4 non qualifying objectors.
- 5.6 The issues raised by the outstanding objections relate to a number of matters including the requirement for and potential retention of the Swan. These matters are dealt with by other witnesses.
- 5.7 In relation to matters concerning land assembly and acquisition Savills' objection on behalf of Punch raises 3 points, as follows:
- No option of relocation within the new scheme offered
  - CPO made prematurely
  - Very limited effort or engagement and then only at a late stage of the process. No offers to either pay the reasonable professional fees or to purchase by agreement have been made. Therefore the Acquiring Authority has not discharged its duty under the Guidance to make reasonable attempts to purchase by agreement
- 5.8 Before responding specifically to these points it is useful as context to consider the background to discussions with Punch initially and more recently Savills as agent for Punch.

- 5.9 I first emailed Mrs Margaret Barrett, the Estates Development Manager, at Punch on 8 June 2022 to take up discussions following initial contact made by the St Helens Council Town Centre manager. No response was received to that email and hence I emailed again on 8 August 2022. I received a response from Mrs Barrett on 4 October 2022 to say that she would ring me. Copies of the emails are attached at Appendix GM 1 (Refs 1 and 2).
- 5.10 I spoke to Mrs Barrett on 4 October 2022. I explained the background to the Scheme and the Council's wish and ability to acquire the property. Mrs Barrett confirmed that she was familiar with the proposals but that Punch's approach to such matters generally was to not engage with Council until there was certainty in relation to the land assembly, such as a compulsory purchase order being made. Mrs Barrett also confirmed that she would check the details of the occupation of the property and speak to the tenant accordingly. I undertook to keep Mrs Barrett posted about the progress of the Scheme, acquisitions and timing in relation to any compulsory purchase order.
- 5.11 I emailed Mrs Barrett again on 1 November 2022 and suggested that an update telephone call would be useful. A copy of the email is attached at Appendix GM 1 (Ref 3). The telephone call took place on 4 November 2022. I updated Mrs Barrett in relation to the Scheme generally and matters concerning land assembly, such as land referencing, and the then anticipated timescale for making the Order later towards the end of the year. Mrs Barrett confirmed that she had spoken to the tenant of the Swan as that she would let me know if the tenant wished to speak to me directly. Mrs Barrett reconfirmed that Punch would not enter into discussions until after the CPO had been made.
- 5.12 The Order was made as anticipated in December 2022. I emailed Mrs Barrett again on 21 December 2022 and asked whether she was now in a position to commence discussions regarding the acquisition. A copy of the email is attached at Appendix GM 1 (Ref 4). I did not receive a reply to the email.
- 5.13 On 10 January 2023 I was contacted by Mr Pitman of Savills to inform me that he had been appointed by Punch. I responded to Mr Pitman on 18 January to seek clarification about the extent of his instructions and whether he had been appointed to negotiate a sale of the property and to confirm that his reasonable fees would be paid by the Council in accordance with the compensation code. A copy of my email is enclosed at Appendix GM 1 (Ref 5).
- 5.14 Mr Pitman then requested that I provide copies of the correspondence with his client. I provided this on 20 January and a copy of my email is attached at Appendix GM 1 (Ref 6). At the same time I also asked Mr Pitman again about the basis of his instructions.

- 5.15 I took Mr Pitman's response on 31 January to be confirmation that he was instructed by Punch to engage in negotiations regarding an acquisition by the Council. Mr Pitman also asked for an offer to be made. I responded to Mr Pitman on 3 February and explained that in order to be able to assess the market value of the property and hence make an offer I would need to be provided with information held by his client including such matters as the occupational lease, confirmation of the current passing rent and details of the trading performance of the property and hence the return that Punch makes from the sale of beer etc. This information is fundamental to the assessment of the market value of public houses of this nature. A copy of my email is attached at Appendix GM 1 (Ref 7).
- 5.16 Mr Pitman provided me with some, although incomplete, lease information on 8 February. However, he did not provide any trading information.
- 5.17 Arrangements were then made for a meeting and site inspection to be held at the property on 23 February. At that meeting I explained again the need for trading information and that the lease information that Mr Pitman had provided appeared not to be the current lease and did not provide details of the passing rent. I asked about Punch's intentions in terms of an alternative property investment of a similar nature. I also explained alternative approaches to the acquisition that the Council would be willing to enter into with Punch if that suited Punch's requirements. I set these out in further detail in my email of 24 February and a copy of that email is attached at Appendix GM 1 (Ref 8).
- 5.18 I did not receive a response from Mr Pitman to my email of 24 February and hence sent him a reminder on 23 March.
- 5.19 Mr Pitman replied on 5 April. Whilst he provided an explanation of the occupational lease he did not provide a copy of the lease. He also did not provide trading information about the property or at least not in sufficient detail to enable an assessment to be made. However he provided information regarding the passing rent.
- 5.20 Having regard to Mr Pitman's apparent unwillingness or inability to provide the actual current lease documentation and the trading information necessary for me to be able to assess the market value I felt I was put in a difficult position in attempting to make progress in discussions. On one hand the Council wished to make progress with the acquisition, whilst on the other hand I was conscious of the fiduciary duties of the Council with regards to the use of public funds and did not wish to make an offer that then could not be supported when subject to appropriate due diligence. With this in mind I decided to make a caveated market value offer for the property but suitably explained as to the basis of that offer. After some consideration I emailed Mr Pitman on 20 April and a copy of that email is attached at Appendix GM 1 (Ref 9).

5.21 Mr Pitman replied to acknowledge the offer but asked for a breakdown showing how the figure had been assessed. He also said that he would compile the trading information. He then emailed me asking for details of the various options that had been considered in relation to the design of the bus station necessitating the requirement for the Swan.

5.22 The information requested by Mr Pitman in relation to the options considered for the bus station was extensive and it took me some time to liaise with the appropriate people and compile a reply. I responded to Mr Pitman on 22 May and a copy of my email is attached at Appendix GM 1 (Ref 10). In my reply I provided a technical note prepared by WSP specifically responding to the questions that Mr Pitman had raised about the bus station design and a copy of the RIBA Stage 3 report relating to the bus station together with the various appendices. I made the suggestion to Mr Pitman that WSP and relevant Council officers could meet with him to explain the matter in more detail if he felt that this would be of assistance. In addition I provided an explanation and breakdown of my offer. Finally I again asked Mr Pitman to provide me with the following:

- His market value assessment (i.e. his Rule 2 figure)
- His consideration as to what items should be included in the Rule 6 assessment
- To provide me with the relevant trading information (which still remained outstanding from my initial request on 3 February)
- To provide clarity regarding his explanation of the occupational lease which appeared contradictory and to provide the relevant documentation
- To respond to my queries regarding his client's wishes / intentions in relation to relocation / re-provision of the property investment

5.23 I have subsequently provided Mr Pitman with the most recent design information in relation to the bus station, but again I have not received a response.

5.24 As of the date of writing this proof of evidence I have not heard further from Mr Pitman and he has not provided the any of the requested information.

5.25 Noting the background to negotiations I will now deal with each of the 3 matters referred to in Savills' objection letter concerning matters of land assembly and acquisition as noted above.

'No option of relocation within the new scheme offered'

5.26 As I explained to Mr Pitman in my email of 20 April the aim of the Scheme is to transform the character of St Helens Town centre. Consequently there is no intention to provide replacement accommodation within the Scheme of a similar character to the Swan – that being a traditional public house with an emphasis on drinking rather than a mix with food and drink and with associated living accommodation on site. However, the Scheme will include some ground floor

"retail" type properties and there is a potential that these could be used for food and beverage / licensed use. In such an instance the user would be likely to be more of a bar with a significant food element – and would be of a "lock up" type with no associated living accommodation. I invited Mr Pitman to consider if such a use could suit his client and if so discussions could take place about a unit in the Scheme. However Mr Pitman has not responded. Furthermore Mr Pitman has not provided any information regarding his client's relocation proposals – noting that his client holds the interest as an investment in a public house rather than operating the public house directly.

- 5.27 The potential for relocation within the Scheme remains open to Punch subject to the comments above regarding the nature and type of unit that would be available.
- 5.28 Contrary to Mr Pitman's comment then the prospect of an alternative property within the Scheme has been proposed to Punch.
- 5.29 The Guidance refers to relocation. At paragraph 3 the Guidance says that Acquiring Authorities should *"... be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant."* Whilst at paragraph 19 the Guidance says *"Acquiring Authorities should therefore consider ... offering advice and assistance to affected occupiers in respect of their relocation and providing details of available relocation properties where appropriate."*
- 5.30 The Council has offered to engage with Punch in relation to an alternative unit in the Scheme, although this offer of a discussion has not been taken up. Furthermore Punch is a substantial and experienced operator and owner of public houses and has appointed a national agent, Savills, to provide advice. Punch, with Savills assistance, is best placed to identify a suitable relocation property / alternative investment property, if indeed it considers that it wishes to replace the investment. The reasonable costs of seeking an alternative investment property will be covered by the compensation code. To the extent that it can the Council has made other suggestions of alternatives as noted in my email to Mr Pitman of 20 April, but this needs to be considered in the context that the Council does not hold a portfolio of public houses and has limited exposure to this market when considered in the context of the expertise of Punch and Savills.
- 5.31 In my opinion the Council has done all that could be reasonably expected at this stage in supporting Punch's relocation / reinvestment, if indeed this is what Punch chooses to do. As such the Council has acted in accordance with the Guidance.



'CPO made prematurely'

5.32 At paragraph 2 the Guidance sets out:

*"Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:*

- *plan a compulsory purchase timetable as a contingency measure; and*
- *initiate formal procedures*

*This will also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations."*

5.33 As noted from the background to the discussions with Punch set out above attempts were made to contact and engage with Punch in relation to the acquisition of the property from as early as June 2022. Punch maintained the position that it would not engage in any discussions about acquisition until the Order had been made. To that extent what is envisaged in the Guidance has applied directly in this instance.

5.34 Shortly following the making of the Order presumably Punch recognised the seriousness of the Council's intentions and appointed an agent, Savills, to engage with the Council and take matters forward. Since then the Council has attempted to engage positively with Savills, has responded to Savills' queries and has made an offer, although this has been refused. Notwithstanding this Savills have not yet provided the information requested to be able to progress discussions further and have failed to provide a counter proposal.

5.35 The Council will continue to attempt to progress negotiations by private treaty with the aim of reaching an agreement without using compulsory purchase powers. However, those powers may be needed in the event that a private treaty agreement is not reached.

5.36 Furthermore whilst Punch's objection only relates to its interest in the Swan, the Order is in relation to a considerably wider area and includes 50 separate plots and many different individual interests including unknown ownerships. The Order is necessary to assemble all of the land required for the Scheme including the Swan.

5.37 Consequently in my view the Order has not been made prematurely and the Council's actions are in accordance with the Guidance. I am of the opinion that confirmation of the Order is necessary in order to ensure that the Council will be able to acquire all of the properties required for the purposes of the Scheme including if necessary using compulsory purchase powers to acquire the Swan.

'Very limited effort or engagement and then only at a late stage of the process. No offers to either pay the reasonable professional fees or to purchase by agreement have been made. Therefore the Acquiring Authority has not discharged its duty under the Guidance to make reasonable attempts to purchase by agreement.'

5.38 As explained above attempts were made to contact and engage with Punch in relation to the acquisition of the property from as early as June 2022. When Punch eventually responded to the Council's attempts to make contact its position was that it would not engage in any discussions about acquisition until the Order had been made. The Council noted Punch's position and undertook to keep Punch informed in relation to the Order. The Council progressed with land assembly in relation to the many other interests required for the Scheme and successfully acquired a significant number of properties making up the majority of the Order Land.

5.39 Shortly following the making of the Order Punch appointed Savills and the Council then attempted to engage with Savills to progress the acquisition. Upon Savills' appointment the Council confirmed that it would pay Savills' reasonable fees in accordance with the compensation code and it is understood that Savills have continued to engage with the Council on this basis. Information necessary to progress discussions has been sought from Savills but limited information only has been provided. Savills have been reluctant to engage positively in the discussions. The Council has made an offer, but this has been refused and no counter proposal has been provided. The Council remains willing to progress negotiations and wishes to acquire by private treaty agreement if possible.

5.40 I am of the view that the Council has acted in accordance with the Guidance and fulfilled its obligations in relation to land assembly. It has sought to engage with Punch and has responded as soon as Punch indicated that it was willing to commence discussions. Notwithstanding Savills' uncooperative approach to the discussions and its unwillingness or inability to provide the necessary information to progress discussions the Council have sought to make an offer and positively progress discussions. The Council will continue to attempt to acquire by private treaty if possible.

5.41 In conclusion in relation to Savills' objection on behalf of Punch, I consider that the issues asserted by Savills relating to land assembly and acquisition are unsupported and groundless. Instead the correct position is that the Council has made every attempt to acquire by private treaty negotiation and has acted entirely in accordance with the Guidance. The Council has discharged its obligation to attempt to acquire by private treaty prior to using CPO powers in accordance with the Guidance. Based on my experience of these discussions and Punch's approach to date, whilst the Council will continue to pursue a private treaty acquisition, I am of the view then that the confirmation of the Order is necessary to ensure that the acquisition of the property can be concluded and the land assembled for the purposes of the Scheme.

## SECTION 6 – CONCLUSIONS

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- 6.1 In accordance with the Guidance the Council has sought to acquire the Order Land wherever possible by means of private treat agreement rather than relying on compulsory purchase powers.
- 6.2 During the lead up to, preparation of and making of the Order, the Council has fully considered all of the Guidance but specifically paragraphs 2, 3, 17 and 19 which relate to the acquisition of land by agreement.
- 6.3 Extracts from these paragraphs specifically relevant to land assembly and private treaty negotiations are set out below:

### *Paragraph 2*

*The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Where acquiring authorities decide to/arrange to acquire land by agreement, they will pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market.*

*Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:*

- plan a compulsory purchase timetable as a contingency measure; and*
- initiate formal procedures*

*This will also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.*

### *Paragraph 3*

*In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant.*

*Paragraph 17*

*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.*

*Paragraph 19*

*Compulsory purchase proposals will inevitably lead to a period of uncertainty and anxiety for the owners and occupiers of the affected land. Acquiring authorities should therefore consider:*

- offering to alleviate concerns about future compensation entitlement by entering into agreements about the minimum level of compensation which would be payable if the acquisition goes ahead (not excluding the claimant's future right to refer the matter to the Upper Tribunal (Lands Chamber))*
- offering advice and assistance to affected occupiers in respect of their relocation and providing details of available relocation properties where appropriate*
- providing a 'not before' date, confirming that acquisition will not take place before a certain time*
- where appropriate, give consideration to funding landowners' reasonable costs of negotiation or other costs and expenses likely to be incurred in advance of the process of acquisition.*

6.4 The Council has undertaken to meet the reasonable professional fees and costs incurred by land owners and other parties holding interests in land as part of the acquisition process.

- 6.5 The Council has provided general updates to land owners on an ongoing basis in relation to the Scheme and the acquisition process. It has met with and kept in contact with land owners and occupiers to provide more detail as requested and responded to queries in relation to technical and other matters when requested to do so.
- 6.6 The Council has successfully negotiated and acquired property in advance of the Order where it has been possible to do so. Indeed the Council has acquired the majority of interests required for the Scheme. Where interests remain outstanding these are in active discussions or have simply not responded to the Council's attempts to engage.
- 6.7 The Council has wherever possible supported relocations. It has successfully assisted and facilitated the relocation of many of the existing retailers from the Hardshaw Centre and is continuing the dialogue with the remaining operators. It is currently engaging with relocations in relation to pharmacy at 60 Bickerstaffe Street and the community welfare charity at 41 Corporation Road. The Council has attempted to engage with Punch in relation to relocation / replacement of the investment, but Punch have not responded.
- 6.8 The Council has made and will continue to make all reasonable efforts to progress negotiations and secure acquisitions by agreement in advice of compulsory acquisition in accordance with the Guidance. Negotiations will continue with the remaining interests in an attempt to acquire by private treaty without the use of compulsory purchase powers. However, I consider compulsory purchase will be required to complete the land assembly.
- 6.9 I will update the Inquiry further regarding progress relating to the outstanding interests at the Public Inquiry.
- 6.10 In relation to matters of land assembly I am of the view that the Council has set out a compelling case to justify the confirmation of the Order in the public interest to ensure that it will be able to use compulsory purchase powers if necessary to acquire the remaining interests required for the delivery of the Scheme.
- 6.11 The Council remains committed to securing the land needed for the Scheme by voluntary agreement if at all possible and will continue to progress negotiations with landowners and occupiers by private treaty during the compulsory purchase process and will use compulsory purchase powers as a last resort.
- 6.12 In the event that voluntary agreements cannot be reached, parties subject to compulsory acquisition will be entitled to compensation under the compulsory purchase compensation code.

## SECTION 7 – DECLARATION

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- 7.1 I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.
- 7.2 I confirm that my report has drawn attention to all material facts which are relevant and have affected my professional opinion.
- 7.3 I confirm that I understand and have complied with my duty to the Inquiry as an expert witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.
- 7.4 I confirm that I am not instructed under any conditional or other success-based fee arrangement.
- 7.5 I confirm that I have no conflicts of interest.
- 7.6 I confirm that I am aware of and have complied with the requirements of the rules, protocols and directions of the Inquiry.
- 7.7 I confirm that my report complies with the requirements of RICS – Royal Institution of Chartered Surveyors, as set down in the RICS practice statement Surveyors acting as expert witnesses’.



**Ged Massie BSc (Hons) MRICS IRRV MCI Arb**

**17 July 2023**