

**THE BOROUGH OF PENDLE
(65-71 ELIZABETH STREET, (ODD
NUMBERS) NELSON)
COMPULSORY PURCHASE ORDER 2019**

**TOWN AND COUNTRY PLANNING ACT 1990
ACQUISITION OF LAND ACT 1981**

STATEMENT OF REASONS

- 1. Introduction**
- 2. The Order Land**
- 3. Statutory Enabling Power to promote CPO**
- 4. Human Rights and Equality**
- 5. Purpose of Compulsory Purchase**
- 6. Justification for CPO: Strategic Planning Framework**
- 7. Justification for CPO: Corporate Policy Framework**
- 8. Attempts at Voluntary Acquisition**
- 9. Planning**
- 10. Finance**
- 11. Special Considerations**
- 12. Views of Government Departments**
- 13. Conclusion**
- 14. List of Documents**
- 15. Contact Details**

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28th MAY 2019.

1. Introduction

- 1.1 This non statutory Statement of Reasons has been prepared by the Borough Council of Pendle ('the Council') in support of its promotion of 'The Borough of Pendle (65-71 Elizabeth Street, (Odd Numbers), Nelson) Compulsory Purchase Order 2019' (Document 1) ('the Order') in accordance with the Compulsory Purchase Guidance ('the Guidance') published by the then DCLG in 2015 and updated in 2018.
- 1.2 It will be distributed to all the parties stated in paragraph 22 of the Guidance and will be available to the general public for viewing.
- 1.3 This Statement of Reasons includes all items set out in section 11 of the Guidance and takes account of the advice contained in section 1 thereof in respect of section 226 of the Town and Country Planning Act 1990.
- 1.4 The Council reserves the right to raise further matters in any statutory Statement of Case that is issued under the Compulsory Purchase (Inquiries Procedure) Rules 2007 (as amended).
- 1.5 The Order is being promoted by the Council under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) so as to permit the Council to acquire the ownership of the Order Land (described in Section 2 of this statement).
- 1.6 The Order Land is at present in several ownerships (see Section 2 below). Upon acquisition, the Council would seek to assemble the site and secure improvement of the Order Land by way of clearance, with a view to facilitating redevelopment over the medium term.
- 1.7 The Council is satisfied that the proposals can be funded from within its own resources.
- 1.8 The Council resolved on 28th May 2019 to promote the Order and allow submission to the Secretary of State. (Document 2).

2. The Order Land

- 2.1 The Order Land consists of four terraced dwelling houses (located on one block of a residential street) in the town of Nelson. The properties are all empty and are in a derelict condition. As such, they are not fit for occupation. 67-69 Elizabeth Street have been bricked up, with 69 being partially demolished and 71 being fully demolished in the interests of safety.

- 2.2 The Order Land comprises 4 plots. The ownership of which is set out Below:-

Plot 1 – 65 Elizabeth Street. (102 square metres in area). The identity of the freehold and the headlease interests are unknown, whilst Norman Lyons holds a long underlease in respect of this plot.

Plot 2 – 67 Elizabeth Street. (94 square metres in area). The identity of the freehold and the headlease interests are unknown, whilst the Council holds a long underlease in respect of this plot.

Plot 3 – 69 Elizabeth Street. (97 square metres in area). The identity of the freehold and the headlease interests are unknown, whilst the Council holds a long underlease in respect of this plot.

Plot 4 – 71 Elizabeth Street. (98 square metres in area). The identity of the freehold and the headlease interests are unknown, whilst the Council holds a long underlease in respect of this plot.

- 2.3 The Order therefore covers the proposed compulsory acquisition of all interests in Plot 1 (65 Elizabeth Street) and the compulsory acquisition of the outstanding freehold and headlease interests in Plot 2 (67 Elizabeth Street), Plot 3 (69 Elizabeth Street) and Plot 4 (71 Elizabeth Street) in respect of which, the Council already holds long underlease interests.

3. Statutory Enabling Power to promote CPO

- 3.1 Upon confirmation, the Order shall permit the compulsory acquisition of the Order Land comprising the four dwelling houses as set out above covering a total area of 391 square meters as shown on the Order Map (Document 3).
- 3.2 The Order is made under 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) to secure the improvement of the Order Land.
- 3.3 Upon confirmation of the Order, the Council would propose to secure the improvement of the Order Land, by way of facilitating clearance of the derelict housing presently located on it. The Council contends that this alone would be likely to deliver significant environmental benefits to the local neighbourhood, as well as the providing the possibility of delivering further social and economic benefits that would arise from any redevelopment of the cleared site over the medium term.

- 3.4 In planning terms, there are a variety of uses in operation in the neighbourhood around the Order Land. The area is primarily residential in character, but it also houses a number of commercial facilities in Charles Street such as a waste recycling operation (Norpol Recycling Ltd), an IT/Consultancy business (SIK Solutions Ltd) and a wholesale computer supply business (Smartpc Ltd). in surrounding streets. It is therefore realistic to conclude that the cleared site could be developed for either commercial or residential purposes.

4. Human Rights and Equality

- 4.1 The Council has taken into account the rights of property owners under the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 ('the Convention'), in particular Article 1 of the First Protocol (right to private property) and Article 8 (right to privacy). As the Order Land is not occupied, the Council is satisfied that the Article 8 right is not engaged. The owners shall be entitled to proper compensation for the loss of their property in accordance with the statutory compensation code. The Council therefore considers that this measure does not have an excessive or disproportionate effect on the interests of the persons affected and is content that the extent of the powers sought in the Order strikes a fair balance between the legitimate aims of the Council and the affected persons' Convention rights.
- 4.2 The Council has taken account of its duties under section 149 of the Equality Act 2010 and is satisfied that the promotion of the Order shall not disadvantage any individual or group with protected characteristics, or otherwise be the cause of any direct or indirect discrimination within the community.

5. Purpose of Compulsory Purchase

- 5.1 The Council's purpose in seeking to acquire the Order Land is to enable the site to be assembled, as at present it is in a number of different private ownerships (see section 2 above).
- 5.2 Upon acquisition of the Order Land, the Council proposes to improve the site by way of clearance, with a view to securing redevelopment of the site over the medium term. The Council would expect the site to be cleared within six months of the Order being confirmed.
- 5.3 The Council is satisfied that clearance of the site would deliver immediate environmental benefits to the locality and there is the prospect of delivering

wider social and economic benefits to the community, when the site is redeveloped over the medium term.

- 5.4 The Council is seeking to exercise powers of compulsory purchase as a matter of last resort (see Section 8 of this statement 'Attempts at Voluntary Acquisition') and contends that there is a compelling case in the public interest for the promotion of the Order, so as to secure the clearance and future redevelopment of what at the moment is a derelict site, causing a blight to the immediate environment.

6. Justification for CPO: The Strategic Planning Framework

- 6.1 The justification for the Council's promotion of the Order is to be found in the Strategic Planning Framework, consisting of the National Planning Policy Framework ('the NPPF') (Document 4) and The Pendle Local Plan: Core Strategy 2011-2030 ('the Local Plan') (Document 5) Part 1 of which was adopted by the Council in December 2015.

Section 226(1)(a) Town and Country Planning Act 1990 (as amended)

- 6.2 As indicated above, the Council contends that improvement of the Order Land by way of clearance would be delivered so as to produce an immediate improvement to the Order Land and as a consequence facilitate the environmental wellbeing of the local area. The proposal therefore falls within the terms of section 226(1)(a) of the Town and Country Planning Act 1990 (as amended). Moreover, the cleared site could potentially be redeveloped over the medium term for either commercial or residential use and any such proposals would be consistent with the Strategic Planning Framework, both in terms of national planning policy through the NPPF and local planning policy through the Local Plan, as set out below.

The Revised National Planning Policy Framework (2018)

- 6.3 The revised National Planning Policy Framework (July 2018) ('the NPPF') (Document 4) took effect from July 2018. It contains national policy and is intended to guide planning decisions and policies along the lines of sustainable development with a view to promoting social, economic or environmental wellbeing.
- 6.4 Section 2 of the NPPF – 'Achieving Sustainable Development' sets the achievement of sustainable development as the overarching goal of the planning system. Accordingly, the application of NPPF policies and the framing and application of policies through the local plan should be aimed at achieving sustainable development. This manifests itself in the pursuit

of economic, social and environmental objectives. Economic objectives are appropriate in terms of the pursuit of sustainable and inclusive economic growth, so as to improve productivity and boost job creation. Social objectives are appropriate in terms of strong, healthy, inclusive and well designed communities incorporating appropriate housing, public realm and appropriate public facilities. Environmental objectives are appropriate in protecting and enhancing the natural and built environment whilst protecting communities from adverse impacts arising from climate change. On this basis, in assessing particular planning applications there is a presumption in favour of applications that demonstrate sustainable development, unless material considerations indicate otherwise.

- 6.5 Section 11 of the NPPF - 'Making Effective Use of Land' makes clear in paragraph 117 that planning policies and decisions should 'promote an effective use of land in meeting the need for homes and other uses, whilst safeguarding the environment and ensuring safe and healthy living conditions'. There is a requirement to 'make as much use as possible' of previously developed/brownfield land. Paragraph 118(c) indicates that planning policies and decisions should 'give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land'. Paragraph 119 requires local authorities to take a proactive approach to bringing sites forward for development, and that in doing so they should be prepared to use compulsory purchase powers for the purposes of site assembly. Paragraph 121 indicates that local authorities should take a 'positive approach' to applications for alternative uses of land which is currently developed, but not specifically allocated in the development plan, if it would assist in meeting identified development needs – this would include supporting proposals for housing and community facilities. Paragraph 122(e) requires planning decisions to take account of the importance of securing well designed, effective and healthy places.
- 6.6 Section 12 of the NPPF - 'Achieving Well Designed Places' observes in paragraph 124 that the achievement of high quality buildings and places is fundamental to what the planning process should achieve. Paragraph 127 requires developments to function well and add to the overall quality of the area, to be visually attractive as a result of 'good architecture, layout and appropriate and effective landscaping', whilst being sympathetic to the local character and history of the area, at the same time as 'establishing or maintaining a strong sense of place, using the arrangement of the streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit'. Paragraph 130 indicates that planning permission should be refused for development that is of a poor design that 'fails to take opportunities available for improving the quality of an area and the way it functions, taking account any local

design standards or style guides in plans or supplementary planning documents.'

- 6.7 The NPPF is therefore supportive of development that is sustainable, makes effective use of land and is of good design. It also serves to promote a variety of uses in appropriate cases from housing to commercial and community facilities.

The Pendle Local Plan Part 1: Core Strategy 2011-2030

- 6.8 The Pendle Local Plan Part 1 Core Strategy 2011-2030 ('the Local Plan') (Document 5) that was adopted by the Council in December 2015 set out a spatial vision for the Borough of Pendle in 2030. The vision paints a broad picture of how the Borough should look by 2030, thereby providing an action plan to guide progress in the interim period. The following themes emerge from that vision, namely:-

- Dynamic/beautiful location
- Carbon Reduction
- Provision of an improved environment for local businesses with quality infrastructure
- A quality, balanced and affordable local housing market
- Protection and enhancement of high quality natural landscapes

- 6.9 It will be appreciated that the above elements of the 2030 Vision are likely to have relevance to the redevelopment of the Order Land once it has been cleared.

- 6.10 Policy LIV 5 - 'Designing Better Places to Live' requires all new housing to be designed and built in a sustainable way, in order to meet the needs of the borough's population, create sustainable communities, increase the energy efficiency of new dwellings, reduce CO2 emissions and help to adapt to climate change. Furthermore, the types and sizes of new houses should help to diversify the existing housing stock to achieve a more balanced mix of dwellings, whilst seeking to address the specific housing needs of the local community (Policy LIV 3 - 'Housing Needs') together with promotion of sustainable living patterns (Policy WRK 1 - 'Strengthening the Local Economy' and Policy ENV 4 - 'Promoting Sustainable Travel'). Housing proposals should follow the design approach set out in Policy ENV 2 - 'Achieving Quality in Design and Conservation' in order to promote high quality and innovative design, whilst the use of Building for Life Standards are to be strongly encouraged by the Council. Furthermore any proposals for housing development should make the most efficient use of land, recognising also that generally provision of new terraced housing (in the neighbourhood of the Order Land) should be limited.

- 6.11 Policy WRK 6 - 'Designing Better Places to Work' encourages the provision of well designed workplaces that meet the needs of businesses and their employees, whilst contributing towards the aim of low carbon growth in Pendle. In design terms, proposals should be in accordance with Policy ENV 2 - 'Achieving Quality in Design and Conservation' and should meet the highest possible level of the appropriate BREEAM standard if possible, whilst mixed use developments should take account of Policy LIV 5 - 'Designing Better Places to Live' as well as SUP 4 - 'Designing Better Public Places' and all developers should have regard to the requirements of Policy ENV 5 - 'Pollution and Unstable Land' and Policy ENV 7 - 'Water Management' in minimising negative impacts on immediate surroundings. New build schemes should maximise the development potential of the site, with appropriate density and should enhance the mix of uses in a particular area. High quality design features and layouts that contribute to the sense of place are encouraged. Any mixed use development must be carefully designed and managed to ensure that residential and other occupiers in the area retain an appropriate level of amenity.
- 6.12 Policy SUP 4 - 'Designing Better Public Places' indicates that the Council shall work in partnership to achieve well designed high quality public buildings and spaces. In addition to observing the general design requirements set out in Policy ENV 2 - 'Achieving Quality in Design and Conservation', regard should be had to proposals for public buildings that contribute to the quality of place by encouraging multi use, operating to the highest level of BREEAM standards where possible, having regard to the relationship between any public building and neighbouring public realm. Proposals for public realm should contribute to sustaining or improving the quality, appearance and character of public realm by inter alia, increasing the use of natural surfaces, trees, shrubs and planting, using materials that are in keeping with the character of the area and increasing the use of public art, where appropriate and where in keeping with the place.

7. Justification for the CPO: The Corporate Policy Framework

Strategic Plan 2018-2020

- 7.1 The Strategic Plan 2018-2020 (Document 6) builds upon the vision set out in the Community Strategy (Document 7). It is to be noted that '..... as a Council we have signed up to the vision in our Sustainable Community Strategy and we are committed to working with our partners to ensure that.....we want Pendle to be a place where everyone aspires to reach their full potential'. This vision is supported by four strategic objectives – strong services, strong economy, strong communities and strong organisation. The strategic objective to develop a strong economy means

`helping to create and sustain jobs with strong economic and housing growth' and has relevance to any future redevelopment of the cleared site, which has the potential to be used for either residential or commercial purposes. The strategic objective to build strong communities which are inclusive, healthy, safe, visually attractive and well designed also has relevance to future development of the Order Land.

8. Attempts at Voluntary Acquisition

- 8.1 The Order Land was subject to a roof collapse that occurred across the four properties in April 2013. The Council took immediate action to make the structure safe and the response of the Council to this incident and subsequent developments associated with it have been duly documented (Document 8).
- 8.2 For Plot 1 (65 Elizabeth Street) discussion has taken place with the owner, Mr. Lyons with a view to securing voluntary acquisition of his (long underlease) interest in the property from as far back as 2006 (Document 9), when the dwelling (along with the rest of the block that now comprises the Order Land) was included in aborted proposals to redevelop the Riverside Mill site for housing as part of the Bradley Masterplan under the Housing Market Renewal Initiative. It will be noted that there has been no substantive/positive response from Mr. Lyons to date, and the property has been empty since the roof collapse in 2013. The Order also includes acquisition of the freehold and head leasehold interests, although the identity of the freeholder and head leaseholder is unknown.
- 8.3 Although for plots 2 to 4 (67-71 Elizabeth Street), the Council acquired ownership of long underlease interests in 2007 (as set out in section 2 of this statement) the Council does not at present have the freehold or headlease interests in these properties. The holders of these interests are presently unknown, so the inclusion in this Order of such interests shall allow the Council to obtain title to them.
- 8.4 Although the Council is committed to pursuing these negotiations in good faith, until such a time as the Order may be confirmed by the Secretary of State, the Council considered it important to promote the Order alongside such negotiations in accordance with the Guidance, so that progress can be made to secure clearance of the area, with a view to improving environmental wellbeing in the locality.
- 8.5 The Council acknowledges that compulsory purchase powers are only to be exercised as a matter of last resort and has adopted this approach as a result.

- 8.6 In seeking to purchase the Order Land by agreement, the Council has been given approval (by way of a resolution of the Policy & Resources Committee on 28th May 2019) for the payment of any sums in addition to market value that would properly be paid under the statutory compensation code, should a confirmed order be in place (Document 2).

9. Planning

- 9.1 The Order Land is presently in use for housing purposes. The locality however demonstrates a variety of planning uses covering both residential and commercial development. Within the locality of the Order Land there are commercial premises located along Charles Street (see paragraph 3.4 of this Statement), whilst the opposite side of Elizabeth Street (facing the Order Land) is a cleared site, the neighbouring block is in use for residential purposes.
- 9.2 On the basis of the above, the Council considers that once cleared, the Order Land would in planning terms be appropriate for redevelopment, covering a variety of residential or commercial uses.
- 9.3 The Council would expect future development proposals for the Order Land to be fully in accordance with the Strategic Planning Framework (as set out in section 6 above) and as such it would be expected that any planning application made on that basis, would be successful, taking account of the requirements of section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 9.4 The Council shall ensure that the prior notification process (Schedule 2, Part 31 of the Town and Country Planning, General Permitted Development Order 1995) is followed before any clearance of the Order Land takes place.

10. Finance

- 10.1 It has been estimated that the acquisition of the Order Land will cost in the region of £15,000 including £9,000 for Plot 1 (65 Elizabeth Street) and costs for the outstanding interests for Plots 2 – 4 (67-71 Elizabeth Street).
- 10.2 The Council is satisfied that costs of acquisition and subsequent clearance of the Order Land can be met in full from its own resources.

11. Special Considerations

- 11.1 There are no special considerations such as listed buildings.
There are no other historic or sensitive buildings within the site covered by the Order Land. The site is not located within a Conservation Area.

12. Views of Government Departments

- 12.1 No Government Department has expressed any views about the proposed development of the Order Land.

13. Conclusion

- 13.1 The Council is promoting the 'Borough of Pendle (65-71 Elizabeth Street, (Odd Numbers) Nelson) Compulsory Purchase Order 2019' as a last resort, in order to obtain title to the Order Land.
- 13.2 The promotion of the Order is intended to secure improvement of the Order Land by way of clearance, with a view to improving the environmental wellbeing of the locality.
- 13.3 The proposals to acquire and clear the Order Land shall be financed from the internal resources of the Council and there shall be no impediments to implementation of the Order, should it be confirmed by the Secretary of State.
- 13.4 Furthermore, the cleared site would be appropriate in planning terms for a variety of commercial or residential uses and any planning application for specific future development of the cleared site in due course, would be expected to comply with the Strategic Planning Framework, and on this basis it is expected that such planning permission for future development proposals would be granted in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 13.5 The Order is in compliance with the broader vision of the Local Plan and is fully in accordance with key objectives of Council Strategic Plan aimed at developing a strong economy and strong communities. The Council is satisfied that the Order is promoted for the proper statutory purpose under section 226(1)(a) Town and Country Planning Act 1990 (as amended), and that there is a compelling case in the public interest for the promotion of the Order and as such would respectfully request the same to be confirmed by the Secretary of State.

14. List of Documents

14.1 The following is a List of Documents which may be viewed at all reasonable times during business hours at No. 1 Market Street, Nelson Lancashire. Should any recipient of the Statement of Reasons wish to see a particular extract of any document listed, they are welcome to contact the Council who shall be pleased to assist. The Council shall put these documents in evidence at any Public Local Inquiry held in connection with this Order, but reserves the right to add further documents if and when a statutory Statement of Case is produced in the usual way.

1. Borough of Pendle (65-71 Elizabeth Street, (Odd Numbers) Nelson) Compulsory Purchase Order 2019
2. Minute of the resolution of the Policy & Resources Committee 28th May 2019
3. Order Map (as marked in item 1 above)
4. The National Planning Policy Framework (July 2018)
5. Borough of Pendle Local Plan 1: Core Strategy 2011-2030
6. Borough of Pendle Strategic Plan 2018-2020
7. 'Our Pendle Our Future: Pendle's Sustainable Community Strategy (2003-2018)
8. Records (Flare System) for 65 Elizabeth Street
9. Communications with Mr Lyons from 2006 (65 Elizabeth Street)

15. Contact Details.

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:

Housing

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Legal/Administration

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