



**SOUTHAMPTON CITY COUNCIL (FORMER BARGATE SHOPPING CENTRE AND SURROUNDING  
LAND, SOUTHAMPTON) COMPULSORY PURCHASE ORDER 2018**

**STATEMENT OF REASONS**

## 1 Introduction

- 1.1 Southampton City Council (the "**Council**") has made the Southampton City Council (Former Bargate Shopping Centre and Surrounding Land, Southampton) Compulsory Purchase Order 2018 (the "**Order**") under Section 226(1) (a) of the Town and Country Planning Act 1990, the Acquisition of Land Act 1981 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976. This document is the non-statutory Statement of Reasons ("**Statement**") prepared in accordance with "*Guidance on Compulsory Purchase process and The Criche Down Rules*"<sup>1</sup> (the "**CPO Guidance**").
- 1.2 The Council has made the Order in relation to the Bargate Centre and surrounding land (the "**Order Land**") as shown on the plan accompanying the Order (the "**Order Map**") to secure the right to acquire compulsorily the outstanding interests and new rights within the Order Land which are needed to facilitate the redevelopment of the Order Land as detailed in Section 4 below.
- 1.3 The Order has been submitted to the Secretary of State for Housing, Communities and Local Government for confirmation.
- 1.4 A copy of this Statement, the Order and Order Map together with background documents, are available for inspection at Southampton City Council, One Guildhall Square, Southampton SO14 7FP between the hours of 0930-1630.
- 1.5 The Statement of Reasons, Order and Order Map are also available to view on the following website <http://www.investinsouthampton.co.uk/developments/developmentdetails.aspx?id=70>

## 2 Enabling Powers

- 2.1 By virtue of section 226(1)(a) of the Town and Country Planning Act 1990 the Council has the power to acquire land compulsorily for "development and other planning purposes" if that acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to that land. The Council in exercising its power under section 226(1)(a) must have regard to Section 226(1A) which provides that this power must not be exercised unless the Council think that the development, re-development or improvements are likely to contribute to the promotion of the economic, social or environmental well-being of its area.
- 2.2 The Council consider that the use of section 226(1)(a) is appropriate having regard to the aims sought to be achieved by the redevelopment of the former Bargate Shopping Centre site (the "**Site**") of which the Order Land forms part. The Council is satisfied that the use of the powers contained in section 226(1)(a) will contribute to the development, redevelopment or improvement of the Order Land. The Council is further satisfied that the redevelopment of the Order Land will contribute to the improvement of the economic and social wellbeing of Southampton City Centre through the enhanced residential, student housing and retail offering and additional employment opportunities.

The redevelopment of the Order Land will also contribute to the environmental and social wellbeing of the area as a consequence of the public realm improvements facilitated by the redevelopment of the Order Land. Full details of the benefits of the redevelopment of the Order Land for the Council's area are at Section 3 below.

2.3 Under section 13 of the Local Government (Miscellaneous Provisions) Act 1976 the Council has the power to compulsorily acquire new rights over land. The rights which are sought are specified in the Schedule to the Order and summarised in Section 4 below.

2.4 The Scheme for which CPO is being utilised consists of:

*"the demolition of existing buildings and structures and refurbishment of basements to provide a comprehensive mixed used development comprising student accommodation, residential accommodation and flexible retail, office and/or food and drink uses together with associated car parking, servicing, landscaping and public realm works".*

The justification for which is established in local policy as is further described in section 6 of this statement.

### **3 The Development Proposals**

3.1 On 28 July 2016 Bargate Property Limited LLP (**BPL**), the freehold owner of the majority of the land to deliver the scheme envisaged by the Order, submitted a planning application (ref 16/01303/FUL) for:

*"Demolition of existing buildings (Bargate Shopping Centre and multi-storey car park; 77-101 Queensway, 25 East Street; 30-32 Hanover Buildings; 1-16 East Bargate and 1-4 High Street, excluding the frontage); refurbishment of basements and mixed use development comprising 152 flats (63 x one bedroom and 89 x two bedroom) Use Class (C3); 185 units of student residential accommodation (451 bedrooms); retail use (Class A1)' flexible retail, office or food and drink use (Classes A1-A3); in new buildings ranging in height from 4 storeys to 9 storeys with associated parking and servicing, landscaping and public realm." (the "**Development**")*

3.2 The Council's Planning and Rights of Way Panel considered the application and, in accordance with the officer recommendation, resolved to grant planning permission on 10 January 2017. Following the completion of a Section 106 Agreement, the Council granted planning permission on 10 August 2017. It was considered that the Development was acceptable taking into account the policies and proposals of the Development Plan (as is further explored in this Section 3 and in Section 7).

3.3 Following the grant of the planning permission for the Development BPL applied to the Secretary of State for a stopping up order in relation to sections of the adopted highway, in the vicinity of Strand which are required for the Development. The stopping up order was confirmed on 24th October 2017 (the "**Stopping Up Order**").

3.4 The Development centres on the 1980s Bargate Shopping Centre and includes the retail properties that front the High Street and Queensway. The Bargate Shopping Centre is situated in the heart of

Southampton City Centre and, at the time the planning permission for the Development was granted (it has since been demolished as part of the Development), the Bargate Shopping Centre was closed, vacant and in need of redevelopment and had been so since June 2013, following the administration of the previous owners.

- 3.5 The former Bargate Shopping Centre was located in extremely close proximity to two Grade I Listed Buildings and Scheduled Ancient Monuments: the historic Town Wall that is situated immediately north of the existing shopping centre and the 'Bargate', a medieval gatehouse that is situated immediately to the west. Having such a large scale derelict building in an extremely close proximity, caused a significant negative impact on the setting of the Town Wall and the Bargate and the enjoyment of visitors to these sites.
- 3.6 The derelict state of the Bargate Shopping Centre also had a negative impact on the attractiveness of the City Centre and whilst the retail units on the High Street and Queensway continue to be occupied, these retail locations have been in decline since the opening of the 796,536 sq. ft. (74,000 sq. m.) WestQuay Shopping Centre in September 2000. Without significant regeneration, such as that proposed by the Development, this decline is expected to continue following the recent opening of WestQuay South, an extension to the existing shopping centre providing leisure facilities, such as a cinema and bowling alley, as well as a number of retail units, predominately occupied by high-street restaurant chains.
- 3.7 The redevelopment of the former Bargate Shopping Centre and nearby buildings through the Development will ensure that this currently underused City Centre site contributes positively to the local economy and prosperity of the City through a new mixed-use development comprising retail, residential, student accommodation and restaurant uses.
- 3.8 The redevelopment and improvement of the Site (including the Order Land) and surrounding area has been an objective of the Council for some time and is supported by the Council's planning policy. The redevelopment of the Site (including the Order Land) has long been recognised as a key element in the regeneration of the City Centre. It has been identified as a "Very Important Project" and the Order Land is allocated for redevelopment in the City Centre Action Plan 2015.
- 3.9 Southampton City Centre is ranked as 14th best performing retail centre in the United Kingdom (2009). An estimated 6.9 million tourism day trips were made to Southampton in 2008, many of which were day trips to visit the WestQuay Shopping Centre and other shops.
- 3.10 Southampton has aspirations to become an International City of Culture by 2026. Research has revealed that in order to become more attractive to visitors, the City Centre needs to increase the number and variety of attractions, events and shops and improve the quality of the built environment.
- 3.11 The Council's aim is for Southampton to maintain and enhance its role as a regional shopping destination and to develop complementary leisure, cultural and arts attractions and hotel accommodation. The Core Strategy Partial Review includes a target of approximately 90,000 sqm gross of additional comparison retail floorspace 2006-2026. Taking into account completions for the

period 2006-2012, the outstanding target for comparison retail floorspace is 53,810 sqm. The City Centre Action Plan (2015) (CCAP) identifies that 4,875 sqm gross of retail floorspace will be delivered within the Bargate Centre/Hanover Buildings/Queens Way area.

- 3.12 The City Centre is also identified as a place to live for a wider mix of households, including families. The Core Strategy proposes that approximately 5,450 dwellings will be built in the City Centre up to 2026.
- 3.13 The CPO Guidance identifies at paragraph 106 the factors which the Secretary of State can be expected to consider when determining whether to confirm a compulsory purchase order and refers to Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended). These factors are:
- (a) whether the purpose for which the land is being acquired fits with the adopted Local Plan for the area, or, where no such up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework (see Section 7 below);
  - (b) the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area (see this Section 3);
  - (c) whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means (see Section 5 below); and
  - (d) the potential financial viability of the scheme. A general indication of funding intentions and any commitment from third parties will usually suffice (see Section 6 below).
- 3.14 The Council is satisfied that all these factors are detailed in this Statement and that the Development will significantly contribute to achieving and promoting the social, economic and environmental wellbeing of the area, for the reasons set out in this Section 3.

### **Economic Growth**

- 3.15 It is estimated that the Development will transform Southampton's total retail comparison goods market potential from £550.5 million to £599.6 million with the market potential of the core catchment increasing from £283 million to £303 million.
- 3.16 The Development is also anticipated to encourage further investment into the City Centre outside of the Order Land and will make visiting the City Centre and the Town Wall and Bargate a much more pleasant experience, encouraging more people into the City Centre.
- 3.17 It is anticipated that the Development could generate 280 new jobs, with 271 associated with the retail, restaurant and site management uses. The creation of new job opportunities and economic benefits which flow from this are a welcome benefit of the Development. Additional job opportunities will also be created during the construction process, anticipated to last for a period of 2 years.

- 3.18 Under the Section 106 Agreement for the Development (the "**s.106 Agreement**"), BPL has committed to work with local employment and training agencies such as Jobcentre Plus, schools and universities, and provide employment and training opportunities connected to the Development, thereby maximising the vacancies to be taken by the local workforce.

### **Social Benefits**

#### Town Walls

- 3.19 The Development will open up public access to the historic Town Walls. The Southampton Town Walls date from the 10th century although they have been significantly improved, moved and rebuilt since that time. Around half the length of the 2km long medieval Town Walls survives.
- 3.20 The s.106 Agreement secures the carrying out of a "Town Wall Interpretation and Public Art Scheme" (to be approved by the Council) which will involve (inter alia) works along the line of the missing Town Walls (including use of a different paving style to delineate the line of the missing Town Wall) and works to the existing Town Wall.
- 3.21 Scheduled Ancient Monument consent to protect the Town Walls during the construction of the Development has been secured by BPL.
- 3.22 The proposed works to Plot 4 (detailed in Section 4 below) will improve accessibility to the Town Wall and the 'Walk the Walls' walk.

#### Public Realm

- 3.23 The Development will significantly improve the public realm within and around the environs of the Order Land by:
- (i) enhancing arrival and movement through the city through the creation of a permitted route for pedestrians and cyclists between the Bargate frontage of the development and Queensway;
  - (ii) improving the visual quality and coherence of the City Centre;
  - (iii) apportioning a significant share of the Site over to the public realm (5,200sq.m of the Site not including highways improvements); and
  - (iv) bringing a vacant site, currently having a detrimental impact on the City Centre, the setting of the listed Bargate and overall public realm back into use.
- 3.24 Improvements in community safety will be provided through the implementation of a CCTV network that can be linked into or accessed by the Council and its partners.
- 3.25 Various site specific transport works will be undertaken as part of the Development that will improve movement of pedestrians and vehicles and result in an improved public realm environment,

including:

- widening of footways along Queensway;
- reconfiguring the Strand access to enable passing vehicles and form a vehicular crossover (or similar) to provide a clear pedestrian priority;
- new access into Queensway.

### **Environmental**

3.26 The impact of Development on the environment has been mitigated by a series of measures secured in the s.106 Agreement. These include:

- (i) a financial contribution towards the Solent Disturbance Mitigation Project in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended). This is a Partnership for Urban South Hampshire (PUSH) project to mitigate the harmful impact of additional recreational activity on nesting/wading birds within the Solent region, resulting from new residential development within the Solent region's three Special Protection Areas; and
- (ii) implementation of a Carbon Management Plan setting out how carbon neutrality will be achieved and/or how remaining carbon emissions from the development will be mitigated in accordance with policy CS20 of the Core Strategy and the Planning Obligations SPD (September 2013).

3.27 The s.106 Agreement contains obligations which aim to reduce the reliance on the private car by occupants of the Development and positively encourage the use by those occupants of alternative means of transport which have less of an adverse impact on the environment. Examples of this include the following:

- (i) in an effort to reduce congestion, occupiers of the private and student housing will be restricted from benefitting from parking permits in surrounding streets. No student within the purpose built accommodation with the exception of registered disabled drivers shall be entitled to obtain parking permits to either the sites designated parking or the Council's controlled parking zones.
- (ii) to discourage the use of private cars, a Car Park Management plan will be implemented to ensure the public car parking is provided and retained with daily charges to at least match the minimum daily charge of the prevailing Council car parking charges.

3.28 The s.106 Agreement also secures a Development Mitigation Contribution (£200,000) towards one or more of (inter alia) the Council's Carbon Offsite Fund, legible city signage amendments/upgrades and the Bargate monument all of which would contribute to improving the local environment of the

area.

## **Conclusion**

- 3.29 Overall the Development will significantly contribute to the regeneration of this important area of the City Centre. The mixed use development through the creation of retail and residential uses will enhance the vibrancy and appeal of the City Centre, attracting retailers and improving investment and spend within Southampton. With new food and drink outlets contributing to the Council's aspirations to improve its leisure and night time economy.
- 3.30 The Development will provide significant public realm improvements and enhance the setting of the listed Bargate and historic Town Walls. It is considered that the purpose for the Order satisfies Section 226(1A) of the Town and Country Planning Act 1990 (as amended).

## **4 Land and Rights to be Acquired**

- 4.1 In order to deliver the Development, both control over and the vacant possession of the entire Order Land as shown on the Order Map is required. There are small pockets of unregistered land within the Order Land where, despite diligent and reasonable inquiries, it has not been possible to ascertain ownership, albeit that it is most likely that such areas are owned by the Council (for further details see Section 5 below).
- 4.2 The Order Map identifies the extent of the interests to be acquired comprising:
- (a) Plots 2 – 6 and Plot 8, namely small parcels of unknown unregistered land within the Order Land; and
  - (b) new rights over two properties (Plots 1 and 7) required to allow the erection/use of scaffolding and associated apparatus and servicing works to facilitate demolition works and/or construction of the Development.
- 4.3 It is necessary to acquire temporary rights over Plot 1 (5 High Street) and Plot 7 (24 East Street), if agreement cannot be reached with the owners of those Plots. The properties abut parts of the Site on which it is necessary to erect scaffolding and similar apparatus in order to demolish existing buildings on the Site and to erect buildings within the Development. Permanent rights over Plot 7 are also required for purposes relating to the diversion, installation and maintenance of utility apparatus for the purposes of maintaining supply to Plot 7 and apparatus required to serve the Development.
- 4.4 Acquisition of Plot 2 is necessary for completion of Unit 3 in Block B as the footprint of the building falls within Plot 2. Its permanent acquisition is therefore required.
- 4.5 Acquisition of Plot 3 is necessary for landscaping adjacent to and completion of Unit 2 in Block A as the footprint of the building is within Plot 3.
- 4.6 Acquisition of Plot 4 is necessary for landscaping adjacent to Unit 14 in Block D and for the Development to be delivered in a way in which is most beneficial to the public, as it will allow



levelling works to take place and amalgamation with landscaping on the Order Land. The levelling works will create a more continuous access between the Order Land and the area to the east of Polymond Tower. The proposed levelling works remove one set of steps and the archway to the east of the Polymond Tower and raise the ground to create a level threshold. Without these works the public have to walk down 5 steps and then immediately walk back up another flight of steps to follow the route of the Town Wall. Providing a more continuous and level route will improve the 'Walk the Walls' walk making it more accessible.

- 4.7 Plots 5 and 6 consists of freehold land within and adjacent to the Strand public highway. Parts of the Strand are the subject of the Stopping Up Order dated 24 October 2017; once the stopping up order is implemented, the highway rights over the land are extinguished and, ordinarily the subsoil land reverts back to the ownership of the relevant owner. The ownership of the subsoil is unknown as it is unregistered. The land affected by the Stopping Up Order is required as it forms part of the land on which Units 19 -21 in Block D, E and F of the Development will be built.
- 4.8 Although it is possible that BPL would be able to rely upon the 'ad medium filum' presumption to claim control and ownership of the land in Plots 5 and 6 (due to BPL owning the land either side of the unregistered land in Plots 5 and 6), this presumption can be rebutted and BPL would not be able to register for title absolute at the Land Registry on the basis of the presumption. As Plots 5 and 6 will be built on as part of the Development it is critical that BPL are able to secure title absolute over the land. This will be very important to those occupying and/or anyone lending on the Development whether now or in the future.
- 4.9 Investigations have revealed that some of the commercial retailers on East Street and part of High Street may have rights to service and access these units via the rear. Whilst no specific route for service/access has been identified in the leases reviewed, it is possible that this will have been carried out via Strand. For this reason they have been incorporated within Table 2 in the Schedule to the Order, although this is as a precautionary measure in the absence of being able to identify a specific right for each retailer/unit.
- 4.10 However, the Development once constructed will continue to enable the East Street units to be serviced via the rear, with a new access route being created via Queensway and egress retained at York Buildings. In fact a number of the East Street units are already using the Queensway access, as access to the Strand is already unavailable due to ongoing demolition works. No queries or complaints in relation to the alteration in route have been raised with the Council or BPL, nor were received in advance of the confirmation of the stopping up order in relation to the stopped up segment of Strand. This amended route will continue to be public highway once constructed. It is considered that the effect on any rights to the owners of the East Street units will be negligible.
- 4.11 Acquisition of Plot 6 is necessary for landscaping and delivery of Unit 21 in Block F as the footprint of the building is within Plot 6.
- 4.12 The Council considers that the use of its compulsory purchase powers to acquire the outstanding unregistered interests and new rights is appropriate to provide BPL with certainty that it has the

necessary control over all of the Order Land for the purposes of delivering the Development.

## **5 Efforts to Acquire by Agreement**

- 5.1 Compulsory purchase is a last resort. However, the CPO Guidance (section 2) recognises that if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost and it is often sensible, given the amount of time required to complete the compulsory purchase process, to initiate compulsory purchase procedures concurrent with the negotiation process. The CPO Guidance recognises that this will help 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.
- 5.2 In relation to this Development the use of compulsory purchase is also required, as despite all reasonable endeavours being taken, it has not been possible to identify the owners of the unregistered land within the Order Land.
- 5.3 The Council instructed independent agents to carry out the land referencing exercise. The actions taken by the agents to investigate title and occupier details for inclusion in the Order included:
- (a) land registry searches;
  - (b) review of the developer's (BPL's) tenancy information;
  - (c) review of Council's own records as to its land holdings;
  - (d) service of Section 16 Requisitions for Information on behalf of the Council and review of information returned in responses;
  - (e) inspection of the Order Land and surrounding site; and
  - (f) placing of public notices on the Order Land.
- 5.4 It is considered that the Schedule to the Order is as accurate as it can be following diligent enquiries on behalf of the Council.
- 5.5 At the time the Council resolved to use compulsory powers if required to facilitate the Development coming forward (17th October 2017), it was anticipated that some third party leaseholder interests within buildings along 77, 85-87 and 99-101 Queensway would need to be compulsorily acquired together with the areas of unregistered land on/adjacent to the Order Land.
- 5.6 The Council wrote to each of the leaseholders affected on 5th October 2017 informing them that the making of the Order was due to proceed in relation to their respective interests. The leaseholders affected were offered an opportunity to meet to discuss the process and were also informed that BPL would continue to liaise with them to secure the surrender of their leasehold interests by private treaty if possible.

- 5.7 BPL has now successfully negotiated the surrender of all the outstanding leasehold interests by agreement.
- 5.8 BPL has also been in discussions with the owners of Plot 1 and 7 in respect of negotiating to secure the necessary scaffolding and related rights by agreement. Progress has been made and the latest position is as follows:
- 5.8.1 Plot 1 (5 High Street) – agreement has been reached on all principal points in respect of the access licence and the matter is currently with the respective parties solicitors who are formulating the necessary legal agreements. Whilst it is expected that these agreements will be completed shortly and there will be no need to secure the required rights under the Order, until the agreements are finalised there remains a level of uncertainty that the matter will be concluded. So to ensure that delivery of the scheme is not delayed the required rights have been included in the Order.
- 5.8.2 Plot 7 (24 East Street) – a meeting was held with the owner of the long leasehold interest in the Property on 20th September 2018 to discuss both the relevant access and works licences required in order for the Scheme to be delivered and how the construction works would be managed to ensure that all utilities servicing the property were maintained throughout the works. On the 4th October 2018 Heads of Terms were circulated to the owner for his consideration and it is hoped that these will lead to an agreement being entered into, negating the need to rely on the CPO to secure the necessary rights required for the delivery of the scheme.
- 5.9 It is hoped that agreements in relation to both Plots 1 and 7 will be entered into shortly. However, as at the date of making the Order, no agreements have been formalised. It is therefore necessary to seek these new rights as part of the Order to provide certainty as to the ability to bring forward the Development. Comprehensive compulsory purchase powers will allow negotiations with affected landowners to be conducted in the context of the ultimate compulsory acquisition process with a view to reaching a deal. As compulsory powers are more readily enforceable, this reduces risk, costs and delay for the Development, albeit discussions will continue with the affected parties to secure the required rights by agreement if at all possible.

## **6 Deliverability and Funding**

- 6.1 BPL is a special purpose vehicle for which Tellon Capital LLP (**Tellon**) is the asset and development manager. BPL shareholders comprise a number of ultra-high net worth individuals. The founders of Tellon have a background and established history of delivering mixed use development schemes similar to the Development.
- 6.2 BPL intends to fund the Development through its shareholder's private equity without the need for securing any external funding.
- 6.3 The Development provides a sufficient level of return for BPL to commit to the Development's delivery. BPL intends to retain the Development once constructed thus enabling it to take a long-term approach to its investment and overall return, having regard to future revenue streams and

capital appreciation over time.

- 6.4 A number of the existing retail units within the Site are currently occupied. BPL is the landlord for the remaining occupiers and has put in place a series of short term lets with these existing occupiers. This means that BPL can easily secure vacant possession of these units as and when they are required for constructing the Development.
- 6.5 Since the Council resolved to use compulsory purchase powers, BPL has completed a transfer of the majority of the Site, previously owned by the receivers of the former freehold owners and a transfer of the freehold of that part of the Site previously owned by the Council. BPL now therefore has control over the majority of the Site, save for those unknown unregistered areas of land shown on the Order Map.
- 6.6 BPL has submitted necessary information for the discharge of all pre-commencement planning conditions relating to the Development. The historic Town Wall partially falls within the Site and scheduled ancient monument consent is therefore required prior to commencing works. BPL obtained scheduled monument consent from Historic England on 8 November 2017.
- 6.7 BPL has also awarded a works contract in relation to the Development. The works included in the works contract consist of the demolition of the former Bargate Shopping Centre, refurbishment of basements and ground work preparation in advance of a main build contract being let in quarter one of 2019. Demolition to the buildings within phases 1 and 2 is nearing completion. Demolition of the buildings in the final phase (the Queensway block) is scheduled to commence in August 2018. The BPL project team are aiming for an overall completion date for the Development in July 2020, in advance of the next student intake in September 2020.

## **7 Compliance with Planning Policy**

- 7.1 Planning permission for the Development was granted on 10 August 2017 and there are no planning impediments to the Development proceeding. The Development is in accordance with relevant planning policy as set out below.

### **The Core Strategy**

- 7.2 The Core Strategy ('CS') sets out the Council's plan to promote the economic growth of an historic waterfront city through attractive and sustainable development. It sets out a vision for Southampton to:
- have developed further as a major regional centre for economic growth and as a social and cultural hub with a thriving night-time economy;
  - have strong and distinctive neighbourhoods where the *'city will have high-quality, accessible environments designed to protect and enhance the city's heritage whilst providing attractive and functional settings for 21st Century life'*;

- be an environmentally sustainable city that protects and enhances the natural environment, tackles climate change and pollution, and develops a flood risk strategy (CS para 3.2.1).

7.3 The above is underpinned by the following strategic objectives:

- *‘Create a vibrant, high quality regional City Centre that is the focus for major retail; tourism; leisure; cultural and office investment and connects with the waterfront.’ (S3);*
- *‘Create excellence in design quality. Public spaces should take priority over car-dominated roads. Well-designed and contemporary public and private realms will be safe, accessible and create a sense of place and a rich built environment in which communities can flourish.’ (S7);*
- *‘Conserve and enhance the city’s historic environment ensuring that designated sites are safeguarded. Historic conservation opportunities in new development will be maximised and local awareness of heritage issues raised.’ (S8);*

7.4 **Policy CS1** defines the City Centre Approach references that detailed policy will be advanced through the CCAP.

7.5 The strategy for Housing Delivery is detailed in **Policy CS4** and states that an additional 16,300 homes are required within the city of Southampton between 2006 and 2026. Although the CS does not specifically allocate a proportion of this number to the City Centre, it references the Strategic Housing Land Availability Assessment (SHLAA), which prior to the adoption of the CCAP identifies land around Bargate as having the potential for 200 residential units to be brought forward as part of a major redevelopment of the site with housing delivered as an element of a mixed-use scheme.

7.6 When considering Housing Density, **Policy CS5** states development will only be permitted which is of an appropriate density for its context and that the City Centre can support high densities (defined as over 100 dwellings per hectare), along with other easily accessible areas.

7.7 **Policy CS13** of the Core Strategy states that architecture should respond positively and integrate with its local surroundings, character and architecture, whilst contributing positively to the unique image of Southampton and local distinctiveness via innovative and high quality design and reflect the importance of the city’s archaeology, historic and cultural heritage. In addition, when designing new development, proposals should consider landscape, connection, movement and inclusive access and urban form and scale.

7.8 **Policy CS14** requires that new development ‘respect and reflect the underlying archaeology of the area and for development in the City Centre to pay particular attention to the medieval walled town’.

7.9 **Policy CS15** provides that where 15 or more net dwellings are proposed on a site, the Council will

seek provision, through negotiation, of 35% affordable housing. The Policy acknowledges that the portion of affordable housing will take account of the costs of development and viability of the proposal, as assessed using an agreed model, and the constraints on the development of the site imposed by other planning objectives.

### **City Centre Action Plan 2015**

- 7.10 The CCAP updates the statutory planning framework for the City Centre, protects the historic and natural environment, and promotes more offices, shops, homes, and leisure facilities within the city.
- 7.11 The Bargate Quarter Development site forms part of the Site Specific Policy AP28: Bargate Sites (East of Castle Way, Bargate Shopping Centre and Hanover Buildings). Policy AP28 promotes the allocated area as an opportunity for retail led, mixed-use development where appropriate uses include: retail, food and drink, upper floor residential, hotel, commercial, cultural and leisure uses.
- 7.12 **Policy AP28** states that development will be supported where:
1. *The access to, views and setting of the Town Walls are improved by opening out the areas immediately surrounding the Town Walls, introducing attractive pedestrian routes and uses with active frontages alongside them and improving legibility and linkages with other sections of the Town Walls*
  2. *Proposed uses are in accordance with the retail policy on primary and secondary retail frontages*
  3. *Active frontages are provided alongside main routes*
  4. *Improved pedestrian links are created through the site*
  5. *The Shopmobility facility is retained or provided in a similarly central location*
  6. *Development fronting High Street provides a high quality entrance to the Bargate shopping centre and enhances the setting of the Bargate*
  7. *The build edge around Bargate is realigned to follow the historic street pattern and development safeguards the opportunity for, or facilitates, a high-level bridge link. Development should seek to retain and incorporate the Art-Deco façade of the former Burtons building into any new development proposals.*
  8. *Development includes pedestrian links to the East Street shopping area along the line of the Town Walls and the redevelopment of the Eastern site includes a connection through from the High Street to Castle Way continuing the line of East Street.*

9. *Development respects and enhances the setting of the Grade II\* registered park.*

- 7.13 **Policy AP5** of the CCAP seeks to safeguard retail uses (A1 Use) at ground floor level within the Primary Retail Frontages. The Policy goes on to state that proposals for the use of upper floors in Primary Frontages for retail, residential, leisure, office or other complementary uses which help to maintain or enhance the character and vitality of the centre will be supported.
- 7.14 **Policy AP8** considers the night time economy and the Council's wish to promote a night time economy with a range of activities in designated areas, including the Bargate. The Policy states: *"in evening zones and late night hubs, extended opening hours for food and drink uses will be supported subject to meeting other policies, particularly those to protect residential amenity and retail areas"*.
- 7.15 **Policy AP13** of the CCAP considers public open space in new developments and states that the following provisions apply to all proposals. Development will be expected to provide an appropriate amount of amenity open space on site, the nature of the development and accessibility will be taken into account. The Council will expect development to provide intensive green roof open space where practical and development will provide for other types of open space through a Community Infrastructure Levy payment.
- 7.16 **Policy AP16** of the CCAP states that development should relate well to the scale and mass of existing buildings, and be adaptable to future uses. Development should deliver an enriched public realm: there should be a clear hierarchy of streets and public spaces with high quality design that creates a distinctive sense of place unique to the City Centre. The incorporation of active frontages on primary streets is encouraged to improve permeability throughout the site.
- 7.17 **Policy AP17** of the CCAP discusses tall buildings and states that *"tall buildings are restricted in the Old Town in order to respect historic low rise development and its skyline profile"*. Furthermore tall buildings of 5 storeys or more (or of equivalent height) and landmark buildings or structures should be of high quality design and materials; respond well to their site and context and provide a mix of uses.

#### **The Local Plan Review (amended 2015)**

- 7.18 Following a further review following the adoption of the CS in 2015, parts of the Local Plan (adopted in 2006) have been retained as policy.
- 7.19 The saved policy of the Local Plan Review does not specifically allocate policy to the Order Land, as any reference to the Bargate area within the Local Plan Review has now been updated by the CCAP. However, the Development will have to accord with the following saved policies.
- 7.20 **Policy SDP1** (Quality of Development) states that planning permission will only be granted for development which does not unacceptably affect the health, safety and amenity of the city and its citizens, and contributes where appropriate to the complementary mix of uses.

- 7.21 **Saved Policy H2** of the Local Plan Review seeks to encourage development that ensures the maximum use of derelict, vacant and underused land for residential development.
- 7.22 **Saved Policy HE1** (New Development in Conservation Areas) concerns all development proposed within a conservation area, adjacent to it and affecting its setting or views into and out of the area. It states that development must preserve or enhance the conservation area and have regard to the Conservation Area Character Appraisal.
- 7.23 **Saved Policy H7** states that planning permission will only be granted for residential development in close proximity to a conservation area and statutory listed buildings, provided it complements and enhances their character and respects their surroundings. Views across public areas are also important in respect of security. Hard and soft areas should not provide opportunities for concealment, and minimising the number of through routes in new forms of development should be important.
- 7.24 **Saved Policy H13** of the Local Plan generally supports the development of student accommodation in appropriate locations. It states that development of student accommodation by private sector providers will only be supported where it is suitably located and where residential accommodation is provided to a level to be agreed with the Council. The Policy notes that permission will be subject to:
- An assessment of need for student accommodation;
  - Phasing of accommodation to accord with academic expansion;
  - Accessibility of accommodation from the relevant educational facility;
  - Agreement on control and management of car parking; and
  - Planning conditions to control the occupancy of the development.
- 7.25 The Development Plan for Southampton City Council is up to date. Therefore, the starting point for the evaluation exercise is Policy AP28 of the CCAP which provides a form of checklist as to what development within the site allocation needs to achieve.
- 7.26 Item 1 of the Policy AP28 criteria to be satisfied relates to the improvement of access to and visibility of the Town Walls through opening out the areas immediately surrounding it, and introducing attractive pedestrian routes and uses with active frontages alongside them. This is clearly achieved by the Development: a new area of public realm is proposed along the entirety of the site's boundary with the wall, with the buildings sited 15m away from the structure. The Town Wall will be both visible and accessible, with the public encouraged to enjoy the historic context of the area through the generous provision of public open space. In accordance with the policy, a pedestrian route is provided and this is activated through retail units lining the southern side of the public realm area.
- 7.27 The provision of retail uses on the ground floor of all of the proposed blocks achieves the objectives of item 2 of the Policy AP28 criteria (proposed uses in accordance with the retail policy on primary and secondary retail frontages) and item 3 of the Policy AP28 criteria in respect of active frontages



being provided along main routes. The Development adopts active frontages onto the High Street and forms a new open space between the shop frontages and the Grade I listed Town Wall, adding interest to the streetscape. The active frontage is provided alongside the main east to west thoroughfare route with public realm created in the space between the Town Wall and the frontage of the shops providing an interface between the pedestrianised street, kiosks, the Town Wall and the buildings.

- 7.28 The former Bargate Shopping Centre, the shops with a frontage on to the High Street that fall within the Bargate Quarter Development site, 77 to 81 (odd) Queensway and 30 & 32 Hanover Buildings are considered primary retail within the CCAP. The remaining retail properties, 83 to 101 (odd) Queensway are considered to be secondary retail for the purposes of the CCAP. Policy AP5 safeguards retail use (use class A1) at ground floor level for primary retail frontages and A1, A2, A3, A4, A5 for secondary retail frontages at ground floor level. Policy AP5 also promotes the use of retail, residential, leisure, office or other complementary uses on upper floor levels of both primary and secondary retail frontages. The proposed Development incorporates a retail led mixed use development and adheres to this planning framework for primary and secondary retail frontages.
- 7.29 The Development delivers the improved pedestrian links sought by criteria 4 and 8 through an east-west pedestrian footpath connecting the High Street to Queensway, and also a north-south route connecting Hanover Buildings and East Street. These connections, together with the opening up of the Town Walls and the creation of active frontages will improve the legibility and permeability throughout this area of the City Centre. The new route from the Bargate through to the Queensway will allow for footfall from the High Street to carry through to Debenhams and the eastern side of the City Centre. Furthermore, opening the link along York Wall will reconnect the East Street shopping area with the High Street and also the park, creating more open and integrated pedestrian routes through the City Centre.
- 7.30 Item 5 of Policy AP28 seeks the retention of the Shopmobility facility as part of any development proposals or its re-provision in a central location. The Shopmobility unit is currently located in close proximity to the new development on Castle Way and as it is unaffected by the Development proposals. Consequently this part of the policy is not relevant.
- 7.31 As required by item 6 of the Policy AP28 criteria, the Development will enhance the setting of the Bargate. The Heritage Statement submitted as part of the planning application for the Development identified that the existing Bargate Shopping Centre, which is built adjacent to part of the old Town Wall, is currently causing harm to the significance of this asset. The Development provides an expansive public space with the building frontages set back 15m from the Town Wall. The opening up of the Town Walls, will help re-establish the sense of connection between the Town Wall and the Bargate.
- 7.32 Whilst some locally listed buildings are to be demolished as part of the Development, the Development retains the Art-Deco façade of the former Burtons building as sought by item 7 of the Policy AP28 criteria. On account of the amount of the existing site allocated to the public realm

(amounting to a third of the site), there is little opportunity for re-alignment of streets to restore the historic street pattern or create a high level link bridge connection to the Bargate itself. However, a contribution towards a new lift facility is being made by the Development and this is expected to satisfy the objectives of item 8 of Policy AP28.

7.33 In respect of item 9, the proposals are sympathetic to the character and setting of the parks to the north of the site, with the north-south link encouraging views through from the parks to East Street.

7.34 CCAP Policy AP9 seeks the delivery of 5,450 dwellings to be built within the City Centre between 2008 and 2026, with an estimated allocation of 200 residential units for the 'land around Bargate' (Appendix 5 of the CCAAP). The Development proposals provide 152 private residential units, equating to 76% of this allocation despite the footprint of the Development not covering the full extent of the AP28 site allocation. In addition there are a further 185 student accommodation units that provide 451 student rooms.

7.35 When considering the key relevant policy objectives of the CS, as a large scale, dense development in the City Centre (Policy CS1 and CS5) which provides a significant contribution towards meeting the Council's housing targets (Policy CS4) that is sensitive to its historic surroundings and the Grade I listed buildings and scheduled ancient monuments (Policy CS13 and CS14), the majority of the CS policy objectives are realised.

7.36 The Development accords with the vision set out within the Development Plan with the shortfall in cycle parking being the only area in which policy is not met. The Officer's report details this clearly where it states:

*"The opportunities presented by this planning application are considerable. The existing shopping centre currently lies vacant and represents a missed opportunity in fully appreciating the importance of the Town Walls. The redevelopment of this site has been recognised as a key element of the regeneration of the town centre and the proposals, potentially, represent an existing change to this part of the city. The application proposes a comprehensive mixed use development which will significantly contribute to the status, offer and attractiveness of the City Centre as a retail and leisure destination. The proposal is consistent with the longstanding policy framework, including Policy AP28 from the CAAP, and will deliver significant public realm."*

7.37 Importantly, the Development site incorporates significant archaeological and historic assets which needed to be treated sensitively within the overall design of the Development. Historic England were involved from the outset in the design and development of the application. Historic England acknowledged that the Development provides an opportunity to

*"deliver heritage benefits, particularly in relation to the grade I listed Buildings/Scheduled monuments of the Town Wall north east and the Bargate....both the heritage and other public benefits from the development are shown to clearly outweigh the harm".*

7.38 It is considered therefore that the Development accords with the Local Plan for the area which itself

accords with the National Planning Policy Framework and Guidance.

## **8 Special Considerations**

- 8.1 The Development is located in an area of high archaeological sensitivity. It is adjacent to the Town Walls and the Bargate, and located partially within the medieval town. The Town Walls and the Bargate are Scheduled Ancient Monuments.
- 8.2 The Order Land is also adjacent to the Conservation Area for the Bargate Environs and Hanover Buildings and within close proximity of a Nationally Registered Park known as Central Parks, a Grade II\* listed park.
- 8.3 Save for the historic Town Walls which lie within the Order Land, there are no other conservation or listed building assets which are within the Order Land boundary nor which will be affected by way of demolition or alteration by the Development.

## **9 Human Rights**

- 9.1 The Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the European Convention on Human Rights. The Council has considered the impact on the human rights of those affected by the Order. In particular, the Council had regard to the right to the peaceful enjoyment of possessions (Article 1). It is considered that any interference with Article 1, or any other Convention rights, is justified and proportionate in the wider public interest in order to secure the economic, social, physical and environmental regeneration of the City Centre.
- 9.2 In relation to Article 1 of the First Protocol of the European Convention which provides a right for the peaceful enjoyment of possessions, a fair balance is required to be struck between the public interest and private rights in relation to possessions/property. Article 8 is not an absolute but a qualified right, such that any interference with the right to respect for a person's private and family life and home must be proportionate to any legitimate aims, such as promoting regeneration for the wellbeing of the area. Article 6(1) is engaged because the compulsory purchase process involves determinations as to third party rights of individuals, as to which they have the right to a fair hearing. Similarly to Article 8, the Article 6(1) rights are also qualified and some restrictions may be justified to pursue legitimate aims and provided that they are proportionate.
- 9.3 Potentially affected individuals have had the opportunity to date to object to the Development through the planning process. Individuals whose human rights could potentially be interfered with as a result of the Order, can object to the validity of the Order and such objections would be considered at an independent public inquiry, which would afford the objectors a fair hearing of their concerns. Failing agreement on the compensation arising from the Order, any affected individuals have the right to pursue a claim for compensation in the Lands Tribunal. It is deemed that the process affords affected individuals sufficient opportunity to a right to a fair hearing.
- 9.4 As the interest in the land acquired is unregistered it is considered that the exercise of Order powers

is proportionate given the benefits which will be secured by the Development, the temporary nature of the new rights will also not significantly interfere with third party interests.

## **10 Public Sector Equality Duty**

10.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Section 149 of the Equality Act 2010 places the Council, as a public authority, under a legal duty ("the **Public Sector Equality Duty**"), in the exercise of all its functions, to have due regard to the need to:

10.1.1 eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;

10.1.2 advance equality of opportunity between persons who share a "relevant protected characteristic" (i.e. the characteristics referred to above other than marriage and civil partnership) and persons who do not share it; and

10.1.3 foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

11 The Council do not have any concerns about the Development or the Order having any negative impact on its ability to perform the Public Sector Equality Duty. The Council prepared an Equality and Safety Impact Assessment of the CPO and the Development dated 6 October 2017 which found that there were no negative equality and safety impacts.

## **12 Compelling Case in the Public Interest**

12.1 The Council is satisfied that there is a compelling case in the public interest to make the Order and for it to be confirmed by the Secretary of State, in particular having regard to paragraph 106 of the Guidance:

12.1.1 As is detailed above, the purpose for which the land the subject of the Order is being acquired, fits with the adopted Local Plan. The Development has been granted planning permission further confirming its compliance with the Council's local policy.

12.2 As detailed above, the Development will contribute to the achievement of the economic, social and environmental well being of the area; the improvement of the local environment including the historic Town Walls being a particular improvement secured as part of the Development proposal.

12.3 The land being acquired by the Order comprises small parcel of unregistered land in unknown ownership. BPL otherwise controls all of the land required to deliver the Development, accordingly there are no alternative proposals to be considered in order to secure the redevelopment of this important town centre site.

12.4 BPL has invested significant resources and financial means to date, both in securing the land required to deliver the development, discharging pre-commencement planning conditions and obtaining Scheduled Ancient Monument Consents. Demolition works have already taken place and the Council is satisfied that there is every prospect that the Development will proceed imminently.

### **13 Conclusion**

13.1 The Development will meet important local policy objectives for the Council, facilitating the regeneration of the former Bargate Shopping Centre and surrounding area. To facilitate this, the assembly of the Order Land is required. It is considered that compulsory acquisition is appropriate and the Order, if confirmed, will be implemented within a reasonable timeframe.

13.2 The Council is satisfied that overall economic, social and environmental benefits which will directly flow from the Development will be significant and accordingly that there is a compelling need in the public interest for compulsory powers to be utilised. The Council has made the Order and respectfully requests the Secretary of State confirm the Order.

**9 October 2018**