

## Appendix A

# **LONDON BOROUGH OF HAMMERSMITH & FULHAM (SHEPHERDS BUSH MARKET) COMPULSORY PURCHASE ORDER 2012**

## **DRAFT STATEMENT OF REASONS**

Town and Country Planning Act 1990 – Section 226(1)(a)  
Acquisition of Land Act 1981

## **1. Introduction**

- 1.1 This is the Statement of Reasons of the Council in support of the London Borough of Hammersmith & Fulham (Shepherds Bush Market) Compulsory Purchase Order 2012 (the “Order”).
- 1.2 The primary purpose of the Order is to facilitate the redevelopment and regeneration of Shepherds Bush Market (the “Market”), and adjoining area to contribute towards significant social, economic and environmental improvements. This will be achieved through the assembly and development of the Market area and the immediately adjoining commercial interests in Goldhawk Road (the “Order Lands”) which will support the enlargement and improvement of the Market and improve its setting by bringing vacant brownfield land into beneficial use.
- 1.3 The Market itself is a mix of retail trading units beneath and running alongside the Hammersmith and City tube line viaduct between Shepherds Bush Market station and Goldhawk Road station. It is owned by London Underground Limited and managed by Transport for London. It is widely accepted that the Market has been in decline for more than a decade.
- 1.4 The Council is the freehold owner of the former Spring Grove Commercial Laundry site, which lies between Pennard Road and the eastern edge of the Market. The Council has entered into a contractual option agreement with Orion Shepherds Bush Limited (the Developer) to sell this site to secure the redevelopment of this area as one element within a programme of land assembly to be undertaken by the Developer.
- 1.5 The Developer has already secured outline planning consent for a scheme of development on the Order Lands (Planning Applications Committee decision 8<sup>th</sup> February 2012 – planning permission issued 30<sup>th</sup> March 2012) and has entered into contractual arrangements in relation to two other sites within the Order Lands boundary. Although this consent is currently subject to an application for judicial review, the Council does not consider there is any obvious reason why planning permission for the project should be withheld if it were necessary to determine the issue.
- 1.6 The Council is now seeking to secure ownership of all the Order Lands to ensure that the consented scheme may be implemented.
- 1.7 Although the Developer has contractual control over the freehold interests in the majority of the Order Lands, the implementation of the redevelopment proposals requires the acquisition of all property interests currently owned by third parties, including a number of freehold and leasehold interests as well as other rights, and easements.
- 1.8 The Council, in association with the Developer, has and will continue to take steps to consult and negotiate with third party owners to acquire their’

interests by agreement but it is clear that compulsory purchase powers will need to be employed to ensure the full programme of development may be achieved within a reasonable timeframe and in order to achieve the intended regeneration benefits.

- 1.9 The Council believes that the proposed scheme of regeneration, taken as a whole, has the potential to bring very substantial economic, retail and social benefits to Shepherds Bush. Shepherds Bush Market is one of the defining elements of the location, representing almost one hundred years of continuous trading by small businesses located within its arches, stalls and shops. Its retention and regeneration is a very high order priority for the Council as a means of maintaining the distinctive history and identity of Shepherds Bush and of protecting and enhancing the local character of retailing in the Market alongside the successful operation of the large-scale Westfield centre.
- 1.10 The majority of the Market is owned by London Underground Limited ("LUL"). Many of the trading units are in the arches beneath the viaduct carrying the railway and the station [or on a service strip adjoining the viaduct, all of] which is claimed as operational land. The Council considers that the objectives of regeneration can be achieved without interfering with the operational requirements of LUL.

## **2. Enabling Powers**

- 2.1 Section 226(1)(a) of the 1990 Act (as amended by the 2004 Act) enables a local authority to exercise compulsory purchase powers if it thinks that acquiring the land in question will facilitate the carrying out of development, redevelopment, or improvement on, or in relation to, the land being acquired.
- 2.2 Section 226(1A) of the 1990 Act (as amended by the 2004 Act) requires a local authority not to exercise its powers under section 226(1)(a) unless the local authority thinks that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of its area.
- 2.3 The Council intends to acquire the land so that it can be comprehensively regenerated for retail and housing purposes and the Market improved in accordance with the scheme for which planning permission was granted on 30 March 2012 or such other scheme as may subsequently be approved.
- 2.4 The Council is confident that the proposed redevelopment will result in social, economic and environmental improvements to the Market, to Shepherds Bush town centre and to the London Borough of Hammersmith & Fulham. It will also secure new, well-designed housing and retail units on brownfield land, thereby securing an improvement in the choice, quality and quantity of housing within the Shepherds Bush area.

- 2.5 In particular securing the long term future of the Shepherds Bush Market and Goldhawk Road frontage will secure the social and economic wellbeing of the area by safeguarding existing employment and providing new employment and enterprise opportunities whilst protecting and enhancing the diversity of retail offer in the area. The provision of better public spaces and movement within the land and the integration of the land with neighbouring properties will improve the environmental wellbeing of the area.
- 2.6 The Council wishes to secure the future of the specialist housing facility provided by Broadway within the site and the Lime Grove Hostel currently owned by Notting Hill Housing Trust has been included in the Order. This hostel has been identified as available and suitable for the Broadway relocation requirements.

### **3. Description of Order Lands**

- 3.1 The Order Lands include the Market and land lying immediately to the east and west of Shepherds Bush Market, within the London Borough of Hammersmith & Fulham.
- 3.2 The Order Lands comprise approximately 2.1246 hectares of land comprising:
- the Market and land immediately adjoining the Market.
  - the terrace of Market units, numbered 9 to 20 Shepherds Bush Market, located on the eastern boundary of the Market, which comprise small sites in individual freehold ownerships.
  - the parade of shops with basements and upper parts at numbers 30-52 (even), Goldhawk Road in individual ownerships.
  - the service road to the rear of the parade which is in unknown ownership
  - the former Spring Grove Laundry site
  - Market Lane Hostel and Flats
  - Market Lane Broadway Day Centre
  - Lime Grove Hostel
  - Electricity substations which will need to be relocated as part of the Development.
- 3.3 The majority of the Development Site by area is contracted to the developer as follows:
- Market Lane Hostel and Flats – freehold owned by The Governors of the Peabody Trust and contract for sale exchanged with the Developer.
  - Market Lane Day Centre – freehold owned by Broadway Homelessness and Support – sale option agreement entered into with the Developer.

- Former Spring Grove Laundry site, Pennard Road – freehold owned by the Council – sale option agreement entered into with the Developer.
- 3.4 In addition the developer has agreed preliminary terms for acquiring the Shepherds Bush Market – freehold owned by London Underground Limited – sale of a mixture of freehold land and long leasehold interest agreed with the Developer.
- 3.5 None of the CPO land comprises listed buildings and no part is within a conservation area.

#### The Surrounding Area

- 3.8 The immediate surrounding area is residential in character along Pennard Road to the east and Lime Grove to the west. The Pennard Road properties are characterised by predominantly 2-storey Edwardian terraces, and those along Lime Grove comprise a mix of 2 and 3-storey terraced houses and 3-storey modern build residential blocks. The London College of Fashion is also located to the western and eastern sides of Lime Grove respectively.
- 3.9 The properties along Pennard Road form part of the Shepherds Bush Conservation Area and those along Lime Grove are designated as part of the Coningham and Lime Grove Conservation area. The former Shepherd’s Bush Library and Pennard Road mansions to the north and south of the site respectively are both identified on the Council’s Register of Buildings of Merit.
- 3.10 Commercial businesses are characteristic of development along Goldhawk and Uxbridge Roads, occupied by a mix of retail, café and restaurant uses.
- 3.11 Shepherd’s Bush Market falls within the White City Opportunity Area and a designated Town Centre. The area encompasses three main retail ‘anchors’ which are the Westfield shopping centre, West 12 shopping centre and Shepherd’s Bush market. Westfield has brought vastly increased footfall to Shepherd’s Bush and is now the dominant retail feature of the area. Proposals to further extend Westfield have recently been submitted and the sale of BBC Television Centre is likely to encourage further change in the north of the Opportunity Area.
- 3.12 The site is within a short walking distance of 15 bus routes. The closest tube stations are Goldhawk Road directly to the south of the site and Shepherd’s Bush Market directly to the north of the site. Both stations serve the Hammersmith and City Line. A short walk to the east is the Shepherd’s Bush tube and overland rail station, which serves Central Line, and Overground and mainline rail services from Clapham Junction to Milton Keynes.

#### **4. Project Background – The need for regeneration**

- 4.1 The Market has traded continuously since its establishment in 1916. By the late 1980’s over 200 businesses were trading within the Market, but over the subsequent decades the Market has visibly declined in size, performance and physical condition.

- 4.2 The Market is considered by the Council to be a vitally important component of Shepherds Bush and its underperformance through lack of investment has a detrimental impact on the economic and social performance of the town centre as a whole.
- 4.3 The Council promoted the regeneration of the market as a way of protecting and ensuring the long term survival and success of this landmark feature of the town centre.
- 4.4 The Market offers a retail environment that is polarised to that offered within the highly successful Westfield development. The Market provides both a retail and social function to the local community, it is ethnically diverse in its nature and offers the opportunity for independent businesses to trade in an affordable environment.
- 4.5 The Council has been fully briefed on independent research that was commissioned by the Developer that identifies the local affection for the market. However, but this sits alongside a local wish to see the market regenerated to deliver a more inviting visitor environment offering a wider range of goods and services. The Council appreciates the unique offer of the Market and has worked closely with the Developer to ensure that the regenerated market continues to provide a resource for local people whilst improving the appeal and accessibility to a wider range of potential visitors and shoppers.
- 4.6 In 2008, the Council commissioned a survey of the Market by Parsons Brinckerhoff, which concluded that the overall condition of the units within the trading area was 'poor to fair'. The report identified at least £2.3m of remedial works to upgrade to a 'B' standard of condition (i.e. compliance with regulatory standards) with a greater sum necessary to achieve comprehensive regeneration. It is considered that since 2008 there has been no improvement in the condition or operation of the Market and, therefore, the need for strategic regeneration remains.
- 4.7 In December 2010 a wide-ranging survey (Marketlink Dec 2010) of traders', customers' and residents' opinions on the Market confirmed both the perception and the reality of continuing decline.
- 4.8 The Market owner, London Underground Limited, remains unable to justify the level of investment required to address the causes of decline and no alternative route to improvement through reinvestment has emerged. The Council has therefore promoted a regeneration strategy based on the coordinated development of adjoining land holdings to enable wider physical, economic and social benefits to be brought to the area. It is the Council's view that a refurbished and regenerated Market will significantly increase the attractiveness of Shepherds Bush generally as a destination for local shopping and leisure use, and will improve the economic and social well-being of the area for the benefit of residents, local businesses and visitors to the area.

- 4.9 There is an identified need in the White City Opportunity Area Framework and the Hammersmith & Fulham Core Strategy for new housing within this locality in order to increase the range and availability of high quality homes for residents of Shepherds Bush who, in turn, will add to the vitality of the town centre and increase the demand for services within the Market and adjoining areas. Therefore the development alongside the Market will itself achieve strategic objectives in relation to the generation of new housing and the efficient redevelopment of brownfield land.
- 4.10 This strategy has led to the Council entering into an option agreement with the Developer on the basis of the Developer securing the two other large landholdings (the Peabody and Broadway properties) and pursuing further acquisitions by agreement where possible.

## **5. Planning Position**

- 5.1 The Council first resolved to make a Shepherds Bush Market Compulsory Purchase Order on 14<sup>th</sup> October 2010, subject to four conditions. Subsequently, on 15 October 2012 the Council made an unconditional resolution on the basis that the conditions had been met. Two of the conditions related to the Developer providing undertakings as to the costs of the CPO process and acquisitions, and a third related to the Council being advised that there was a realistic prospect of an Order being confirmed by the Secretary of State. These requirements have now been met.
- 5.2 The fourth condition was 'the Council's approval of the development scheme'. On 8<sup>th</sup> February 2012 the Council's Planning Applications Committee resolved to grant outline planning consent for the application made on respect of 'Shepherds Bush Market, Peabody and Broadway Centre, Nos. 1-14 Market Lane, Former Laundry Site rear of Nos. 9-61 Pennard Road, Land adjoining Former Shepherds Bush Library and Nos. 30-52 Goldhawk Road, W12. As noted above this planning permission is currently subject to an application for judicial review.
- 5.3 The planning application was considered against a range of national, regional and local planning policy considerations as follows:
- National Policy – the National Planning Policy Framework (NPPF) was published on 27<sup>th</sup> March 2012. The scheme is consistent with the 'Town Centre First' emphasis in the NPPF and its promotion of customer choice and a diverse retail offer which reflects the individuality of town centres.
  - London Plan – application meets the requirement under the White City Opportunity Area Framework (consultation version) to promote the vitality of Shepherds Bush as an identified Metropolitan Town Centre and achieve optimum intensity of use compatible with local context and strong public transport.
  - Hammersmith & Fulham Core Strategy – the application meets the requirement to address the Market as a Strategic Site and therefore a priority

element in improving the attractiveness of the town centre as well as a catalyst for the greater integration of the Westfield complex into the traditional town centre.

#### Details of Consented Scheme

- 5.4 Outline planning permission was issued on 30<sup>th</sup> March 2012 for a access, layout and scale (with appearance and landscaping reserved) for the phased redevelopment of Shepherds Bush Market and adjoining land comprising the demolition of existing buildings, the refurbishment and enhancement of the Market, and the construction of new buildings ranging from 2-9 storeys in height (plus basement) to provide up to 212 residential units (up to 27,977sq.m); and up to 14,052sq.m of non-residential floorspace comprising up to 6,000sq.m of market/retail floorspace (Class A1), up to 4,000sq.m floorspace of Food and Drink Uses (Classes A3/A%), and up to 4,052sq.m of associated servicing facilities and ancillary uses; including provision of landscaping and amenity/public space; access and parking (up to 85 vehicular spaces), up to 457 cycle parking spaces and associated works.
- 5.5 The 212 residential units are proposed as 194 flats, 13 mews houses and 5 live/work units.
- 5.6 In addition, the consent is accompanied by a completed s106 Agreement, with a value of £6,900,000, obligating the Developer to provide, inter alia, the following planning benefits:
- Funding support of up to £1,200,000 to be paid towards the conversion and refurbishment of Lime Grove Hostel
  - Fund and carry out a programme of Shepherds Bush Market Works
  - Highway Improvements and Highway Works
  - A Financial Viability Review mechanism to allocate any additional funds generated from the scheme to the provision of affordable housing
  - The S106 Agreement also contains various measures intended to protect businesses within the Market and the Goldhawk Road terrace. These measures include:
    - Provisions set out in the Shepherds Bush Market Charter 2010 to protect Market Traders and commitments relating to the enlargement and improvement of the Market
    - Arrangements to ensure active trader participation in the future management of the Market.
    - A Business Continuity Fund of £500,000 to support traders affected by the carrying out of the Market Works.
    - Arrangements to assist Goldhawk Road businesses to maintain their trading operations and to support relocations back to the Goldhawk Road frontage on terms, where this is the wish of the business.



- 5.7 The Mayor of London has supported the decision to grant outline planning consent and has endorsed the Council's prioritisation of s106 funds in favour of Market expansion and improvement in order to achieve the regeneration objectives more particularly set out in Section 6 of this report.

#### Planning Policy Context

- 5.8 The National Planning Policy Framework was published on 27th March 2012 after a period of consultation. This new framework for the planning system is aimed at safeguarding the environment while meeting the need for sustainable growth. Advises the planning system should: a) plan for prosperity by using the planning system to build a strong, responsive and competitive economy, by ensuring that sufficient land of the right type, and in the right places, is available to allow growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure; b) plan for people (a social role) use the planning system to promote strong, vibrant and healthy communities, by providing an increased supply of housing to meet the needs of present and future generations; and by creating a good quality built environment, with accessible local services that reflect the community's needs and supports its health and well-being; and c) plan for places (an environmental role) - use the planning system to protect and enhance our natural, built and historic environment, to use natural resources prudently and to mitigate and adapt to climate change, including moving to a low-carbon economy. The draft Framework also underlines the need for councils to work closely with communities and businesses and actively seek opportunities for sustainable growth to rebuild the economy; helping to deliver the homes, jobs, and infrastructure needed for a growing population whilst protecting the environment.

- 5.9 In particular the NPPF contains at paragraph 23 advice that local planning authorities should, in drawing up Local Plans, should:

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;
- define a network and hierarchy of centres that is resilient to anticipated future economic changes;
- define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations;
- promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
- retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;
- allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability. Local

planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites;

- allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre;
- set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres;
- recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites; and
- where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.

5.10 The London Plan (2011) identifies White City as an Opportunity Area (WCOA) and allocates Shepherds Bush as a Metropolitan Town Centre and as part of its strategic policy direction states '.....Development should promote the vitality of the town centre, particularly in the Shepherds Bush Market Area, and complement the viability of other west and central London centres. The London Plan also seeks to ensure that proposals achieve the optimum intensity of use that remains compatible with the local context and is well served by public transport.

5.11 The Market is designated within the Core Strategy as a Strategic Site (White City Opportunity Area 3 (WCOA 3) - Shepherds Bush Market and adjacent land). It also forms the western boundary of the Shepherd's Bush Town Centre as designated in the Core Strategy.

5.12 The Core Strategy states that the regeneration of the Shepherd's Bush Market is a priority which will improve the attraction of Shepherd's Bush Town Centre and act as a catalyst to further integration of the Westfield centre with the older part of the Town Centre. The Core Strategy envisages that the reinvigoration of the market will help to revive the economic and cultural health of the Town Centre and position the market as a major attraction in the area.

5.13 The White City Opportunity Area policy encourages the regeneration of the Market area so that it provides an enhanced focus and destination in the western part of the Town Centre.

5.14 The Core Strategy site policy states that the Market is an important and distinctive part of the town centre's offer. It attracts trade from a wide area and nearly a quarter of shoppers in Shepherd's Bush visit the town centre to buy specialist ethnic food products and 8% to specifically visit the Market.

5.15 The Council considers that if the market is to continue as an important feature it requires improvement. This will not only ensure the long term viability of the market, but also contribute to the regeneration of Shepherd's Bush town centre.

5.16 The Strategic Site policy also outlines that the regeneration of the market and other adjacent land should create a vibrant mixed-use Town Centre

development of small shops, market stalls, leisure uses, residential and possibly offices. Development should encourage small independent retailers and accommodate existing market traders.

- 5.17 The market operates on a cramped site and there are opportunities to consider combining it with other land to produce a scheme with wider regeneration benefits. The core strategy indicates that the core site should be the TfL market, former Pennard Road laundry site, Peabody Trust housing land and Broadway centre. Shop properties on Goldhawk Road should be included provided there are opportunities for relocation of the shopkeepers to new premises within the scheme. The scope for including land to the west of the market off Lime Grove, together with the privately owned market, must also be considered. The former Shepherds Bush library should be used for cultural purposes.
- 5.18 The primary regeneration objectives of the Shepherds Bush Market scheme allow residential development, to assist in the renovation and enhancement of the existing Market in terms of the physical fabric of the trading units and stalls, the public realm and railway arches, servicing arrangements and security & safety. The aim of this is to increase footfall and support a mix of trading opportunities to sustain the traditional role of the market in the community, its long term viability and its vibrant diversity.
- 5.19 The market is an important feature of Shepherds Bush Town Centre and it is important to protect the essence of the historic Market as a catalyst for greater vibrancy, energy and wealth for the area through additional retailing, leisure and business provision.

## **6. Purpose and Justification for use of Compulsory Purchase Powers**

- 6.1 The scheme proposed in the outline planning permission issued on 30<sup>th</sup> March 2012 represents a comprehensive approach to the regeneration of the Market and its immediate surroundings by bringing forward an adjoining mixed-use scheme of development that directly supports a programme of regenerative upgrades to the Market, which have been secured as obligations through a completed S106 Agreement. The scheme, described in Section 5 above, will provide a good range and mix of housing in a sustainable location with identified new housing needs, close to local amenities and with excellent public transport connectivity.
- 6.2 This consented scheme includes the enlargement of the Market to incorporate approximately 14,000 sq m of new trading and service support areas; upgrades to Market surfaces and shop-fronts; enhanced lighting and security; new open spaces within the Market; and, improvements to Market stalls, canopies and services. All of the existing businesses can be accommodated within the scheme and the developer has committed to keeping the Market open and operational throughout the development period. Furthermore, the expansion of the Market will create opportunities for additional new businesses to become established in the locality and thereby assist the growth of the local economy and widen the scope of services and facilities available to local people. In total, these measures, together with the mixed-use redevelopment of the adjoining brownfield lands, are considered

by the Council to be sufficient to achieve the intended regeneration objectives.

- 6.3 The Council has given careful consideration to the need for each parcel of land included in the Order lands. The Council is satisfied that the redevelopment of the Order lands will result in an improvement to the economic, social and environmental well being of its area.
- 6.4 Due to the number of third party interests within the Order lands, it is unlikely that it will be possible to acquire all the necessary interests by private agreement within a reasonable timescale. Uncertainty as to this timescale would hinder the regeneration proposals.
- 6.5 Therefore, the Council has made the Order to acquire the interests required to enable implementation of the proposed development. Negotiations will continue with owners of relevant interests who are willing to dispose of them by private agreement.
- 6.6 Compulsory purchase will enable the regeneration to take place in accordance with a managed programme, providing certainty for site assembly and the implementation of the scheme. This will enable the Council's regeneration objectives for the Order Lands and the Borough to be achieved. The use of compulsory purchase powers is therefore considered by the Council to be necessary and justifiable in the public interest.

#### *The Market including the LUL Freehold*

- 6.7 This is the core area of the market as well as being in part LUL operational Land. The CPO will exclude from the area to be acquired the entire structure of the viaduct and all operational apparatus on or attached to the viaduct and the airspace above the viaduct. The Council has no intention to interfere with the safe and efficient operation of the railway and will continue to negotiate with LUL to settle an agreement on the manner in which the CPO would be implemented to secure the regeneration of the area without interfering with LUL's legitimate interests.
- 6.8 The LUL freehold includes the footprint of the market stalls and the compulsory purchase order will allow the Council to take whatever steps are expedient in relation to the leases, licenses and rights of the traders to secure the regeneration project. As a primary purpose of the CPO is to secure the continuity, character and viability of the existing market the Council does not propose to use to the CPO to require existing traders to move away from the market and except in exceptional circumstances existing traders who are complying with the terms of their leases will be offered alternative accommodation within the market. The Council intends to only implement the CPO in respect of market stalls and shops if the developer cannot secure expedient arrangements with traders to facilitate the project. A general undertaking is offered to the traders (see the annex to this statement) and specific agreements will be settled with traders who wish to negotiate with the

Council.

*9-20 Shepherds Bush Market.*

- 6.9 This land lies in a core area of the Market and is in a number of fragmented (non-LUL) ownerships. The layout of the units themselves do not follow a uniform pattern, are of very old design and build, and suffer from a lack of investment and maintenance. Also, without the arrangements the owners currently have in place with London Underground Limited, the land would be landlocked.
- 6.10 If the whole of this land was not included then it would not be possible to provide the live/work units that form part of the consented scheme. These new units will provide renewed and up to date retail facilities in keeping with the reinvigorated market. Also, the acquisition of these units will facilitate the widening of market lane to improve the retailing environment, where at present the market is cramped and viewed as uninviting and difficult to negotiate.
- 6.11 The Council is aware that the Developer has been actively pursuing a line of dialogue with the unit owners to ensure they understand the intention to reinvigorate the market and how this will impact upon them, as well as holding discussions with them on acquiring their interests by private treaty as an alternative to compulsory purchase.

*30-52 Goldhawk Road*

- 6.12 These properties lie at the southern end of the market and are in a number of fragmented ownerships; they consist of ground floor retail with residential accommodation above. Some are owner occupied and others are tenanted.
- 6.13 If the whole of this land was not included then not only would it not be possible to deliver either the consented scheme but it would not be possible to deliver a scheme of sufficient scale and mass to generate the scale of development, and consequently revenue, required to secure the primary objective of regenerating the Market.
- 6.14 A scheme on just the land at the rear of 30-52 Goldhawk Road which is within the ownership of the Council, Peabody and Broadway would only provide a back land scheme, which would be constrained and of insufficient scale and mass to generate the scale of development, and consequently revenue, required to secure the primary objective of regenerating the Market.
- 6.15 The appearance of the properties is run down and at no time during any part of the planning consultation process or other consultation processes have the owners at any time indicated that it was their intention to refurbish either the external or internal appearance of the properties. In particular, the rears of the buildings are unsightly and offer a hostile environment that in the past has

been the scene of anti-social behaviour. Whilst the buildings are of a particular genre there are no overall redeeming architectural features. The Council recognise and welcomes the ethnically diverse nature of the businesses trading within this terrace of properties on the Goldhawk Road. The Council has sought to protect this by obligating the Developer to ensure that the occupiers are offered the opportunity to return to the completed units, or working with them to seek to identify alternative accommodation within the local vicinity to ensure that their businesses remain at the heart of Shepherds Bush Town Centre.

*The Market Lane Hostel and Flats, the Market Lane Day Centre and the former Spring Grove Laundry*

- 6.16 These three sites are all in social sector ownership and terms have been agreed for the developer's acquisition of the land. The CPO will only be implemented in respect of these sites so far as is necessary to secure that any interests in that land do not frustrate or delay the implementation of the regeneration project.

*Lime Grove Hostel*

- 6.17 This property is situated adjoining the Market and accordingly in the general vicinity of the Broadway facility in the Peabody property. It is currently occupied by 'caretakers' for security purposes and with the necessary improvement works is suitable for the relocation of the facilities and client group currently in the Market Lane Hostel, subject to refurbishment works, which are the subject of the S106 Agreement. This property is being included with the CPO in case the Council is unable to agree a legally binding agreement with NHHT for it to be made available for refurbishment and ultimately occupation by the client group currently residing in the Market Lane Hostel and Flats.

*Rights over the CPO Land*

- 6.18 Information indicates that there may be third parties with rights and easements over the site and the CPO will permit the Council to override any such right that could prevent or restrict the implementation of the regeneration project.

## **7. Consultation with Stakeholders and Community**

- 7.1 The proposals to redevelop the Order Lands and to support the regeneration of the Market have been widely consulted upon as detailed in the 'Statement of Community Involvement' submitted with the outline planning application. Stakeholders have included local residents, the Shepherds Bush Market

Traders' Association, individual traders and businesses and the Bush Theatre, amongst others.

- 7.2 All parties holding freehold or leasehold interests in the Order lands have been informed of the proposals and consulted about the options available to them. The Developer is seeking, as a matter of fair policy, to negotiate a settlement with each leasehold and freehold owner in order that compulsory acquisition can be avoided, and attempts to acquire interests by agreement remain on-going.
- 7.3 In addition, the Developer has visited each leasehold and freehold property individually for the purpose of discussing the regeneration process and to provide an opportunity for leaseholders and freeholders to ask questions and gain further information. Further details were sought through the issue of formal Requests for Information (RFI).
- 7.4 The Council has required the Developer to offer a number of different acquisition and relocation options to freehold and leasehold owners In the case of Goldhawk Road. In Schedule 16 of the s106 Agreement dated 30<sup>th</sup> March 2012 the Developer has undertaken to commit to a detailed programme of assistance for shopkeepers and businesses within the relevant properties.
- 7.5 The following table contains a summary of the main public consultation events undertaken by the developer during the period to submission of the outline planning application in September 2011.

Date	Event	Comments
10 November 2010	Meeting with traders and Goldhawk Road occupiers	Developer hosted a meeting for traders and occupiers to outline development plans and programme.
22 November 2010	Meeting with local residents	Developer hosted a meeting for local residents to outline development plans and programme.
25 – 27 November 2010	Public exhibition	Developer hosted drop-in public exhibition in the former Bush Library. The developer distributed 10,000 flyers within a 15 min walk of the order lands. 177 attendees registered.
1 December 2010	Public Meeting	Council and developer jointly hosted a meeting for both market traders and local residents in the

		former Bush Library to address any concerns.
11 January 2011	Design drop in session	Developer hosted a session and invited traders to attend informal design session, held in the new Shepherds Bush Library.
17 – 19 February	Public exhibition	Developer hosted a public drop in exhibition at the former Shepherds Bush Library. The developer distributed 10,000 flyers within a 15 min walk of the order lands. 280 attendees.
16 March 2011	Design drop in session	Developer hosted a session and invited traders to attend informal design session, held in the new Shepherds Bush library.
11-14 May 2011		Developer hosted a public drop in exhibition at the former Shepherds Bush library. The developer distributed 10,000 flyers within a 15 min walk of the order lands. 246 attendees.
30 Jan 2012	Open Meeting for all Shepherds Bush Market businesses	Developer hosted meeting at Bush Hall for all traders to discuss application scheme prior to determination by LBH&F on 8 Feb.
Oct 2010 – Mar 2012	Meetings with traders, local residents and Goldhawk Road occupiers	Developer has met with the Shepherds Bush Market Traders Association on many occasions to discuss specific details. Developer has visited the market regularly and has met with a number of the Goldhawk Road occupiers both as a group and individually.

7.6 In addition extensive consultation was carried out in respect of the planning application for the scheme. The results of that consultation are set out in the Planning applications Committee Report.

7.7 In relation to the Lime Grove Hostel, NHHT, the Council and the Developer have been in discussions for the past year and the arrangements had been agreed in principle, although not legally documented.



## 8. Human Rights

- 8.1 The Human Rights Act 1998 requires that every public authority must act in a manner that is compatible with the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”).
- 8.2 Relevant parts of Article 1 of First Protocol of the Convention provide:  
*“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 law and by the general principles of international law ...”*
- 8.3 Relevant parts of Article 8 of the Convention provide:  
*“(1) Everyone has the right to respect for his private and family life, his home and his correspondence.*  
*(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interest of ...the economic well-being of the country...”*
- 8.4 Relevant parts of Article 6 provide 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.”*
- 8.5 The proposed regeneration of the Market through the proposed redevelopment has been publicised extensively and consulted upon by the Council and the Developer. Third parties likely to be affected by the proposals have been offered several opportunities to make representations to the Council. So far as the Order is concerned, any owner, lessee or occupier of land included in the Order will have the opportunity to make an objection and to appear before a person appointed by the Secretary of State before a decision is made whether or not the Order should be confirmed.
- 8.6 The Order is made pursuant to section 226(1)(a) of the 1990 Act (as amended by the 2004 Act) which authorises the Council to acquire land compulsorily subject to following the procedures laid down by the Acquisition of Land Act 1981.
- 8.7 The Council considers that there is a compelling case in the public interest that the Order Lands be compulsorily acquired in order to achieve the purposes described in this Statement of Reasons.

- 8.8 If the Secretary of State agrees with the Council that there is a compelling case in the public interest, he may confirm the Order. If there are no objections to the Order and/or all objections submitted are withdrawn, the Secretary of State may exercise her discretion and allow the Council to confirm the Order
- 8.9 If the Order is confirmed, compensation may be claimed by persons whose interests in land have been acquired or whose possession of land has been disturbed.
- 8.10 If the Order is confirmed, notwithstanding the provisions of Article 1 of the First Protocol and/or Article 8 of the Convention, adequate provisions are in place to compensate those adversely affected. Moreover, the Council is of the view that there is a compelling case in the public interest for compulsory acquisition of each and every parcel of land comprised within the Order Lands. It is also convinced that the public interest that is to be served by the development and the improvements that will be achieved to the condition and performance of the Market outweighs the private interests held in the Order Lands. The Council also believes that use of compulsory purchase powers to achieve its regenerative objectives for Shepherds Bush Market and the town centre within which it sits are proportionate to the interference with human rights.
- 8.11 Assistance to persons who will be displaced by the Order:

#### Goldhawk Road Traders

- 8.12 The consented scheme includes new retail floorspace on and adjacent to the Goldhawk Road frontage. The S106 Agreement requires the Developer to design accommodation suitable for any of the businesses occupying the Goldhawk Road properties that wish to remain trading on the site. The S106 Agreement also requires the Developer to work with the Goldhawk road traders to identify suitable off-site relocation opportunities and to assist them to continue trading.
- 8.13 There are a small number of residential occupiers on the upper floors of these premises. The Council will work with these occupiers to assist them to identify suitable alternative accommodation prior to implementing the CPO which would displace them.

#### Shepherds Bush Market traders

- 8.14 The development scheme will provide additional market units within the improved market. The S106 Agreement requires the Developers to negotiate with the traders displaced with a view to agreeing terms for the grant of leases within the new development. The Council intends to only implement the CPO in respect of trading pitches if the Developer is unable to agree

acceptable relocation arrangements with the individual trader and except in exceptional circumstances will undertake to secure the opportunity for existing traders to relocate to alternative premises before implementing the CPO to displace traders from their shops and pitches. A draft form of general undertaking is annexed to this statement.

Electricity substations.

- 8.15 New locations for substations will be provided by the development scheme and the electricity undertakers will be provided with those sites, and the opportunity to relocate their apparatus before being required to give up existing sites.

## **9. Conclusion**

- 9.1 The proposals for the redevelopment of land at Shepherds Bush Market accord with the Development Plan for the area. In view of this and the grant of Outline Planning Permission for development of the Order Lands, the Council believes that there is no planning impediment to the implementation of the redevelopment proposals that underlie the Order.

## **10. Resources for land acquisition, delivery and implementation**

- 10.1 The Circular highlights that the Secretary of State will want to be reassured that there is a realistic prospect that the land subject to CPO will be brought into beneficial use within a reasonable timeframe. Paragraph 20 states that in preparing its justification, the acquiring authority should provide as much information as possible about the resource implications of acquiring the land and implementing the scheme, though it is acknowledged that projects may not be intended to be commercially viable or that it may not be possible to finalise details until there is certainty regarding assembly of the land. In such instances the authority should provide an indication of how any potential shortfalls are to be met. Paragraph 21 states that, even more importantly, the confirming Minister would expect to be reassured that it was anticipated that adequate funding would be available to enable the authority to complete the compulsory acquisition within the statutory period following confirmation of the order.
- 10.2 The Council is satisfied that the necessary resources are available to achieve the regeneration of the Order lands, whereby the CPO powers would be implemented and land will be developed within the statutory period. This will be achieved through the CPO Cost Indemnity Agreement to be entered into by OSBL. Under its terms OSBL will fully underwrite all costs of process, acquisition and compensation resulting from the preparation, confirmation and implementation of the Order.
- 10.3 The Council has taken professional advice from its own consultants and is satisfied that the Development Scheme has a reasonable prospect of being viable at the time of completion of land assembly and that it is deliverable by the Developer.

10.4 Lime Grove Hostel will be acquired by the Council from its own identified funds and held for use to meet its own functions.

**11. Additional Information for Persons affected by the Order**

11.1 Owners and tenants of properties, and any other parties with interests affected by the Order, who wish to negotiate a sale or discuss re-housing options should contact....

11.2 Electronic copies of the Order, Order Map and this Statement of Reasons will be provided upon request. Please contact....

**12. Documents available for public Inspection**

A table of documents to be placed on deposit will be inserted.

## **Annex**

### **Draft form of Undertaking to be offered by the Council to Shepherds Bush Market traders**

#### **Who may benefit from this Undertaking?**

The traders who may benefit from this Undertaking are traders who are tenants of LUL or are owner/occupiers, who are lawfully occupying arches, shops and stalls in Shepherds Bush Market in accordance with their lease and who are not in breach of their lease, and who are required to relocate either temporarily or permanently as a result of the need to carry out works to deliver the Shepherds Bush Market regeneration and the adjacent development.

#### **Undertaking to negotiate**

The Council undertakes to require the developer to take all reasonable steps to negotiate with each affected market trader the timing and terms for the temporary or permanent relocation of that trader to enable the project to progress in accordance with its delivery programme.

It is the intention of the Council to only implement the compulsory purchase order ("CPO") against an individual trader if it has not been possible for agreement to be reached with that trader or that it will take too long to obtain possession that way which may lead to the delivery programme being frustrated or delayed.

#### **Open offer of relocation site**

Before implementing the CPO against an individual trader who qualifies to benefit from this Undertaking the Council will require that the developer has made an offer of a suitable alternative pitch open for the trader to accept and move to, to coincide with the implementation of the CPO. However, the trader will NOT be able take up occupation of the alternative pitch unless he has entered into an appropriate lease or license of that pitch.

#### **Compensation**

Your right to make a claim under the Business Continuity Fund provisions contained in the Schedule 15 of the section 106 Agreement will be unaffected by this Undertaking. A copy of that Schedule is attached to this Undertaking for your ease of reference.

In certain circumstances you may be entitled, to compensation under what is referred to as the Compensation Code in relation to the implementation of the CPO, but not to both compensation and a payment from the Business Continuity Fund.

Where a trader has provided sufficient information of a valid claim prior to the move date the Council will use reasonable endeavours to require the developer to make a payment in respect of that claim on completion of the relocation.

#### **Terms of new leases**

Also contained in Schedule 15 of the S106 Agreement are provisions that when a trader is required to relocate the covenants given by the developer in relation to the rent and service charge freeze periods will apply to the new pitch as they did to the previous one.

**Subject to contract**

This offer is subject to contract and will not be legally binding until it has been settled and signed by the Council and the trader.