

THE TOWN AND COUNTRY PLANNING ACT AND THE ACQUISITION OF LAND ACT 1981

PENDLE BOROUGH COUNCIL

**THE BOROUGH OF PENDLE (CLITHEROE ROAD/GLEN WAY, BRIERFIELD) COMPULSORY PURCHASE
ORDER 2016**

DRAFT STATEMENT OF REASONS

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Contents

Section

- 1 Introduction**
- 2 Location and description of the Order Land**
- 3. The need for regeneration**
- 4. Planning history**
- 5. Description of the proposed development**
- 6. Planning Framework**
- 7. Corporate Framework**
- 8. Need and justification for the Order**
- 9. Economic, social and environmental wellbeing**
- 10. Delivery and resources**
- 11. Land negotiations and consultation**
- 12. Related Orders and special kinds of land**
- 13. Human Rights Act**
- 14. Conclusions**
- 15. Details of contacts at the Council**
- 16. Inquiry procedure rules**
- 17. List of documents**

1. Introduction

- 1.1 This document is the Statement of Reasons of Pendle Borough Council ("**the Council**") prepared in connection with a compulsory purchase order made by the Council, entitled The Borough of Pendle (Clitheroe Road/Glen Way, Brierfield) Compulsory Purchase Order 2016. ("**the Order**") which is to be submitted to the Secretary of State for Communities and Local Government for confirmation.
- 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 (as amended by section 99 of the Planning and Compulsory Purchase Act 2004 and the Acquisition of Land Act 1981 (as amended)) ("**the Act**"). In this Statement of Reasons, the land and rights included within the Order are referred to as "**the Order Land**" and this is shown on the plan appended to this Statement. The Council is the local planning authority for the Order Land.
- 1.3 The Council's purpose in seeking to acquire the Order Land is to facilitate the development, re-development and improvement of it by way of a heritage based mixed use scheme at Brierfield Mills in the expectation that such action will improve the social, economic and environmental wellbeing of the area. The scheme is being promoted by Pendle Enterprise and Regeneration (Brierfield Mill) Limited. This is a subsidiary of Pendle Enterprise and Regeneration Limited which is the Council's joint venture company with Barnfield Investment Properties. Pendle Enterprise and Regeneration Limited has a proven track record of delivering complex economic, commercial, leisure and housing development schemes within the Borough of Pendle.
- 1.4 The Council's Brierfield and Reedley Committee authorised the making and promotion of the Order at its meeting on 1st March 2016. On.....the Council's full Council also approved the making and promotion of the Order.
- 1.5 This Statement of Reasons has been prepared in compliance with both paragraphs 35 and 36 of Part 1 of the Memorandum and Appendix R of Circular 06/04 – Compulsory Purchase and the Crichel Down Rules.

2. Location and description of the Order Land

Land Interests

- 2.1 Details of the land interests to be acquired are contained in the Schedule to the Order and shown coloured pink on the map which accompanies it ("**the Order Map**") and comprise:
 - Land and buildings location within the ward of Brierfield bounded by Clitheroe Road, Glen Way, Pendle Road and Dale Street extending to 0.33 hectares
 - The Order Land comprises the site of (1) a used car sales (2) tyre sales garage (3) vacant public house known as the Railway Tavern together with adjacent land used for car parking and storage

- The Council has acquired the freehold interest of part of the Order Land together with Brierfield Mills and granted a lease of the same to PEARL(Brierfield Mill). Some of this land is subject to encroachment by adjoining businesses.
- 2.2 There remain outstanding freehold and leasehold interests in the Order Land which the Council is seeking to acquire to complete the site assembly.
- 2.3 The Order Land forms part of a larger area of land (the “Brierfield Mill Masterplan Site”), which is to undergo a multi-million pound mixed use regeneration and development by PEARL (Brierfield Mill). The satisfactory implementation of the comprehensive development of this Grade II listed mill complex will not be possible without the acquisition of the Order Land. Upon successful acquisition of the land via voluntary agreement or via successful confirmation of the CPO vesting process, the Order Land will be disposed of to PEARL (Brierfield Mill) to allow the development to take place.

3. The need for regeneration

- 3.1 Brierfield Mills is a vacant Grade II listed Mill, with over 380,000sq ft. of floor space and extends to over 7 acres. It is a landmark mill and has been vacant since 2006. It occupies a canal side location and has a direct access link to junction 12 of the M65, offering immediate access to the national motorway network. The mill was acquired in March 2012 by the Council and was subsequently leased to PEARL (Brierfield Mill).
- 3.2 The Brierfield Mills project, now known as ‘Northlight Project’ is one of the Council’s flagship economic growth projects. Its regeneration is integral to regeneration objectives for the M65 Corridor identified in the very recently adopted Pendle Local Plan Part 1: Core Strategy.
- 3.3 The proposed scheme for comprehensively regenerating the Brierfield Mill Masterplan Site and delivering a development, which provides much needed job opportunities, training/skills facilities, hotel and residential accommodation, as well as leisure and visitor attractions, will, taken as a whole, bring substantial economic, environmental and social benefits to Brierfield, Pendle, the sub region and beyond.
- 3.4 The Order will address what is a prominent gateway site on the southern edge of the mill complex which is visually poor and of low townscape value. It will positively enhance the appearance of Brierfield Mills as a whole; transform the local street scene and the attractiveness of the built environment on this key route into the town. It will also improve the setting of Brierfield Mills and this key arrival point to the mill complex.
- 3.5 The Northlight Project will also complement the substantial regeneration and housing development activity that has taken place and is continuing in the wider Brierfield Canal Corridor Area and Railway Street neighbourhood (both Housing Regeneration Priority Areas), which began under the discontinued Housing Market Renewal Initiative. It will also serve as a major catalyst for further improvements to nearby rundown areas, providing confidence to encourage

further private investment in the town. In particular it will support the new 10 year plan for Brierfield and Reedley which is under preparation by the Council.

4. Planning history

- 4.1 The comprehensive Northlight Project being taken forward is embodied in the revised Masterplan (February 2016) and encapsulated by various past planning consents and current planning applications.
- 4.2 In February 2015, full planning permission was granted for a change of use of a number of key buildings on the wider site for a hotel, leisure use, 4 small retail units, a car park with landscaping, infrastructure and demolition works (ref no. 13/15/0019P). This was coupled with a listed building consent (ref no. 13/15/0020P) for external alterations to the Mill buildings and partial demolition of a north light roof.
- 4.3 Two new planning applications (ref no. 13/15/0600P) and (ref no. 13/15/0603P) together with listed building consent applications were submitted in December 2015 and were the subject of consideration by the Area Committee on 1st March 2016. The latter planning application is of particular relevance to the Order Land, as it sought consent for conversion and change of use of a key building on the site (Sheds 2 & 3/ Annex Offices) for offices, training/education, microbrewery with retail, bar restaurant/café, car parking, together with demolition of the public house, garage and car sales buildings to form car parking and landscaping. The Order Land is located in the Brierfield Mills Conservation Area and therefore the planning application also sought consent for demolition of the buildings on the Order Land which was granted.

5. Description of the proposed development

- 5.1 In order to support the vision of PEARL (Brierfield Mill) for the site to create a new leisure, residential, employment quarter and a new destination in the region, a Masterplan for the site by David Morley Architects was produced. It was launched at a mill open day/exhibition in November 2013, for public viewing and comment. The Masterplan report was completed in January 2014.
- 5.2 The Masterplan has evolved and been refined as prospective end users/occupiers and investors have been identified and secured. The revised Masterplan proposes a variety of uses, including a leisure box facility, a hotel, apartments, training and educational facility, a microbrewery, café/restaurants, managed offices, a canal marina, together with car parking, public realm, infrastructure and landscaping works. The Masterplan has been costed at circa £31.8m and is being funded through a combination of public sector funding, private sector investment, and funds from Pendle Enterprise and Regeneration Limited.

6. Planning framework

National Planning Policy

- 6.1 The National Planning Policy Framework (“**NPPF**”) published on 27 March 2012 replaced almost all previous Planning Policy Statements and Planning Policy Guidance notes.
- 6.2 The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development. Therefore, at the heart of the NPPF is “the presumption in favour of sustainable development” which should be seen as the “golden thread” running through both plan-making and decision-taking.
- 6.3 The NPPF’s purpose is to send a strong signal to all those involved in the planning process about the need to plan positively for appropriate new development so that both plan-making and development management are proactive and driven by a search for opportunities to deliver sustainable development, rather than frustrated by unnecessary barriers.
- 6.4 Paragraph 17 of the NPPF identifies twelve core planning principles of which the following are of particular relevance:
- proactively drive and support sustainable economic development to deliver the homes, business units, infrastructure and thriving local places that the country needs. Every effort should be made to identify and meet housing, business and other development needs of an area, and respond positively to wider opportunities for growth
 - encourage the effective use of land by reusing brownfield land
 - promote mixed use developments
 - actively manage patterns of growth to make the fullest possible use of public transport
 - take account of land and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.
- 6.5 The NPPF also specifically recognises the role that mixed use development can play in promoting healthy lifestyles by encouraging interactions between different sections of the community and highlights that sustainable development can be achieved through three specific roles of the planning system including: economic, social and environmental. There is also a commitment to tackling climate change and reducing carbon dioxide emissions.

Pendle Local Plan Part 1: Core Strategy and Other Local Policy

- 6.6 The Council adopted the Pendle Local Plan Part 1: Core Strategy in December 2015 and the Northlight Project is integral to the regeneration objectives of the M65 Corridor Spatial Area identified within it. The Core Strategy replaces a number of policies contained in the Replacement Pendle Local Plan 2001-2016. Together these plans form the local planning framework for the strategic development of the borough and for the determination of planning applications.

- 6.7 Brierfield Mill adjoins the Brierfield Canal Corridor Area (a Housing Regeneration Priority) which is covered by a Supplementary Planning Document (Oct 2006). The Northlight project complements the SPD.

7. The Corporate Framework

- 7.1 Pendle's Sustainable Community Strategy (2008) sets out the corporate vision of the Council. It sets out the vision of "a borough that provides a high quality of life for all its citizens and that is known regionally and nationally as a great place to live, learn, work and visit". The Northlight project supports the Strategy and many of its corporate goals.
- 7.2 Regeneration of Brierfield Mills would support the Council's Jobs and Growth Strategy (2013).
- 7.3 Brierfield Mills is located within a priority growth area for investment ("the Pendle Gateway") which is identified in the Pennine Lancashire Investment Plan and its development as a growth hub is aligned with the Lancashire Strategic Economic Plan's "Arc of Prosperity".

8. Need and justification for the Order

- 8.1 By virtue of Section 226(1)(a) of the Act the Council has the power to make a compulsory purchase order for any land in its area if it thinks that the acquisition of the land will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.
- 8.2 The revised Masterplan identifies the Order Land for car parking to serve the development and landscaping to create a high quality setting at this important arrival point to the site. The car parking will serve as car parking for the hotel and the cyber security/ training/managed office facilities. It is expected that the new scheme would be built and designed to a specification that meets high quality design standards.
- 8.3 The Council thinks that the acquisition of the Order Land will facilitate the carrying out of this important element of the wider scheme on the Order Land.
- 8.4 Section 226(1)(a) of the Act provides that the Council may not exercise the power unless it thinks that the 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. The Council does think that the development of the Order Land is likely to so contribute.
- 8.5 Section 226 (4) of the Act provides that it is immaterial whether the development, re-development or improvement is to be carried out by the Council or by a third party.
- 8.6 Circular 06/2004 ("**the Circular**") provides guidance on the use of these compulsory purchase powers. The Introduction to the Circular states that:

"Ministers believe that compulsory purchase powers are an important tool for local authorities and other public bodies to use as a means of assembling the land needed to help deliver social and economic change. Used properly, they can contribute towards effective and efficient urban

and rural regeneration, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life. Bodies possessing compulsory purchase powers – whether at local, regional or national level –are therefore encouraged to consider using them pro-actively wherever appropriate to ensure real gains are brought to residents and the business community without delay”.

- 8.7 The main body of the Circular provides general guidance on the use of compulsory purchase powers by acquiring authorities whilst Appendix A provides specific guidance for local authorities on the use of their powers under Section 226. Paragraph 2 of Appendix A of the Circular provides that:

“the powers in Section 226 are...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 community strategies and Local Development Documents”, which will include “saved” unitary development plans.”

- 8.8 The Circular, at Paragraph 16 of Appendix A, then states that, in deciding whether to confirm a compulsory purchase order, the matters the Secretary of State will consider include whether the purpose for which the land is being acquired fits in with the adopted planning framework for the area; the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area; the potential financial viability of the scheme for which the land is being acquired – including a general indication of funding intentions, and of any commitments from third parties, and whether the purpose for which the land is proposed to be acquired could be achieved by any other means.
- 8.9 The development of the Order Land as set out above complies with all relevant guidance. In particular, the purpose for which the Order Land is to be acquired advances the objectives of the adopted planning framework for the area and the Pendle Core Strategy; the proposed purpose will contribute significantly to the achievement of the promotion or improvement of the social, economic and environmental wellbeing of the area; there is a reasonable prospect that the comprehensive Northlight Project will proceed; and the purpose for which the Council is proposing to acquire the Order Land could not be achieved by other means such as alternative proposals from existing owners of the land or by seeking alternative locations for the proposals for which the Order Land is to be acquired.
- 8.10 In order to secure the delivery of the wide range of significant public benefits that the regeneration of the Order Land (and the wider Northlight Project) will bring, it is essential for the proposals to come forward in a comprehensive and co-ordinated manner.
- 8.9 The Council is of the view that the redevelopment and improvement of the Order Land through the proposed development will contribute significantly towards the achievement of the economic, social and environmental well-being of its area. The Council considers that there is a

compelling case in the public interest to promote the Order so that the substantial public benefits the comprehensive development which the Northlight Project will bring can be realized.

9. Economic, social and environmental well being

- 9.1 Development of the Order Land will significantly contribute to the economic, social and environmental well-being of Brierfield, Pendle, the sub-region and beyond. The Northlight Project will also complement the substantial regeneration and housing development activity in the wider Brierfield Canal Corridor Area and Railway Street Neighbourhood.
- 9.2 The Northlight Project will also serve as a major catalyst for further improvements to local areas in need of regeneration and serve to stimulate further private investment in the town.

10. Delivery and resources

- 10.1 As set out above, the comprehensive redevelopment scheme is being promoted by Pearl (Brierfield Mill). This is a subsidiary of Pendle Enterprise and Regeneration Limited which is the Council's joint venture company with Barnfield Investment Properties. Pendle Enterprise and Regeneration Limited has a proven track record of delivering complex economic, commercial, leisure and housing development schemes within the Borough of Pendle.
- 10.2 Provision has been made in the Council's Capital programme 2015/16 to meet the costs of buying the outstanding interests in the Order Land.

11. Land negotiations and consultation

- 11.1 It was agreed by the Executive Committee in September 2014 that negotiations with the owners of the adjoining car sales, tyre sales garage and the public house commence (subject to funding) and to pay compensation as if a Compulsory Purchase Order (CPO) was in place. It was also agreed that initial steps to prepare a CPO be made. The Report taken to the Executive Committee in September 2014 indicated that the public house would remain in situ. This has been superseded by the revised planning application by PEARL (Brierfield Mill) which shows the public house being demolished.
- 11.2 The Council has been actively pursuing the acquisition of outstanding interests within the site. Negotiations are progressing with the owners but some outstanding interests may prove difficult to acquire and will impede development if not acquired within realistic timescales. The owners who are affected are being offered compensation at open market value under the statutory code for their interest in land, and being offered compensation, as if a CPO is in place, which includes legal and disturbance payments. Negotiations will continue with the owners throughout the process to acquire outstanding interests by agreement.
- 11.3 In the event of a failure to acquire the Order Land, the Brierfield Mills Masterplan would be compromised to the extent that full implementation of the revised Masterplan and the planning application Ref No 13/15/0603P, if approved by this Committee, would not be possible.

12. Related Orders and special kinds of land

- 12.1 In order for a comprehensive redevelopment of the site to be effective, it will be necessary to 'stop up' on a permanent basis several highways. A Stopping Up Order under section 247 or otherwise under section 257 of the Town and Country Planning Act 1990 is proposed and formal authority will be sought to progress these Orders.
- 12.2 Where highway stopping up and/or diversion orders are needed, applications for these orders will be made at the appropriate time.
- 12.3 The Order Land lies within with Brierfield Mills Conservation Area. Planning permission and consent for demolition of the buildings on the Order Land was considered by Committee on xxx and the decision was to xxxxx on xxxxxxxx 2016.
- 12.4 The apparatus of statutory undertakers or utilities will be protected, diverted or replaced as necessary.

13. Human Rights Act

- 13.1 In determining whether or not to confirm the Order, the Secretary of State must have regard to any interference with human rights, the provisions of the Human Rights Act 1998 and the European Convention on Human Rights ("**the Convention**"). The Secretary of State must consider whether, on balance, the case for compulsory purchase justifies interfering with the human rights of the owners and occupiers of the Order Land. The Secretary of State also has to be satisfied that the land included in the Order is all the land necessary to secure the delivery of the proposals and does not include land which is not required for that purpose.
- 13.2 Article 1 of the First Protocol to the Convention states that "...Every natural or legal person is entitled to peaceful enjoyment of his possessions" and "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...". Whilst occupiers and owners within the Order Land will be deprived of their property if the Order is confirmed and the powers are exercised, this will be done in accordance with the law, in this case the Act. The Order is being pursued in the public interest as required by Article 1 of the First Protocol. The public benefits associated with the regeneration of the Order Land are set out earlier in this Statement of Reasons. The Council considers that the Order will strike a fair balance between the public interest in the implementation of the regeneration and those private rights which will be affected by the Order.
- 13.3 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". The regeneration proposals, including those associated with the regeneration of the Order Land, have been extensively publicised and consultation has taken place with the communities and parties that will be affected by the

Order. All those affected by the Order will be notified, will have the right to make representations and/or objections to the Secretary of State for Communities and Local Government, and objecting parties will have the right to be heard at a public inquiry. It has been held that the statutory processes are compliant with Article 6 of the Convention.

- 13.4 Article 8 of the Convention states that: “Everyone has the right to respect for his private and family life, his home and his correspondence...interference is justified however, if it is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for its prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.” The Council considers that the interference with this right that will result from the exercise of the powers conferred by the Order will be in accordance with the law (namely the Act), give effect to a legitimate aim (namely securing the much-needed regeneration of the area) and will be proportionate having regard to the public benefits that the regeneration will bring.
- 13.5 Those whose interests are acquired under the Order will also be entitled to compensation which will be payable in accordance with the Compulsory Purchase Compensation Code, assessed on the basis of the market value of the property interest acquired, disturbance and statutory loss payments. The reasonable surveying and legal fees incurred by those affected in transferring interests to the Council will also be paid by the Council. The Compensation Code has been held to be compliant with Article 8 and Article 1 of the First Protocol to the Convention.
- 13.6 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. Similarly, any interference with Article 8 rights must be “necessary in a democratic society” ie proportionate.
- 13.7 In promoting this Order, the Council has carefully considered the balance to be struck between the effect of acquisition on individual rights and the wider public interest in the redevelopment of the Brierfield Mills area. Interference with Convention rights is considered by the Council to be justified here in order to secure the economic regeneration, environmental and public benefits which the Scheme will bring.
- 13.8 The requirements of the Human Rights Act 1998 and the Convention, particularly the rights of property owners, have therefore been fully taken into account. There is a compelling case in the public interest for the Order to be made and confirmed, and the interference with the private rights of those affected that would be the inevitable result of the exercise of the compulsory powers conferred by the Order would be lawful, justified and proportionate.
- 13.9 There has been public engagement and extensive publicity on the proposals to regenerate Brierfield Mills and the opportunity has been given through the consideration of the planning

applications to make representations on the comprehensive redevelopment proposals. A public inquiry will be held into the Order if objections are duly made, and those whose interests are acquired under the Order, if it is confirmed, will be entitled to compensation as provided under national law.

14. Conclusions

14.1 The proposed comprehensive redevelopment of Brierfield Mills pursuant to the Northlight Project is in line with the revised Masterplan, as well as being in accordance with the Strategic Planning Framework, Pendle's adopted Local Plan Part 1: Core Strategy, and the corporate priorities of the Council and it is intended that it will build upon previous successful regeneration efforts to further deliver social, economic and environmental benefits in the local area:

- The Order Land is required as a fundamental part of the wider scheme of redevelopment. Without the Order Land, the Brierfield Mills Masterplan would be unacceptably compromised to the extent that full implementation of the strategic vision could not take place
- The acquisition of the Order Land will facilitate development, redevelopment and improvement of the land which will contribute to the promotion or improvement of the economic, social and environmental well-being of the area
- All of the Order Land is required for redevelopment
- The Northlight Project will contribute towards the achievement of the Council's strategic objectives. The purpose for which the Order Land is to be acquired accords with the planning framework for the area and has the benefit of planning permission. It is part of the planning permission that has been granted for the regeneration of the Brierfield Mills complex as a whole
- There is a reasonable prospect of the development underpinning the Order being delivered.
- The regeneration of the Order Land will not be achieved without the use of compulsory purchase powers, but the powers will only be used where the required land and interests cannot be acquired by negotiation. As such, the use of compulsory purchase powers is proportionate
- The purposes for which the Order has been made sufficiently justify the interference with the human rights of those who will be affected by it. The exercise of the powers conferred by the Order will be lawful, necessary and proportionate
- Without the confirmation of the Order, the land needed will not be assembled within a reasonable timescale, or at all
- The Council considers that there is a compelling case in the public interest for the making and confirmation of the Order

15. Contacts details at the Council

- 15.1 The following officers have had direct dealings with the promotion of the order and in event of queries you are invited to contact them:-

Regeneration

Julie Palmer BA Hons | BPL | MRTPI

Regeneration Projects | Housing, Health and Economic Development | Pendle Borough Council

Elliot House | Market Square | Nelson | BB9 0LX

T: 01282 661039 | Mobile: 07753 778616

Email: julie.palmer@pendle.gov.uk

Legal/Administrative

Linda Calderbank FCInst.L.Ex. | Legal Practice Manager | Pendle Borough Council

Town Hall | Market Street | Nelson | BB9 7LG

15. Inquiry procedure rules

- 15.1 This is a non-statutory statement which is not intended to constitute the Council's Statement of Case under the 2007 Rules.

16. List of documents

- 16.1 In the event that it becomes necessary to hold a public inquiry into the Order, the Council may refer to the documents listed below. The list is not exhaustive and the Council may also refer to additional documents in order to address any objections made to the Order:

- the Order, Order Schedule and Order Map
- reports to committee, decision notice and section 106 agreements relating to planning permission reference numbers (1) 13/15/0019P (2) 13/15/0020P (3) 13/15/0600P and (4) 13/15/0603P
- report to Brierfield and Reedley Committee requesting the Executive of the Council to resolve to make the Order
- report of the Executive Committee of the Council authorising the making of the Order
- National Planning Policy Framework
- Pendle Local Plan Part 1 Core Strategy
- Pendle Replacement Local Plan 2001-2016
- Brierfield Canal Corridor Area SPD 2005

- Pendle's Strategic Plan 2015-18
- Pendle's Sustainable Community Strategy
- Pendle Jobs and Growth Strategy
- Pennine Lancashire Investment Plan
- Lancashire Strategic Economic Plan

16.2 Copies of the Order, Order Schedule, Order Map and this Statement can be inspected at the following locations:

Pendle Borough Council

No1 Market Street Nelson

during the following hours: 9.30 a.m. to 5 p.m. Monday to Friday

16.3 Documents relating to the Order can be downloaded from the Council's website via the following link:

R.TOWNSON
DEMOCRATIC AND LEGAL SERVICES MANAGER
PENDLE BOROUGH COUNCIL
TOWN HALL
NELSON
LANCASHIRE

APPENDIX 1

Plan showing extent of Order Land