

THE ST HELENS BOROUGH COUNCIL (ST HELENS TOWN CENTRE)
COMPULSORY PURCHASE ORDER 2022

OPENING SUBMISSION OF THE ORDER MAKING AUTHORITY

INTRODUCTION

1. On 9th November 2022, St Helens Borough Council resolved to use compulsory purchase powers to make the St Helens Borough Council (St Helens Town Centre) Compulsory Purchase Order 2022 (the Order).¹

2. The Order has been made under section 226(1)(a) of the Town and Country Planning Act 1990.

3. The proposed acquisition will facilitate the carrying out of development/redevelopment/improvement on to land in St Helens' town centre (within the terms of s.226(1)(a)), comprising a First Phase Development involving the demolition of several existing buildings, including the Hardshaw Centre, and their replacement with a mix of uses including residential units, commercial, hotel, retail, food and drink uses, a purpose built market hall, an improved and extended bus station and community and learning uses, with associated access, servicing, infrastructure, public realm and landscaping. Such a comprehensive transformational proposal is (undoubtedly) likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the borough of St Helens (see s.226(1A)).

¹ See CD D1

4. If confirmed by the Secretary of State for Communities and Local Government (SOS), the CPO (CD D1) will enable the Council to acquire compulsorily the land and rights over the order land (described in paragraph 2 of the CPO).
5. The Submissions of the Council should be read together with the Statement of Reasons (CD D3) and the Statement of Case (CD D4).

THE ENABLING POWER FOR THE CPO

6. The Council has made the Order pursuant to its powers under section 226(1)(a) of the Town and Country Planning Act 1990 (the 1990 Act).
7. Section 226(1)(a) of the 1990 Act enables the compulsory acquisition of land where an acquiring authority thinks the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to land and where the acquiring authority thinks the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic and/or social, and/or environmental well-being of the authority's area.
8. The Council is exercising its powers under section 226(1)(a) because it has not (yet) been possible to acquire by agreement all interests that are required for the Scheme.

GUIDANCE

9. DCLG Guidance on the exercise of CPO Powers (CD A8) sets out that a CPO should only be made where there is a "compelling case in the public interest" (para 2). Compulsory purchase is intended as "a last resort" in the event that efforts to acquire by agreement fail (*ibid*). However, the Guidance also recognises that, given the amount of time needed to complete the statutory procedures, it may often be sensible to initiate

compulsory purchase in parallel with negotiations with landowners (*ibid*). In keeping with such Guidance, the Council has undertaken lengthy negotiations with landowners and remains hopeful of a successful outcome.

10. However, should such negotiations fail (for whatever reason), the Council submits that the CPO complies with the statutory and/or planning guidance tests i.e. there is a compelling case in the public interest for the CPO. Indeed, there is no robust evidence to the contrary.

THE MAKING OF THE ORDER

11. On 9 November 2022 the Council’s Cabinet resolved to make and promote the Order (Cabinet Report and Minutes of meeting **CD D6**). The Order was then prepared in the Form numbered 1 in the 2004 Regulations, sealed and dated on the 9 December 2022 (**CD D1**).^{[[L]]}_{[[SEP]]}
12. Notice of the making of the Order, in the Form numbered 7 in the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (“2004 Regulations”), was published in two issues of the St Helens Star dated 15 December 2022 and 22 December 2022 and the time allowed for objections was in excess of 21 days. A total ^{[[L]]}_{[[SEP]]}of 10 objections were made to the Order, comprising:
 1. Angela Hindley (CD D8) (now withdrawn (CD D29));^{[[L]]}_{[[SEP]]}
 2. Punch Partnerships (PML) Limited (CD D9);^{[[L]]}_{[[SEP]]}
 3. Scott Hindley (CD D10) (now withdrawn (CD D31));^{[[L]]}_{[[SEP]]}
 4. Amy Lewis (CD D11) (now withdrawn (CD D32));^{[[L]]}_{[[SEP]]}
 5. Noel Hesketh (CD D12) (now withdrawn (CD D30));^{[[L]]}_{[[SEP]]}

6. Merseytravel (**CD D13**) (now withdrawn (**CD D28**)); [REDACTED]
 7. Mark Ashcroft (non-qualifying objector) (**CD D14**); [REDACTED]
 8. Michelle Thomas (non-qualifying objector) (**CD D15**);
 9. Stefan Kwasek (non-qualifying objector) (**CD D16**);
 10. Andey Cheetham (non-qualifying objector) (**CD D17**).
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13. The objections of Merseytravel, Angela Hindley, Noel Hesketh, Scott Hindley and Amy Lewis have since been withdrawn and Merseytravel strongly support the confirmation of the CPO (see evidence of Andrew Cairns).
 14. The only remaining qualifying objector to the CPO is Punch Partnership (PML) Limited. In essence, their objection questions whether there is a compelling case to include the Swan Public House in the CPO. The objection of the Landlady (Angela Hindley) on this point has been withdrawn. [REDACTED]
 15. Savills objected to the confirmation of the Order in a letter, dated 17th July 2023. The OMA have responded to that objection in a letter, dated 24th July 2023. This response provides a complete answer to the objection. It makes the point that (as a matter of unanswerable fact) the residual objection of Punch (so far as it relates to issues of principle rather than compensation) depart from the facts and proceed on an inaccurate factual premise. The evidence of Ged Massie demonstrates that the OMA has made repeated attempts to acquire the property by negotiation but have been frustrated by Punch's initial refusal to engage (prior to the making of the CPO) and by a refusal to provide adequate information to allow a Compensation Code compliant offer. The OMA have, nonetheless, made

an offer, the reasonableness of which is a matter for the Lands Tribunal (not this Inquiry). The LPA has made attempts to negotiate a sale, as a matter of unanswerable fact. There is no more that the OMA can reasonably be expected to do.

16. The optioneering process which has resulted in the Bus Station redevelopment requiring the Swan PH is robust. It has been an expert multi-disciplinary iterative approach which has demonstrated that there is no other reasonable option. There is no criticism of the multiple independent technical analyses and no alternative solution proffered.
17. Punch have indicated that they do not intend to attend the Inquiry. Only very limited weight can attach to their bare evidential assertions which have been expressly contradicted by the OMA's independent expert evidence and which cannot be challenged in XX.

CONCLUSION

18. The Council considers that the First Phase development will deliver transformational change to regenerate the town centre and thereby achieve the purposes for which the Order is being made.
19. Applying s.226(1)(a) and the CPO Guidance, the Council consider that the acquisition of the Order Land will facilitate the carrying out of development, redevelopment and improvement and will make a positive contribution to the promotion or achievement of the economic, social and environmental well-being of its area. Indeed, there is no robust evidence to the contrary.
20. **The Council considers that there is a compelling case in the public interest for the Order and that the Order, if confirmed, would strike an appropriate balance between public and private interests.**

21. The OMA therefore submit that the CPO should be confirmed (subject to the agreed modifications²).

GILES CANNOCK KC

Kings Chambers

8th August 2023

² See letter of 27th July 2023